



# WEST VIRGINIA BROADBAND ENHANCEMENT COUNCIL

## MEETING MINUTES | January 14, 2021

Meeting Title		WV Broadband Enhancement Council			Time	10:00 a.m.
Chairman		Robert L. Morris, Jr., Chair			Location	MS TEAMS/Conference Call
Meetings will be held by conference call due to COVID-19. Updates will occur as needed. <b>Meeting Registration:</b> <a href="#">January 14 2021 Meeting Registration</a> You will receive conference/call information upon registration. Please mute your phone if not speaking and identify yourself if you need to speak. Please register for public comment; hold any public comments until public comment portion of agenda						P = Present; TC = Teleconference; VC = Videoconference; _ = Absent
	Council Member	Representing			Council Member	Representing
P	Robert L. Morris, Jr. Chair	Urban Residential User		–	C. Edward Gaunch	WV Dept. of Commerce, Cabinet Secretary
P	William D. “Bill” Bissett Vice Chair	Urban Business User		P	Jeff Proctor	Representing Secretary Gaunch
P	Michael J. Holstine Secretary-Treasurer	Rural Business User Congressional Dist. 3		P	Robert Cole	Rural Residential User Congressional Dist. 1
–	R.A. “Pete” Hobbs	Rural Residential User Congressional Dist. 3		P	Dennis Lee	Business User, Large Scale Broadband
–	W. Clayton Burch	WV Dept. of Education, State Superintendent		P	Honorable Ronald G. Pearson	Rural Residential User Cong. Dist. 2
P	Brenda Morris	Representing Clayton Burch		P	The Honorable Robert Plymale	WV Senate (D) (Ex-Officio/Advisory Member)
P	Joshua D. Spence	WV Office of Technology, Chief Technology Officer		–	The Honorable Mark Maynard	WV Senate (R) (Ex-Officio/Advisory Member)
–	James Dixon	Representing Joshua Spence		P	The Honorable Daniel Linville	WV House (R) (Ex-Officio/Advisory Member)
–	Jeff Whitman	Representing Joshua Spence		–	Vacant	WV House (D) (Ex-Officio/Advisory Member)
–	Matt Turner	WV Higher Education Policy Commission Vice Chancellor		–	Vacancy: Rural Business User Congressional Dist. 1	
P	Dr. Carl R. Powell	Representing Matt Turner			Vacancy: Rural Business User, Congressional District 2	
	Representative	Agency			Representative	Agency
–	Charlie Dennie	WV Development Office Broadband Director		–	Fred Feit	Tilson Technology Management
–	Kelly Workman	WV Development Office Administrative Director		–	Jim Kelsh	Bowles Rice Legal Counsel
–	Todd Goddard	WV Development Office Development Manager		–	Jason Pizatella	Spilman Thomas & Battle
–	Jamie Hoffmann	WV Development Office GIS Analyst/Development Rep		–	Lee F. Feinberg	Spilman Thomas & Battle
Agenda Item			Details/Minutes			
1. Call to Order; Roll Call; Opening Remarks			Brief Remarks by Kris Warner, USDA State Director Director Warner advised the Council that his last day in this role would be February 12. While USDA administers 49 programs over 3 agencies in the Rural Development mission areas, he indicated that he worked primarily on broadband program area. The 3 main programs for broadband are detailed briefly below: 1. Community Connect-ClearFiber in Monongalia County serving 300 families. 2. ReConnect-The largest award in the nation with Harrison Rural Electric and other awards.			

	<p>3. Distance Learning and Telemedicine (DLT) awards are being executed today. 6 DLT grants to be announced:</p> <ol style="list-style-type: none"> <li>1. Rainelle Medical Center, \$614,048</li> <li>2. Ohio Valley Physicians, \$429,841</li> <li>3. Morgan County Partnership, \$999,999</li> <li>4. New River CTC, \$149,789</li> <li>5. Lincoln County Primary Care Center, \$686,656</li> <li>6. Glenville State \$292,000</li> </ol> <p>All partners, including USDA, the Council, WVDO, and WV Commerce, worked together to conduct workshops and training and WV competed well nationally.</p> <p>FY 2021 budget for broadband will be allocated to multiple agencies. He will continue to work with West Virginia communities and offered his contact information. Director Warner expressed his thanks to everyone. Chair Morris noted that Mr. Warner has set a high bar for any successors in his position, noting tremendous success due to his leadership and support for all development programs in the State.</p> <p>Director Warner noted that USDA has allocated \$50 million in 15 months for development in West Virginia.</p>
<p>2. Meeting Minutes and Financial Report</p>	<p>Member Bob Cole offered a motion to approve the minutes and Member Dennis Lee provided a second; minutes approves.</p> <p>The Financial Report included a spreadsheet and listing of January payments and was filed for audit.</p>
<p>3. FCC RDOF Auction 904</p>	<p>Fred Feit, Tilson Technology Management County by County Summary, Jamie Hoffmann, WVDO</p> <p>Mr. Feit provided a brief updated, post auction in the long form application process. The FCC released a public notice on Feb. 10 noting that letter of credit commitment letters are due on Feb. 16. The notice also included educational material for auction winners related to technical requirements in the long form process.</p> <p>Winners must also secure the Eligible Telecommunications Carrier (ETC) designations. This will be a relatively quiet period. While letters have been submitted to the FCC regarding various aspects of the auction, the FCC has not responded to any communication as yet. Mr. Feit noted that the update in February may also similarly brief.</p> <p>Jamie Hoffmann shared tables and mapping that breaks the RDOF awards by county. The RDOF results are posted to the website along with the interactive map. The charts show bidder, total locations and total amount of support. This information is also shown on the interactive map.</p> <p>Chair Morris thanked Mr. Hoffmann for this great work. He also noted that Senator Capito delivered the Council's letters directly to the FCC.</p>
<p>4. FCC and WVPSC Matters</p>	<p>Jason C. Pizatella, Lee F. Feinberg, Spilman Thomas &amp; Battle</p> <p>Lee Feinberg provided an update on matters at the WVPSC. Mr. Feinberg noted that the case – 20-0400 – concerning the Frontier reorganization request, following the Chapter 11 filing in April 2020. Each state in which Frontier operates must approve the plan. The Council attempted to intervene in the West Virginia case but was denied. The intervening parties were the Consumer Advocate Division, Communications Workers of American and PSC Staff.</p>

	<p>A hearing was conducted in November 2020 for discovery. In mid-December, all four parties submitted a Joint Proposed Settlement and Stipulation. As of the meeting date, the WVPSC had not acted upon this filing. As part of the settlement, Frontier promises to deploy fiber to the premise (FTTP) to support gigabit services to not less than fewer than 150,000 locations by Dec. 31, 2027. Half or 75,000, must be deployed within 3 years of emergence from bankruptcy, which is expected in mid-2021. Under this schedule, by mid-2024, deployment would be completed to at least 75,000 locations. The remainder would be completed by Dec. 31, 2017. Frontier also committed to a capital investment of \$200 million over a 3-year period, ending by Dec. 31, 2023.</p> <p>The parties recommended that a decision by January 19, 2021. Mr. Feinberg anticipated that the order would be approved with minor modifications. These may include refinement of language.</p> <p>With all state approvals secured, the bankruptcy court must still approve the final reorganization plan.</p> <p>The order defines FTTP as follows: Frontier will deploy fiber to facilities in an optical distribution network from its central offices to the public right-of-way, utility pole or easement immediately adjacent to the potential subscribers premises, including residential, multi-dwelling or commercial locations. If a consumer subscribes, the network will be connected to the adjacent location.</p> <p>Mr. Feinberg noted that there is a long-standing dispute regarding jurisdiction of broadband. Within the document, the language notes that for the purposes of this agreement, Frontier consents to the WVPSC's jurisdiction over broadband for this matter.</p> <p>Mr. Feinberg noted that the WVPSC has previously been open to intervening parties and noted that the case included at least 50 percent of the hearing and settlement relates to broadband. He concluded by noting that the 150,000 locations do include the RDOF (nearly 80,000) locations.</p> <p>Chair Morris asked about control measures within the agreement. Mr. Feinberg noted that the document does not address penalties such as liquidated damages. However, the WVPSC does intend to hold Frontier accountable. The WVPSC order does include references to jurisdiction over broadband, despite the legislative action in 2015.</p> <p>Chair Morris asked how the West Virginia settlement lines up with settlements in other states, especially California. Mr. Feinberg noted that the number of locations seemed comparable, while the investment figure may not line up. He deferred to Fred Feit with Tilson, who indicated that he would need more time to evaluate details.</p> <p>Chair Morris noted that half of the commitment to West Virginia is derived from RDOF. Is this proportionate to offers in other states?</p> <p>Member Pearson noted that Frontier's California territory is difficult to compare but he is concerned about its ability to fulfill its RDOF commitments and other state commitments. If the WVPSC refused the settlement, what would be next steps. Mr. Feit noted that if the new</p>
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	<p>company was approved, the FCC would not grant the high cost subsidy under RDOF, but he did not want to speculate on other matters.</p> <p>Member Holstine posed a question concerning the total number of locations included in RDOF and the total number to be completed under the settlement. Mr. Feit confirmed that the total statewide award was 117,000 locations under RDOF, and Frontier's total locations were approximately 79,000.</p> <p>Mr. Feinberg noted that under the proposed order, Frontier will be required to report locations, every 6 months, to detail deployment locations. By January 1 each year, Frontier will be required to file a confidential report on <u>intended</u> locations for the year. Reports on <u>actual</u> deployments and funds expended will be reported every 6 months, along with funds invested, beginning in mid-2021. Beginning mid-2021, the report should include a report of funds expended of at least \$50 million per year.</p> <p>Member Holstine asked if there were any provisions regarding cost of service and Mr. Feinberg noted that these were included in the California order, but these are not included in the West Virginia order.</p> <p>Member Pearson asked how the capital investment requirement compares to annual profits from land line service in West Virginia. Mr. Feinberg pointed to a footnote indicates that the commitment exceeds annual profits but does not provide exact figures.</p> <p>Chair Morris noted that the FCC has established ceilings on costs of service under RDOF. Mr. Feit noted that RDOF subsidies are within census block boundaries. These boundaries often follow roadways. Just recently, Consolidated Communications announced that it would extend service to additional locations on the other side of the roadway and these would be incidental to a build.</p>
<p>5. WVEDA BLINS Modifications</p>	<p>Jim Kelsh, Legal Counsel, Bowles Rice Coordination with WVEDA and Program Revisions Mr. Kelsh indicated that meetings are ongoing to draft legislation to support program modifications. A representative from the Governor's Office has joined the workgroup. Mr. Kelsh noted that Senate President Craig Blair has announced broadband as a priority.</p> <p>The RDOF letter of credit requirement and work in conjunction with other funding</p> <p>The proposed legislation lifts the total fund cap to \$80 million. Ideally, this legislation would work for RDOF Rounds 1 and 2. RDOF Round 1 is a known variable, however RDOF Round 2 is speculative as this will occur in 2 to 3 years.</p> <p>The per recipient cap is also increasing. The WV Board of Treasury Investment and the WV Economic Development Authority. The proposed legislation includes additional internal controls related to any potential default. The goal is to have legislation in hand prior to the beginning of the legislative session on February 10, 2021.</p> <p>Chair Morris thanked Mr. Kelsh for his work on this matter.</p>

6. NTIA NBAM Mapping, Ookla Data and Website Modifications

Jamie Hoffmann, WVDO

Jamie Hoffmann provided an overview of two interactive maps that will soon be added to the website. The first is a development map that shows project locations, funded by various sources including USDA, CDBG, and those proposed by AEP and FirstEnergy. Project details include funding amounts, service locations and other criteria.

Josh Spence noted that a point of contact for projects would be a good addition to the data. Jamie Hoffmann noted that he would add this information.

For the NTIA NBAM – National Telecommunications Information Administration, National Broadband Availability Map. This map is powered ESRI ArcGIS Online, as a mapping portal and analysis platform. It is intended to support broadband development. A

NTIA receives about \$7.5 million per year to continue working on the NBAM. The NBAM is developed in partnership with the states and is not intended to compete with or duplicate FCC mapping. Available data includes FCC Form 477 Speed Data, Ookla Speed Test Data, U.S. Census Bureau: American Community Survey, MLAB, USDA project data, and other state reported data. (WV's Ookla data is shown at 100-square miles and does not expose personal information).

The website portal provides state data, federal data, and Ookla data. Users can also make maps. Certain tools are available with ArcGIS Pro, so if any project teams need assistance with special analysis, Mr. Hoffmann can assist. NTIA has a YouTube Page, online demos and other resources to assist users.

In the State application, NBAM provides an layers, filters and widgets to analyze certain areas and compare datasets. The platforms shows Ookla data by census block with other attributes and offers a comparison between the two. Currently, West Virginia has three data files in the platform. These will be updated soon.

Chair Morris noted that communities will have access to greater data resources as the state continues to advance its mapping expertise. The information will be useful to providers, state and federal agencies.

Concerning website modifications, Mr. Hoffmann noted that the website now features static maps and interactive maps. He can provide the same visualization for Ookla. The Ookla data can be updated each month.

Del. Linville addressed the Council concerning the proposed settlement discussed earlier in the meeting. He indicated that due to the WVPSC's pending decision on the proposed settlement anticipated on Jan. 19, 2021, that the Council empower the Chair to analyze the agreement pending in both states and petition the WVPSC for parity.

Chair Morris asked for a motion for unanimous consent to return to the 4<sup>th</sup> order of business, FCC and Public Service Commission Matters. Vice Chair Bissett provided the motion. Chair Morris reiterated some of the previous discussion. Member Cole offered a motion that the Council empower the Chair to work with legal counsel to write a letter to the WVPSC to request that West Virginia's proposed settlement be equal to or greater than the

	<p>settlement in California. Member Holstine offered a second and the motion was approved.</p> <p>Mr. Feinberg noted that he would prepare a draft today and that the letter should be hand carried on Friday, Jan. 15, in anticipation of a decision by January 19, 2021.</p>
7. HR 133: Consolidated Appropriations Act of 2021	<p>Kelly Workman, WVDO</p> <p>Kelly Workman provided an overview of broadband funding authorized from H.R. 133, the "Consolidated Appropriations Act, 2021," which was signed into law on December 27, 2020.</p> <p><b>NTIA, 3 new programs:</b></p> <ul style="list-style-type: none"> <li>• \$45.5M (NTIA) salaries and expenses <ul style="list-style-type: none"> <li>◦ \$7.5M (NTIA) to continue NBAM</li> </ul> </li> <li>• \$1B (NTIA) Infrastructure and adoption activities in tribal areas</li> <li>• \$300M (NTIA) Rural infrastructure projects not covered by other programs</li> <li>• \$285M (NTIA) for digital inclusion efforts in minority communities</li> </ul> <p><b>FCC:</b></p> <ul style="list-style-type: none"> <li>• \$3.2B (FCC) \$50/mo. HH subsidy for broadband service</li> <li>• \$1.9B (FCC) reimbursements to replace network components covered by the Secure and Trusted Communications Networks Reimbursement Program</li> <li>• \$250M (FCC) COVID-19 Telehealth Grant Program</li> <li>• \$65M + \$33M (FCC) for broadband mapping</li> </ul> <p><b>USDA:</b></p> <ul style="list-style-type: none"> <li>• \$635M (USDA) ReConnect program</li> <li>• \$60M (USDA) DLT grants</li> <li>• \$35M (USDA) Community Connect grants</li> </ul> <p><b>US DEPARTMENT OF EDUCATION:</b></p> <ul style="list-style-type: none"> <li>• \$81.88B for continuation of CARES Act programs, allocated as follows: <ul style="list-style-type: none"> <li>◦ \$4.1B for Governors Emergency Education Relief (GEER) fund</li> <li>◦ \$54.3B for Elementary and Secondary School Emergency (ESSER) fund</li> <li>◦ \$22.7B for Higher Education Emergency (HEER) fund</li> </ul> </li> </ul>
8. Legislative Recommendations	<p>Del. Linville and Sen. Plymale were not on the call for this portion of the meeting. Jim Kelsh reviewed RDOF requirements for ETC certification. The ETC certification can be obtained through the FCC or the WVPSC.</p> <p>The WVPSC recently issued a letter to RDOF winners indicating that it would not be granting ETC status to providers that provided voice service (VOIP) over internet protocol. These providers would need to apply to the FCC. Frontier and Shentel have requested ETC certification from the WVPSC and Citynet is expected to file along with Prodigy. The RDOF program requires that all internet service providers obtain ETC status by June 2021, or to demonstrate due diligence in obtaining the certification by applying to the FCC by January 7, 2021.</p> <p>Fred Feit with Tilson noted that the January 7 deadline was a quick deadline.</p>
9. Other Business	
10. Public Comment	There were no public comments.

11. Next Meeting Date			February 11, 2021; 10:00 a.m.; Teams/Conference Call	
12. Adjournment			Meeting adjourned.	
Action Items				
No.	Description	Assigned To	Month Identified	Target Completion Date
1.	Legal and Cooperative Toolkit and Training	WVU Law	June 2017	Underway by WVU Law Clinic
2.	NTIA/National Broadband Availability Map	K. Workman, J. Hoffman	February 2019	Two-year project. 5/10/2019 Initial Data from Phase One States.



