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American Recovery and Reinvestment Act of 2009 Broadband Initiatives

An Overview of Opportunities for Rural America

Presented by the Venable LLP
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James Troup focuses his practice on providing comprehensive representation on transactional, regulatory and litigation matters for the full spectrum of companies involved in electronic communications to the public such as the telecommunications, broadcast radio and TV, cable TV and Internet industries.

Mr. Troup has extensive experience negotiating and arbitrating interconnection agreements pursuant to the Telecommunications Act of 1996, incumbent local exchange carrier rate regulation, preparing tariff and cost support, universal service and access reform issues, carrier-customer negotiations, CALEA compliance, and compliance by computer and communications equipment manufacturers with FCC Parts 2 and 15 testing and equipment authorization procedures. His practice includes addressing the specialized problems of wireless telecommunications companies, satellite companies, prepaid debit card companies, online service providers, voice messaging companies and other enhanced service providers.

He has represented acquirers and sellers in hundreds of communications and technology acquisitions. He has negotiated, closed, and implemented numerous mergers, acquisitions, joint ventures, and other transactions involving service providers in the telephone, broadcast radio and TV, cable TV, satellite, wireless telecommunications and Internet service industries.





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Rick Joyce focuses on telecommunications law, and is chair of Venable's Communications Group.

He focuses on wireless communications and new communications technologies such as Voice Over the Internet (VOIP) services and Broadband over Power Line (BPL).

He has represented clients in matters involving domestic and international regulations and treaties, public and private financial transactions and appellate and civil litigation pertaining to telecommunications and state/federal telecommunications legislation.

Mr. Joyce's experience with wireless operations goes back to the first cellular radiotelephone networks in the United States and the first deployment of overseas wireless networks. He helped create the first clearinghouse and standards for Short Messaging Services (SMS) throughout South America and the first inter-carrier roaming agreements in South America.





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Tony Lee focuses his practice on representing wireline and wireless telecommunications carriers, cable TV, and Internet companies in regulatory issues and proceedings before the FCC and state utility commissions. Mr. Lee advises local exchange and long distance carriers regarding state and federal regulatory issues, including intercarrier compensation, universal service and compliance matters. He is engaged in substantive and complex litigation regarding intercarrier compensation and interconnection issues in federal court and before state commissions and the Federal Communications Commission. Mr. Lee also advises clients on privacy and data protection issues, wiretapping and the interception of electronic communications, and the FCC and FTC's telemarketing rules.

Mr. Lee is also engaged in high technology transactions and other corporate matters for his clients, which includes the purchase and transfer of high technology assets, and master services agreements for the provision of telecommunications service. He is well versed in wireless licensing and transactional matters, including the transfer and leasing of spectrum, tower leasing and construction issues, and the purchasing of support infrastructure.



What is the Broadband Stimulus Program?

- Federal Grants and Loans, Primarily Administered by NTIA & Dept of Agriculture's RUS
- Total Amount of the Stimulus Package for Both NTIA and RUS is \$7.2 Billion
- Federal Communications Commission has Vague, Advisory Role



Where will the Money Go?

- NTIA responsible for \$4.7 Billion, mainly for broadband infrastructure grants. Also:
 - \$200MM for Public Internet Centers
 - \$250MM to Promote “Adoption of Broadband”
 - \$350MM for Broadband Mapping
- RUS responsible for \$2.5 Billion in grants, loans and loan guarantees for broadband infrastructure



What are NTIA's Program Goals?

- Create Jobs
- Broadband Service in “Unserved” Areas
- Improve Broadband Services to Consumers in “Underserved” Areas
- Education, Awareness, Training, Access, Equipment, and Support to Community Anchor Institutions
- Improve Broadband for Public Safety Agencies
- Stimulate Demand for Broadband Service
- Economic Growth



Who Qualifies for NTIA Grants?

