

July 26, 2012

**Virginia:**

AT A REGULAR MEETING of the Nelson County Broadband Authority Board at 6:00 p.m. in the Board of Supervisors Room located on the second floor of the Nelson County Courthouse.

Present: Thomas H. Bruguire, Jr. West District - Chair  
Constance Brennan, Central District – Vice Chair  
Thomas D. Harvey, North District  
Larry D. Saunders, South District  
Allen M. Hale, East District  
Stephen A. Carter, County Administrator  
Melissa Thompson, Acting Secretary  
Phillip D. Payne, IV County Attorney  
Andrew Crane, Information Systems Technician  
Michael Bowers, Icon Engineering  
Jen Bowers, Icon Engineering

Absent: Candice W. McGarry, Secretary

**I. Call to Order**

Mr. Bruguire called the meeting to order at 6:04 pm, with five (5) members present to establish a quorum.

**II. Public Comments**

**Sarah Jane Stewart, RVCC Vice-President of Board of Directors**

Ms. Stewart stated that she was present to register the RVCC Board's disappointment to learn that broadband service to Rockfish Valley Community Center had been left out of the County budget at a cost of \$32,000.00. Ms. Stewart stated that it did not seem like very much considering the 2.4 million budget. She stated RVCC has 15 tenants and that many are small businesses. Ms. Stewart also stated that many people use the location to connect to the internet. Ms. Stewart asked if RVCC could be included in the current process of the Authority to suggest a means of funding that could be available to them. She further stated that she found a grant (USDA) called Community Connect but the deadline was June 2012.

**Stanley Honour**

Mr. Honour stated that connectivity to internet service continues to be a problem in the western portion of Nelson County. He asked if there had been contact for an ISP to provide the last phase of connectivity. Mr. Honour also stated that providing service to homes should be considered as well as the business community.

**Janet Lychock**

Ms. Lychock stated that as elected officials and stewards of the grant money; and given the deplorable state of internet in the county she believes the population deserves internet service. She

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also stated that many residents, including herself in the Rockfish community use RVCC as an internet connection site. Ms. Lychock further stated that safety is an issue as there is no access to local news and weather. She stated that she has attended many meetings and rather than the lofty plans for a high end recreation center she would ask that the funds are found for the internet connection to RVCC and that it be made a priority.

Mr. Bruguere stated that the Authority intended to use grant funds only for the broadband project. Mr. Bruguere said that County funds had to also be used to make the internet service possible. He also stated that the County is in the process of looking for internet service providers to take the service from the “backbone.”

Steve Carter, County Administrator, stated that he and Maureen Kelley attended a meeting with government officials and internet companies. He further stated that the grant Ms. Stewart was speaking about was discussed and Nelson County is not eligible unless no one in the area had internet services. Mr. Carter stated that our senator introduced legislation concerning grant funds and the information has gone to congress. Mr. Carter stated that it was not the intention to exclude RVCC. He also stated there has been communication with internet providers as the obligation of the county is to provide the “middle piece.” Mr. Carter stated the challenge continues to be how to build out to the citizens and that the Authority and the Board of Supervisors were committed to do so. He also stated the broadband project was successful due to 3 years of planning and the County was ready when the federal stimulus money became available. Mr. Carter said the recreation center is in the planning stages at this point.

### **III. New/Unfinished Business**

#### **A. Authorization of Rates, Fees, and Charges (R2012-07)**

Steve Carter, County Administrator made the Authority aware of a minor change on page 2 of the resolution under Collocation Charges. One of the proposed providers requested additional DC power and there was a rate change to accommodate that request which would mean additional revenue.

#### **B. Broadband Infrastructure Project Update and Worksession**

Mr. Carter then introduced Michael and Jennifer Bowers of Icon Engineering, Inc.

Ms. Jennifer Bowers, representing Icon Engineering, Inc. began by sharing her background in the fiber optic industry. Ms. Bowers continued the work session using the interactive agenda presented to the Authority. Maps were presented to the Authority and questions were answered by both Michael and Jennifer Bowers.

### **Adjournment**

At 7:05 pm, Mr. Harvey moved to adjourn and continue the meeting following the conclusion of the Board of Supervisors meeting and Mr. Hale seconded the motion. There being no further discussion, Members voted unanimously by voice vote to approve the motion and the meeting adjourned.

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**Continued Meeting:**

At 8:35 pm, the Broadband Authority meeting reconvened with Chair Bruguiere asking if there was further discussion on the matter of rate structure. Mr. Carter stated that the Authority should be sure they understand the process well as without rates in place the County could not move forward. Members Harvey, Saunders and Brennan stated that they had trust in the staff and consultants.

Ms. Bowers stated that a meeting was scheduled with a provider the following day, July 27, 2012 at 9:30 am. Mr. Saunders asked if that provider had been given rates. Mr. Bowers said they had and that he was talking with two other providers at this time. Mr. Hale asked if the contract had to come back to the Broadband Authority and Mr. Carter said they did not, as the Service Provider and Internet Access agreements had been approved.

