

AGENDA
NELSON COUNTY BROADBAND AUTHORITY
April 25, 2013

**THE MEETING CONVENES AT 6:00 P.M. IN THE
BOARD OF SUPERVISORS ROOM, SECOND FLOOR, COURTHOUSE, LOVINGSTON**

- I. Call to Order**
- II. Public Comments**
- III. Consent Agenda**
 - A. Resolution – R2013-06** Minutes for Approval
- IV. New/Unfinished Business**
 - A.** Broadband Infrastructure Project Update
 - B.** Network Operator Report - Blue Ridge Internetworks
- V. Other Business (As May Be Presented)**
- VI. Adjournment**

RESOLUTION-R2013-06
NELSON COUNTY BROADBAND AUTHORITY
APPROVAL OF MEETING MINUTES
(March 28, 2013 and April 9, 2013)

RESOLVED, by the Nelson County Broadband Authority that the minutes of said Authority's meetings conducted on **March 28, 2013 and April 9, 2013** be and hereby are approved and authorized for entry into the official record of the Broadband Authority's meetings.

Approved: April 25, 2013

Attest: _____, Secretary
Nelson County Broadband Authority

March 28, 2013

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: Constance Brennan, Central District
Larry D. Saunders, South District – Vice Chair
Thomas D. Harvey, North District – Chair
Thomas H. Bruguere, Jr. West District
Allen M. Hale, East District
Stephen A. Carter, County Administrator
Candice W. McGarry, Secretary
Debra K. McCann, Treasurer
Andrew Crane, Information Systems Technician
Susan Rorrer, Director of Information Systems
Baylor Fooks, Blue Ridge Internetworks (Network Operator)

Absent: None

I. Call to Order

Mr. Harvey called the meeting to order at 6:13 pm, with four Members present to establish a quorum and Mr. Hale arriving thereafter.

II. Public Comments

1. Clay Stewart, SCS Arrington

Mr. Stewart noted that he just wanted to provide the members with an update on his operations. He reported that he has started deploying services from a private Afton relay to both homes and businesses. He noted that his signals were transmitting as far south as the Martin's Store substation. He added that he was in the process of getting the Blue Toad and others connected. He added that he could now do wireless backhaul which would reduce start up costs and as more was needed he could use County fiber.

Mr. Stewart then noted that it was looking good for him to be able to relay signals from a high location spot to Faber and he was currently in negotiations for that relay site. He added that it was in the Route 6 to the Route 151 corridor area.

Mr. Stewart added that he was looking forward to finalizing the tower lease agreements with the County and then introduced Craig Richardson, SCS's new operations director.

Ms. Brennan then inquired as to the progress in him being able to use the High Top tower and Mr. Stewart and Mr. Carter both noted that use of that tower was part of the lease negotiations. Mr. Stewart added that the tower would provide some direct services; however it would be deployed mainly for redundancy purposes. It was then noted that the tower lease agreement would apply to the High Top and

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Gladstone Fire Department towers as well as the NCBA towers. Mr. Carter noted that the lease agreement was close to completion.

III. Consent Agenda

Ms. Brennan moved to approve the consent agenda and Mr. Bruguiera seconded the motion. There being no further discussion, Members voted unanimously (4-0) by roll call vote to approve the motion and the following resolution was adopted:

A. Resolution – R2013-04 Minutes for Approval

**RESOLUTION-R2013-04
NELSON COUNTY BROADBAND AUTHORITY
APPROVAL OF MEETING MINUTES
(February 28, 2013)**

RESOLVED, by the Nelson County Broadband Authority that the minutes of said Authority's meeting conducted on **February 28, 2013** be and hereby are approved and authorized for entry into the official record of the Broadband Authority's meetings.

