



RURAL BROADBAND EXPANSION COUNCIL

Minutes for Regular Meeting

10:00 a.m. on Wednesday, January 19, 2022

1. Call to Order / Welcome / Establish a Quorum
 - Sen. Leewright called the meeting to order at 10:20 a.m., reminded all that the meeting is being recorded, and ordered the roll to be called.
 - Present: Cliff Agee, Drew Beverage, Darlene Brugnoli, Mike Fina, Steven Harpe, James Leewright, Logan Phillips, Brian Whitacre, and Brandy Wreath.
 - Absent: Mike Berube, Patrick Grace, Roger Neal, Billy Staggs, Daniel Webster, and Jerry Whisenhunt.
 - Chair recognized a quorum of the Council to be present.
2. * Approval of Minutes
 - **Motion #1** by Director Harpe to approve the minutes of the November 17 meeting, as presented; Mr. Beverage seconded. Motion approved without objection.
3. Remarks from Co-Chair Sen. James Leewright
 - Reminded members to use the microphones (because we have people joining online) and state your name once you're recognized to speak. Chair recognized Rep. Phillips.
4. Remarks from Co-Chair Rep. Logan Phillips
 - **Legislation** – We're going into the second legislative session with this Council in place. The Council has accomplished many things: Long before ARPA [the American Rescue Plan Act] became a thing, the Legislature passed a bill providing a \$42 million tax rebate for broadband expansion. It was a massive win driven directly by this Council. We updated every statute dealing with broadband, which had not been touched since 1996. In Oklahoma, high-speed broadband was 512 kilobytes per second (KBps) before this Council got involved and started looking at this as a driving force for economic development. This Council has been incredibly effective. We positioned the State of Oklahoma to be prepared for ARPA. We brought together direct competitors and others in the sector, we wrote good legislation, we fixed or killed bad legislation, and we pushed good legislation until we got it passed. With ARPA, we now have another process on top of us that we weren't expecting. We have a \$167 million Coronavirus Capital Projects Fund, we have the [federal] infrastructure bill with between \$100 million and \$1.2 billion for broadband expansion. So, the Council will be shifting a little bit, but our purpose remains the same regarding legislation. For the sub-committees of this Council, one of my goals for you is to dive into the legislation related to your sub-committee, find what's bad and what's good. Reach out to your legislators and help them fix those bills. We are the subject matter experts on broadband and we should act as such. Thursday, Feb. 20, is the deadline for language for all the bills, so keep that in mind. Every session, I create an Excel database to track legislation and I'll gladly share that out.
 - **State Broadband Office** – Last meeting, the Council made a recommendation for the State Broadband Office. That is in the works. They listened to us as the subject matter experts. We

need to be working out what that will look like. More than likely, the Council will function as the advisory board to that office. Those details are fluid right now. I do expect a piece of Legis & an MOU w/ OMES even before the legislation.

- **Supply Chain delays** – I've said all along that we need to be first in the nation. There are growing supply chain concerns. Order dates on parts, supplies, and raw materials are being extended and will get worse. We need to act with urgency on broadband. Do your part to help decisionmakers understand this process needs to speed up. We want to be able to spend all the ARPA money before the deadline.

5. Presentation by Amanda Rodriguez, CFO, Office of Management and Enterprise Services (OMES) on the Grants Office's process for grant request, selection, awards, monitoring, and reporting (20 minutes)