Mr. Harvey then moved to approve resolution **R2012-07**, Authorization of Rates, Fees, and Charges and Mr. Saunders seconded the motion. There being no further discussion, Members voted unanimously (5-0) by roll call vote to approve the motion and the following resolution was adopted:

**RESOLUTION R-2012-07  
NELSON COUNTY BROADBAND AUTHORITY  
AUTHORIZATION OF RATES, FEES AND CHARGES**

**WHEREAS**, the Nelson County Broadband Authority (the Authority) has established rates, fees and charges for the operation and use of the Authority's broadband network (fiber and tower installations); and,

**WHEREAS**, the Authority is authorized by Title 15.2, Chapter 54.1, Virginia Wireless Service Authorities Act, (§15.2-5431.1 et seq) of the Code of Virginia to fix rates, fees and (other) charges (which shall include, but not be limited to a penalty not to exceed 10 percent on delinquent accounts, and interest on the principal); and,

**WHEREAS**, the rates, fees and charges that the Authority has established were duly advertised in accordance with and pursuant to the provisions of §15.2-5431.25 (A) and (B) of said Code and Act; and,

**WHEREAS**, the Authority conducted a public hearing on July 10, 2012 to receive input from citizens, all of the users of such facilities; the owners, tenants, or occupants of property served or to be served thereby; and all others interested, on the proposed establishment of rates, fees and chargers that were adopted on April 26, 2012 by the Authority as preliminary pursuant to **Resolution R2012-05** (a copy of which is attached hereto) in accordance with said Code and Act (as referenced herein).

**NOW, THEREFORE, BE IT RESOLVED** by the Nelson County (Virginia) Broadband Authority that the rates, fees and charges, as were preliminarily adopted on April 26, 2012 pursuant to Resolution R2012-05, are hereby authorized as final and shall be effective immediately and are delineated, as follows:

**Local Access Rates (Rates for Providers to Utilize the Network for Transport to an End User):**

Circuit Size	Monthly Cost
0-10 mbps	\$270
>10-25	\$300
>25-50	\$340
>50-100	\$500
>100-250	\$718
>250-500	\$920
>500-1000	\$1040
>1000 mbps	Priced Individually
Point to Point Connections on Network priced at 160% of Local Access Rates (e.g. between two facilities on our network as between Tye River Elementary and the High School would be 160% of the rate between the High School and the central office).	

Non-recurring charges (NRC) are those costs incurred in connection with the installation of the fiber drop and ONT. The customer will be responsible for the payment of these costs on the following terms.

NRC not exceeding \$1500 will be discounted as follows:

<u>Term of Contract</u>	<u>Discount</u>
12 months	none
24 months	10%
36 months	20%
48 months	35%
60 or more months	50%

The undiscounted balance of NRC together with any NRC in excess of \$1500 may be amortized over the term of the original contract.

**Colocation Charges for Providers within NCBA shelters:**

Quantity	Monthly Cost
2 RU	\$75.
One-half rack	\$200.
Full Rack	\$350.

All rentals are based on a space available basis. Rental will include access to one 20 amp, 120 volt circuit. Redundant DC power (-48 volt) will be available as well. The Colocation charges include up to 20 amps of DC power. Additional DC power, subject to availability, will be priced at \$6.25 per amp in 10 amp increments.

**Tower Access:**

Location on Tower	Price per Month per Customer
Top thirty feet in 10 foot sections	\$275 per antenna for first three antennas (includes cables and ancillary equipment such as tower mounted amplifiers) \$150 per additional antenna installed by the same lessee.
Next thirty feet in 10 foot sections	\$175 per antenna for first three antennas (includes cables and ancillary equipment such as tower mounted amplifiers) \$90 per additional antenna installed by the same lessee.
Remaining access in 10 foot sections	\$50 per antenna (includes cables and ancillary equipment such as tower mounted amplifiers)

All tower access charges are in addition to a site access fee of \$200 per month. Site access fee entitles lessee access to electric power (contracted for by lessee) and ground space for cabinet (10 square feet). Shelter colocation charges and local transport charges are additional as are lease space for placing shelters, generators or other equipment. Items not specifically addressed will be priced on an individual basis.

Preference will be given to providers wishing space higher on the towers. The NCBA may limit the size of antennas or duration of leases for antennas located below the top 80 feet.

Tower leases will be accepted based on maximum allowable loading of a tower. If, in the sole discretion of the NCBA, an analysis of the structural integrity of the tower is deemed necessary, then the costs of the analysis will be borne by the lessee.

These rates apply to towers operated by the NCBA. Rates for towers leased by the NCBA may be subject to approval by the lessor.

**Dark Fiber Leases:**

The NCBA will have a limited number of fibers available for dark fiber leasing at a rate of \$1250 per leased fiber per mile for durations longer than 60 months. Leases for 60 months or less will be priced at \$1550 per month. Fiber will not be leased for periods of less than 24 months. These leases will be subject to prior allocation for other uses and are made at the discretion of the NCBA board.

