

Because of Historic and Structural Racial Disparities, Rural Minority Communities Should Receive Top Priority in Rural Broadband Access and Adoption Services

Generally, when deploying rural broadband, the norm has been to construct a backbone along main highways, then branch out broadband service from that backbone to communities adjacent to these major thoroughfares. An isolated rural community generally is expected to bear the cost of building a node to itself from the backbone line.

For decades, this approach has had a negative impact on rural minority communities which, because of historic racial segregation, the aftereffects of slavery or (in the case of Native American reservations) land theft, are situated far from major highways and to which these highways are not easily accessible.⁶

Weirwood, VA provides a textbook example. It is a 100% African American, bitterly poor unincorporated town in majority-African American Northampton County, on the Virginia Eastern Shore, just five hours from Washington, D.C. Weirwood is 1½ miles from U.S. 13, adjacent to which lies an RUS-constructed backbone. The town sits atop the ruins of a former cotton plantation whose proprietor owned the ancestors of today's generation of Weirwood residents. Most of Weirwood's homes are shacks with no indoor plumbing or safe drinking water; many lack glass windows, and almost none has three-prong electrical sockets. The only substantial business in town is a blues club and community center. Its owner would like to offer an after-school computer learning facility for the town's children, but she cannot do that because Weirwood has no broadband. And worse than that, Weirwood has absolutely no ability to raise

⁶ Daniel T. Lichter et al., Racial Segregation in Rural and Small Town America: Does New York State Fit the National Pattern? Community and Rural Development Institute, Cornell University (2007), <http://devsoc.cals.cornell.edu/cals/devsoc/outreach/cardi/publications/upload/10-2007-RPB.pdf> (last visited March 24, 2009) (stating that “[m]any parts of rural America (e.g. blacks in the Mississippi Delta region or Native Americans on Indian reservations) have been home historically to large concentrations of racial and ethnic minorities. Non-metropolitan blacks are America’s most highly segregated racial minority - roughly 30 to 40 percent higher than indices observed for rural Hispanic and Native Americans.”)

internally (or to secure from Northampton County's small and impoverished county government) the funds needed to build a broadband node to itself from the backbone line. Weirwood is exactly the kind of town that needs broadband to rescue itself from three centuries of brutal poverty and achieve, for its people, some measure of human dignity, hope, and first class citizenship in the digital age.

The bone-chilling poverty in the Weirwoods and Native American reservations of America is no accident: it is the structural result of generations of still-unremedied disparities in government services based on race.⁷ Rural minority communities have been redlined by the marketplace with such discriminatory practices as being denied credit, insurance, and other services that contribute to the creation of a viable financial base for any community.⁸ As a result of this systematic and unremedied discrimination, these communities lack the access to capital needed to draw broadband services into their communities.

Where a rural minority community lacks broadband service, the federal government should assign it the number one priority for funding to receive broadband access and adoption.

⁷ See, e.g., Hawkins v. Town of Shaw Mississippi, 437 F. 2d 1286 (5th Cir. 1971) (finding that the town of Shaw, Mississippi had provided various municipal services, including street paving, street lighting, sanitary sewers, surface water drainage, water mains, and fire hydrants in a discriminatory manner based on race). See also Ammons v. Dade City, Florida, 783 F.2d 982 (11th Cir. 1986) (affirming that municipal facilities, including street paving, street resurfacing and maintenance, and storm water drainage were inadequately provided to the black community and that racially discriminatory intent was behind this disparity in providing the black community with municipal services).

⁸ See generally Christian E. Weller, Access Denied: Low-Income and Minority Families Face More Credit Constraints and Higher Borrowing Cost, Center for American Progress (2007), http://www.americanprogress.org/issues/2007/08/pdf/credit_access.pdf (last visited March 24, 2009); see also Gregory D. Squires and Ruthanne DeWolfe, "Insurance Redlining in Minority Communities," The Review of Black Political Economy, pp. 347-364 (2007); see generally Institute of Medicine, Unequal Treatment: Confronting Racial and Ethnic Disparities in Health Care, Brian Smedley et al., eds. (2003), http://www.nap.edu/openbook.php?record_id=10260&page (last visited March 24, 2009).

Granular and Transparent Broadband Mapping is Required to Achieve Broadband Adoption in Rural Minority Communities

The Commission's current data collection methodology on rural broadband penetration overestimates penetration rates. The Commission determines broadband availability by the number of providers within a given zip code.⁹ Zip codes in rural areas tend to be quite large. This results in data that shows broadband service is available somewhere within a rural zip code but does not necessarily reflect the availability of broadband everywhere within the rural zip code. As such, many minority communities in rural areas are excluded from broadband services simply because they are not on the Commission's radar screen.

To avoid these errors going forward, the Commission and USDA should employ more meaningful granular broadband mapping data to accurately determine the rural areas in which broadband adoption rates are low in order to have greater success in increasing broadband adoption in these rural areas. Accurate, granular broadband mapping data would ensure that not only are the technical factors of broadband deployment addressed, but that social factors, including, race, poverty, unemployment, and language are addressed as well.