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## MEETING MINUTES | February 11, 2021

<b>Meeting Title</b>		WV Broadband Enhancement Council			Time	10:00 a.m.
<b>Chairman</b>		Robert L. Morris, Jr., Chair			Location	<b>MS TEAMS/Conference Call</b>
Meetings will be held by conference call due to COVID-19. Updates will occur as needed.						P = Present; TC = Teleconference; VC = Videoconference; _ = Absent
<b>Meeting Registration:</b> <a href="https://forms.office.com/February 11 Registration">https://forms.office.com/February 11 Registration</a>						
<ul style="list-style-type: none"><li>You will receive conference/call information upon registration</li><li>Please mute your phone if not speaking and identify yourself if you need to speak</li><li>Please register for public comment; hold any public comments until public comment portion of agenda</li></ul>						
	<b>Council Member</b>	<b>Representing</b>			<b>Council Member</b>	<b>Representing</b>
P	Robert L. Morris, Jr. Chair	Urban Residential User		–	C. Edward Gaunch	WV Dept. of Commerce, Cabinet Secretary
P	William D. “Bill” Bissett Vice Chair	Urban Business User		P	Jeff Proctor	Representing Secretary Gaunch
P	Michael J. Holstine Secretary-Treasurer	Rural Business User Congressional Dist. 3		P	Robert Cole	Rural Residential User Congressional Dist. 1
–	R.A. “Pete” Hobbs	Rural Residential User Congressional Dist. 3		–	Dennis Lee	Business User, Large Scale Broadband
–	W. Clayton Burch	WV Dept. of Education, State Superintendent		P	Honorable Ronald G. Pearson	Rural Residential User Cong. Dist. 2
P	Brenda Morris	Representing Clayton Burch		–	The Honorable Robert Plymale	WV Senate (D) (Ex-Officio/Advisory Member)
P	Joshua D. Spence	WV Office of Technology, Chief Technology Officer		–	The Honorable Mark Maynard	WV Senate (R) (Ex-Officio/Advisory Member)
–	James Dixon	Representing Joshua Spence		–	The Honorable Daniel Linville	WV House (R) (Ex-Officio/Advisory Member)
–	Jeff Whitman	Representing Joshua Spence		–	Vacant	WV House (D) (Ex-Officio/Advisory Member)
P	Matt Turner	WV Higher Education Policy Commission Vice Chancellor		–	Vacancy: Rural Business User Congressional Dist. 1	
P	Dr. Carl R. Powell	Representing Matt Turner			Vacancy: Rural Business User, Congressional District 2	
	<b>Representative</b>	<b>Agency</b>			<b>Representative</b>	<b>Agency</b>
P	Charlie Dennie	WV Development Office Broadband Director		P	Fred Feit	Tilson Technology Management
P	Kelly Workman	WV Development Office Administrative Director		P	Jim Kelsh	Bowles Rice Legal Counsel
P	Todd Goddard	WV Development Office Development Manager		P	Jason Pizatella	Spilman Thomas & Battle
P	Jamie Hoffmann	WV Development Office GIS Analyst/Development Rep		P	Lee F. Feinberg	Spilman Thomas & Battle
<b>Agenda Item</b>			<b>Details/Minutes</b>			
1. Call to Order; Roll Call; Opening Remarks			Welcome Mitch Carmichael, Executive Director, WV Development Office Chair Morris informed that Mitch Carmichael has been named Executive Director of the WVDO and potential new WV Department of Economic Development.			
2. Approval of 1/14/2021 Meeting Minutes, Financial Statement			Motion by Holstine Second by _____? Motion carried. Jeff Proctor noted a date change on page 3. Motion to amend by Proctor, second by Holstine. Minutes approved with this amendment. Financial statement was also filed for audit.			



3. FCC RDOF Auction 904	<p>Fred Feit, Tilson Technology Management</p> <p>FCC RDOF Update. The post auction process is several months long to complete the long form application process. Participants that were assigned census blocks are considered provisional winners until the long form process is complete and declared eligible to receive Universal Service Funds by the FCC.</p> <p>The next substantial deadline is February by which the provisional winners must submit technical information, designs stamped by an engineer, and letter of credit.</p> <p>The FCC has received numerous letters stating concern regarding auction outcomes, urging greater scrutiny of long form applications with respect to two key areas, including financial wherewithal and technical capabilities. This includes a bipartisan group of 160 U.S. Senators and Congressional Representatives. Some concerns are related to gigabit deployment utilizing wireless technology.</p> <p>As part of this process, Frontier has filed with the WVPSC and the FCC for high-cost ETC designation within the newly awarded census blocks. There is still some ambiguity regarding which entity has jurisdiction to grant this certification. This process will likely cause some delays.</p>
4. FCC and WVPSC Matters	<p>Jason C. Pizatella, Spilman Thomas &amp; Battle Lee Feinberg, Spilman Thomas &amp; Battle</p> <p>Mr. Feinberg provided an update on this matter. Mr. Feinberg reminded the Council that in the January meeting, the WVPSC had not issued its final ruling on 00-400 or 18-0291, and these orders were anticipated by January 19, 2021.</p> <p>The WVPSC issued final orders on both cases, dated January 15, 2021. In these orders, the PSC approved the joint stipulation and added a number of conditions.</p> <p>The two major points that all parties had agreed to include that Frontier would deploy would fiber to the premise capable of supporting gigabit service to not fewer than 150,000 locations in West Virginia by December 2027. 75,000 of the 150,000 would be deployed within three years from the time Frontier emerged from Chapter 11 bankruptcy, which is expected in late Spring 2021, meaning that 75,000 would be complete by mid-2024. The remainder would be complete by December 2027. Frontier is to report every 6 months on the progress toward the anticipated numbers and locations deployed.</p> <p>The second major point in the joint stipulation is separate and apart from broadband, Frontier would expend capital of at least \$200 million within three years ending December 31, 2023. This would be a 36-month capital expenditure effort. Progress would be reported to the WVPSC on an annual basis.</p>

	<p>Of note is the joint stipulation, Frontier committed to not contest the WVPSC's jurisdiction to enforce the settlement and/or the final order. The WVPSC established tools to be able to hold Frontier accountable in the joint stipulation and in the audit case.</p> <p>Concerning the \$200 million in capital expenditures, by March 15, 2021, Frontier is to submit a detailed budget for the next 36 months, detailing when and where investments would occur. The WVPSC reserved the right to conduct hearings and request additional information.</p> <p>Beginning in September 2021, and quarterly thereafter, Frontier must file a report that the WVPSC has designed which will allow the PSC to gather more detailed information on whether Frontier is meeting expectations on broadband related to the 75,000 locations and the \$200 million investment.</p> <p>Concerning penalties, the WVPSC reserved the right to conduct hearings related to deficiencies. This may include revisions to the final order or collection of a security bond. The WVPSC required Frontier to file an affidavit accepting this condition.</p> <p>Jason Pizatella continued the presentation detailing that in the order and in public comments following the order, WVPSC Chair Lane noted that the joint stipulation was binding even if Frontier moved West Virginia from an Investco to an Improvco status state.</p> <p>Chair Morris asked if there were any further items related to this matter, other than collecting public information from the WVPSC.</p> <p>Mr. Pizatella confirmed that no further action was pending, other than the required reports. Those reports will be collected and monitored by the Council going forward. He confirmed that the Council will receive a final report to summarize the notes above.</p> <p>Chair Morris noted that the Council will follow the reporting and any matters related to FCC RDOF. Member Pearson noted that the Council should continue to monitor issues at the FCC regarding the provisional awards under RDOF.</p> <p>Mr. Feinberg noted that the FCC is in transition with the appointment of a new acting chair. The FCC may be reviewing the large amount of pleadings to review long forms. Chair Morris asked if the FCC may officially respond to these pleadings from West Virginia, other states, elected officials or other organizations. Mr. Feinberg said this may depend upon the level of concern and responses may be categorized. The documents will also be reflected in the official record.</p> <p>Chair Morris asked that Mr. Feinberg and Mr. Pizatella continue to monitor this issue and, if necessary, to reach out the FCC regarding any forthcoming responses. He noted that Fred Feit with Tilson will also be involved in this process to keep the Council apprised of actions as the FCC moved through the RDOF long form process.</p> <p>Member Pearson noted that the Council's request included a request that that should the FCC determine that the preliminary bidder could not fulfill its obligations under RDOF, that the FCC allocate funds to another bidder.</p>
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	<p>While these procedures were not articulated in the RDOF process, he noted that this practice may be authorized.</p> <p>Chair Morris noted that certain ISP parties have expressed concern that the next highest bidder would be a satellite provider, which would negate the State's ability to improve fiber infrastructure deployment.</p> <p>Member Pearson noted this and maintained that the FCC could look at other bidders on the list to determine capability. Mr. Feinberg noted that this was a complicated process and that he would keep monitoring any action in this regard.</p>
<p>5. WVEDA BLINS Modifications</p>	<p>Jim Kelsh, Legal Counsel, Bowles Rice</p> <p>Mr. Kelsh provided a report, noting that the FCC RDOF requires letters of credit. In September, Governor Justice issued an executive order to enable the WVEDA to support RDOF bidders, lifting the cap on the program funds and the per recipient allocations per year.</p> <p>The Council worked closely with the WVEDA to assist in revisions to the WVEDA guidelines in November 2020. RDOF winners were announced in December 2020 and have until next week to tender letters of credit. The modifications to the BLINS program have enabled the program to support the bidders in securing the letters of credit.</p> <p>Mr. Kelsh has continued to work with the WVEDA, the Board of Treasury Investment, Treasurer's Office. Four of the RDOF winning bidders have obtained letters of comfort from the WVEDA pledging their intent to provide insurance on the letters of credit. This represents four RDOF winning bidders with awards of \$100 million.</p> <p>The WVEDA comfort letter is not a binding commitment of funds for the letters of credit. This phase will arise when the winning bidders tender the letters of credit with the FCC, which is expected to occur in June 2021.</p> <p>The modified program has been successful in meeting the needs of the winning RDOF bidders.</p> <p>The Governor's authority to modify the program are tied to the state of emergency and must be made permanent in State Code. This will be needed to provide the WVEDA with legal authority to finalize the insurance commitments.</p> <p>The WVEDA, Board of Treasury Investments, Broadband Council, Governor's Office have drafted legislation to address the items above and modify the existing program to fit the letter of credit requirements and provide sound practices for mitigating any potential defaults. Mr. Kelsh indicated that the Treasurer's Office has also prepared legislation. He is working with the Governor's Office to address any issues that may relate to the work underway with the RDOF winning bidders.</p> <p>Senate Bill 2 has been introduced and referenced to Senate Government Organization. The bill sets forth new criteria which were not in the prior guidelines in place when the RDOF winners began their process. The bill should exempt projects that have already completed the interim procedure established in November 2020, otherwise the new terms may result in banks deciding not to follow through on their letters of credit, thus</p>

	<p>endangering the potential \$100 million investment. Mr. Kelsh noted that these items should be resolved in the committee process. He can assist with this task if needed.</p> <p>Chair Morris noted that the program modifications have enabled the WVEDA fulfill the intent of the Governor's Executive Order to secure the \$100 million federal investment with the four approvals issued to date. He noted that the Council should engage and assist with any input that may help achieve the State's goal of securing RDOF funds for the entities that have applied for to the program. It can be stated that without this program, the four companies would not be able to participate in the RDOF program.</p> <p>The Chair requested a motion to permit Bowles Rice to participate in the legislative process related to SB2.</p> <p>Member Pearson offered a motion; second by Sec. Holstine. The motion carried.</p>
<p>6. Approval of Bowles Rice Retainer</p>	<p>Jim Kelsh, Legal Counsel, Bowles Rice</p> <p>Chair Morris noted that the Council has a retainer in place with Bowles Rice for legal services, approved by the WV Attorney General, for broadband expertise. The initial retainer was \$4,500 per month.</p> <p>Items outside of the retainer are authorized as separate and specific matters. As the Council has taken on additional duties, the request is to increase the retainer to \$6,500 per month. A memo was provided to Council members.</p> <p>The Chair requested a motion for approval. Secretary Holstine provided a motion; Member Pearson offered a second. The increase was approved.</p> <p>Mr. Kelsh noted that Bowles Rice has opened separate matters and tries to minimize expense wherever possible.</p>
<p>7. <a href="#">Broadband DATA Act</a> 8. FCC Digital Opportunity Data Collection (DODC)</p>	<p>Fred Feit, Tilson Technology Management</p> <p>Mr. Feit began by noting that the FCC has outlined its intent to implement the DODC prior to conducting RDOF Phase 2. The program should be implemented and the data from it will establish eligibility for RDOF Phase 2. It seems likely that subsidy funding not allocated in Phase 1 will be moved to Phase 2. This program is the FCC's attempt to improve its broadband availability data and mapping which is based upon Form 477 data, self-reported broadband and voice data.</p> <p>Among the most significant flaws in the data is the FCC's interpretation of service at the census block level. This blocked several areas from RDOF 1, but some of these areas may be eligible for RDOF 2. The DODC will require the Form 477 data, and upon implementation, will require additional data. He provided a slide presentation detailing the following:</p> <ul style="list-style-type: none"> <li>• August 2019 FCC first introduced the program</li> <li>• March 2020 the Broadband DATA Act passed requiring implementation of DODC</li> <li>• December 2020 funding for implementation of DODC appropriated</li> <li>• An RFP for software has been issued</li> </ul>

	<ul style="list-style-type: none"> <li>January 2021 FCC released DODC Third Report and Order which did not ask for further comment, indicating that final rules are forthcoming</li> <li>FCC will release Public Notice six months prior to first filing deadline</li> <li>Twice yearly submissions following Form 477 filing deadlines. If the FCC does not issue notice prior to March 1, the reporting cycle will not be changed in September. <ul style="list-style-type: none"> <li>Coverage as of December 31<sup>st</sup> due March 1<sup>st</sup></li> <li>Coverage as of June 30<sup>th</sup> due September 1<sup>st</sup></li> </ul> </li> <li>Requires ISPs to submit Broadband Coverage Polygons per service</li> <li>Applies to Fixed and Mobile Service. Will apply to 5G Mobile.</li> <li>Wireless providers will need to submit propagation models</li> <li>Requires ISP data to be <b>certified by a professional engineer</b></li> <li><b>More granular but still self-reported</b></li> </ul> <p><b>State Entities Can Submit Data:</b></p> <ul style="list-style-type: none"> <li>Allows government entities to submit their own coverage data</li> <li>Significant change because other parties have not had this ability</li> <li>The FCC defines 'Credible' third-party data will be incorporated into FCC mapping. The Broadband Council's work on Ookla data qualifies as credible. <ul style="list-style-type: none"> <li>specializes in gathering and/or analyzing broadband availability data</li> <li>demonstrates that it has employed a sound and reliable methodology in collecting, organizing, and verifying the data it is submitting</li> <li>The Broadband Council's Ookla data will qualify as credible. This can be submitted into the same portal and process by the FCC.</li> </ul> </li> </ul> <p><b>Challenge Process:</b></p> <p>The Broadband DATA Act requires FCC to implement a challenge process. In addition to submission of data by state entities being able to broadband availability data, there will also be a challenge process. Not sure if this will be ongoing or only during funding opportunities, such as RDOF 2.</p> <ul style="list-style-type: none"> <li>Additional data, more granular data allowing individual locations within census blocks to be available for funding.</li> <li>DODC applies to fixed and mobile data services</li> </ul>
<p>9. Ookla Speed Test Update: County-by-County</p>	<p>Jamie Hoffmann, WVDO</p> <p>Mr. Hoffmann provide a review of Ookla data as a follow up to Mr. Feit's presentation. He provided a county by county analysis of the 1.3 million Ookla speedtests by Ookla. Of the 1.3 million, he identified unique IP addresses and averaged out the speed tier and then tied this to parcel data. The same could be achieved by unique devices. On the maps, 0-10 is shown in yellow, 10-24 is in green. These are conglomerates of parcels. Parcel level boundaries are not shown and would not be shown in public data.</p> <p>This can show parcels within census tracts or census blocks. Mr. Hoffmann can also tie Ookla data to IP or parcels to get a better representation of how census blocks are being serviced. This could also be utilized within the Unserved/Unfunded areas. The data is available for review upon request by county or project area. Through this analysis, about 40 percent of IP addresses reported are under 25:3.</p>

	<p>Member Proctor asked if a census block has one home at 25:3 but no other homes have service at all, how would this be shown on this map. Mr. Hoffmann explained that he can analyze parcels within the census block to determine service levels within that census block. Mr. Hoffmann explained that the yellow service area is 0-10 Mbps. He also as a map derived from FCC data that has no reported information. The State is basing unserved areas on Ookla speed tests based on performance. The Unserved and Unfunded areas map challenges the FCC data. If this methodology is aligned with parcel data, this may show which homes on a particular street are not receiving any service at all.</p> <p>Ms. Workman noted that under most federal programs, agencies will allow surveys. In a discreet neighborhood, USDA and HUD recognize survey instruments. This would seem to indicate precedence for acceptance from the FCC for survey data.</p> <p>Fred Feit indicated that creating a map that accurately shows where people do/do not have service is extremely difficult. Ookla data helps but can only eliminate certain points by default. <b>It is unknown whether the user does not have service or simply does not execute a speedtest.</b> Those locations represent a gap for areas that have no service.</p> <p>The DODC should allow information from government agencies and the public. The final format is unknown, but the FCC has referenced a crowdsource data program. There may be a tool for a survey or portal for challenges.</p> <p>Member Holstine requested information on how to access these maps. Mr. Hoffmann indicated that these would be posted to the website, removing any private location information.</p>
<p>10. 2021 FCC Broadband Deployment Report</p>	<p>Jamie Hoffmann, Kelly Workman, WVDO</p> <p>Mr. Hoffmann provided a review a of the 2021 FCC Broadband Deployment Report.</p> <ul style="list-style-type: none"> <li>• 82.2 percent of state residents are reported as having broadband speed at 25:3.</li> <li>• Neighboring states are breaking 90 percent and 95 percent.</li> <li>• In rural areas, 263,000 lack broadband</li> <li>• Ranking 48<sup>th</sup> in the nation.</li> <li>• County by county listings show Jefferson, Hardy and Berkeley are tops, while Calhoun is listed as 30 percent of the population having broadband service.</li> <li>• In comparison to other states, Arkansas and Mississippi are behind West Virginia</li> </ul> <p>Chair Morris noted that while West Virginia has made progress, other states have also made progress. The work remains worthwhile and with RDOF, the State should improve. The ranking is somewhat misleading with</p>

	<p>the most important factor being the percentage of residents who have service. Numerous projects have been undertaken over the past few years, with utility projects, middle mile projects, and long-haul fiber projects. The ranking is no where near good enough. It is imperative that all parties, including the Council, newly formed Office of Broadband, WV Legislature, Governor's Office and Federal representatives continue to work toward the goal of providing service to all West Virginians.</p> <p>The Council outlined a goal of gigabit level service for all areas of the State and this goal should remain.</p>
<p>11. FY 20 CDBG Broadband Applications ARC POWER Deadlines</p>	<p>Kelly Workman, WVDO</p> <p>Kelly Workman reviewed the FY2020 applications. Ten were received, representing about \$3 million in requests. WV has currently allocated about \$6 million in CDBG funds to broadband and is one of the states in the nation to utilize CDBG for broadband projects. All of the applications are for infrastructure projects, with the exception of one planning application from Wirt County. The planning grants were used initially to kick start last mile projects that fit into discreet areas and provide service. The local project teams are critical in this process. As a result of the planning process, the applications are being submitted to USDA and ARC.</p> <p>Most of the applications received this year are in the southern part of West Virginia and this tends to track with CDBG. Most of the USDA funding has been allocated in the northern areas of the state due to the work of Citynet, Hardynet, Micrologic and Prodigy. In the southern areas of West Virginia, Gigabeam has shown a willingness to partner and we are seeking additional partners to execute the project.</p> <p>Chair Morris noted that this illustrates how local project teams are taking responsibility for broadband expansion. Ms. Workman noted that Jamie Hoffmann will enable the state to assist communities with local project development. As the FCC DODC develops, the state will also work on the identification of project areas.</p> <p>ARC Power 2021 is opening soon. <a href="https://www.arc.gov/arcs-power-initiative/">https://www.arc.gov/arcs-power-initiative/</a></p> <ul style="list-style-type: none"> <li>• Application Portal Opens: Feb. 16, 2021</li> <li>• Letter of Intent Due: March 5, 2021</li> <li>• Applications Due: April 16, 2021</li> </ul> <p>Any interested applications must submit a Letter of Intent. ARC plans to post a broadband specific webinar and will conduct a live Q&amp;A. Questions must be submitted by February 19.</p> <p>ARC works at a higher speed threshold. As of today, ARC is not requiring a carve-out for RDOF areas, as with USDA and CDBG. Ms. Workman encouraged any project teams that submitted to applications to USDA ReConnect of Community Connect, to submit an application to ARC Power. The technical requirements associated with each program should not pose an undue burden. ARC is seeking projects in West Virginia.</p> <p>The grant limit is \$2.5 million. The total budget was not readily known but those interested were encouraged to register for the webinar listed above.</p>