**Increase in Rates:**

Rates are firm for a contract or lease term which does not exceed five years.

For contract and lease terms exceeding five years, payments shall be adjusted every year commencing with the first annual anniversary of the lease Commencement Date and thereafter on the subsequent anniversaries of that date (the Adjustment Date). Such adjustments shall be for the purpose of reflecting

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the increase, if any, in the cost of living. The adjustment, if any, shall be calculated based upon the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) for the South, Size D-Nonmetropolitan (less than 50,000) (the "Index").

The Index published as of the most recent month prior to the Adjustment Date shall be compared with the Index twelve (12) months immediately preceding. On the Adjustment Date the annual payment shall be increased by the percentage equal to the change, if any, in the Index between the two specified months. The Adjusted payment shall then become the new Base payment for the following twelve month period and be used to calculate the next annual payment adjustment.

**Penalty and Interest:**

Any sum due NCBA and unpaid by the due date shall be assessed a 10% penalty and carry interest at the rate of 12% *per annum*.

*Attachment: R2012-05*

**RESOLUTION-R2012-05  
NELSON COUNTY BROADBAND AUTHORITY  
PRELIMINARY ESTABLISHMENT OF RATES, FEES AND CHARGES**

**WHEREAS**, Pursuant to §15.2-5431.25 (A) and (B) of the Virginia Wireless Service Authority Act, the Nelson County Broadband Authority may fix and revise rates, fees and other charges after a public hearing at which all of the users of such facilities; the owners, tenants or occupants of property served or to be served thereby; and all others interested have had an opportunity to be heard concerning the proposed rates, fees and charges; and

**WHEREAS**, after the adoption by the authority of a resolution setting forth the preliminary schedule or schedules fixing and classifying such rates, fees and charges, notice of a public hearing, setting forth the proposed schedule or schedules of rates, fees and charges, shall be given by two publications, at least six days apart, in a newspaper having a general circulation in the area to be served by such systems at least 60 days before the date fixed in such notice for the hearing.

**NOW, THEREFORE, BE IT RESOLVED**, by the Nelson County Broadband Authority that the preliminary schedule fixing and classifying proposed rates, fees, and charges is as follows:

**Local Access Rates (Rates for Providers to Utilize the Network for Transport to an End User):**

Circuit Size	Monthly Cost
0-10 mbps	\$270
>10-25	\$300
>25-50	\$340
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NRC not exceeding \$1500 will be discounted as follows:

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Full Rack	\$350.

All rentals are based on a space available basis. Rental will include access to one 20 amp, 120 volt circuit. The NCBA will in some cases have both-48 volt service, battery backup and generator backup available, access to which will be priced on the basis of customer requirements.

**Tower Access:**

Location on Tower	Price per Month per Customer
Top thirty feet in 10 foot sections	\$275 per antenna for first three antennas (includes cables and ancillary equipment such as tower mounted amplifiers) \$150 per additional antenna installed by the same lessee.
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**Increase in Rates:**

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For contract and lease terms exceeding five years, payments shall be adjusted every year commencing with the first annual anniversary of the lease Commencement Date and thereafter on the subsequent anniversaries of that date (the Adjustment Date). Such adjustments shall be for the purpose of reflecting the increase, if any, in the cost of living. The adjustment, if any, shall be calculated based upon the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) for the South, Size D-Nonmetropolitan (less than 50,000) (the "Index").

The Index published as of the most recent month prior to the Adjustment Date shall be compared with the Index twelve (12) months immediately preceding. On the Adjustment Date the annual payment shall be increased by the percentage equal to the change, if any, in the Index between the two specified months. The Adjusted payment shall then become the new Base payment for the following twelve month period and be used to calculate the next annual payment adjustment.

**Penalty and Interest:**

Any sum due NCBA and unpaid by the due date shall be assessed a 10% penalty and carry interest at the rate of 12% *per annum*.

**BE IT FURTHER RESOLVED**, that the Nelson County Broadband Authority does hereby authorize a public hearing to be held on the proposed schedule of rates, fees, and charges as soon as is practicable as prescribed by §15.2-5431.25 (B) of the Virginia Wireless Service Authority Act.

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Mr. Harvey then asked for a schedule of the towers being built. Mr. Bowers stated that the RFPs were out and that the process usually took three months. Mr. Carter stated that the quotes were due for the Martin's Store location on July 31, 2012. Chair Bruguere inquired about the Massies Mill location. Mr. Bowers stated that he had sent several sites to Fred Boger, Planning & Zoning Director and that some locations had power challenges. Chair Bruguere said that many citizens were asking about that location. Mr. Bowers stated that the terrain there was difficult. He further stated that the road at Martin's Store will possibly cost \$50,000.00 due to E & S issues.

**Adjournment:**

At 8:25 pm, Mr. Hale moved to adjourn the meeting and Ms. Brennan seconded the motion. There being no further discussion, Members voted unanimously by voice vote to approve the motion and the meeting adjourned.