- Rep. Phillips announced that Ms. Rodriguez will present to the Council next month. He recognized Mr. Fina to provide an update on recent federal actions.
- Fina: There have been a lot of changes in guidance, even in the last 10 days. The U.S. Treasury Department released the Final Rule for ARPA with some significant changes:
 - a. Revenue loss portion rule for municipalities and counties. The formula changed to be simpler – a standard \$10 million loss. That applies to all our NEUs [non-entitlement units of local government]. All of them can claim 100% of their allocation as revenue loss. Why that's important is that it goes into the General Revenue fund and becomes unencumbered, with only a few exceptions. Most of the funding will be spent on infrastructure, but not broadband. That is, I don't think municipal governments will spend much of this money on broadband, which puts more pressure back on this Council to figure out a statewide solution.
- Leewright: Will this apply also to county governments?
- Fina: Yes. I think you'll see county dollars going toward building roads and bridges.
 - b. Broadband speeds. They double downed on 100/20, eventually going toward 100/100 (symmetrical). On low-income subsidies, ISPs must participate in the ACP [Affordable Connectivity Program, which is replacing the EBB, Emergency Broadband Benefit] or a comparable program for low-income households.
 - c. Fiber is the choice in infrastructure.
- Phillips: Now we'll open it up to questions.
- Harpe: Has anyone reached out to private sector to see how they're interpreting the change in rules?
- Brugnoli: Verizon is reading it the same way Mr. Fina does regarding requiring ISPs to participate in ACP or something similar, preferring fiber while still allowing some other technologies, requiring 100/20 speed while pushing for 100/100. We're focusing on the IIJA/BIL because they have different program rules. How to synthesize Treasury, NTIA, FCC rules? We continue to analyze and reach out to state offices.
- Phillips: Would a state-supported EBB program qualify, or does it have to be offered through the ISPs?
- Fina: I think the comparable programs they're referring to would be by the ISPs.
- Brugnoli: It would be ACP or commensurate. The question is what does "commensurate" mean? Will probably be answered by the State Broadband Office.
- Harpe: One of the guiding principles would be Claw-back, so I recommend we stay involved in the specified program, ACP, to avoid possibly having to pay back the federal government.

- Leewright: Do smaller providers offer EBB/ACP?
 - Fina: I think most are.
 - Beverage: Most WISPs participate in ACP.
 - Harpe: It would be helpful to get a list of technologies allowed, to give the business community a heads up.
 - Phillips: Yes, that technology list is extremely important.
 - Fina: April 1 is the effective date of the Final Rule.
 - Brugnoli: Speaking on behalf of wireless providers, fixed wireless access can absolutely achieve 100/20.
6. Report of the **GEOGRAPHIC BOUNDARIES** sub-committee by Mr. Brandy Wreath (5 minutes)
- This month, we spend with Commerce staff and Land Scout to explore possibilities. We'll have another meeting soon to consider any recommendations. Cost will be a concern.
 - Fine-tune recommendations considering Final Rules.
7. * Discussion and possible action on recommendations of the Geographic Boundaries sub-committee (10 minutes)
- Whitacre: Did Land Scout provide a Statement of Work?
 - Wreath: We will find out. I know they presented something to Commerce.
8. Report of the **ADOPTION RATE** sub-committee by Dr. Brian Whitacre (5 minutes)
- We did not formally meet last month, but did discuss items via email.
 - The ACP has transitioned from the EBB. Oklahoma is in a unique position regarding subsidies – nearly 75% of the state qualifies for \$75/month subsidies. Most of the rest of the country went down from \$50/month to \$35/month. Also, the eligibility threshold changed from 135% to 200% of poverty line, so we have more eligible households.
 - Oklahoma continues to rank in the top five states for eligible households signing up.
 - An ACP fact sheet is on the ORBEC web page.
 - Digital Equity Act was passed as part of IIJA/BIL. That will give each state funds to do digital inclusion work. The Governor must appoint a single agency to oversee how those funds will be spent, so we need to think about who that entity will be.
 - In Oct-Dec, we ran our Rural Digital Navigator program and a “Lessons Learned” report will be coming soon through our partners at AARP. We’re hoping that some ARPA funds can be used to expand this program in the future to continue to help people sign up for ACP and help them with technology issues, which should help increase adoption in the future.
 - Hope to use ARPA funds for telehealth boxes (8x8 rooms) in some libraries. Virtual interaction. Several partners. Will pick some pilots areas.
9. * Discussion and possible action on recommendations of the Adoption Rate sub-committee (5 minutes)
- Wreath: Will the pilots be public libraries?
 - Whitacre: Yes.
 - Wreath: Stay in touch with me. We [Oklahoma Corporation Commission] have funding to help with technology.
 - Phillips: I helped several members of my own family sign up for ACP. It’s incredibly easy. It took only 8 minutes.

- Phillips: For the Digital Navigators, did someone submit a request for ARPA funding?
- Whitacre: Yes, a couple, either through AARP or the Oklahoma Dept. of Libraries.