IV. New/Unfinished Business

A. Broadband Infrastructure Project Update

Mr. Carter reported the following:

1. Massies Mill Tower is anticipated to be completed and operational by 3-29.
2. Completion and re-inspection of construction punch list by Mastec and VDOT staffs is in process.
3. Project closeout with NTIA, including completion of Federal Interest Statement, is in process and to be final on or before 6-30-13.
4. Legal staff developing installation agreement for fiber connections to businesses and residents.
5. Agreements (co-location and fiber lease) sent to Mid Atlantic Broadband week of 3-18.
6. Revised agreements with Lumos (co-location, fiber lease and services) pending execution.
7. Revised/final tower lease agreement sent to Stewart Computer Services on 3-20 (subject to comment by SCS but if none ready for execution).

Mr. Carter noted that staff wanted to ensure that the interference issue was addressed appropriately within the lease agreement.

8. CCTS (Authority's outside plant/OSP, contractor) has provided 25 installation quotes.

- 9. Blue Ridge Internetworks to report on 3-26 on status of network operation and internet services.
- 10. Staff (C. McGarry) has developed Frequently Asked Questions (FAQs) document, posted on Nelson County web site and sent an advertisement to NC Times to note the FAQ and reference thereto (see attachments containing FAQ and public advertisement).
- 11. Public hearing on revised operational/service rates scheduled for May 2013.
- 12. FY 13-14 Budget to be presented for consideration in ensuing several weeks.
- 13. Other – input/questions from Authority and/or public to be addressed at 3-26 meeting.

B. Network Operator Report - Blue Ridge Internetworks

Mr. Fooks reported the following:

I. Operational

Installations – none

Open trouble tickets:

- 1. Colleen Power Rectifier: Intermittent alarms, case opened with Calix

Mr. Fooks noted that the rectifier was causing the alarms and Calix would be replacing this piece of equipment.

- 2. Nelson County connection reliability: fiber OTDR readings were taken, fiber ends have been cleaned, and patch cable were replaced attempting to isolate trouble. No issues reported since last action was taken. Next step is to replace ONT.

II. Administrative

Open Orders: 25x25	1 (No Construction)
Pending Orders 25x5	4 (3 Require Construction)

III. Financial

	<u>Current Month</u>	<u>YTD</u>
Income:	\$1,342.50	\$3,905.00
Current AR:	\$1,342.50	
Past Due AR:	\$ 0.00	

Mr. Fooks then added that they had received approximately ninety (90) calls for quotes and have done around 15-25 of them. He reported that financing of the installation for five (5) years was now being offered first to customers in order to simplify things and then other options were offered as requested.

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Mr. Fooks then noted that they had one (1) signed contract, four (4) verbal acceptances, and should have five total online in the next couple of weeks. He added that two of these were residential customers.

Mr. Carter then noted that Mr. Fooks and the County were interviewed by Channel 29 on the costs of connections and seemingly the primary concern or surprise for people was the installation costs. Mr. Fooks added that BRI had taken hundreds of calls on this and it has meant a lot of education.

Mr. Fooks then noted that their mark up was around 2% and they were keeping their costs as low as possible. He added that he did not want to be insensitive to costs; however they were offering \$59.95/month and \$40/month for installation costs for five (5) years; which was as good as it got. He then noted that a lot of installations being quoted were more than 2,000 feet away from the fiber and this was the classic rural problem.

Mr. Fooks then suggested that the sharing of installation costs may need to be addressed by a policy set by the NCBA. He added that this was since the installation payment would go to the NCBA and the Authority would be the ones to rebate any money etc. He noted that it would be difficult to know how this would be tracked.

Ms. Brennan then supposed that the population concentration of various marketing areas would have an impact on the ability of cost sharing for fiber drops. Mr. Fooks noted that BRI would like direction on how to handle this from the NCBA since the fiber drops would be owned by the Authority.

Mr. Hale agreed that the Authority ought to instruct staff to explore this so a mechanism could be put in place such that the initial capital investment for fiber installation could be shared. Mr. Fooks added that this seemed to make sense when the first person to sign up was far away from the fiber and the fiber passed other homes who bought service. He noted that this would need to be coordinated with the outside plant contractor.