If constructed correctly, maps can provide a comprehensive snapshot of the disparities in broadband adoption throughout the rural communities of this country. Historically, maps have been used to demonstrate disparities in voting rights and housing.¹⁰ Maps have also proven vital

⁹ See High-Speed Services for Internet Access: Status as of December 31, 2007, Federal Communications Commission (released January 2009), available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-287962A1.pdf (last visited March 24, 2009). Twice a year, all facilities-based broadband providers are required to report to the Commission basic information about their service offerings and types of customers pursuant to the FCC's local telephone competition and broadband data gathering program (FCC Form 477). Id. Providers list the zip codes in which they have at least one high-speed connection in service to an end user. Id. Over 99% of zip codes were listed by at least one provider. Id.

¹⁰ See, e.g., Gomillion v. Lightfoot, 364 U.S. 339 (1960) (where the Supreme Court considered a map of the City of Tuskegee, Alabama to be "uncouth" and "irregularly shaped" demonstrating the discriminatory intent of the municipality). See also Spallone v. U.S., 493 U.S. 265 (1990) (finding that a map articulately demonstrated that the City of Yonkers, New York had

in school desegregation,¹¹ and in promoting equal access to health care, municipal services and facilities, banking, consumer credit, insurance, and environmental justice.¹² In like manner, accurate broadband mapping will ensure that disparities in broadband service – irrespective of their cause – are quickly identified and remedied appropriately.

To provide accurate and effective broadband mapping data, the Commission and USDA should incorporate three main principles in the creation of their broadband mapping data:

First, the Commission and USDA should provide street-level data to identify the geographic and social dividing lines for broadband service. Maps should permit technical indicators, such as speeds, price tiers, and competition, to be overlaid with social factors such as poverty, unemployment status, race and language. One possible way to obtain accurate social factor data is to add questions on broadband adoption and use to the Census Bureau’s annual American Community Survey.

Second, to effectively support a national broadband plan, maps must be comparable among the states and over time, and they must be updated promptly with data provided by service providers on the ground.

Third, to the extent possible, the mapping process must be transparent and verifiable. We appreciate from Connected Nation’s experience that, in some cases, disclosure of carriers’ source data is impossible due to legitimate proprietary and security concerns. However, that should not

deliberately failed to disperse public housing throughout the city in order to “preserve existing patterns” of discrimination).

¹¹ See, e.g., Lee v. Macon County Board of Education, 616 F.2d 805 (5th Cir. 1980) (affirming the initial district court order approving a plan to desegregate Tuscaloosa's schools with neighborhood geographic attendance zones).

¹² See, e.g., NAACP v. American Family Mutual Insurance Company, 978 F.2d 287 (7th Cir. 1992) (determining that an insurance company’s charging of higher rates or declining to issue insurance policies to people who lived in certain geographic areas constituted redlining, which effectively precluded plaintiffs from purchasing and owning a home).

be problematic as long as the maps themselves are made public and the underlying source databases are subject to independent federal or scholarly third party audit.

Historic Structural Housing Disparities Must be Eliminated to Effectively Deliver Broadband Services to Rural Minority Communities

For many rural minority residents, once broadband services become accessible to their community, an additional hurdle arises - getting broadband service into their homes. Many of the houses in rural, low-income, minority communities are not equipped with the adequate electrical outlets or wiring to accommodate broadband-related equipment.¹³ These homes tend to be very old, with antiquated two-prong electrical wiring that will not accommodate computers and other broadband equipment.

To provide broadband to rural minority communities, USDA must first overcome the hurdle of structural poverty by allocating funds to bring to code the electrical facilities of dwellings so that they can accommodate computers and broadband equipment.

Conclusion

The nation's rural broadband policy should focus first on eliminating the historical and structural effects of racial discrimination that residents of rural minority communities have endured for centuries. This can be achieved by:

- assigning the number one grant priority to delivering broadband service to unserved rural minority communities;
- performing granular, updated, and transparent broadband mapping that overlays technical factors (speed, price tiers and competition) with social factors (poverty, unemployment status, race and language); and

¹³ Leslie A. Whitener, Rural America: Housing Poverty in Rural Areas Greater for Racial and Ethnic Minorities, United States Department of Agriculture (2000), available at <http://www.ers.usda.gov/publications/ruralamerica/ra152/ra152c.pdf> (last visited March 24, 2009). Higher proportions of rural minority households were classified as housing poor compared with white households. Id. One of the U.S. Department of Housing and Urban Development's measures of housing poverty is "having no electricity, or all of the following three electric problems: exposed wiring, a room with no working wall outlet, and three blown fuses or tripped circuit breakers in the last 90 days." Id.

- providing broadband infrastructure development that includes funding for structural improvements of electrical facilities in the homes of rural minority residents.

Respectfully submitted,

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