

**Committee: Small Business**

**Subcommittee: Rural Development, Agriculture, Trade, and Entrepreneurship**

**October 21, 2019**

**Harvesting the Digital Age: Connecting our Communities for a Better Future**

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Southern Alleghenies Planning and Development Commission (SAP&DC) serves as a Local Development District in partnership with the Appalachian Regional Commission (ARC), and as an Economic Development District in partnership with the U.S. Department of Commerce's Economic Development Administration (EDA).

The Southern Alleghenies Region consists of Bedford, Blair, Cambria, Fulton, Huntingdon, and Somerset Counties in South-Central Pennsylvania, and represents a population of about 500,000 people. The majority of the Region is rural, and many parts lack adequate broadband connectivity and cellular service.

While SAP&DC has known that connectivity in the Region is lacking, the issue recently surfaced as a top priority when conducting an 18-month planning process that was coined, *Alleghenies Ahead: Shared Strategies for a Stronger Region*. The plan recommended the formation of a Regional Broadband Task Force to begin promoting and advocating for improved connectivity throughout the Region. With representatives from both the public and private sectors, the newly formed Task Force has begun collaborating on the issue regionally. In coordination with the Task Force, SAP&DC was recently awarded a planning grant through the Appalachian Regional Commission's POWER (Partnerships for Opportunity and Workforce and Economic Revitalization) Program. In partnership with the six member counties, as well as Westmoreland and Fayette Counties to the west, SAP&DC is currently using the grant funds to complete an analysis of unserved and underserved areas in the region, inventory existing broadband infrastructure, determine community bandwidth needs, and identify deployment strategies to begin tackling the issue.

Through the study, the county commissioners in the region have tasked SAP&DC with investigating the potential formation of a broadband cooperative that could facilitate public-private partnerships to encourage new high-speed deployments in the region. Staff are currently in the early stages of developing a pilot wireless deployment in rural parts of Bedford and Fulton Counties with hopes of securing additional state and federal funding to replicate the effort in unserved and underserved areas throughout the region.

Prior to this effort, SAP&DC worked with the Somerset County Board of Commissioners on the proposed construction of more than 20 miles of fiber-optic cable to connect four industrial parks in the County. Because of its rural characteristics, historically, Somerset County has not been a prime target for private companies to expand their fiber networks; with the high cost of

expansion and low reward due to the relatively small customer base. One of the primary roles of government is to satisfy public needs that private industry cannot or will not meet. In this vein, the hope was to secure federal funding to alleviate the financial burden of fiber expansion within the county and facilitate the provision of much needed services to Somerset County businesses and residents.

As a result, Somerset County would be more equipped to compete with their more urban counterparts in a technologically advanced world. Additionally, by connecting the four business parks in a fashion running north to south through the center of the county, a strong fiber “backbone” could be established from which laterals could later be constructed to expand fiber into the far reaches of the county.

Grants awarded through the ARC’s POWER Program and the EDA’s Public Works and Economic Development Facilities Program provided Somerset County with an excellent opportunity to achieve this goal.

In May of 2017, the county was notified by EDA that it had been awarded a total amount of \$1,897,346 for the Somerset County Fiber Extension Project, inclusive of a 20% match component that the county would pass along to a successful vendor. The federally funded portion of the grant award, \$1,517,877, consisted of \$948,673 from ARC and \$569,204 from EDA. Even though the bulk of the grant funding came from ARC, due to ARC’s limited capacity in relation to other federal agencies such as EDA, EDA was charged with administering the funding.

For EDA’s Philadelphia Regional Office, the fiber extension is understood to have been the first of its kind. Because of this, the project was surrounded by a lot of optimism and excitement as many within EDA and those within other governmental agencies hoped to use the effort as a model for developing similar broadband deployments in the future.

Due to the nature of the federal funds, the project was subjected to a competitive request for proposal (RFP) process. The development of the RFP proved to be challenging, however, from a federal compliance standpoint; numerous drafts of the RFP were circulated over the course of several months before EDA was able to provide an approval of the final draft. The regulatory requirements of the traditional infrastructure projects that EDA was accustomed to did not fit neatly within the confines of a fiber deployment project. As a result, the federal agencies overseeing this effort have been forced to offer novel interpretations of their respective regulations, all in an effort to establish defined parameters for the oversight of the project.