Mr. Carter noted that this was another example of operational questions that kept popping up. Members and staff briefly discussed the logistics of the concept of cost sharing and it was suggested that staff look at electric company policy on this. Mr. Fooks noted that he thought the volume of this would make it trackable; however some policy needed to be applied to these cases.

V. Other Business (As May Be Presented)

Mr. Saunders asked for clarification if the SCS lease agreement would be for one tower or all of the towers and Mr. Carter noted that it would be used for all of the tower locations.

Mr. Harvey then clarified that the tower rates had not been revised to account for the varying desirability of each of the tower locations. Mr. Stewart advised that he had suggested language for the lease that called for periodic post-lease review of the rates. He then advised that the staggering of tower leases was for cost reasons and some had a higher priority for them than others. He noted that he was also concerned that if he waited, the optimum tower space would be taken.

Mr. Carter reiterated to the Authority that subject to further review, he thought the tower lease rates were fine and he was not sure how the NCBA could adjust the rates based on estimated adoption rate

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consideration. He added that these were business decisions to be made by SCS; however, the Authority could not allow SCS to be on a tower without paying or hold the space until an unknown time.

Mr. Stewart reiterated that his start-up costs were cost prohibitive and he only expected to make a 4% profit first year and 40% profit the second year. Mr. Saunders advised that for most start ups a profit was not made in the first year and he did not think the Authority should tie up the towers with him holding a lease and not using it or paying for it.

Ms. Rorrer noted that there was more space on the towers for more than one provider to locate in and Mr. Stewart suggested that only the top two spots were usable in the County; with anything under ninety (90) feet not worth doing.

Mr. Carter then suggested that if staff and the attorneys could not come to agreement then it could be resolved by the NCBA. He added that they should keep everything uniform and not negotiate with individual providers.

Mr. Harvey then suggested that the NCBA continue its meeting to April 9th at 1pm.

Ms. Brennan suggested that the subcommittee should be involved and Mr. Harvey noted that he did not think this was necessary as the issues were more business related than technology related.

Mr. Stewart then indicated he was ready to sign the leases and that he was happy with his attorney's changes and the changes made by the County Attorney. He then noted two (2) points of importance in order for the project to work: tower lease pricing needed review and taking on all of the towers at once was cost prohibitive.

Ms. Rorrer then advised that the tower lease rates were not determined by what was in his lease but was rather set by the rate structure which could be revisited.

VI. Adjournment

Mr. Bruguere then moved to continue the meeting until April 9th at 1pm 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 meeting adjourned.

April 9, 2013

Virginia:

AT A CONTINUED MEETING of the Nelson County Broadband Authority Board at 1:00 p.m. in the Board of Supervisors Room located on the second floor of the Nelson County Courthouse.

Present: Larry D. Saunders, South District – Vice Chair
Allen M. Hale, East District
Thomas D. Harvey, North District – Chair
Stephen A. Carter, County Administrator
Candice W. McGarry, Secretary
Debra K. McCann, Treasurer
Susan Rorrer, Director of Information Systems

Absent: Constance Brennan, Central District
Thomas H. Bruguere, Jr. West District

I. Call to Order

Mr. Harvey called the meeting to order at 1:10 pm, with three Members present to establish a quorum and Ms. Brennan and Mr. Bruguere being absent.

II. Public Comments

1. Clay Stewart, Arrington, SCS

Mr. Stewart noted that he understood that the lease agreements for the towers were to be discussed by the Authority Board. He then distributed a complete equipment list for attachment to his pending lease agreement with the Authority. He noted that one sheet per tower was included. Mr. Stewart then explained that he intended to build out the towers in two phases. He noted that in phase 1, he would do the minimum necessary to get people going with internet and phase 2 was full build out over time. Mr. Stewart then noted that the Addendum listed all of the equipment to be used for wind load calculations; however he noted that this would be dynamic as things were always changing with equipment in the wireless industry.