12. FCC Webinar on \$3.2 Billion FCC <a href="#">Emergency Broadband Benefit Program</a> ; Consolidated Appropriations Act of 2021		Roundtable Discussion: Friday, Feb. 12, 2021; 10:00 a.m. The roundtable is open to the public, and can be livestreamed at <a href="http://www.fcc.gov/live">www.fcc.gov/live</a> .		
13. Other Business		<p>House Bill 2002 was introduced yesterday by Del. Linville as the lead sponsor along with other sponsors. A committee substitute will be posted to the WV Legislature’s website. Please review and provide comments and suggestions to the Chair.</p> <p>The original bill significantly changed the role of the WV Broadband Enhancement Council. The committee substitute made further revisions.</p> <p>Chair Morris reported that he had a good discussion with Brad Smith of Intuit. Mr. Smith noted that the 2020 Annual Report of the WV Broadband Enhancement Council. He noted that the report was thorough, objective, clearly organized, and presenting a comprehensive overview. He referred to this report as world class, fact based and visually appealing. The Chair thanked Kelly Workman and Jamie Hoffmann for their work and professionalism, along with Fred Feit of Tilson.</p>		
14. Public Comment		<p>Sign-In for Public Comment</p> <p>Brandy E. Brabham, WVU-Roane County Extension Agent Agriculture and Natural Resources and Daniel C. Eades, Extension Associate Professor and Rural Development Specialist, WVU Extension Service, Family and Community Development, provided a brief overview of WVU Extension Services and requested suggestions on ways they can assist the WV Broadband Council in the state’s broadband initiatives. The WVU Extension programs target youth, families, and businesses across the state, especially those in very rural areas.</p>		
15. Next Meeting Date		March 11, 2021; 10:00 a.m.; Teams/Conference Call		
16. Adjournment				
Action Items				
No.	Description	Assigned To	Month Identified	Target Completion Date
1.	Legal and Cooperative Toolkit and Training	WVU Law	June 2017	Underway by WVU Law Clinic
2.	NTIA/National Broadband Availability Map	K. Workman, J. Hoffman	February 2019	Two-year project. 5/10/2019 Revising WV Data 2/2021.





# WEST VIRGINIA BROADBAND ENHANCEMENT COUNCIL

## MEETING MINUTES | March 11, 2021

Meeting Title		WV Broadband Enhancement Council			Time	10:00 a.m.
Chairman		Robert L. Morris, Jr., Chair			Location	MS TEAMS/Conference Call
Meetings will be held by conference call due to COVID-19. Updates will occur as needed.						P = Present; TC = Teleconference; VC = Videoconference; _ = Absent
Meeting Registration: <a href="https://forms.office.com/Pages/March 11 Registration">https://forms.office.com/Pages/March 11 Registration</a>						
You will receive conference/call information upon registration						
<ul style="list-style-type: none"><li>Please mute your phone if not speaking and identify yourself if you need to speak</li><li>Please register for public comment; hold any public comments until public comment portion of agenda</li></ul>						
	Council Member	Representing			Council Member	Representing
P	Robert L. Morris, Jr. Chair	Urban Residential User		—	C. Edward Gaunch	WV Dept. of Commerce, Cabinet Secretary
P	William D. “Bill” Bissett Vice Chair	Urban Business User		P	Jeff Proctor	Representing Secretary Gaunch
P	Michael J. Holstine Secretary-Treasurer	Rural Business User Congressional Dist. 3		P	Robert Cole	Rural Residential User Congressional Dist. 1
—	R.A. “Pete” Hobbs	Rural Residential User Congressional Dist. 3		P	Dennis Lee	Business User, Large Scale Broadband
—	W. Clayton Burch	WV Dept. of Education, State Superintendent		P	Honorable Ronald G. Pearson	Rural Residential User Cong. Dist. 2
P	Brenda Morris	Representing Clayton Burch		—	The Honorable Robert Plymale	WV Senate (D) (Ex-Officio/Advisory Member)
—	Joshua D. Spence	WV Office of Technology, Chief Technology Officer		—	The Honorable Mark Maynard	WV Senate (R) (Ex-Officio/Advisory Member)
P	James Dixon	Representing Joshua Spence		—	The Honorable Daniel Linville	WV House (R) (Ex-Officio/Advisory Member)
P	Jeff Whitman	Representing Joshua Spence		—	Vacant	WV House (D) (Ex-Officio/Advisory Member)
—	Matt Turner	WV Higher Education Policy Commission Vice Chancellor		—	Vacancy: Rural Business User Congressional Dist. 1	
P	Dr. Carl R. Powell	Representing Matt Turner			Vacancy: Rural Business User, Congressional District 2	
	Representative	Agency			Representative	Agency
—	Charlie Dennie	WV Development Office Broadband Director		—	Fred Feit	Tilson Technology Management
—	Kelly Workman	WV Development Office Administrative Director		—	Jim Kelsh	Bowles Rice Legal Counsel
—	Todd Goddard	WV Development Office Development Manager		—	Jason Pizatella	Spilman Thomas & Battle
—	Jamie Hoffmann	WV Development Office GIS Analyst/Development Rep		—	Lee F. Feinberg	Spilman Thomas & Battle
Agenda Item			Details/Minutes			
1. Call to Order; Roll Call; Opening Remarks			Senator Manchin’s Office joined to provide an overview Ryan Thorn and Seth Gainer Ryan Thorn noted that the American Rescue Plan (ARP), \$1.9 trillion is expected to be signed by President Biden on March 12, 2021. WV will receive more than \$4 billion in direct funding and possibly more through future competitive grant programs. A majority of funds will go directly to counties and municipalities to be used for water, sewer and broadband infrastructure.  Seth Gainer, Sen.Manchin’s appropriations lead and broadband lead, provided additional details.			

- Roughly \$17 billion for broadband throughout the nation through various programs.
- State and local funds are included totaling \$2.064 billion
- \$1.25 billion direct to local governments nationwide
- In West Virginia, specifically:
  - \$176 million to the nine entitlement communities in WV under the HUD CDBG program
  - \$348 million divided among counties
  - \$153 million for all other communities
  - A key provision allows funds to be used for water, sewer and broadband infrastructure
- State and local funds also include a nationwide set-aside of \$10 billion specifically for capital projects enabling work, education and health monitoring that is geared toward broadband. This funding is based upon a formula intended to benefit small, rural states like West Virginia. Concerning distribution:
  - Details are still underdeveloped, and U.S. Treasury will issue guidelines.
  - Every state will receive a minimum of \$100 million per state with 50 percent of remaining funds based upon rural or impoverished residents, meaning that West Virginia will receive \$138 million.
  - Funds can be used to augment existing mapping initiatives, be used to set up co-ops, help fund infrastructure projects.
  - Provisions are similar to the previously introduced eliminating the Digital Divide Act, which can assist with immediate connectivity.
- The bill also included \$7 billion nationwide for E-Rate to expand the program to allow schools and libraries to help furnish homes with connectivity, through a tablet, laptop, hotspot via satellite or fiber.
  - The specific amount for West Virginia is not determined, but this does include reimbursement of schools at 100 percent.
  - Working with FCC to ensure that funds are leveraged to maximum benefit.
  - 93 percent of WV school districts are classified at highest need level.
- \$200 million nationwide for IMLS and a new program to help libraries to purchase hotspots and other devices to facilitate connectivity in rural communities.
  - WV will receive \$2 million in this funding category.
- There is a 2.5% percent set-aside within the Education Stabilization Fund, which will provide \$130 billion for K-12 Education, including roughly \$800 million for WV schools. The set-aside can be used for education technology and connectivity.

Mr. Gainer and Mr. Thorn are available to speak with Council members about any specific elements of the ARP. Vice Chair Bill Bissett asked about disseminating information to counties, cities and potential regional collaborators. The council can help share information through its channels and also to various business groups. Seth Gainer offered to provide a one-pager on broadband specifically as well as other funding sources and uses. (This was shared later in the day with Council members.)

	<p>Ryan Thorne indicated that Sen. Manchin plans to host virtual documents and will provide more specific details as they become available.</p>
2. Approval of 2/11/2021 Meeting Minutes, Financial Statement	<p>Returning to this item, Vice Chair Bissett requested motion to approve the minutes and financial statement Member Lee; second by Member Proctor and motion carried.</p>
3. WVU Law Clinic: ARC POWER TURBO Update	<p>Update on ARC POWER TURBO: Tools for Understanding Rural Broadband Opportunities Katherine Garvey Director, Land Use and Sustainable Development Law Clinic WVU College of Law</p> <p>Kat Garvey and Jarod Anderson presented an update on the project. Mr. Anderson is also a certified planner and is working several aspects of the project. As background, Ms. Garvey described the WVU Law Clinic and its representation of local governments that cannot afford land use planning and related services. Through this work, the issue of broadband is typically discussed, and local governments have requested assistance with the legal aspects and the specific role of local governments.</p> <p>In 2018, the ARC provided funding for research through the TURBO project, Tools to Understand Rural Broadband Opportunities. This is geared toward small communities but will benefit all communities in WV. The major project deliverable will be a legal toolkit, approximately 50 pages, which may also include appendices in draft, such as sample documents. The project will also include technical assistance to communities in McDowell County (Bradshaw and McDowell County) which builds upon the completion of the county's comprehensive plan. Some issues relate to affordability. Workshops are also planned as part of the project.</p> <p>The basic components of the project will include:</p> <ul style="list-style-type: none"> <li>▪ A 30-50-page legal primer, the TURBO toolkit. <ul style="list-style-type: none"> <li>▪ Telecommunications Ordinance to support broadband development</li> <li>▪ Small Cells Ordinance</li> </ul> </li> <li>▪ Four (4) Workshops</li> <li>▪ Technical Assistance to Town of Bradshaw and McDowell County</li> </ul> <p>Previous toolkits have focused on partnerships and background information. This function is addressed by reference to other resources to avoid duplication and to focus on legal considerations and topics related to property tax law, insurance, leasing, and other legal considerations are included. Typical partnership structures are reviewed from a legal perspective. One of the most popular options is the public-private partnership and various models are reviewed.</p> <p>With research expected to be completed within the next few months, workshops are being planned. These may be held in McDowell, Pocahontas, Wayne, and Tucker/Raleigh counties.</p> <p>Jarod Anderson reviewed the Law Clinic's work related to ordinances with the goal of developing a summary for local governments in WV. This would include sample ordinances for telecommunications.</p>

	<ul style="list-style-type: none"> <li>• The ordinances are bifurcated to telecommunications, cell towers and then small cells or small wireless facilities (for 5G) separately.</li> <li>• The FCC issued an order in 2018 and then West Virginia implemented the Small Wireless Facilities Deployment Act (WV Code 31H).</li> <li>• This presents an extremely complex body of regulations; however, the Law Clinic seeks to provide basic guidance and model ordinances that comply with State and Federal law and case law.</li> </ul> <p>This research can be modified to serve communities that have zoning and those that do not. For example:</p> <ul style="list-style-type: none"> <li>• Those that have zoning would most likely would likely be able to address telecommunications, cell towers and co-location under existing zoning processes.</li> <li>• Small cells would typically fall under West Virginia Code 31H, which provides exemptions in zoning and permitting process.</li> </ul> <p>The WVU Law clinic consulted with local governments, Regional Planning and Development Councils, Generation WV and other parties in developing the table of contents and invited feedback on items that are not included or any recommended revisions.</p> <p>Member Proctor asked if the focus is with mayors, county commissioners or regional partners. Ms. Garvey stated that this project will be applicable to projects of various scales, from municipal to county to regional.</p> <p>Chair Morris thanked the WVU Law Clinic team for this work that will serve communities throughout West Virginia.</p>
4. Legislative Update	<p>Sen. Plymale, Delegate Linville, Jim Kelsh, Bowles Rice</p> <ul style="list-style-type: none"> <li>• <a href="https://www.wvlegislature.gov/Bill_Status/HB2002">https://www.wvlegislature.gov/Bill_Status/HB2002</a></li> <li>• <a href="https://www.wvlegislature.gov/Bill_Status/SB295">https://www.wvlegislature.gov/Bill_Status/SB295</a></li> <li>• Any others</li> </ul> <p>Jim Kelsh provided an overview of existing legislation moving through the process. Mr. Kelsh noted that HB 2002 has been passed by the House and to date, there has been no action by the Senate. The second engrossed version offers some changes, to include:</p> <ul style="list-style-type: none"> <li>• Accelerating the permitting process with WVDOH</li> <li>• Provisions to address pole attachments which are favorable to ISPs allowing them to attach to poles while limiting the ability of local governments to regulate pole attachments</li> <li>• Quality of service-the WVPSC regulates quality of service on cable television but does not regulate cost. <ul style="list-style-type: none"> <li>○ This bill puts broadband service under the quality of service regulations of the cable television provisions. It also requires ISPs to provide advance notice of changes in billing.</li> </ul> </li> </ul> <p>Notably, the legislation creates the Office of Broadband. Mr. Kelsh recalled in August 2020, in a meeting of the Broadband Council, several legislative members stated that the Council needed to be supported more robustly and that greater state resources would be provided.</p>

	<p>The legislation states that the Office of Broadband will have a full-time director and some funding will be provided. The legislation also moves some responsibilities of the Broadband Council to the Office of Broadband.</p> <p>There are areas where the Broadband Council retains authority and areas that overlap with the Office of Broadband. Mr. Kelsh suggested that the Council may be advising the Office of Broadband rather than being responsible for the certain work products.</p> <p>Under the proposed legislation, the Office of Broadband would take over mapping, provide consultation services to project sponsors, data collecting, dispensing funds from funding sources other than the state. Considering the presentation earlier from Sen. Manchin's Office, this could be significant and challenging. The State does not currently have a grant program similar to that of the IJDC. As indicated by Ms. Garvey, funds will be derived through local governments and regional partnerships.</p> <p>The ROC project provides a good model for this regional partnership and project development model.</p> <p>In addition to mapping, the Office of Broadband will also oversee the use of conduit. There is a distinction that the Broadband Council will make recommendations to the Office of Broadband and the Office of Broadband will make recommendations to the WV Legislature. This is a significant change in the Council's role as previously having more direct input with the WV Legislature concerning policy. The Office of Broadband would also take over responsibility for the annual report to the WV Legislature.</p> <p>As a key concept, the Broadband Council represents urban and rural residential and business users and the Office of Broadband does not have this structure for input and involvement from various constituent groups. Mr. Kelsh noted that this input is valuable and that many members of the WV Legislature would wish to see it retained.</p>
<p>5. WVEDA BLINS Modifications; ETC Filings</p>	<p>Jim Kelsh, Legal Counsel, Bowles Rice</p> <p>Mr. Kelsh also detailed SB295, pertaining to the loan insurance program. The legislation incorporates that many of the changes requested by the Broadband Council and the WVEDA which reflect the Governor's Executive Order, issued in September 2020, and facilitates the state's support of RDOF participants. The Executive Order will expire when the State of Emergency expires, so this legislation codifies elements of the EO and makes other changes to promote alignment with other federal programs.</p> <p>The legislation provides that any RDOF bidders that have already applied to the WVEDA under the existing policies do not need to reapply. The per-recipient limit is increased to enable RDOF Round 1 winners to access necessary funds. Details concerning the process between the WV Board of Treasury Investments and the WVEDA are outlined.</p> <p>Mr. Kelsh noted that the bill will allow the state to move forward with support for the letters of credit necessary for RDOF and to support other broadband expansion projects. The bill expands the use of funds to more</p>

	<p>closely align with project development strategies to extend service to unserved areas as a principle purpose even when the network must traverse served areas. Passage is expected.</p> <p>Concerning the RDOF ETC filings, Mr. Kelsh noted that winning bidders must obtain federal eligible telecommunications carrier status within 180 days of the RDOF award date of December 7, 2020. ETC status is required by June 7, 2021. The WVPSC has indicated that it does not regulate VOIP providers and if the applicant is only providing voice service via VoIP, these applications need to be submitted to the FCC.</p> <p>RDOF bidder ETC status notes were provided:</p> <ul style="list-style-type: none"> <li>• Altice, dismissed due to VoIP voice service</li> <li>• The FCC has published a public notice that includes Suddenlink was included. About 69 applicants from 13 states were included in the notice. The FCC may endeavor to act upon applications in advance of the June 7 deadline.</li> <li>• CommNet has not filed</li> <li>• GigaBeam has not yet filed</li> <li>• Micrologic has filed to the FCC on January 4 2021</li> <li>• Shentel filed to the FCC and was included in the March 8, 2021 notice.</li> <li>• SpaceX filed to the FCC and was included in the March 8, 2021 notice.</li> <li>• Citynet has filed with the WVPSC and staff has recommended approval.</li> <li>• Frontier has filed and staff has recommended approval.</li> </ul> <p>Mr. Kelsh noted that under CAF II, some winning bidders missed the deadline and the FCC was</p>
<p>6. FCC RDOF Auction 904</p> <p>CARES Act Funding and other Federal funds for Broadband-Review of other state plans and opportunities in West Virginia</p>	<p>Fred Feit, Tilson Technology Management</p> <p>Fred Feit provided an overview of the process to date. The FCC and RDOF provision winners continue to work through the long form process. The first significant item is obtaining ETC designation. As Mr. Kelsh explained, there is ambiguity in state level review of legacy service versus voice over internet protocol.</p> <p>If there are elements that are not purely VOIP, then states may have jurisdiction and possibly the FCC as well. Some states made revisions following the CAFII process. The FCC was somewhat lenient in the CAFII process due to the varying levels of certification. To date, there have been no announcements from the FCC regarding any completed ETC designations. Some may be announced within the next few months. These will be approved in batches, but winners will be staggered among the 400 long form applicants.</p> <p>For bidders included in a consortium, members were not readily known, but this information has now been released. This does not directly apply to WV.</p> <p>Concerning the federal funding slides, Mr. Feit noted that some of the information was provided earlier in the meeting by Senator Manchin's office. In a review of the CARES Act included funds were provided for broadband in the areas of telehealth and distance learning via specific</p>

agencies, such as the USDA and the Department of Education. Approximately 20 states have allocated funds to broadband to date, either building new programs expanding existing programs. These were detailed on a Power Point presentation.

