

WEST VIRGINIA GEOLOGICAL AND ECONOMIC SURVEY

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Joe Manchin, III, *Governor*
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February 1, 2010
(Address of recipient)

Re: Data Request in Compliance with the State Broadband Data and Development Grant Program and the Broadband Data Improvement Act

Response Requested by February 26, 2010

Dear _____:

West Virginia Governor Joe Manchin III has designated the West Virginia Geological and Economic Survey (WVGES) as the single West Virginia entity eligible to receive a grant under the Broadband Data Improvement Act of 2008 (BDIA), 47 U.S.C. §§ 1301-04. In 2009, the WVGES applied to the National Telecommunications and Information Administration (NTIA) for such a grant, pursuant to the NTIA's Notice of Funds Availability (NOFA).

The NTIA's State Broadband Data and Development Grant Program Notice of Funds Availability, Docket No. 0660ZA (July 8, 2009) (NOFA), defines broadband as follows:

...two-way data transmission to and from the Internet with advertised speeds of at least 768 kilobits per second (kbps) downstream and at least 200 kbps upstream to end users, or providing sufficient capacity in a middle mile project to support the provision of broadband service to end users...

Pursuant to the BDIA and the NOFA, the WVGES must collect certain data regarding the availability of broadband services, technology used to provide them, and the location of certain broadband infrastructure. The WVGES is required to provide the data we collect to the NTIA, beginning as soon as March 30, 2010. Entities that provide broadband service, as defined above, on either a commercial or noncommercial basis within West Virginia, are subject to this request.

Please note that broadband inventory maps derived from these data may result in government-subsidized broadband deployment in unserved and underserved areas. Providers that do not respond may face subsidized competition in areas that they already serve.

Attached to this request are the Technical Appendix to the NOFA and the Clarification to the Technical Appendix, released August 7, 2009. These documents outline the broadband availability information the WVGES is required to collect. Every broadband service provider within the state of West Virginia is expected to provide the information specified in the attached documents to the WVGES no later than February 26, 2010, in the format the Technical Appendix and Clarification specify. Please note that the Technical Appendix provides for the production of different information by wireline and wireless providers, and gives wireline providers various filing options. These options are discussed below.

Wireline Broadband Service Providers:

Originally, the Technical Appendix required the production of broadband availability data at the street address level, requiring wireline broadband service providers to list each address in their service area where wireline broadband service is available. In the Clarification, however, the NTIA gave providers the option of producing data on a less detailed basis, with different formats, depending on the size of census blocks being offered service.

For those providers who wish to submit availability data by census block, as described in the Clarification, we have attached two new record formats -- the first is for census blocks no greater than 2 square miles. In this record format (titled, "Record Format for Wireline Service by Census Block"), providers need only indicate the individual block that is served, plus speed and technology information for that block. Providers must submit one record format for each census block offered broadband service within its service area. The second record format is for census blocks larger than 2 square miles. In this record format (titled, "Record Format for Wireline Service by Street Segment"), providers must indicate each street segment offered service within their service area. Providers must submit one record format for each street segment offered service within its service territory.

In addition, wireline broadband providers must also provide data regarding the Maximum Advertised Downstream Speed and Maximum Advertised Upstream Speed across their service areas or local franchise areas by Metropolitan or Rural Statistical Area. These data must be submitted for each of these areas via the form titled "Record Format for Maximum Advertised Speeds by Metropolitan or Rural Statistical Area." (This form is also attached to this Data Request).

Because submitting broadband data in the manner allowed by the Clarification requires the provider to perform analysis to determine the size of each census block in a provider's service area and identify the individual census block number for each of those blocks, wireline broadband providers may wish to submit availability data using the street level method described in section 1(a) of the Technical Appendix. That section includes a preferred record format for this type of data.

For more information on these requirements, wireline broadband service providers should

refer to section 1(a) of the Technical Appendix and the corresponding language for this section located in the Clarification, at page 2.

Wireless Broadband Service Providers:

Wireless providers should refer to section 1(b) of the Technical Appendix and the corresponding language for this section located in the Clarification, at page 2. Note that the Clarification states the following: “With respect to the ‘Availability Area Shapefile Details,’ item 4 will be satisfied if each polygon indicates the subscriber broadband service authorized maximum downstream and upstream speed available.” Item 4 can be found on page 6 of the Technical Appendix.

Other Required Data:

All broadband providers should note that the Clarification amends other requirements set forth in the Technical Appendix. Providers are no longer required to submit information regarding average revenue per end user; however, all remaining conditions of section 2(a) of the technical appendix must be satisfied, provided that such data may be reported across a provider’s service or local franchise area, by Metropolitan or Rural Statistical Area. Further, last-mile connection points need not be reported. All other data requested in the Technical Appendix not specifically addressed in this Data Request or the Clarification must be provided to the WVGES. Providers should refer to sections 2(a) and 3(a) of the Technical Appendix as well as the corresponding language for these sections located in the Clarification, at pages 2 - 3.

Data submitted to the WVGES in response to this request will be protected under the confidentiality requirements set forth in Section 106 (h)(2) of the BDIA. This section states that, “[n]otwithstanding any provision of Federal or State law to the contrary, an eligible entity shall treat any matter that is a trade secret, commercial or financial information, or privileged or confidential, as a record not subject to public disclosure except as otherwise mutually agreed to by the broadband service provider and the entity.” Further, the NOFA states that “[a]s a measure to protect the confidential or proprietary nature of the information received from broadband service providers and other organizations during the data collection phase, awardees may execute nondisclosure agreements (consistent with applicable law) that require awardees to treat any matter that is a trade secret, commercial or financial information, or privileged or confidential, as a record not subject to public disclosure except where mutually agreed upon by the information provider and the awardee, provided, however, that any such nondisclosure restriction a) will not restrict the providing of all data collected under this Program to NTIA, nor b) restrict NTIA’s use of such data as contemplated under this Notice (including sharing such data with the FCC or other federal agencies). The Clarification makes clear that the NTIA expects awardees to enter into such agreements upon the request of the service provider. The WVGES believes that these provisions will protect the confidentiality of information that broadband providers submit pursuant to this request and intends to enter into a nondisclosure agreement with any provider that wishes to do so.

Please submit the requested data no later than February 26, 2010 by CD or DVD to Tony

Simental, State GIS Coordinator, 1124 Smith St. Charleston WV 25301, or Michael "Ty" Clifford, West Virginia Geological and Economic Survey, 1 Mont Chateau Rd. Morgantown WV 26508-8079. The WVGES is in the process of creating the capability for you to submit this information electronically, in which case we will notify you with alternate delivery instructions.

If you have questions about this request, contact Tony Simental by email at tony.a.simental@wv.gov.

Michael Ed Hohn
Director and State Geologist
West Virginia Geological and Economic Survey

Additional information may be obtained from the NOFA, available at 74 Fed. Reg. 32,545 or online at <http://broadbandusa.sc.egov.usda.gov>.

Attachments:

- Letter from Gov. Joe Manchin III to Mr. Larry Strickling, Administrator NTIA (August 12, 2009)
- Technical Appendix of the State Broadband Data and Development Grant Program, Notice of Funds Availability (NOFA) and Solicitation of Applications, 74 Fed. Reg. 32,545, 32,565 (July 8, 2009)
- State Broadband Data and Development Grant Program, Notice of Funds Availability; clarification (August 7, 2009). Available at http://broadbandusa.sc.egov.usda.gov/broadband_mapping.htm
- Record Format for Wireline Service by Census Block
- Record Format for Wireline Service by Street Segment
- Record Format for Maximum Advertised Speeds by Metropolitan or Rural Statistical Area