Mr. Stewart then advised the Authority that the tower pricing did not represent market rates and that it was not feasible for him to use the Authority's towers as they were currently priced. He distributed information he had collected denoting rates charged by other tower companies that he had contacted. He reiterated his belief that the towers should be priced by location and noted that he could not afford to get on all seven towers at once. He then asked the Board to set reasonable rates and allow him to lease the towers separately instead of all at once. He added that he did not think that the County's project was adhering to the goals of the stimulus funds in using these rates.

Mr. Stewart then expressed concern that the County was subsidizing his competitor and yet was holding him to the pricing. He then noted that he was looking for a solution from the NCBA to the issues that he had presented.

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Mr. Harvey then noted that Mr. Stewart had previously reported that his first year profitability was 4% and his second year profitability was 40% with him utilizing the NCBA towers.

Mr. Stewart did not speak to this but rather replied that his recent Afton deployment had affected his projected adoption rates for the Avon and Afton towers.

Mr. Hale then summarized Mr. Stewart's concerns as the NCBA should lower the cost of using the towers and he could not use the towers unless the rates were lowered.

2. Greg Richardson, SCS Director of Operations.

Mr. Richardson noted that he has advised Mr. Stewart that SCS did not need the NCBA towers; however Mr. Stewart wanted to work with the NCBA. He noted that he did not like that the NCBA was subsidizing their competitor and that SCS could connect six houses for the cost of subsidizing one fiber connection.

Mr. Saunders then noted that running a business at 4% profit was the risk of doing business. Mr. Stewart then noted that the numbers provided that day represented gross profit before overhead and Mr. Saunders noted that he would be a happy businessman operating at 17% gross profit.

Mr. Richardson then concluded his remarks by reiterating that his recommendation to Mr. Stewart was that they did not need to be on the NCBA towers.

Mr. Carter then advised Members that staff has been working on the lease agreement document to use for anyone wanting to use the towers as a wireless internet service provider (WISP) and he thought it was a good document. He then related that when staff last met with SCS staff, they thought Mr. Stewart was ready to sign the agreement. He noted that the impasse seemed to be the rates and if the Board wanted staff to work on these, it could be done; however the rates were reviewed by two nationally known experts on this and they both said the rates were attractive even with the access fees included.

Mr. Carter then addressed the issue of the perceived subsidy to BRI. He noted that there was a discount for the installation of fiber from the backbone to a customer which was graduated by the length of contract and was in the rate structure before BRI became a service provider. He added that this was in place as an incentive to connect to the fiber rather than as a subsidy. He reiterated that this was done to assist those wanting fiber and not to hurt WISPs. He noted that the cost to connect to the network was very expensive for fiber and this was addressed by ICON in developing the rates with this discount. He then advised that this was a matter of direction by the NCBA on how to address this.

Mr. Harvey then noted that in light of Mr. Stewart not needing the NCBA towers there were other markets out there to be pursued.

Mr. Carter noted that staff had been given financial information by Mr. Stewart in December and that staff would need more details to be able to give any perspective on their numbers; however the profit margins presented were not bad. He reiterated that the problem was that the rates were not acceptable to them.

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Mr. Hale inquired as to the subsidy being discussed and Ms. Rorrer noted that this was the discount that has always been in the rate structure and was aimed at getting fiber customers to connect. She added that the other subsidy presented by staff was something additional and was not approved by the Board. Mr. Payne added that the County would own the fiber lateral connections to customers.

Mr. Saunders then clarified that nothing had changed at the last NCBA meeting or before that and staff confirmed that the fiber installation discount had been in place since July 2012.

Mr. Carter then noted that he and staff were not being critical of Mr. Stewart, but that they were not in agreement about the rates.

III. New/Unfinished Business

A. Tower Lease Agreement(s), Stewart Computer Services (R2013-05)

Mr. Harvey noted that there was no need to consider this item as they were not at a point of closure on the lease with SCS.

IV. Other Business (As May Be Presented)

There was no other business considered by the Board.

V. Adjournment

At 2:05 PM, Mr. Saunders moved to adjourn 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.