**March 11, 2021: American Recovery Plan (ARP) Act**

1. Additional funds (\$7.6B) for FCC E-rate Emergency Connectivity Fund - Emergency Broadband Benefit Program
  - a. Monthly service subsidy of \$50 - \$100 towards a device
2. Homeowners Assistance fund in the Department of Treasury that will contain almost \$10B that states can tap (until 2025) for payment assistance for "qualified expenses" of low-income households, Internet access included
  - a. No state will get less than \$40 million from the fund
3. \$350 billion to states, counties cities allocated according to formula
  - a. \$1.936 billion for West Virginia

**December 2020: The Consolidated Appropriations Act**

1. Extension for CARES Act spending
2. \$300M to NTIA for public private partnerships
3. \$1B to NTIA for Tribal broadband (not a significant focus for West Virginia)
4. \$3.2B to FCC for monthly service subsidy
  - a. E-rate Emergency Connectivity Fund - Emergency Broadband Benefit Program
  - b. Includes \$100 for device, \$50/month for service (no minimum speed)
  - c. February 2021 - FCC Seeks Comment on Using E-Rate Funding to Support Remote Learning
5. Would subsidize Internet access at qualified student home locations under the E-Rate program, funded by the Universal Service Fund

**March 2020 - CARES Act: Most funds needed to be spent by end of 2020**

1. Broadband funding included distance learning and telehealth to federal agencies
2. Discretionary CRF funds to states
3. 20 states created new broadband programs or expanded existing ones
4. **Distance Learning** – At least 13 states allocated CRF dollars to help families with K-12 students at home purchase internet-enabled devices, wireless hotpots, or both.
  - a. Alabama, Connecticut, Idaho, Maryland, Maine, Michigan, Mississippi, Missouri, Nevada, North Carolina, Ohio, Tennessee and West Virginia's Kids Connect
  - b. Ohio, allocated \$50 million of its CARES Act funding for its BroadbandOhio Connectivity Grant
5. **Higher Education** - Missouri allocated \$10 million and Tennessee \$20 million

	<ul style="list-style-type: none"> <li>a. <b>Telehealth</b> - Five states allocated CRF funds for telehealth programs: Idaho, Iowa, Missouri, Oregon, and Vermont</li> <li>a. Missouri allocated \$5.25 million to purchase 12,500 hotspots for Federally Qualified Health Centers and Community Mental Health Centers</li> <li>b. Vermont allocated \$9 million of CARES Act funding for health management programs</li> </ul> <p><b>6. Public Wi-Fi at Libraries</b></p> <ul style="list-style-type: none"> <li>a. Idaho allocated \$2 million to provide 24/7 Wi-Fi access at 51 libraries in communities of fewer than 10,000 people</li> <li>b. Arizona allocated \$650,000 to state libraries to “expand digital network access, purchase internet-accessible devices, and provide technical support services to citizens”</li> </ul> <p><b>7. Residential Broadband Infrastructure</b> - Delaware, Idaho, Kansas, Mississippi, New Hampshire, and South Carolina established new programs for infrastructure. Existing program expansions included:</p> <ul style="list-style-type: none"> <li>8. Mississippi Electric Cooperatives Broadband COVID-19 Act allocated \$75 million for emergency broadband grants</li> <li>9. New Hampshire allocated \$50 million in CRF money to the Connecting New Hampshire – Emergency Broadband Expansion Program</li> <li>10. Vermont allocated \$17.4 million to a COVID-Response Accelerated Broadband Connectivity Program</li> <li>11. Tennessee allocated \$61 million in CRF money to the Tennessee Emergency Broadband Fund to support new infrastructure deployment and public Wi-Fi access points</li> </ul>
7. FCC and WVPSC Matters	<p>Jason C. Pizatella, Spilman Thomas &amp; Battle</p> <p>Mr. Pizatella provided an update on this agenda item. He noted that very little has changed since the February update. Some redacted filings have been made by Frontier under the WVPSC order. Frontier is required to file budget projections for the next 36 months the following week and this will be reported at the April 2021 meeting.</p> <p>The settlement stipulates \$200 million capital improvements budget with a minimum of \$50 million in 12 months for a total of \$200 million. This is not necessarily broadband specific. Most observers would say this would improve deficiencies in previous network, which does include broadband.</p>
8. Recommendation to Purchase Fiber Locator	<p>Jamie Hoffmann, WVDO</p> <p>Mr. Hoffmann made a presentation concerning the request to renew the subscription to Fiber Locator. This online cloud-based platform provides information regarding fiber infrastructure, telecom data, data centers, and other components. The Council previously utilized this service.</p> <p>The basic online application is \$3,900. The API, which allows the user to build applications, is \$12,000 to \$14,000 per year. This is tied to lookups with the lowest level offering 2,500 lookups per quarter.</p>



	<p>Secretary-Treasurer Holstine asked if there were alternatives and Mr. Hofmann noted that competitors offer more engineering services tied to the data and are at a higher cost.</p> <p>Motion by Member Jeff Proctor with a second by Member Holstine and Motion carried.</p>
9. Ookla Interactive Map Update	<p>Jamie Hoffmann, WVDO</p> <p>Mr. Hoffmann provided an update on the Ookla Interactive Map. This has been added to the website as a beta version. The map includes boundary layers, zip codes, cities, census tracts, blocks and places. Tax parcel information was shown in the meeting. The data is divided into “hex bins (boundary or polygon layers which can be different sizes).</p> <ul style="list-style-type: none"> <li>• 1.3 million data points were filtered to show fixed connections.</li> <li>• Other versions may show all other data.</li> <li>• Particular census blocks can be viewed along with data showing mean upload and download speeds.</li> <li>• WV has a great deal of speed tests thanks to residents taking the speedtest.</li> <li>• ISPs by census block will be added.</li> </ul> <p>The practical application of this map has already been shown related to project development and applications for federal funding. Taking the averages of speed test data by census blocks, the maps show more unserved areas than the FCC data. There are multiple points to each census block, as compared to one data point or one filing to the FCC. The map is supported by a summary memo which details the number of census blocks and number of served and unserved locations within the project area.</p> <p>The Ookla data can be tied to tax parcels for project development purposes. Vice Chair Bissett noted that the WVDO could issue a press release to help thanks West Virginians for taking the speed test and showing how the State is utilizing speed test data.</p> <p>Mrs. Workman noted that Jamie Hoffmann has done incredible work in working with project teams and developing data that will help federal funding agencies approve projects in WV. Once officially approved, the Webster County ARC project can be used as a model.</p> <p>Mr. Hoffmann is also planning to provide a quarterly report on speedtests. This would likely be a separate page for Ookla data.</p> <p>Mr. Holstine noted that this is critically important to the state and noted that everyone appreciates this work.</p>
10. Other Business	
11. Public Comment	<p>Sign-In for Public Comment</p> <p>Vice Chair Bissett thanked the council members for their service.</p>
12. Next Meeting Date	April 8, 2021; 10:00 a.m.; Teams/Conference Call
13. Adjournment	Meeting adjourned at approximately 11:45 am
<b>Action Items</b>	

No.	Description	Assigned To	Month Identified	Target Completion Date
1.	Legal and Cooperative Toolkit and Training	WVU Law	June 2017	Underway by WVU Law Clinic Presentation 3/11/2021
2.	NTIA/National Broadband Availability Map	K. Workman, J. Hoffman	February 2019	Two-year project. 5/10/2019 Revising WV Data 2/2021.



# WEST VIRGINIA BROADBAND ENHANCEMENT COUNCIL

## MEETING MINUTES | April 8, 2021

Meeting Title		WV Broadband Enhancement Council			Time	10:00 a.m.
Chairman		Robert L. Morris, Jr., Chair			Location	MS TEAMS/Conference Call
Meetings will be held by conference call due to COVID-19. Updates will occur as needed.						P = Present; TC = Teleconference; VC = Videoconference; _ = Absent
Meeting Registration: <a href="https://forms.office.com/Pages/April 8 2021 Registration">https://forms.office.com/Pages/April 8 2021 Registration</a>						
You will receive conference/call information upon registration						
<ul style="list-style-type: none"><li>Please mute your phone if not speaking and identify yourself if you need to speak</li><li>Please register for public comment; hold any public comments until public comment portion of agenda</li></ul>						
	Council Member	Representing			Council Member	Representing
P	Robert L. Morris, Jr. Chair	Urban Residential User		–	C. Edward Gaunch	WV Dept. of Commerce, Cabinet Secretary
P	William D. “Bill” Bissett Vice Chair	Urban Business User		P	Jeff Proctor	Representing Secretary Gaunch
P	Michael J. Holstine Secretary-Treasurer	Rural Business User Congressional Dist. 3		P	Robert Cole	Rural Residential User Congressional Dist. 1
–	R.A. “Pete” Hobbs	Rural Residential User Congressional Dist. 3		–	Dennis Lee	Business User, Large Scale Broadband
–	W. Clayton Burch	WV Dept. of Education, State Superintendent		–	Honorable Ronald G. Pearson	Rural Residential User Cong. Dist. 2
P	Tim Conzett	Representing Clayton Burch		–	The Honorable Robert Plymale	WV Senate (D) (Ex-Officio/Advisory Member)
P	Joshua D. Spence	WV Office of Technology, Chief Technology Officer		–	The Honorable Mark Maynard	WV Senate (R) (Ex-Officio/Advisory Member)
–	James Dixon	Representing Joshua Spence		–	The Honorable Daniel Linville	WV House (R) (Ex-Officio/Advisory Member)
–	Jeff Whitman	Representing Joshua Spence		–	Vacant	WV House (D) (Ex-Officio/Advisory Member)
P	Matt Turner	WV Higher Education Policy Commission Vice Chancellor		–	Vacancy: Rural Business User Congressional Dist. 1	
–	Dr. Carl R. Powell	Representing Matt Turner			Vacancy: Rural Business User, Congressional District 2	
	Representative	Agency			Representative	Agency
–	Charlie Dennie	WV Development Office Broadband Director		P	Fred Feit	Tilson Technology Management
P	Kelly Workman	WV Development Office Administrative Director		P	Jim Kelsh	Bowles Rice Legal Counsel
P	Todd Goddard	WV Development Office Development Manager		–	Jason Pizatella	Spilman Thomas & Battle
–	Jamie Hoffmann	WV Development Office GIS Analyst/Development Rep		–	Lee F. Feinberg	Spilman Thomas & Battle
Agenda Item			Details/Minutes			
1. Call to Order; Roll Call; Opening Remarks						
2. Approval of 3/11/2021 Meeting Minutes, Financial Statement			Motion Proctor Second Bissett \$500, 000 was added to the Broad \$1,326,952 as of April 5, 2021			
3. WV Department of Education			The WV Broadband Council extends thanks to Brenda Morris for her service on the Council and wishes her well in retirement, and welcomes Timothy W. (Tim) Conzett, Technology Officer, Office of Data Management and Information Systems, representing Clayton Burch, Superintendent of the WV Department of Education.			

	Mr. Conzett added that he appreciates the welcome and gratitude for Brenda Morris.
4. FCC and WVPSC Matters	<p>Jason C. Pizatella, Spilman Thomas &amp; Battle</p> <p>Mr. Pizatella indicated that there was no update for this month on either matter. He noted that pending legislation, HB3310, would remove the WVPSC jurisdiction over 24-2-12 transactions involving a telephone company when all of the entities under the company are under common ownership. As a practical matter, if this legislation passed, the WVPSC would no longer need to follow the process recently undertaken by the WVPSC with regard to Frontier.</p> <p>Counsel is anticipating more meaningful reports on the FCC matter in May 2021.</p>
5. Legislative Update	<p>Sen. Plymale, Delegate Linville, Jim Kelsh, Bowles Rice</p> <ul style="list-style-type: none"> <li>• <a href="https://www.wvlegislature.gov/Bill_Status/HB2002">https://www.wvlegislature.gov/Bill_Status/HB2002</a></li> <li>• <a href="https://www.wvlegislature.gov/Bill_Status/SB295">https://www.wvlegislature.gov/Bill_Status/SB295</a></li> <li>• <a href="#">Other</a></li> </ul> <p>Jim Kelsh provided an update on SB295. It has been adopted in signed into law. It is currently in effect and makes permanent the interim changes adopted by the WVEDA, such as changes concerning the cap of the overall program amount and the per applicant limit as noted in the Governor's Executive Order. There is a new process that applies to any new applicants, however, those who have applied for loan insurance prior to the effective date, will move forward under the previous requirements. These changes are consistent with the modifications requested by the WV Broadband Enhancement Council.</p> <p>Concerning HB2002, there are substantial differences between the Senate version and the House version. Most significant are the House version's broad interpretation of the WVPSC regulation of quality of service. The House version added broadband to this section. The Senate eliminated this section and made other changes.</p> <p>The legislation clarifies that the Dig once policy act does not apply to trenches less than 1,000 feet in total. It also establishes a process for trenching, to notify the Office of Broadband, which will provide a list of eligible carriers for notification by the company.</p> <p>The Office of the WV Attorney General may receive complaints from consumers concerning quality of service and the Office of Broadband must establish procedures for this purpose.</p> <p>The legislation also clarifies and expands ability of local governments to construct and install fiber and provides the Make Ready Pole Access Act.</p> <p>The legislation adds a duty to the Council to explore digital opportunity in the state. Removes the ability of the Council to provide consultation services to broadband projects. Removes the ability of the Council to seek and disburse grant funds.</p> <p>It moves responsibility for mapping from the Broadband Council to the Office of Broadband. The Office of Broadband also takes over the role of overseeing conduit.</p>

		<p>Mr. Kelsh noted that the role of the Council is to advise the Office of Broadband on needs of the State in terms of broadband development.</p> <p>In both versions of the budget bill, the Legislature allocated \$1.78 million for Broadband Enhancement Fund including \$131,000 for personnel expenses, but the budget is still under development.</p> <p>Chair Morris requested clarification concerning the Council’s work on projects such as those proposed under the Utility Feasibility Studies and the Regional Optical Communications (ROC) projects. Mr. Kelsh noted that the Council retains authority and direction to explore the expansion of broadband in West Virginia. The utility feasibility studies do not appear to be revised.</p> <p>There are some gray areas in the coordination between the Broadband Council and the Office of Broadband. The Council’s broad-reaching directives have not been changed.</p>		
6. FCC RDOF Auction 904  APRA/Other Funds Program Development Recommendations		Fred Feit, Tilson Technology Management		
7. OOKLA Data Quarterly Report		Jamie Hoffmann, WVDO		
8. Other Business				
9. Public Comment		Sign-In for Public Comment		
10. Next Meeting Date		May 13, 2021; 10:00 a.m.; Teams/Conference Call		
11. Adjournment				
Action Items				
No.	Description	Assigned To	Month Identified	Target Completion Date
1.	Legal and Cooperative Toolkit and Training	WVU Law	June 2017	Underway by WVU Law Clinic Presentation 3/11/2021 <b>Local Governments, Broadband, and the Law</b> WVU Land Use and Sustainable Development Law Clinic, WVU College, WV Broadband Enhancement Council, and Generation WV. Funded by ARC. <ul style="list-style-type: none"><li>Friday, April 16, 2021</li><li>Friday, May 14, 2021</li></ul>
2.	NTIA/National Broadband Availability Map	K. Workman, J. Hoffman	February 2019	Two-year project. 5/10/2019 NBAM 2. 5 Release 3/2021



# WEST VIRGINIA BROADBAND ENHANCEMENT COUNCIL

## MEETING MINUTES May 13, 2021

Meeting Title		WV Broadband Enhancement Council			Time	10:00 a.m.
Chairman		Robert L. Morris, Jr., Chair			Location	MS TEAMS/Conference Call
Meetings will be held by conference call due to COVID-19. Updates will occur as needed.						P = Present; TC = Teleconference; VC = Videoconference; _ = Absent
Meeting Registration: <a href="https://forms.office.com/Pages/May 13, 2021">https://forms.office.com/Pages/May 13, 2021</a>						
You will receive conference/call information upon registration						
<ul style="list-style-type: none"><li>Please mute your phone if not speaking and identify yourself if you need to speak</li><li>Please register for public comment; hold any public comments until public comment portion of agenda</li></ul>						
	Council Member	Representing			Council Member	Representing
P	Robert L. Morris, Jr. Chair	Urban Residential User		–	C. Edward Gaunch	WV Dept. of Commerce, Cabinet Secretary
P	William D. “Bill” Bissett Vice Chair	Urban Business User		P	Jeff Proctor	Representing Secretary Gaunch
—	Michael J. Holstine Secretary-Treasurer	Rural Business User Congressional Dist. 3		P	Robert Cole	Rural Residential User Congressional Dist. 1
—	R.A. “Pete” Hobbs	Rural Residential User Congressional Dist. 3		–	Dennis Lee	Business User, Large Scale Broadband
—	W. Clayton Burch	WV Dept. of Education, State Superintendent		P	Honorable Ronald G. Pearson	Rural Residential User Cong. Dist. 2
—	Tim Conzett	Representing Clayton Burch		P	The Honorable Robert Plymale	WV Senate (D) (Ex-Officio/Advisory Member)
P	Joshua D. Spence	WV Office of Technology, Chief Technology Officer		–	The Honorable Mark Maynard	WV Senate (R) (Ex-Officio/Advisory Member)
P	James Dixon	Representing Joshua Spence		P	The Honorable Riley Keaton	WV House (R) (Ex-Officio/Advisory Member)
P	Jeff Whitman	Representing Joshua Spence		P	The Honorable Joey Garcia	WV House (D) (Ex-Officio/Advisory Member)
P	Matt Turner	WV Higher Education Policy Commission Vice Chancellor		–	Vacancy: Rural Business User Congressional Dist. 1	
P	Dr. Carl R. Powell	Representing Matt Turner			Vacancy: Rural Business User, Congressional District 2	
	Representative	Agency			Representative	Agency
TC	Charlie Dennie	WV Development Office Broadband Director		P	Fred Feit	Tilson Technology Management
P	Kelly Workman	WV Development Office Administrative Director		P	Jim Kelsh	Bowles Rice Legal Counsel
P	Todd Goddard	WV Development Office Development Manager		P	Jason Pizatella	Spilman Thomas & Battle
P	Jamie Hoffmann	WV Development Office GIS Analyst/Development Rep		P	Lee F. Feinberg	Spilman Thomas & Battle
Agenda Item			Details/Minutes			
1. Call to Order; Roll Call; Opening Remarks			Welcome Mitch Carmichael, Secretary of the newly formed West Virginia Department of Economic Development			
2. American Rescue Plan (ARP) Program Development Recommendations			Mitch Carmichael, Secretary, WV Dept. of Economic Development Fred Feit, Tilson Technology Management Chris Campbell, Tilson Technology Management Secretary Carmichael presented slides and information for the Proposed ARPA Broadband Program. State has \$138 million in Federal funds. The State needs to make quick use of the funds and show impacts. The Plan is			

to fund four separate programs. Awardees will be responsible for some matching investment.