Initially, the project generated a lot of interest from vendors; however, as vendors became more familiar with the various federal requirements, the interest began to dwindle. It was perceived that the grant had “too many strings attached.”

The fact that EDA and ARC guidelines require the county to own the infrastructure became a major sticking point, essentially, vendors were asked to put time, effort, and capital into developing infrastructure that they may never own. EDA’s guidelines provided for a 20-year lease

to the successful vendor; however, there were still concerns among the vendors regarding control and ownership of the fiber. This was one of the biggest challenges when trying to advance the project and it is understood that the ownership requirement is somewhat unique to EDA and ARC guidelines. For example, grants awarded through the Federal Communications Commission and United States Department of Agriculture's Rural Utility Services can go directly to a provider, even if that provider is a for-profit entity. The EDA and ARC guidelines, as written, do not fit well in the constraints of a broadband project. The guidelines were written for more traditional economic development efforts to include sewer, water, and road improvements; infrastructure that is typically owned by a government or non-profit entity. As priorities have evolved in recent years and EDA and ARC have been charged with investing in broadband initiatives, the federal regulations have not been adapted and are inhibiting these agencies from assisting rural communities with their broadband needs.

Ultimately, the county never did receive a vendor proposal that was fully responsive to the RFP. With no other option, the county continued to work with EDA and ARC to try to address and resolve the vendor concerns. Although the parties have had some success in developing creative solutions to these problems, the project continues to get caught up in federal regulations as forces beyond the effort have recently influenced the project's possible outcomes.

During the RFP process, an incumbent provider in the region contacted Somerset County to advise that they were already providing broadband services in one or more of the targeted industrial parks. Earlier this year, that same provider announced plans to expand high-speed services to additional industrial parks in question. Section 8.4–Restrictions on Assistance of the ARC Code states the following: “ARC grant assistance shall not be used for: a. any form of assistance to relocating industries; b. recruitment activities that place a state in competition with another state or states; and c. projects that promote unfair competition between businesses within the same immediate service area.” Item “c.” of the provision ultimately halted the EDA and ARC investments in Somerset due to the existing provider offering high-speed services in the industrial parks. As directly stated in their Code, ARC is prohibited from providing grant funds that may potentially lead to unfair competition.

When interviewing businesses located in the parks about their existing broadband services, it was evident that there were real concerns about the reliability and affordability of the current services available to them. In these situations, ARC is relying on the incumbent provider's data as it relates to the area served and the speeds being offered. Coverage maps are not always reliable, and speeds are often overstated. Competition is necessary in order to adequately serve residents and businesses in these rural areas; however, ARC does not have any guidance from Congress that suggests subsidizing a competitor is allowable under their current Code.

In summary, there have been several challenges when attempting to use federal funding to deploy high-speed broadband services to parts of rural Somerset County. Firstly, the EDA and ARC regulations requiring that the proposed fiber infrastructure be owned by an eligible grantee (a government or non-profit entity), Somerset County, led to uncertainty with potential private sector partners. Ultimately, this resulted in the interested vendors walking away from the

project. Secondly, the provision in ARC's Code prohibiting investments that promote unfair competition resulted in EDA and ARC recommending that the grant award be terminated.

Moving forward, Congress may consider reviewing the ownership requirement for broadband infrastructure investments implemented by EDA and ARC. In addition, authoring more clear and concise guidance for EDA and ARC funded broadband projects would allow applicants and grantees to plan for and better navigate the federal regulations to successfully complete high-speed deployments. Lastly, the "unfair competition" language in Section 8.4 of ARC's Code is broad and open to interpretation. There is an opportunity to set additional parameters to provide clarity and offer ARC with guidance on better ways to implement these types of projects when there are incumbent providers offering services in portions of the proposed coverage area.

EDA and ARC have a unique opportunity to work in concert with other federal agencies to improve broadband connectivity to the rural parts of the country that so badly need these subsidies. However, in order to do so, the federal regulations they must abide by need to be adapted to better fit the current needs.

SAP&DC would like to thank Chairwoman Finkenauer, Ranking Member Dr. Joyce, and the Distinguished Subcommittee members for the opportunity to provide this testimony.