22 April, 2013

To: Nelson County Broadband Authority
From: S. Carter
Re: Agenda for April 25, 2013 NCBA Meeting

Transmitted herewith is the meeting agenda for the Authority's regular session on April 25th at 6 p.m. in the County Courthouse in Lovingston (second floor board room).

Pertinent items to be considered and summary comment(s) pertinent thereto include:

A. Consent Agenda/Approval of Meeting Minutes: Minutes for March 28th and April 9th, 2013 are submitted for approval.

B. New/Unfinished Business:

1) Broadband Infrastructure Project Update: The NTIA/County (grant) funded project is essentially complete. Exceptions thereto include: a) FCC Licensing of the Massies Mill Tower (in process), b) VDOT construction permit closeout (in process) and, c) final reporting and project close out with NTIA (also in process and anticipated to be concluded prior to the 6-20-13 official project close out date).

The project is currently transitioning to an ongoing operational mode. In this regard, Blue Ridge Internet Works is proceeding with marketing of its services for fiber optic cable based connection(s) to the fiber optic middle mile network. In addition to the startup of services to several Community Anchor Institutions (CAIs), BRIW now has five new subscribers for its services with services to these subscribers either installed or in the process of being installed (by the Authority's outside plant contractor, Computer Cabling and Technology Services or CCTS). BRIW is also continuing its efforts to complete agreement with Verizon for deployment of a DSL (digital subscriber line) service, which will provide BRIW the ability to deploy these services extensively along the middle mile network. As noted, BRIW's efforts are ongoing.

With regard to wireless internet services being deployed from the Authority's four towers, no additional discussions have been conducted with Stewart Computer Services albeit the ability of SCS to agree to locate on and use the towers remains. Otherwise, no additional WISP(s) or cellular companies have contacted the Authority regarding use of the towers, which will require a more extensive marketing effort by staff.

A primary consideration for the session on 4-25 is the Non-recurring charges (NRC) within the network's approved schedule of rates, fees and charges. This pertains specifically to the provisions within the NRC that provide for a discount of up to \$750 for agreement to connect to the NCBA network for 12-60 months (the \$750 discount is for a 60 month installation agreement). Related to the discount is the provision providing that **"the undiscounted balance of an NRC together with any NRC in excess of \$1,500 may be amortized over the term of the original contract"**. These provisions were included when the rates, fees and charges were initially approved as a means of assisting with the concern noted with the cost of fiber installations off the network, which is easily several thousand dollars. Now that the network is operational, the NRC provision is in play and being requested, including to facilitate an approximate 3 mile build to a business at an estimated cost of \$26,000. The positive is that the NRC could be beneficial to the Authority's efforts to achieve connections to the network. The negative with the NRC is that it places the Authority in the position of paying the installation costs (upfront) to the OSP

but recovering the installation costs from the customer over 12 – 60 months (possibly longer), this in addition to paying the \$750 discount to the OSP when a customer agrees to a 60 month connection service.

The attached agreements have been developed to provide for customer installations to the network. The Addendum for Installment Payment of Installation Costs, which is used in conjunction with the NCBA Installation and License Agreement for those network customers requesting the NRC ability, has been limited to a maximum amount of \$4,000 as a means of limiting the Authority's financial outlay. However, as noted herein, the Authority has received an inquiry from a local company that is willing to commit to a 60 month term for a 3 mile, \$26,000 installation cost for a fiber connection to the network. The Authority would own the entire installation, which would have the ability for other branch connections along the 3 mile installation.

Given the above, the Authority's considerations related to the NRC include 1) maintaining or removing the NRC within the schedule of rates, fees and charges and, 2) if the NRC is maintained then is the current provision sufficient, including the \$4,000 limit within the installation addendum, and/or, should the NRC be on a case by case basis beyond the present \$4,000 limit and, 3) if the NRC is maintained to what extent financially will the NCBA commit itself to the NRC on an annual basis. As the NRC has just become a focus of consideration additional review needs to be completed on the financial considerations related to the NRC.