1. First Program is to fund Existing Network Line Extensions to reach areas that otherwise would be cost prohibitive to reach.
2. Second Program will fund Rapid Wireless Deployment Projects to increase broadband availability with extensions and upgrades of existing last-mile wireless networks that can be constructed quickly.
3. Third Program will fund Major Broadband Infrastructure Investments with \$40 million in awards.
4. Fourth Program will partner with Local Government Matching Broadband Incentives with \$30 million in awards.

Programs will focus Goals and Objectives to provide last-mile broadband service and target unserved addresses. State will emphasize project completion to provide service quickly and efficiently.

**Tilson consultants Chris Campbell and Fred Feit provided comments on the State's Plan to use ARPA funds.**

- Chris stated first steps are to get the first two programs going. Procedures and resources are being developed to structure the Line Extension and Rapid Wireless projects. Processes will then be expanded to include the Major Infrastructure and Local Government programs.
- Their assistance with the Local Government Matching program will help them shore up their planned projects.
- Post Award monitoring will provide important oversight and ensure funds are used to connect West Virginians.

Fred provided summary of ARPA Funding.

Capital Projects Fund is \$10 billion nationwide with no state to get less than \$100 million. WV got \$138 million.

- These funds intended for broadband infrastructure. Treasury has not yet released Interim Final Rules for use of the funds, but it is expected by July.
- State Fiscal Recovery Fund provides State and Local Governments \$350 billion nationwide.
- WV will receive \$1,355,489,988. Will get half now and half in 12 months. Projects to meet up/down speeds of 100 mbps.
- Preference for spending on government and non-profit networks. Downstream awardees are considered subrecipients.
- Local Fiscal Recovery Fund provides \$348 million for all 55 WV counties, \$168 million for 9 WV cities (Entitlements), and \$162 million for WV Non-entitlement entities.

Interim Final Rules for these two funds was issued May 10 and Treasury's on-line Funding Application Portal opened that date.

Senator Plymale asked about consideration of affordability for customers. Fred replied that it is addressed in the plan and in the interim rules. Chris states affordability is to be built into project design and can offer a range of options. Chair Morris agreed with steps to address affordability. Plymale states there should be more concern for under building opposed to overbuilding with funds.

FCC RDOF Auction 904

Senator Plymale prepared a written statement to be made part of minutes as follows: "While some industry members express concern about overbuilding, many broadband groups believe *underbuilding* is a much bigger concern."

Fred commented funds for affordability are provided by FCC's Emergency Broadband Benefit and other programs.

State can incorporate mandatory participation by awardees into projects. Jeff Proctor wanted to ask Secretary Carmichael how will funds incentivize competition, but he had left the meeting. Jeff asked how plan will ensure DSL Level (25/3) service can expand in the future (5 years) to increase performance son residents service can keep up and poor service would not hinder them from being able to sell their homes?

Chris replied the focus is on providing fiber and wireless opposed to DSL. DSL level may allow some to at least have lower service to areas hard to reach for now. State's Plan does not focus on DSL as a solution or technology. Chair Morris agreed. Higher then 25/3 will be preferred.

Jeff Proctor asked for explanation of match requirements. Chris replied that discussion of ways to structure match is ongoing and final decisions are not made yet. Match options may be a dollar amount or percentage. Proctor asked if infrastructure bill will be presented for broadband funding?

Chris replied the plan is to make projects easier to build, not harder. Fred commented that initial projects work will leave room for under-build areas that will still need served by later, larger projects.

Ron Pearson asked; considering funds at state and local levels and future funding to come, who has authority to ensure we get best bang for bucks? He does not think it lies with the Council. Chris replied it is not just question of authority. State will use technical assistance to ensure local governments spend money thoughtfully and well. Will use some funds as incentive for them to conceive and manage projects well.

Delegate Keaton stated that the past session's HB214 gave the legislature oversight authority over federal dollars. He thinks June's Interim meetings will review oversight. Chris responded that performance measures are include in programs.

Del. Keaton asked how the ARPA Plan lines up with State's preexisting Broadband Plan? Chris answered that the State Plan objectives and goals were referenced to design the ARPA Plan.

Del. Keaton referred to a project in southern WV with a price tag of \$80 million has been supported by the Council (as proposed by Regional Optical Communications ROC). The Secretary's presentation estimated \$40 million of ARPA funds for this type of project.

Chair Morris answered that the Council has supported the ROC's plan to build service and the \$40 million could be used to help.

**Fred Feit with Tilson provide update on the FCC RDOF.**

The FCC has not yet approved any provisional RDOF winners to receive Universal Service Funds. Next step for winners. FCC will issue public notice to receive the funds for locations they were assigned by auction. After notice, ISPs will have 10 days to furnish their actual Letter of Credit to FCC.



	FCC will close long-form files and ISP will start receiving subsidy the following month. Not Notice issued yet. FCC has received many comments with concerns about technical aspects. FCC has received ETC petitions from winners.
3. Approval of 4/8/2021 Meeting Minutes, Financial Statement	Jeff Proctor moved to approve. Bob Cole seconded. Approved. Financials show 1.2 million budget as of today. Kelly Workman advised new allocation of \$500,000 in be added in April 2022.
4. New House Appointments	House Speaker Roger Hanshaw has appointed the following WV House of Delegates members to the Broadband Council, effective May 3, 2021: The Honorable Riley Keaton, Republican, District 11, Roane County The Honorable Joey Garcia, Democrat, District 50, Marion County
5. FCC and WVPSC Matters	<b>Lee Feinberg, Spilman Thomas &amp; Battle</b> Mr. Feinberg explained that we are currently in period where Frontier needs to respond to January 15 orders in two cases from PSC. First set related to Management Audit case 18-0291. Frontier did submit three reports in last month. Reports seemed complete and no comments noted. The Reorganization Case contains most of the broadband related issues. The Frontier Parent Company emerged from bankruptcy April 30, 2021. Date starts clock on reporting the local Frontier needs to do. Parent company did change name to Frontier Communication Parent, Inc. Delegate Keaton asked; does a carrier need to have ETC status to qualify for federal money? Lee answered yes. Del. Keaton asked if that is set in State Code/ Lee replied the PSC says the final word is with FCC. Del. Keaton asked if carrier loses ETC designation, do they stop receiving money form FCC? Fred replied that WV PSC says they defer to FCC to decide. Del. Keaton asked if State takes primacy over who qualifies as ETC, etc.? Fred answered that he does not feel qualified to provide answer.
6. Utility Feasibility Studies Status Update	<b>Jim Kelsh, Bowles Rice</b> <b>AEP WVPSC Case No 21-0032-E-IMM Update</b> AEP Study filed with PSC January 2021 for rates related to Logan Mingo Project. Asked for revenue of \$1.2 million. Total Cost of project \$61.3 million. Question about when rate increase will go into effect. Maybe after some part on project is completed. Noted issue around Double Poling Policy. Existing owner may not transfer to new poles causing excessive poles on landscape. <b>First Energy Middle Mile Project Update</b> Conference call on April 26. Has not advance far. Reevaluating project and no concrete proposal yet. Jeff Proctor stated project cost was \$54 million and is now \$61.3 million. Will amount of request continue to go up? Jim Kelsh replied that rates will increase as costs go up.

7. FCC Emergency Broadband Benefit	<p>The <b>FCC Emergency Broadband Benefit toolkit</b> materials are <a href="#">now available for download</a>. The kit includes social media, print materials and other content to assist communities, outreach partners, and organizers in raising awareness about this program. A list of participating WV companies is found here: <a href="https://www.fcc.gov/emergency-broadband-benefit-providers#West%20Virginia">https://www.fcc.gov/emergency-broadband-benefit-providers#West%20Virginia</a></p> <p>Senator Plymale states he wants to participate in EBB meetings. Chair Morris suggested he contact Senator Manchin’s office directly.</p>			
8. Other Business	None			
9. Public Comment	<p>Mark Canterbury signed up but did not respond. Kelly Workman noted his concerns related to obtaining service in his area of Hash Ridge Road in Cabell County. Kelly thinks this would be a good area to reach with the proposed ARPA Line Extension Program.</p> <p>Carol Heiberger signed up but did not respond.</p>			
10. Next Meeting Date	June 10, 2021; 10:00 a.m.; Teams/Conference Call			
11. Adjournment	Chair Morris adjourned the meeting.			
Action Items				
No.	Description	Assigned To	Month Identified	Target Completion Date
1.	Legal and Cooperative Toolkit and Training	WVU Law	June 2017	<b>Local Governments, Broadband, and the Law</b> Toolkit in Final Edit Release by Sept. 2021
2.	NTIA/National Broadband Availability Map	K. Workman, J. Hoffman	February 2019	Two-year project. 5/10/2019 NBAM 2. 5 Release 3/2021



# WEST VIRGINIA BROADBAND ENHANCEMENT COUNCIL

## MEETING MINUTES | June 10, 2021

Meeting Title		WV Broadband Enhancement Council			Time	10:00 a.m.
Chairman		Robert L. Morris, Jr., Chair			Location	MS TEAMS/Conference Call
Meetings will be held by conference call due to COVID-19. Updates will occur as needed. Meeting Registration: <a href="https://forms.office.com/Pages/June 10 Registration">https://forms.office.com/Pages/June 10 Registration</a> You will receive conference/call information upon registration <ul style="list-style-type: none"><li>Please mute your phone if not speaking and identify yourself if you need to speak</li><li>Please register for public comment; hold public comments until public comment portion of agenda</li></ul>						P = Present; TC = Teleconference; VC = Videoconference; _ = Absent
	Council Member	Representing			Council Member	Representing
P	Robert L. Morris, Jr. Chair	Urban Residential User		–	C. Edward Gaunch	WV Dept. of Commerce, Cabinet Secretary
P	William D. “Bill” Bissett Vice Chair	Urban Business User		P	Jeff Proctor	Representing Secretary Gaunch
P	Michael J. Holstine Secretary-Treasurer	Rural Business User Congressional Dist. 3		–	Robert Cole	Rural Residential User Congressional Dist. 1
–	R.A. “Pete” Hobbs	Rural Residential User Congressional Dist. 3		–	Dennis Lee	Business User, Large Scale Broadband
–	W. Clayton Burch	WV Dept. of Education, State Superintendent		P	Honorable Ronald G. Pearson	Rural Residential User Cong. Dist. 2
P	Tim Conzett	Representing Clayton Burch		P	The Honorable Robert Plymale	WV Senate (D) (Ex-Officio/Advisory Member)
–	Joshua D. Spence	WV Office of Technology, Chief Technology Officer		–	The Honorable Mark Maynard	WV Senate (R) (Ex-Officio/Advisory Member)
P	James Dixon	Representing Joshua Spence		P	The Honorable Riley Keaton	WV House (R) (Ex-Officio/Advisory Member)
–	Jeff Whitman	Representing Joshua Spence		P	The Honorable Joey Garcia	WV House (D) (Ex-Officio/Advisory Member)
–	Matt Turner	WV Higher Education Policy Commission Vice Chancellor		–	Vacancy: Rural Business User Congressional Dist. 1	
P	Dr. Carl R. Powell	Representing Matt Turner			Vacancy: Rural Business User, Congressional District 2	
	Representative	Agency			Representative	Agency
P	Mitch Carmichael	WV Department of Economic Development		P	Fred Feit	Tilson Technology Management
P	Kelly Workman	WV Development Office Administrative Director		P	Jim Kelsh	Bowles Rice Legal Counsel
P	Todd Goddard	WV Development Office Development Manager		P	Jason Pizatella	Spilman Thomas & Battle
P	Jamie Hoffmann	WV Development Office GIS Analyst/Development Rep		–	Lee F. Feinberg	Spilman Thomas & Battle
Agenda Item			Details/Minutes			
1. Call to Order; Roll Call; Opening Remarks			Chairman Morris called the meeting to Order. Introduced Roger Calhoun, newest appointee from the Governor, who introduced himself and is excited to join the council.  Thanked Pete Hobbs for his service to the WV Broadband Enhancement Council.			
2. Approval of 5/13/2021 Meeting Minutes, 3. Financial Statement			Motion approved to accept the minutes of the 5/13/2021 meeting. Financials were included in the meeting packet.			
4. FCC RDOF Auction 904 5.			Fred Feit, Tilson Technology Management - PSC approved Frontier plan and Frontier reporting will be to them.			

	<ul style="list-style-type: none"> <li>- FCC approved designation for four West Virginia providers for their RDOF assigned locations.</li> <li>- Still waiting on FCC to issue approval for provisional auction winners to receive high-cost universal funds.</li> <li>- May 28 FCC issued public notice to accommodate the review of VIASAT. Seeks commission to reactuate census blocks not covered in initial auction.</li> </ul>
6. Discussion of MOU Between Broadband Council and Broadband Office	<p><b>Jim Kelsh, Bowles Rice</b> Mr. Kelsh led discussion of preparation of MOU between Broadband Enhancement Council and WV Office of Broadband due to changes enacted with House Bill 2002.</p> <ul style="list-style-type: none"> <li>- Now distinct Agencies under state law.</li> <li>- Need to define roles and responsibilities for both agencies.</li> <li>- Mr. Kelsh will work with both Agencies to prepare MOU to present in July meeting for formal approval.</li> </ul>
7. Discussion of Bowles Rice Services Related to ARPA	<p><b>Jim Kelsh, Bowles Rice</b> Mr. Kelsh led discussion of the services Bowles Rice will provide related to ARPA.</p> <ul style="list-style-type: none"> <li>- ARPA is a tremendous benefit to state.</li> <li>- Tilson has provided additional guidelines from work in other states.</li> <li>- No existing program in the state to handle a grant application and administration for Broadband.</li> <li>- Procedural roles will be developed to provide an operational grant administration program.</li> <li>- Goal is to create program and process to act on the applications quickly.</li> <li>- Bowles Rice has requested a separate billing line item that goes beyond normal retainer.</li> <li>- Motion made to create a separate billing line item for Bowles Rice to complete work on ARPA application program. Bissett moves, Powell second, motion passes.</li> </ul>
8. American Rescue Plan (ARP) Program Development Recommendations	<p><b>Mitch Carmichael, Secretary, WV Dept. of Economic Development (available after 10:30 a.m.) Fred Feit, Tilson Technology Management Chris Campbell, Tilson Technology Management</b></p> <p>Secretary Carmichael joined the meeting to discuss ARP Program funding, due to technical difficulties, <b>Mrs. Kelly Workman reviewed the slides for the Council.</b></p> <ul style="list-style-type: none"> <li>- Programs intended to provide last mile service to carve out areas not funded through other federal or state initiatives.</li> <li>- ARP presumes we would be able to work with different technologies, although preference is fiber.</li> <li>- Office does believe there are some rural locations where wireless projects would be beneficial.</li> <li>- Preference given for gigabit speed. Fiber and cable projects will be favored.</li> <li>- Four distinct programs will be offered. Two of the projects will receive the Office's initial focus, existing network line extension and rapid wireless program.</li> <li>- Existing network line extension program design is 75% complete.</li> <li>- Major projects will dedicate \$40 million and incorporate major investment that would support last mile buildout.</li> <li>- Local government matching program will enable the Office to assist local governments and provides an opportunity to join with</li> </ul>

	<p>local jurisdictions and identify underserved areas where service can be provided. State would provide cost share where appropriate.</p> <ul style="list-style-type: none"> <li>- Overall goal is between all the programs, one will work for every area of the state.</li> <li>- Continuing process with Tilson, Bowles Rice, Council and everyone to insure we are complying with federal guidelines.</li> <li>- Continuing soft rollout to ISPs and had large meeting on June 2 with to review upcoming programs.</li> <li>- Secretary reported to Joint Committee about upcoming program, the report generated a large amount of interest from the Legislature who wants to be kept up-to-date on progress.</li> <li>- Office is to provide a report on a monthly basis to Joint Committee on funding and implementation progress.</li> <li>- Meeting with Association of counties on June 14 to explain application process and discuss local government matching program.</li> <li>- Continuing to work on application process and mapping portal.</li> <li>- Target Area Map and Challenge process will allow Office to gain knowledge about existing service and improve mapping accuracy.</li> <li>- Accountability process very important to ensure our investment has met the requirements and will change lives in West Virginia.</li> </ul> <p><b>Fred Feit, discussed ARPA funding:</b></p> <ul style="list-style-type: none"> <li>- Two tranches of money coming to the state.</li> <li>- <b>Capital Projects Fund:</b> State of WV received \$138,000,000 earmarked for Broadband infrastructure and related uses. Funding can be used for digital equity.</li> <li>- <b>State and Local Fiscal Recovery Fund:</b> Money to states and localities which include \$1.35 billion provided to the state that can be used for anything, but broadband infrastructure is specifically listed as one of the uses for this money. An additional \$678 million provided for local governments as well for counties and cities.</li> <li>- Department of Treasury has issued interim final rules and requested comment.</li> <li>- Line extension program and rapid wireless program will be first two programs rolled out.</li> <li>- Mr. Feit shared workflow map for Q1 and Q2 to show program activities and when they will be completed.</li> <li>- Will update on rollout of new web portal at next meeting.</li> <li>- Will be creating and implementing webinars for potential applicant. Requiring items up front will help ensure post award compliance.</li> <li>- Applications will be received in a rolling fashion and four programs will be staggered in rollout timing.</li> <li>- Field audits will be conducted as necessary to check application information and inconsistencies.</li> <li>- Tilson provided estimated workload projections for the application process, anticipates bringing on project manager.</li> </ul> <p>Delegate Keaton asked about the aggressive timelines, Mrs. Workman addressed insuring that the program is ready to go and is ready to rollout as soon as we have the ability.</p>
9. Discussion of Website Modifications	<b>Jamie Hoffmann, Kelly Workman, WVDED</b>