- States or “political subdivisions”
- U.S. territories and possession
- Indian tribes
- Non-profits
- “Any other entity, including broadband service providers” that NTIA finds qualified “in the Public Interest,” which includes broadband service or infrastructure providers
- NTIA must try to be “Technologically Neutral” in determining who qualifies for grants



More on “Who” Qualifies:

- At least one award for each state
- Applicants Should Show How They Will:
 - Increase Affordability and Subscribership
 - Provide Greatest Broadband Speed
 - Enhance Service for Health Care, Education, or Children
- “Economically Disadvantaged Small Business” have Preference



How do I Apply?

- Talk to Vendors and Prepare Budget Listing Equipment and Other Costs
- Develop an Implementation Plan That Can be Started As Soon As Possible
- Demonstrate Project Could Not Have Been Implemented Without Funding
- Twenty Percent Matching Fund Requirement
- Disclose Source of Matching funds
- Electronic Filing
 - Central Contractor Registration (CCR)
 - DUN Number



What is the RUS Loan/Grant Program?

- Grants, Loans or Loan Guarantees
- At least 75% of the Area must be Rural
- Priority to “Open Access” applications
- Priority to highest proportion of rural residents without broadband
- Priority to former RUS borrowers
- Priority to projects that demonstrate full funding
- Priority to projects that can start promptly and be completed soon
- Cannot receive overlapping funding



What are the Application Criteria?

- Currently Under Development by RUS/NTIA
- Potential RUS “Objective” criteria:
 - Rural Nature of the Area
 - Economic Need of the Area (National School Lunch Program)
 - Special Communities
 - Projects located in a USDA Empowerment Zone/Enterprise Community (EZ/EC) and/or Champion Community
 - Matching Funds (Leveraging)



More RUS Application Criteria

- Potential “Subjective” Criteria:
 - Additional Economic Needs Indicators
 - Examples: Recent large business or military base closings; high population of low income residents; large number of senior citizens; high unemployment numbers
 - Need for Services and Project Benefits
 - Explain the specific needs of the community and how the proposed project will meet those needs
 - Innovativeness
 - Cost Effectiveness



Points to Consider for All Funds:

- Number of jobs created
- “But for” evidence that project would not have been completed without funding from RUS/NTIA
- Applications should include a detailed budget
- Applications can be submitted to both RUS and NTIA with disclosure
- RUS stimulus will be directed toward rural areas
- RUS program will mix grants and loans to “leverage” federal funds
- NTIA directed towards “unserved” and “underserved” areas (i.e., doesn’t have to be “rural”)



Critical Dates and Deadlines

- Rulemaking Comments in March and April
- Start Preparing Applications As Soon as Possible
- Three Proposed Rounds of Funding for NTIA
 - April-June 2009
 - October-December 2009
 - April-June 2010
- Three Proposed Rounds of Funding for RUS
 - First Round 60 Days After Comment Period
- Funds Must Be Completely Distributed by Sept. 2010



Strategies to Increase Grant Prospects

- Comments on Grant Qualification Criteria, and Participate in Rulemaking
- Coalitions or Partnerships
- State/Local Governmental Support
- Leveraging of Funds
- Vendor Support



Other Grants Available

- Rural Business Enterprise Grants: \$20 million to finance rural businesses and rural distance learning networks. No matching required. March 19, 2009 application deadline. Both private non-profits and public organizations may apply, and funds may be given to private organizations. Contact USDA.
- State Recovery Act Grants:
 - States will establish state recovery committees and websites.
 - See, e.g., for Kansas: Contact the American Recovery and Reinvestment Act Advisory Group chaired by Lt. Governor Mark Parkinson. <http://www.governor.ks.gov/Recovery/>
 - See for other states: <http://www.propublica.org/special/chart-tracking-states-spending-trackers>
- States will need help in competing for some federal grants:
 - Economic Development Administration American Recovery Program: \$100 million for infrastructure investment, such as communications, in areas that have experienced job loss or per capita income loss that is greater than the national average. 50% matching funds required. Applications being accepted now. States, local governments, colleges and non-profit organizations may apply. For private organizations can be subcontractors, but cannot directly file applications.



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