10. Report of the **POLICY IMPACTS** sub-committee by Ms. Darlene Brugnoli (10 minutes)

- We have been working on a set of principles with Mr. Fina & Rep. Phillips.
- Fina: We met with industry partners to develop a set of principles and we have a document, but because so many changes have occurred in the last two months – the passage of the federal infrastructure bill and changes to ARPA’s final rules – we need to revise it to reflect these changes. I think we have everybody’s input. The policy is in the bill. What we’ve created explains how the policy fits into Oklahoma. We probably will not see the final rules for the infrastructure bill until the middle of the summer and we’ll continue to find common ground with the partners involved in these discussions before we have a final document. I think when the State Broadband Office is formed, this will be a guiding document for them.
- Harpe: Have you included [State Chief Financial Officer] Amanda Rodriguez in those discussions yet?
- Fina: Not yet. We will once we hand it over to Rep. Phillips.
- Harpe: The sooner we have her in the process, the better she can help this Council.
- Fina: She will be a welcome addition.
- Brugnoli: I absolutely agree and suggest we grab the document where it is now, give it to Rep. Phillips and his sub-committee and then to Director Harpe and CFO Rodriguez and begin a comprehensive discussion about whether we want the document to reflect only ARPA or also IIJA/BIL? High-level or more in the weeds, e.g., address claw-backs and participation in either ACP or commensurate. We need everyone at the table.
- Phillips: The work on a set of principles began in the Grant Rules sub-committee and the effort by Mr. Fina and Ms. Brugnoli was always supposed to come back to the sub-committee to finalize. We’ll bring CFO Rodriguez into the Grant Rules sub-committee.
- Harpe: One tie-in. The State has an office in Washington, D.C. and OMES has a Grants Office that CFO Rodriguez is leading with Clay Holk. We’re looking to them to provide expertise on a myriad of grant programs and this [broadband] is one subsection of all of that. So, the sooner she and Mr. Holk can be included, the more help they can be to this Council.
- The sub-committee completed its work on the 2020 Annual Report and invites your input.
- The 2021 Annual Report has not been reviewed yet because we just approved the November minutes today. My suggestion is to add your comments from earlier in this meeting recapping the accomplishments of the Council in 2021. Then we can review and discuss in February.
- Phillips: We will have that on the agenda for February.

11. * Discussion and possible action on recommendations of the Policy Impacts sub-committee (5 minutes)

- None.

12. Report of the **ADVISORY** sub-committee by Director Steven Harpe (5 minutes)

- This sub-committee has not been meeting; we have been meeting with leadership instead. Identify state broadband assets (fiber and circuits). We are having discussion with other agencies and cabinet secretaries. Trying to get a strategy around how the State’s assets can be deployed in this solution and find an avenue that makes sense to everyone. After these discussions, I’ll meet with the sub-committee.

13. * Discussion and possible action on recommendations of the Advisory sub-committee (5 minutes)
 - None.
14. Report of the **GRANT RULES** sub-committee by Representative Logan Phillips (5 minutes)
 - As mentioned earlier, Mr. Fina and Ms. Brugnoli are working on a document and the sub-committee will meet to review it.
15. * Discussion and possible action on recommendations of the Grant Rules sub-committee (5 minutes)
 - None.
16. Discussion of possible agenda items for next meeting
 - Brugnoli: NTIA does a great job of breaking down all the different programs and sources of funds for broadband. Perhaps Guidehouse can walk us through who is funding which programs, which agency is riding herd over them, and how much flexibility the State has in its rules.
 - Fina: If Guidehouse is to present, they might include their excellent breakdown on all the recent changes in the [ARPA] Final Rule.
 - Phillips: Discuss pending state legislation.
 - Harpe: Recommend expanding the time of Feb mtg (3 hours?). If not ARPA, then what alternative process do we want to follow to get funds out. Check on room availability (1-5 pm?)
 - Leewright: The next [February] meeting will be at 2 p.m. meet 1-5 pm in Feb?
 - Whitacre: Discussion on progress on State Broadband Office (SBO)?
 - Harpe: It's a fast and slow-moving train. Funds not yet available, but I am happy to discuss it.
 - Phillips: There is a state statute with that as well. The Memorandum of Understanding (MOU) will be in place before the state statute modifies. They will work in conjunction with each other.
17. Announcements
 - NTIA will administer more than \$48 billion in broadband funding through several programs. Comments are due by February 4 and may be submitted through the Federal Register website.
 - Next regularly scheduled meeting: 2:00 p.m., Wednesday, Feb. 16, 2022, in Room 112, State Capitol. [Members must attend in-person to count toward quorum, speak, and vote.]
18. Adjournment
 - Sen. Leewright adjourned the meeting at approximately 11:00 a.m.

* Indicates anticipated action.

Prepared by: Kirk Martin, Oklahoma Department of Commerce

Approved by Council, as presented, on 02/16/2022.

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