	Mr. Hoffmann provided the Council with an update on the website and the application process as it relates to the website: <ul style="list-style-type: none"><li>- Mr. Hoffmann showed and reviewed the new mapping tool available for applicants to the Council. Will have webinars on how to use the tools and submit the applications.</li><li>- Three categories for applicants, Not eligible, potentially underserved, unserved.</li><li>- Challenge/comment period process created. Applicants can use process to show potential service availability on a address level.</li><li>- Validation process for quality of the data received.</li><li>- Open for local communities as well, just not ISPs.</li><li>- Frontier was committed to adding 75,000 households with non-RDOF money as part of agreement with PSC. How will Office be able to determine the difference between their PSC commitment and addresses added to RDOF money. Mapping tool will allow the ability to look at the RDOF census blocks. Office does not yet have the additional addresses from the PSC.</li><li>- Frontier required to report the additional 75,000 locations to the PSC.</li></ul>			
10. Generation WV RFI	<b>Kelly Workman, WVDED</b>  Mrs. Workman discussed Generation WV and their RFI process. <ul style="list-style-type: none"><li>- NTIA funding opportunity – a \$288 million grant application window which closes August 17.</li><li>- GWV created RFI to seek partners to develop projects throughout the state that could apply for the \$288</li><li>- Grants range from \$5 million to \$30 million.</li><li>- Priorities for the grant are favorable to West Virginia and include rural districts, greatest number of households to be served and cost effectiveness.</li><li>- Grants seek Speed threshold of 100/20.</li></ul>			
11. Other Business	No other business was reported.			
12. Public Comment	Sign-In for Public Comments No one was signed up for public comment			
13. Next Meeting Date	July 8, 2021; 10:00 a.m.; Teams/Conference Call			
14. Adjournment	Chairman Morris adjourned the meeting.			
Action Items				
No.	Description	Assigned To	Month Identified	Target Completion Date
1.	Legal and Cooperative Toolkit and Training	WVU Law	June 2017	Local Governments, Broadband, and the Law Toolkit in Final Edit. Release by September 2021
2.	NTIA/National Broadband Availability Map	K. Workman, J. Hoffman	February 2019	Two-year project. 5/10/2019 NBAM 2. 5 Release 3/2021



# WEST VIRGINIA BROADBAND ENHANCEMENT COUNCIL

## MEETING MINUTES | July 8, 2021

<b>Meeting Title</b>		WV Broadband Enhancement Council			Time	10:00 a.m.
<b>Chairman</b>		Robert L. Morris, Jr., Chair			Location	<b>MS TEAMS/Conference Call</b>
Meetings will be held by conference call due to COVID-19. Updates will occur as needed. <b>Meeting Registration:</b> <a href="https://forms.office.com/g/July8Registration">https://forms.office.com/g/July 8 Registration</a> You will receive conference/call information upon registration						P = Present; TC = Teleconference; VC = Videoconference; _ = Absent
<ul style="list-style-type: none"><li>Please mute your phone if not speaking and identify yourself if you need to speak</li><li>Please register for public comment; hold public comments until public comment portion of agenda</li></ul>						
	<b>Council Member</b>	<b>Representing</b>			<b>Council Member</b>	<b>Representing</b>
P	Robert L. Morris, Jr. Chair	Urban Residential User		–	C. Edward Gaunch	WV Dept. of Commerce, Cabinet Secretary
P	William D. “Bill” Bissett Vice Chair	Urban Business User		P	Jeff Proctor	Representing Secretary Gaunch
P	Michael J. Holstine Secretary-Treasurer	Rural Business User Congressional Dist. 3		P	Robert Cole	Rural Residential User Congressional Dist. 1
P	Roger Earl	Rural Residential User Congressional Dist. 3		P	Dennis Lee	Business User, Large Scale Broadband
—	W. Clayton Burch	WV Dept. of Education, State Superintendent		–	Honorable Ronald G. Pearson	Rural Residential User Cong. Dist. 2
P	Tim Conzett	Representing Clayton Burch		–	The Honorable Robert Plymale	WV Senate (D) (Ex-Officio/Advisory Member)
P	Joshua D. Spence	WV Office of Technology, Chief Technology Officer		–	The Honorable Mark Maynard	WV Senate (R) (Ex-Officio/Advisory Member)
—	James Dixon	Representing Joshua Spence		P	The Honorable Riley Keaton	WV House (R) (Ex-Officio/Advisory Member)
–	Jeff Whitman	Representing Joshua Spence		P	The Honorable Joey Garcia	WV House (D) (Ex-Officio/Advisory Member)
—	Matt Turner	WV Higher Education Policy Commission Vice Chancellor		–	Vacancy: Rural Business User Congressional Dist. 1	
P	Dr. Carl R. Powell	Representing Matt Turner			Vacancy: Rural Business User, Congressional District 2	
	<b>Representative</b>	<b>Agency</b>			<b>Representative</b>	<b>Agency</b>
—	Mitch Carmichael	WV Department of Economic Development		–	Vic Sprouse	WV Dept of Economic Development
P	Kelly Workman	WV Dept of Economic Development		–	Fred Feit, Chris Campbell	Tilson Technology Management
—	Todd Goddard	WV Dept of Economic Development		–	Jim Kelsh	Bowles Rice Legal Counsel
—	Jamie Hoffmann	WV Dept of Economic Development		–	Jason Pizatella, Lee F. Feinberg	Spilman Thomas & Battle
<b>Agenda Item</b>			<b>Details/Minutes</b>			
1. Call to Order; Roll Call; Opening Remarks						
2. Approval of 6/10/2021 Meeting Minutes, Financial Statement			Bissett moves to approve, Powell seconds, minutes approved. Financial Statement is accurate except communications bill, clarified amount should be \$261.90.			
3. Recognition of Romie A.”Pete” Hobbs			Resolution recognizing Mr. Pete Hobbs, service to Broadband Council and community. Vice-Chairman Bissett read the resolution. Proctor moved, Cole second for approval, Resolution passed unanimously.			
4. WVPSC/FCC Matters			<b>Jason Pizatella, Lee F. Feinberg, Spilman, Thomas &amp; Battle</b> <b>WV PSC Matters relevant to Council.</b> <ul style="list-style-type: none"><li>Mr. Pizatella updated Council that Frontier continues to file quarterly reports as required.</li></ul>			

	<ul style="list-style-type: none"> <li>- Altice/Suddenlink currently under PSC investigation, accepting public comments before hearing on August 24 on service complaints.</li> </ul>
5. AEP Logan-Mingo Broadband Project WVPSC Approval	<p><b>Jon Webster</b>, External Affairs Manager, AEP-APCo</p> <p><b>AEP Logan-Mingo Broadband Project:</b></p> <ul style="list-style-type: none"> <li>- Earlier this year, AEP filed with PSC on project.</li> <li>- Hearings in April, follow-up responses in May, expected decision on June 22, 2021. However, received decision on June 16, 2021 and PSC approved filing.</li> <li>- Construction starts within 180 days from order.</li> <li>- Construction to be completed within 22 months of approval.</li> <li>- Work continues with Gigabeam to develop last mile while AEP builds middle mile. Gigabeam will be able to add customers during middle mile construction.</li> <li>- \$60 million for 2 counties, 361 miles of 96 strand fiber, adding additional 48 strands to 69 miles.</li> <li>- 600+ mile installation of fiber throughout area.</li> </ul>
6. FCC RDOF Auction 904	<p><b>Fred Feit</b>, Tilson Technology Management</p> <p><b>RDOF Update</b></p> <ul style="list-style-type: none"> <li>- No additional substantial updates.</li> <li>- Have not yet made any announcements around next steps and final approval to receive Universal Service Funds.</li> <li>- Continue in a waiting period. Important to note there has only been one previous auction, FCC is modernizing Universal Service Fund which is likely reason for delay.</li> </ul>
7. American Rescue Plan (ARP) Program Development Recommendations	<p>WV Dept. of Economic Development  <b>Fred Feit</b>, Tilson Technology Management  Chris Campbell, Tilson Technology Management  <b>Kelly Workman</b>, WVDED</p> <ul style="list-style-type: none"> <li>- Presented to Joint Committee on Government and Finance \$138 million dedicated to Broadband, money has not yet been released.</li> <li>- Do not yet have Interim Rules from US Treasury but will continue program development in anticipation of rule release.</li> </ul>
8. Discussion of ARP Website Modifications ARP Public Comment Period	<p>Jamie Hoffmann, <b>Kelly Workman</b>, WVDED</p> <p><b>Review of Website Modifications.</b></p> <ul style="list-style-type: none"> <li>- Statement of how funds will be allocated and how Office of Broadband will administer.</li> <li>- Under State/Local Recover Fund, allocation has been received and Office of Broadband will assist local entities in deployment of funds.</li> </ul> <p><b>Kelly Workman/Fred Feit</b>  <b>Target area map development.</b></p> <ul style="list-style-type: none"> <li>- Jamie Hoffman has provided video tutorial for website users.</li> <li>- Webinar on June 22 to walk ISP partners through mapping tools.</li> <li>- Feit showed and detailed the different aspects of the mapping tools to the Council.</li> <li>- Information detailed from Form 477. FCC transitioning to more detailed process.</li> </ul> <p><b>Secretary Carmichael</b></p>



	<ul style="list-style-type: none"> <li>- Top priority is to have funds dedicated to providing service to those who do not have service.</li> <li>- Byproduct will be creation of competition.</li> <li>- Program needs to remain simple for application process.</li> <li>- Will ensure projects are properly vetted and reach the most people.</li> </ul> <p>Fred Feit, cont'd</p> <ul style="list-style-type: none"> <li>- Request for Comment on Address Data is now active. Requesting comments from ISPs on inaccuracies or any additional information they can provide.</li> <li>- Comment process will help determine addresses that are eligible.</li> <li>- Tool shows RDOF areas to avoid duplication.</li> <li>- Mapping tool will be regularly updated as additional information comes in and will eventually be linked with approved projects.</li> <li>- Mr. Proctor asked about RDOF map accuracy. Mr. Feit replied that RDOF maps are very accurate at the address level.</li> <li>- Mr. Holstine asked about status of speed test data and is it reflected on the map. Mr. Feit replied that speed test data is using to help determine eligibility on speeds below 25/3. Many speed tests are from disgruntled customers. Treasury rules allow for inclusion of areas lacking reliable 25/3 service. Most areas of DSL are considered eligible. Speed test data not needed to determine those areas. Helps clear ambiguities but not used for ultimate determination of who has service and who doesn't.</li> <li>- Mr. Holstine concerned ineligibility will be major issue for rural areas. Mr. Feit agreed address level data is most difficult to determine in those areas, but Request for Comment process should help.</li> <li>- Delegate Garcia said Marion County has a lot of green and wanted to know if it was accurate that the Request for Comment process will help determine eligibility in counties like his. Mr. Feit said process will help with line extensions that may not currently fit in providers business model. Program will help them extend lines, if cable companies want to extend, then its in their best interest to fine to address level data so they can participate in program. First program launched will be line extension program.</li> <li>- Mr. Holstine asked about timing of projects, Mr. Feit explained for RDOF has a six-year time frame to spend money. ARP funds will be on same time frame.</li> </ul> <p><b>Kelly Workman, cont'd</b></p> <ul style="list-style-type: none"> <li>- Request for Comment opens June 12. Requests will go to ISP, RPDC and local EDA's to comment for unserved areas.</li> <li>- Survey and speed tests have been revamped and will be available for businesses and individuals.</li> <li>- Responses end Monday, August 30.</li> <li>- Webinar scheduled and on-site training will be available.</li> </ul>
<p>9. Discussion of MOU Between Broadband Council and Broadband Office</p>	<p><b>Jim Kelsh, Bowles Rice</b></p> <p><b>MOU between Broadband Council and Broadband Office.</b></p> <ul style="list-style-type: none"> <li>- HB 2002 creates the Office of Broadband and a new article in 31G-1A and modifies Broadband Council responsibilities in 31G-1</li> <li>- MOU will define responsibilities between the two and how they will interact.</li> </ul>

	<ul style="list-style-type: none"><li>- Document will need to be revisited and updated. MOU provides overview and allocation of responsibilities.</li><li>- HB 2002 made it clear that the Office of Broadband had responsibilities in administering funds from sources outside the Legislature. Council may administer funds allocated by the Legislature.</li><li>- Ms. Workman made clear that strong working relationship between the Office and the Council will continue. MOU will help define roles and maximize opportunities for funding.</li><li>- Bissett moved, Proctor seconded motion to approved MOU as presented and allow the Chairman to sign on behalf of the Council. Motion passed.</li></ul>			
10. Other Business				
11. Public Comment	Sign-In for Public Comment  No public comments.			
12. Next Meeting Date	TBD Teams/Conference Call  Next meeting will be <b>Thursday, September 9, 2021, 10am in Charleston.</b>			
13. Adjournment	Meeting adjourned.			
Action Items				
No.	Description	Assigned To	Month Identified	Target Completion Date
1.	Legal and Cooperative Toolkit and Training	WVU Law	June 2017	Local Governments, Broadband, and the Law Toolkit in Final Edit. Release by September 2021
2.	NTIA/National Broadband Availability Map	K. Workman, J. Hoffman	February 2019	Two-year project. 5/10/2019 NBAM 2. 5 Release 3/2021



# WEST VIRGINIA BROADBAND ENHANCEMENT COUNCIL

## MEETING MINUTES | September 9, 2021

Meeting Title		WV Broadband Enhancement Council			Time	10:00 a.m.
Chairman		Robert L. Morris, Jr., Chair			Location:	Online Meeting
Meetings will be held by conference call due to COVID-19. Updates will occur as needed. Meeting Registration: <a href="https://forms.office.com/Pages/September 9 2021">https://forms.office.com/Pages/September 9 2021</a> You will receive conference/call information upon registration <ul style="list-style-type: none"><li>Please mute your phone if not speaking and identify yourself if you need to speak</li><li>Please register for public comment; hold public comments until public comment portion of agenda</li></ul>						P = Present; TC = Teleconference; VC = Videoconference; _ = Absent
	Council Member	Representing			Council Member	Representing
P	Robert L. Morris, Jr. Chair	Urban Residential User		–	C. Edward Gaunch	WV Dept. of Commerce, Cabinet Secretary
P	William D. “Bill” Bissett Vice Chair	Urban Business User		P	Jeff Proctor	Representing Secretary Gaunch
P	Michael J. Holstine Secretary-Treasurer	Rural Business User Congressional Dist. 3		P	Robert Cole	Rural Residential User Congressional Dist. 1
–	Roger Calhoun	Rural Residential User Congressional Dist. 3		P	Dennis Lee	Business User, Large Scale Broadband
–	W. Clayton Burch	WV Dept. of Education, State Superintendent		–	Honorable Ronald G. Pearson	Rural Residential User Cong. Dist. 2
P	Tim Conzett	Representing Clayton Burch		P	The Honorable Robert Plymale	WV Senate (D) (Ex-Officio/Advisory Member)
P	Joshua D. Spence	WV Office of Technology, Chief Technology Officer		–	The Honorable Mark Maynard	WV Senate (R) (Ex-Officio/Advisory Member)
–	James Dixon	Representing Joshua Spence		P	The Honorable Riley Keaton	WV House (R) (Ex-Officio/Advisory Member)
–	Jeff Whitman	Representing Joshua Spence		P	The Honorable Joey Garcia	WV House (D) (Ex-Officio/Advisory Member)
P	Matt Turner	WV Higher Education Policy Commission Vice Chancellor		–	Vacancy: Rural Business User Congressional Dist. 1	
–	Dr. Carl R. Powell	Representing Matt Turner			Vacancy: Rural Business User, Congressional District 2	
	Representative	Agency			Representative	Agency
–	Mitch Carmichael	WV Department of Economic Development		P	Vic Sprouse	WV Dept of Economic Development
P	Kelly Workman	WV Dept of Economic Development		P	Fred Feit, Chris Campbell	Tilson Technology Management
–	Todd Goddard	WV Dept of Economic Development		P	Jim Kelsh	Bowles Rice Legal Counsel
P	Jamie Hoffmann	WV Dept of Economic Development		–	Jason Pizatella, Lee F. Feinberg	Spilman Thomas & Battle
Agenda Item			Details/Minutes			
1. Call to Order; Roll Call; Opening Remarks						
2. Approval of 7/8/2021 Meeting Minutes, Financial Statement			Motion to accept the minutes of the 7/8 meeting approved.			
3. FCC RDOF Auction 904			Fred Feit, Tilson Technology Management <ul style="list-style-type: none"><li>Ready to authorize for 48 providers, none in WV for this round, Frontier not a part of this round as well.</li><li>180 bid defaults initiated by auction participants. One census block in WV. Bids generally made in error</li></ul>			

	<ul style="list-style-type: none"> <li>- Form letter issued to 197 recipients to inform them post auction that FCC produced census blocks that should not have been included. Areas with no structures, etc. FCC may grant waivers.</li> </ul>
4. American Rescue Plan (ARPA) Program Development	<p>WV Dept. of Economic Development  Fred Feit, Tilson Technology Management  Chris Campbell, Tilson Technology Management</p> <ul style="list-style-type: none"> <li>- Webinar completed with ISP, local leaders yesterday, was very successful. Webinar had over 150 registrations and over 120 participants on the call.</li> <li>- Mr. Campbell reviewed some of the slides with the Council.</li> <li>- Four major programs available, LEAD, MPBS, GigReady Incentive, and WIN.</li> <li>- Drafts of program procedures are finished, waiting on US Treasury guidelines to complete.</li> <li>- Currently developing detailed reporting and compliance guide for project awardees.</li> <li>- Currently working on Target Area maps with conclusion of comment period for ISPs. Significant participation in comment period will help develop much more accurate maps.</li> <li>- Public launch of Broadband expansion programs expected in early fall.</li> <li>- Expected to accept applications into various programs through early 2022.</li> <li>- Awaiting US Treasury guidelines</li> <li>- Mr. Sprouse detailed expected funding requests and plans.</li> <li>- State allocated \$136.3 MM from Capital Projects Fund, also hope to receive legislative appropriation from ARPA State funds as well.</li> <li>- Once US Treasury guidelines are issued, Treasury will open up applications to the states to obtain their funding. Hoping to receive funding in fall of 2021.</li> <li>- Delegate Keaton mentioned that Legislature has a desire to fund broadband and additional dollars may be available from ARPA funds.</li> <li>- Delegate Garcia expressed concern over affordability and what state may be doing to help. Mr. Sprouse mentioned the EBB program and a list has been provided of the ISPs participating in the program.</li> </ul>
5. Discussion of Speed Test Marketing and Website Modifications to Integrate Broadband Office and Coordinate with WV Department of Economic Development	<p>Jamie Hoffmann, Kelly Workman, WVDED  Proposal from Commerce Communications</p> <ul style="list-style-type: none"> <li>- Ms. Workman discussed the plans to update and modernize the website broadband.wv.gov and include both the Office of Broadband and Broadband Council. Will be rebranded to match the Department of Economic Development program.</li> <li>- Motion to approve rebranding and redevelopment of website by Mr. Holstine, second by Mr. Bissett. Motion accepted.</li> <li>- Mr. Hoffman explained the upcoming speed test marketing.</li> <li>- Goal is to greatly increase the number of speed tests taken so mapping can be improved as well as tracking speed improvements during the coming years.</li> <li>- Ms. Workman mentioned that a marketing plan for broadband is being developed and will potentially include a re-establishment of a newsletter to be published quarterly.</li> </ul>

<p>6. WVPSC 21-0532-T-E-CTV-GI Regarding Trench Sharing and Pole Transfer/Removal Task Force</p>	<p>Jim Kelsh, Bowles Rice</p> <ul style="list-style-type: none"> <li>- HB 2002 set up procedures for ISPs to obtain DOH approval for getting into trenches, PSC has to provide a ruling in 45 days.</li> <li>- PSC will also look at abandoned facilities, establish process for pole owners to provide information for removing old cable, attaching to new poles, etc. First meeting today (September 9)</li> <li>- November 15<sup>th</sup> date for rule changes from the Task Force to be submitted to the PSC if there is agreement. If not, competing plans to be submitted by November 22.</li> </ul>
<p>7. WVPSC 21-0515-CTV-SC-GI Cebridge Acquisition, LLC, dba Suddenlink Communications, Cequel III Communications I LLC, dba Suddenlink Communications and Cequel III Communications II LLC, dba Suddenlink Communications</p>	<p>Jim Kelsh, Bowles Rice</p> <ul style="list-style-type: none"> <li>- Suddelink currently under investigation by the PSC because of the large number of complaints. Public hearings have been held across their service area.</li> <li>- PSC may request to regulate broadband during the upcoming legislative session.</li> </ul>
<p>8. Federal Funding Update</p>	<p>Kelly Workman, WVDED, Tim Conzette, WV Dept of Ed.</p> <p><b>FCC Emergency Connectivity Fund (ECF)</b> The FCC's \$7.17 billion Emergency Connectivity Fund (ECF) program is designed to help schools and libraries provide the tools and services to support remote learning. The West Virginia Department of Education applied for \$21.2 million for 47,344 hotspots and services for eligible students. An additional 24 WV counties applied separately for a total of \$25.5 million for various requests including school bus wi-fi, hotspots, iPads, and Chromebooks.</p> <p>The initial ECF Program application filing window closed on August 13 A second filing window is set for Sept. 28-October 13, 2021. <b>Interested schools and libraries can find more information and apply at <a href="https://emergencyconnectivityfund.org">emergencyconnectivityfund.org</a>.</b></p> <p><b>National Telecommunications and Information Administration (NTIA) Broadband Infrastructure Program</b> NTIA received more than 230 applications with requests totaling more than \$2.5 billion for its \$288 million Broadband Infrastructure Grant Program. Applications were submitted from 49 states and U.S. territories. West Virginia ranked 16<sup>th</sup> nationwide for the amount of funds requested by states. For more information, view the <a href="#">press release</a>.</p> <p><b>ARC</b> <a href="https://www.wvpublic.org/government/2021-08-27/23-w-v-a-projects-including-water-and-broadband-get-8-1-million-in-funding">https://www.wvpublic.org/government/2021-08-27/23-w-v-a-projects-including-water-and-broadband-get-8-1-million-in-funding</a></p> <p>The Appalachian Regional Commission and the U.S. Department of Housing and Urban Development are dedicating \$8 million to 23 projects in WV. A grant of \$300,000 was awarded to <a href="#">Regional Optical Communications</a>, to continue its project development work along with Generation West Virginia. The Council will coordinate with ROC to complete this project.</p>
<p>9. FCC Emergency Broadband Benefit</p>	<p>Kelly Workman, WVDED</p> <p><b>EBB Toolkit</b> <a href="https://www.fcc.gov/emergency-broadband-benefit-outreach-toolkit">https://www.fcc.gov/emergency-broadband-benefit-outreach-toolkit</a></p> <p>The FCC Emergency Broadband Benefit (EBB) is designed to financially assist families and households with internet services during the pandemic. As of August 29, 37,991 West Virginians have registered for this benefit.</p>

	<p>The EBB will provide a discount of up to \$50 per month toward broadband service for eligible households and up to \$75 per month for households on qualifying Tribal lands. Eligible households can also receive a one-time discount of up to \$100 to purchase a laptop, desktop computer, or tablet from participating providers.</p> <p>The EBB is limited to one monthly service discount and one device discount per household. Households can qualify for the temporary assistance in a number of ways, including participation in programs such as SNAP, Medicaid, Lifeline, participation in reduced-price school meals programs in the last two school years, or receipt of federal Pell grants for higher education. For more information, visit <a href="https://www.fcc.gov/broadbandbenefit">fcc.gov/broadbandbenefit</a> or send email to <a href="mailto:BroadbandBenefit@fcc.gov">BroadbandBenefit@fcc.gov</a>.</p> <p><b>A list of participating providers is provided in the meeting packet. An Enrollment and Claims Tracker is available here:</b> <a href="https://www.usac.org/about/emergency-broadband-benefit-program/emergency-broadband-benefit-program-enrollments-and-claims-tracker/">https://www.usac.org/about/emergency-broadband-benefit-program/emergency-broadband-benefit-program-enrollments-and-claims-tracker/</a></p>			
10. Other Business	<ul style="list-style-type: none"><li>- Council thanked Mr. Aaron Sporck for his role in broadband development working for Sen. Capito’s office, will transition out of position.</li><li>- Council also thanked Mr. Bissett for his service as Vice-Chair and welcomed him into Mr. Sporck’s role in working for Senator Capito.</li></ul>			
11. Public Comment	Sign-In for Public Comment <ul style="list-style-type: none"><li>- Cassidy Early and Carol Hyberger signed in for public comment, but neither gave public comment.</li></ul>			
12. Next Meeting Date	October 14, 2021 Google Meet Unless Otherwise Noted			
13. Adjournment	Motion to Adjourn was approved.			
Action Items				
No.	Description	Assigned To	Month Identified	Target Completion Date
1.	Legal and Cooperative Toolkit and Training	WVU Law	June 2017	<b>Local Governments, Broadband, and the Law</b> Toolkit in Final Edit. Release by September 2021
2.	NTIA/National Broadband Availability Map	K. Workman, J. Hoffman	February 2019	Two-year project. 5/10/2019 NBAM 2. 5 Release 3/2021



# WEST VIRGINIA BROADBAND ENHANCEMENT COUNCIL

## Meeting Minutes October 14, 2021

Meeting Title		WV Broadband Enhancement Council		Time		10:00 a.m.	
Chairman		Robert L. Morris, Jr., Chair		Location:		Online Meeting	
Meetings will be held by conference call due to COVID-19. Updates will occur as needed. Meeting Registration: <a href="https://forms.office.com/Pages/October 14 2021">https://forms.office.com/Pages/October 14 2021</a> You will receive conference/call information upon registration <ul style="list-style-type: none"><li>Please mute your phone if not speaking and identify yourself if you need to speak</li><li>Please register for public comment; hold public comments until public comment portion of agenda</li></ul>						P = Present; TC = Teleconference; VC = Videoconference; _ = Absent	
	Council Member	Representing			Council Member	Representing	
P	Robert L. Morris, Jr. Chair	Urban Residential User		—	C. Edward Gaunch	WV Dept. of Commerce, Cabinet Secretary	
—	William D. “Bill” Bissett Vice Chair	Urban Business User		P	Jeff Proctor	Representing Secretary Gaunch	
P	Michael J. Holstine Secretary-Treasurer	Rural Business User Congressional Dist. 3		P	Robert Cole	Rural Residential User Congressional Dist. 1	
P	Roger Calhoun	Rural Residential User Congressional Dist. 3		P	Dennis Lee	Business User, Large Scale Broadband	
—	W. Clayton Burch	WV Dept. of Education, State Superintendent		—	Honorable Ronald G. Pearson	Rural Residential User Cong. Dist. 2	
—	Tim Conzett	Representing Clayton Burch		—	The Honorable Robert Plymale	WV Senate (D) (Ex-Officio/Advisory Member)	
P	Joshua D. Spence	WV Office of Technology, Chief Technology Officer		—	The Honorable Mark Maynard	WV Senate (R) (Ex-Officio/Advisory Member)	
P	James Dixon	Representing Joshua Spence		—	The Honorable Riley Keaton	WV House (R) (Ex-Officio/Advisory Member)	
P	Jeff Whitman	Representing Joshua Spence		—	The Honorable Joey Garcia	WV House (D) (Ex-Officio/Advisory Member)	
—	Matt Turner	WV Higher Education Policy Commission Vice Chancellor		—	Vacancy: Rural Business User Congressional Dist. 1		
P	Dr. Carl R. Powell	Representing Matt Turner			Vacancy: Rural Business User, Congressional District 2		
	Representative	Agency			Representative	Agency	
—	Mitch Carmichael	WV Department of Economic Development		P	Vic Sprouse	WV Dept of Economic Development	
P	Kelly Workman	WV Dept of Economic Development		P	Fred Feit, Chris Campbell	Tilson Technology Management	
P	Todd Goddard	WV Dept of Economic Development		P	Jim Kelsh	Bowles Rice Legal Counsel	
P	Jamie Hoffmann	WV Dept of Economic Development		P	Jason Pizatella, Lee F. Feinberg	Spilman Thomas & Battle	
Agenda Item			Details/Minutes				
1. Call to Order; Roll Call; Opening Remarks							
2. Approval of 9/9/2021 Meeting Minutes, Financial Statement			Motion by Holstine Second by Dennis Lee. Motion carried. Motion to accept the minutes of the 9/9 meeting approved. No activity on Financial Statement, no bills				
3. FCC RDOF Auction 904			Fred Feit, Tilson Technology Management <ul style="list-style-type: none"><li>First provisional auction winner received. ARDOF support authorized. FCC issued a public notice on Oct 7<sup>th</sup>, announcing “Ready to authorize”. Triggers a 10-business day period for the listed to submit letter of credit to FCC.</li></ul>				

	<ul style="list-style-type: none"> <li>• Citynet is the only internet service provider winner to be announced, thus far.</li> <li>• Additional public notices with additional WV ISP's in the coming weeks</li> </ul>
4. American Rescue Plan (ARPA) Program Development	<p>WV Dept. of Economic Development Fred Feit, Tilson Technology Management Chris Campbell, Tilson Technology Management</p> <ul style="list-style-type: none"> <li>• US Treasury Guidelines Capital Projects Fund – link for online grant application broadband.wv.gov</li> <li>• ARPA Broadband Programs – LEAD, MBPS, Gig Ready, WIN</li> <li>• Sending out links for 10/27, 11/3 Webinar</li> <li>• Mapping; Different than the preliminary map posted. WV Network Validation Review Summary. Network validations performances; A&amp;A, Alpha Technologies, Armstrong, Charter, Prodigy, Shental, Blue Devil, and Suddenlink.</li> <li>• Program Development Update; Kelly, target dates for key elements roll out. Program procedures finalized Friday Oct.15. Procedural rules will be submitted to the Sec. of State the week of Oct 18, 19. Once filed, there is a 30 day comment period. Will rollout target area maps Oct 26. Webinar Oct 27, instructions on how to register Oct 28. Webinar Nov 3. Will summarize these dates &amp; circulate these dates out to council members. Vic Application process; 1<sup>st</sup> state to submit to Capitol Projects Fund for entire 136M. Sec. Carmichael signed it. CPF requested and approval letter for the Gov. and it was resubmitted. Just waiting at this point for cash to come in. Reached out to CPF asking when we could expect funds. Kelly, Next process w/treasury, submit Grant Plan summary of details, anticipated uses of funds. Very prepared for this.</li> <li>• Request for comment, n/a</li> </ul>
5. Discussion of Speed Test Marketing and Website Modifications to Integrate Broadband Office and Coordinate with WV Department of Economic Development	<p>Jamie Hoffmann, Kelly Workman, WVDED Proposal from Commerce Communications</p> <ul style="list-style-type: none"> <li>• Mr. Hoffman showed slides regarding the launch of the speed tests marketing. Spoke of the results so far.</li> <li>• Question from Roger Calhoun, speed test should be taken through their primary device that you use from home? Some people couldn't even get through the survey. Many of the addresses were already accounted for, identified. Much frustration from people.</li> <li>• Chris Campbell, Areas where maps need further improvement, you will be able to have more specific conversations about where the areas are needing more information on or updated.</li> <li>• Ms. Workman spoke of the annual report status. HB2002, Council is now required to report to the office by Dec. 1. In the Nov. meeting, we will work w/chairman to develop an outline of the report. Would like to bring to you for your review and approval that will serve as a basis for the combined annual report from council &amp; office, which goes to the WV Legislature by the end of the year.</li> </ul>



6. WVPSC 21-0532-T-E-CTV-GI Regarding Trench Sharing and Pole Transfer/Removal Task Force	Jim Kelsh, Bowles Rice PSE has this task force pursuant to the HB2002 to address two issues 1. With respect to Internet service providers that apply to the DOH for a trench if any trench sharing disputes arise, the PSE is charged with resolving the disputes within 45 days. 2. Protocol to migrate facilities from poles that are being abandoned or relocated to new poles, PSE staff drafted some procedural rules, extensive comment, and suggested modifications to these rules. PSE staff is going to circulate another draft to these rules on Oct. 18 <sup>th</sup> . Another conference call is scheduled for Oct. 29 <sup>th</sup> . The goal is to have a report to be filed with the PSE by Nov. 15 <sup>th</sup> . Majority report is due Nov. 22.			
7. WVPSC 21-0515-CTV-SC-GI Cebridge Acquisition, LLC, dba Suddenlink Communications, Cequel III Communications I LLC, dba Suddenlink Communications and Cequel III Communications II LLC, dba Suddenlink Communications	Jim Kelsh, Bowles Rice PSE staff has issued its report recommending certain modifications to Suddenlink practices. Hearing held on entire case, staff's recommendation (PSE jurisdiction limited to cable tv and does not extend to broadband) 19 corrective actions for Suddenlink to take.			
8. Federal Funding Update	Kelly Workman  <b>FCC Emergency Connectivity Fund (ECF)</b> <a href="https://emergencyconnectivityfund.org">emergencyconnectivityfund.org</a> T \$46 million in pending applications, \$16.9M has been approved. FCC announced 2 rounds of funding, remaining allocations will be over the next couple of months. Allocations for D of ED \$8.6M for services and devices.  <b>National Telecommunications and Information Administration (NTIA) Broadband Infrastructure Program:</b> Pending applications released information for public comment October 19. <b>ARC:</b> The Appalachian Regional Commission has announced ARC POWER grant awards in West Virginia: <ul style="list-style-type: none"><li>Pocahontas County Commission</li><li>Woodlands Development</li><li>Wayne County Commission</li></ul>			
9. FCC Emergency Broadband Benefit	As of October 11th, 43,693 West Virginians have registered for this benefit..			
10. Other Business	<ul style="list-style-type: none"><li>No other business</li></ul>			
11. Public Comment	Sign-In for Public Comment <ul style="list-style-type: none"><li>Tracy Jones signed in for public comment but did not give public comment.</li></ul>			
12. Next Meeting Date	November 10, 2021, Google Meet Unless Otherwise Noted			
13. Adjournment	Motion to Adjourn was approved.			
Action Items				
No.	Description	Assigned To	Month Identified	Target Completion Date
1.	Legal and Cooperative Toolkit and Training	WVU Law	June 2017	Local Governments, Broadband, and the Law  Toolkit in Final Edit. Release by September 2021
2.	NTIA/National Broadband Availability Map	K. Workman, J. Hoffman	February 2019	Two-year project. 5/10/2019 NBAM 2. 5 Release 3/2021





# WEST VIRGINIA BROADBAND ENHANCEMENT COUNCIL

## MEETING MINUTES | November 10, 2021

Meeting Title		WV Broadband Enhancement Council		Time		10:00 a.m.	
Chairman		Robert L. Morris, Jr., Chair		Location:		Online Meeting	
Meetings will be held by conference call due to COVID-19. Updates will occur as needed. Meeting Registration: <a href="https://forms.office.com/g/VbKLPPnPXq">https://forms.office.com/g/VbKLPPnPXq</a> You will receive conference/call information upon registration Please register for public comment; hold public comments until public comment portion of agenda						P = Present; TC = Teleconference; VC = Videoconference; _ = Absent	
	Council Member	Representing			Council Member	Representing	
P	Robert L. Morris, Jr. Chair	Urban Residential User		—	C. Edward Gaunch	WV Dept. of Commerce, Cabinet Secretary	
—	Michael J. Holstine Secretary-Treasurer	Rural Business User Congressional Dist. 3		P	Jeff Proctor	Representing Secretary Gaunch	
P	Roger Calhoun	Rural Residential User Congressional Dist. 3		P	Robert Cole	Rural Residential User Congressional Dist. 1	
—	W. Clayton Burch	WV Dept. of Education, State Superintendent		—	Dennis Lee	Business User, Large Scale Broadband	
—	Tim Conzett	Representing Clayton Burch		P	Honorable Ronald G. Pearson	Rural Residential User Cong. Dist. 2	
P	Joshua D. Spence	WV Office of Technology, Chief Technology Officer		—	The Honorable Robert Plymale	WV Senate (D) (Ex-Officio/Advisory Member)	
—	James Dixon	Representing Joshua Spence		—	The Honorable Mark Maynard	WV Senate (R) (Ex-Officio/Advisory Member)	
—	Jeff Whitman	Representing Joshua Spence		—	The Honorable Riley Keaton	WV House (R) (Ex-Officio/Advisory Member)	
—	Matt Turner	WV Higher Education Policy Commission Vice Chancellor		Pkk	The Honorable Joey Garcia	WV House (D) (Ex-Officio/Advisory Member)	
P	Dr. Carl R. Powell	Representing Matt Turner		—	Vacancy: Rural Business User Congressional Dist. 1		
—	The Honorable Scott Edwards	Rural Business User, Congressional District 2			Vacancy: Urban Business User		
	Representative	Agency			Representative	Agency	
—	Mitch Carmichael	WV Department of Economic Development		—	Vic Sprouse	WV Dept of Economic Development	
P	Kelly Workman	WV Dept of Economic Development		—	Fred Feit, Chris Campbell	Tilson Technology Management	
—	Todd Goddard	WV Dept of Economic Development		—	Jim Kelsh	Bowles Rice Legal Counsel	
P	Jamie Hoffmann	WV Dept of Economic Development		—	Jason Pizatella, Lee F. Feinberg	Spilman Thomas & Battle	
Agenda Item			Details/Minutes				
1. Call to Order; Roll Call; Opening Remarks			Not enough members for a Quorum at the start of the meeting. However, quorum was established at 38:00/1:26:10 in video. Ronald Pearson was present.				
2. Council Membership Changes			Welcome Mayor Scott Edwards Letter from Bill Bissett				
3. Approval of 10/14/2021 Meeting Minutes, Financial Statement			Returned to this item when quorum established				
4. Federal Funding Update USDA DLT Awards (list attached) USDA ReConnect			USDA ReConnect: Richard Jenkins General Field Representative USDA Rural Development, US Department of Agriculture Application window open Nov. 24, 2021-Feb. 22, 2022. <a href="https://www.govinfo.gov/content/pkg/FR-2021-10-25/pdf/2021-23128.pdf">https://www.govinfo.gov/content/pkg/FR-2021-10-25/pdf/2021-23128.pdf</a>				

	<p>Richard has been working on projects in the North Central area of state, with Tyler County Dev. Authority &amp; Ohio Valley Regional Econ. Dev. Authorities (RED), partnered with Citynet, Harrison Rural Electric Cooperative, and Citynet.</p> <ul style="list-style-type: none"> <li>• Projects are progressing. Starting to see contracts fulfilled, construction on projects will be starting very soon.</li> <li>• There will be a webinar on details of the new program centered on the funding opportunity announcement. If working on applications, do not wait till the deadline of Feb 22, 2022, in case of any issues.</li> <li>• Statutory things have changed, new definition of Broadband that makes a big difference.</li> <li>• The USDA is also fielding questions related to treatment of RDOF locations or areas that are not fully funded.</li> <li>• We do not have any definite answers as of now. These questions have been sent to the administration and they may have some clarification on the webinar today.</li> <li>• The USDA expects major applications for unserved areas. He would be happy to put some kind of workshop together to help answer questions with the application.</li> <li>• The USDA has \$2 billion from the infrastructure Bill above and beyond the \$1.5 billion Reconnect Program, which has transitioned from a pilot program to a continuous program.</li> </ul> <p><b>Alan Harris, Acting State Director for USDA</b></p> <p>The Telecommunications program is a National Administered program, so the State USDA Rural Development Office may not have direct involvement. Mr. Harris thanked Richard Jenkins for presenting and offered these resources:</p> <ul style="list-style-type: none"> <li>• 1. Webinars available</li> <li>• 2. Funding for round 3, to give you a perspective, it exceeds combined funding from Round 1 and 2.</li> <li>• 3. Service area changes, to make more areas eligible to participate.</li> </ul> <p><b>Question from Fred Feit</b> The Funding Opportunity Announcement states that the loan program applications for the 100% loan will be processed &amp; awarded on a rolling basis. That's not listed as an element of the other 2 or 3 buckets of funding. Does that imply for the other applications that they will be reviewed all at once and that all applications will be submitted and no reviews and awards will be made on a rolling bases?</p> <p><b>Alan Harris</b>, that is correct. With the loan it is basically based on feasibility. So, if you submit a loan application and if it's a solid feasible loan, then we will make the loan. With the grant component applications, there is a scoring process with a wide variant of scores.</p>
<p>5. WV Broadband Investment Plan</p>	<p><b>House Bill 339: Creation of Broadband Development Fund</b> <b>Vic Sprouse, WVDED</b></p> <p>The Governor's office recommended, and the WV Legislature approved an allocation of \$90 million in ARPA funding and \$10 million in State funding to create a new Broadband Development Fund within the WVDED, Office of Broadband. The State funding can be used for the wireless programs for parks, and more rural areas. With this allocation, the WVDED has the funding to start these programs. The WVDED has the \$100 million in place now, and expect the \$130 million Capital Projects funds within weeks.</p> <p>The \$100 million allocation includes:</p>

	<ul style="list-style-type: none"> <li>• ARPA Legislative Appropriation: \$90 Million</li> <li>• State Funds: \$10 Million</li> </ul>
6. American Rescue Plan (ARPA) Program Development	<p><b>WV Dept. of Economic Development Staff</b>  <b>Fred Feit, Tilson Technology Management</b>  <b>Chris Campbell, Tilson Technology Management</b></p> <p><b>Tilson and the WVDED staff have been working to execute the LEAD, and GigReady programs.</b> Next step on MBPS is to provide mapping that we have already provided for LEAD &amp; GigReady. Also prepare webinar content that will provide a walk-through map program.</p> <ul style="list-style-type: none"> <li>• First application deadline coming up at the end of November for the LEAD program.</li> <li>• Applications can be considered for funding. Soon, the LEAD program will transition to application reviews and scoring in December.</li> <li>• In the GigReady program, even though the deadline for funding implementation is not until January, the program is open and taking applications for technical assistance.</li> <li>• A lot of activity is going on and soon we will be in the mode where we are going to start looking at real projects and matching them with real dollars.</li> </ul> <p><b>Roger Calhoun</b> requested review of Scoring Criteria and review was provided.</p> <p><b>Kelly Workman, WVDED</b>  <b>Program Development Update/Tour of Website Resources</b></p> <ul style="list-style-type: none"> <li>• Status of U.S. Treasury Application Process</li> <li>• GigReady: October 27, 2021 Webinar Posted to Website; Application Portal Open</li> <li>• LEAD: November 3, 2021 Webinar Posted to Website; Application Portal Open</li> <li>• MBPS: December 1, 2021 Webinar; Application Portal Open December 2, 2021</li> <li>• ZoomGrants Application Portal; Link and Video Tutorial; FAQs</li> </ul>
7. Consideration of ROC Request for US EDA Grant Application Support Letter	<ul style="list-style-type: none"> <li>• Regional Optical Communication's (ROC) West Virginia Multi-Region Broadband Projects (Mbps) Accelerator; \$1,196,000.</li> <li>• Jason Roberts, Executive Director</li> <li>• Region 1 Planning and Development Council</li> <li>• See Attached budget and narrative.</li> <li>• Previous years of working on a planning initiative has given us a playbook. We have 28 projects in the hopper, some funded, some not, some are getting ready to go into construction.</li> <li>• Landscape has changed because of all the initiatives that the State and Federal agencies have pushed out. We (all) need assistance in areas outside of ROC to identify these eligible areas and coordinate planning and implementation efforts. John Tuggle and I decided to for some EDA funding to replicate this ROC model for the rest of the state. First part was for Appalachian Regional Commission Funding for \$300,000, it was awarded, and we will use that to apply for 1.2M in EDA funding.</li> <li>• ROC is working with Generation WV, their consultants, and project team. We think we have a good application nailed down, making</li> </ul>

	<p>final tweaks on it now, and plan to submit it within the next couple of weeks. We are asking for a letter of support for the application.</p> <ul style="list-style-type: none"> <li>• <b>Robert Morris:</b> A copy of the proposed letter on our letterhead with my signature is in your packet. Motion to approve signing of the letter. <b>Roger Calhoun:</b> I move to signing of the support letter. <b>Carl Powell:</b> 2nds the signing. <b>Robert Morris:</b> Motion carries</li> </ul>
8. WVPSC 21-0532-T-E-CTV-GI Regarding Trench Sharing and Pole Transfer/Removal Task Force	<p>Jim Kelsh, Bowles Rice</p> <ul style="list-style-type: none"> <li>• Task force had a meeting yesterday, everything went as expected. Report due to WVPSC on Monday.</li> <li>• There is consensus on portion on trench sharing dispute rules for Dept of Hwys trenches, the other pole transfer &amp; removal aspect. Differences are well defined.</li> <li>• There will be a majority, a minority, report filed with PSC on Nov. 22.</li> <li>• Principal issue dispute is pole owner, which is typically electric utility or phone utility is obligated to transfer communication facilities when it constructs a new pole, pole network, or whether it is discretionary when it moves communication facility on to its new poles. Staff is pushing to make it mandatory for the pole owners to transfer communication facility &amp; to remove the old pole. Issues will be presented before the commission for its decision.</li> </ul>
9. WVPSC 21-0515-CTV-SC-GI Cebridge Acquisition, LLC, dba Suddenlink Communications, Cequel III Communications I LLC, dba Suddenlink Communications and Cequel III Communications II LLC, dba Suddenlink Communications	<p>Jim Kelsh, Bowles Rice</p> <p>Parties have filed initial briefs in this matter and positions are relatively unchanged. The staff, WVPSC continues to recommend that Suddenlink undertake a suite of direct actions.</p> <p>The PSC has also recommended that the commission propose a \$1 million fine on Suddenlink for its poor performance for the past couple of years. Suddenlink says it has a plan to direct most of the concerns, several are underway, and some to be taken care of soon. Reply briefs are due on Monday before the commission to decide. The \$1 million fine would go to the PSC.</p>
10. Annual Report Outline	<p>Kelly Workman, WVDED</p> <p>An outline of the 2021 annual report was provided in the meeting packet. New items are include. If anything has been left out please let us know as soon as possible. To satisfy the Legislatures requirements, a letter from the Broadband Council should be included, indicating basic approval and authority to complete the report.</p> <p>A full-fledged report from the council to the office is not necessary because we are in a transition year and the proposed structure meets the legislative intents. It's a cooperative report, as always. Chairman Morris entertains a motion that he write the letter for the Broadband office. Robert Cole motions, 2<sup>nd</sup> by Dr. Carl Powell. Motion carries.</p>
11. FCC Emergency Broadband Benefit	As of November 1 , 47, 645 West Virginians have registered.
12. Other Business	

13. Public Comment		Sign-In for Public Comment		
14. Next Meeting Date		GoogleMeet Unless Otherwise Noted		
15. Adjournment				
Action Items				
No.	Description	Assigned To	Month Identified	Target Completion Date
1.	Legal and Cooperative Toolkit and Training	WVU Law	June 2017	Local Governments, Broadband, and the Law  Toolkit in Final Edit. Release by September 2021
2.	NTIA/National Broadband Availability Map	K. Workman, J. Hoffman	February 2019	Two-year project. 5/10/2019 NBAM 2. 5 Release 3/2021



# WEST VIRGINIA BROADBAND ENHANCEMENT COUNCIL

## MEETING MINUTES | December 9, 2021

Meeting Title		WV Broadband Enhancement Council			Time		10:00 a.m.	
Chairman		Robert L. Morris, Jr., Chair			Location:		Online Meeting	
Meetings will be held by conference call due to COVID-19. Updates will occur as needed. Meeting Registration: <a href="https://forms.office.com/g/Dec92021">https://forms.office.com/g/Dec92021</a> You will receive call information upon registration .Please register for public comment; hold comments until public comment portion of agenda							P = Present; TC = Teleconference; VC = Videoconference; _ = Absent	
	Council Member	Representing			Council Member	Representing		
P	Robert L. Morris, Jr. Chair	Urban Residential User		–	C. Edward Gaunch	WV Dept. of Commerce, Cabinet Secretary		
P	Michael J. Holstine Secretary-Treasurer	Rural Business User Congressional Dist. 3		P	Jeff Proctor	Representing Secretary Gaunch		
P	Roger Calhoun	Rural Residential User Congressional Dist. 3		P	Robert Cole	Rural Residential User Congressional Dist. 1		
–	W. Clayton Burch	WV Dept. of Education, State Superintendent		P	Dennis Lee	Business User, Large Scale Broadband		
P	Tim Conzett	Representing Clayton Burch		P	Honorable Ronald G. Pearson	Rural Residential User Cong. Dist. 2		
P	Joshua D. Spence	WV Office of Technology, Chief Technology Officer		–	The Honorable Robert Plymale	WV Senate (D) (Ex-Officio/Advisory Member)		
–	James Dixon	Representing Joshua Spence		P	The Honorable Mark Maynard	WV Senate (R) (Ex-Officio/Advisory Member)		
–	Jeff Whitman	Representing Joshua Spence		P	The Honorable Riley Keaton	WV House (R) (Ex-Officio/Advisory Member)		
–	Matt Turner	WV Higher Education Policy Commission Vice Chancellor		P	The Honorable Joey Garcia	WV House (D) (Ex-Officio/Advisory Member)		
P	Dr. Carl R. Powell	Representing Matt Turner		–	Vacancy: Rural Business User Congressional Dist. 1			
P	The Honorable Scott Edwards	Rural Business User, Congressional District 2			Vacancy: Urban Business User			
	Representative	Agency			Representative	Agency		
–	Mitch Carmichael	WV Department of Economic Development		–	Vic Sprouse	WV Dept of Economic Development		
P	Kelly Workman	WV Dept of Economic Development		P	Fred Feit, Chris Campbell	Tilson Technology Management		
–	Todd Goddard	WV Dept of Economic Development		–	Jim Kelsh	Bowles Rice Legal Counsel		
P	Jamie Hoffmann	WV Dept of Economic Development		–	Jason Pizatella, Lee F. Feinberg	Spilman Thomas & Battle		
Agenda Item			Details/Minutes					
1. Call to Order; Roll Call; Opening Remarks			Last meeting for 2021					
2. Approval of 11/10/2021 Meeting Minutes, Financial Statement			Motion by Carl Powell Second by Mike Holstein. Motion carried. Motion to accept the minutes of the 9/9 meeting approved. Financial Statement for FY2021 has been sent out. A chair and software purchased has been switched over to the Economic department for payment.					
3. American Rescue Plan (ARPA) Program Development			WV Dept. of Economic Development Staff Chris Campbell, Tilson Technology Management Program Development Update/Tour of Website Resources <ul style="list-style-type: none"><li>LEAD: November 3, 2021, Webinar Posted to Website; Application Portal Open. First Round applications received Nov. 30, 2021: Kelly</li></ul>					



	<p><b>Workman:</b> The program is moving along well. We have officially launched 3 programs, 1st application round for LEAD closed Nov. 30<sup>th</sup> and we are in the review process now. Chris and Adolfo are helping us with the technical &amp; financial review and will also be reviewing the Broadband development impact factors. We will go over the scoring once again. LEAD, GigReady, and MBPS, the mapping for these programs are available on our website. <a href="http://wvbroadband.maps">wvbroadband.maps</a> <b>Adolfo Torres:</b> WVBIP LEAD Application Summary, Round 1 slide provided. Location of Applications Received, slide provided. LEAD Scoring Factors, slide provided. <b>Chris Campbell:</b> These scoring factors come after the initial review of these projects. Projects will get scored after they get past the eligibility screen. Some may not pass scoring. <b>Kelly Workman:</b> Anyone that is unserved but listed as served can call our office and let us know. 304-356-0138 <b>Robert Morris:</b> Any timeline on hearing results of the first round of application announcements? <b>Kelly:</b> We will have things ready in December. Decisions will be made by the Secretary and the Governors office. Our goal is to have the applications score and recommendations in December.</p> <ul style="list-style-type: none"> <li>• MBPS: December 1, 2021 Webinar; Application Portal Open December 2, 2021. <b>Jamie Hoffman:</b> Residents can go on the website and do the speed test. <a href="http://broadband.wv.gov">broadband.wv.gov</a> We have been logging these addresses to compare areas unserved. We have maps up for MBPS and GigReady. Our website will show the information for the maps, and instructions on how to search the areas. <b>Chris:</b> There are a little less than 1500 of these eligible served areas. this will also be useful as a mechanism for tracking progress as applications come in. <b>Mike Holstine:</b> I know what an unbelievable task in this mapping process. I want to thank you all for what you are doing. <b>Robert Morris:</b> Chris, how does our mapping compare with other states? <b>Chris:</b> Our maps are specific enough to identify unserved addresses. This is way more a granular conversation than most states are even in the position to have. Its very specific.</li> </ul>
4. Annual Report to WV Legislature	<p>WVDED Staff; Draft to be circulated Monday, Dec. 6</p> <p><b>Kelly Workman:</b> 50-60% complete, goal is to have 90% drafted by Dec. 22. Hope to have our revised draft by Dec. 23. Please let us know if you feel there is something missing. <b>Roger Calhoun:</b> When you read the report and see everything that has been done this year, its been an amazing year. My suggestion is that you put all these accomplishments in the front of the report, in the Executive Summary. So much has been done and because so many don't read the whole report, they will see this first. <b>Joey Garcia:</b> I believe the comment by Roger is very good. Everything accomplished has been fantastic.</p>
5. Approval to Purchase 2022 Ookla Data	<p>WVDED Staff</p> <p>2022 Data Set \$45,000 Speed test less than \$3,000 to renew contracts. Jeff Proctor moves to approve the purchases, 2<sup>nd</sup> by Robert Cole. Approval of purchase is approved.</p>
6. Other Business	<p><b>Delegate Daniel Linville:</b> Some of the legislation coming up for the next year: His office will be sending this info over in an email.</p>
7. Public Comment	<p>Sign-In for Public Comment: <b>Sarah Palfrey, Director Morgantown Public Library System:</b> Out of the 136M allocated to WV, it has a provision for construction for multipurpose facilities, construction for libraries. Is any of this money going to go to libraries? <b>Kelly Workman:</b> Under the infrastructure Act, the states are required to develop a digital equity and inclusion plan. There is a format we must follow provided by US Dept of Commerce. We will be getting underway with that plan in 2022. The libraries</p>

		are a key stakeholder in the process. We would love to have your help in that process. Through that plan development, if there are opportunities to incorporate some of those provisions that you have mentioned, we could work that into the state plan. <b>Delegate Linville:</b> We have been upgrading the libraries to 500mbps across the state. We would like to see further investments in our libraries. I welcome working with you on this.		
8. Next Meeting Date		Google Meet Unless Otherwise Noted: January 13, 2022		
9. Adjournment		Robert Morris declared meeting adjourned.		
Action Items				
No.	Description	Assigned To	Month Identified	Target Completion Date
1.	Legal and Cooperative Toolkit and Training	WVU Law	June 2017	Local Governments, Broadband, and the Law  Toolkit in Final Edit. Release by September 2021
2.	NTIA/National Broadband Availability Map	K. Workman, J. Hoffman	February 2019	Two-year project. 5/10/2019 NBAM 2. 5 Release 3/2021