2). Network Operator Report (BRIW): BRIW staff will attend the meeting to provide the Network Operator's report.

C. Other Business and Adjournment: As may be presented and adjournment on or about 7 p.m.

**ADDENDUM FOR INSTALLMENT PAYMENT
OF INSTALLATION COSTS**

This Addendum for Installment Payment of Installation Costs, made this _____ day of _____, 20____, by and between the NELSON COUNTY BROADBAND AUTHORITY (“NCBA”) and _____ (the “Customer”) provides:

1. Installation Costs. Pursuant to the Installation and License Agreement dated _____, 20____, between NCBA and Customer, the cost of installation to Customer is \$_____.
2. Amortization. Upon approval by the Service Provider, a portion of the cost of installation, net of any applicable discount, may be amortized over the original term of the contract with the Service Provide and paid to Customer’s Service Provider as agent for NCBA. The amount amortized may not exceed Four Thousand Dollars (\$4000.00). Any amount in excess of Four Thousand Dollars (\$4000.00) is due at the time of installation.
3. Amount Amortized. The sum of \$_____ may be amortized over the _____ month term of the contract with the Service Provider in equal () monthly () quarterly installments of \$_____.
4. Obligation. This Addendum creates a debt due NCBA. In the event of an early termination of Customer’s contract with the Service Provider, the discount will be adjusted accordingly. Customer is responsible for the payment of the installation cost regardless of the termination of either Customer’s contract with the Service Provider or of the Installation and License Agreement, change of ownership of the Premises, or any other change in circumstances, and by signing this Addendum Customer acknowledges the promise to repay. In the event NCBA must pursue collection efforts to recover installation costs, Customer shall be responsible for, in addition to all other costs and expenses, the attorney fees incurred by NCBA or its agents.
5. Applicable Law. The laws of the Commonwealth of Virginia shall apply in the construction and enforcement of this Addendum. The sole venue for any proceeding between the parties regarding this Addendum shall lie in the state courts in Nelson County, Virginia.

IN WITNESS WHEREOF, the Customer has executed this Addendum as of the date first- above written.

_____ (SEAL)
Customer Signature

Printed Name

Title Insurance: Existence is unknown to preparer

RIGHT OF WAY EASEMENT

Tax Map # _____

Exemption: 58.1 – 811(A)3

KNOW ALL MEN BY THESE PRESENTS:

That in consideration of One Dollar (\$1.00) and other good and valuable consideration paid to _____,

hereinafter referred to collectively as GRANTOR, by the NELSON COUNTY BROADBAND AUTHORITY, Post Office Box 336, Lovingson, Virginia, 22949, hereinafter referred to as GRANTEE, the receipt of which is hereby acknowledged, the GRANTOR does hereby grant, bargain, sell, transfer, and convey unto the GRANTEE, its successor and assigns, a perpetual telecommunications easement twenty feet in width with the right to erect, construct, install, and lay, and thereafter use, operate, inspect, repair, maintain, replace, and remove underground and aerial telecommunications lines and conduit, together with a temporary construction easement, over, across, and through the land of the GRANTOR situate in Nelson County, State of Virginia, and being identified as Tax Map Parcel Number _____, together with the right of ingress and egress over the adjacent lands of the GRANTOR, his successors and assigns, for the purposes of this easement, and the right to trim, cut, or remove any trees, brush, undergrowth or obstructions along said easement which obstruct or interfere with the use of said easement by the GRANTEE.

The consideration hereinabove recited shall constitute payment in full for any damages to the land of the GRANTOR, his successors and assigns, by reason

of the installation, operation, and maintenance of the structures or improvements referred to herein. The GRANTEE covenants to maintain the easement in good repair so that no unreasonable damage will result from its use to the adjacent land of the GRANTOR, his successors and assigns.

The GRANTOR warrants that it is the owner of the interest hereby conveyed, that it has the right to make this conveyance, and that the grant and other provisions of this easement shall constitute a covenant running with the land for the benefit of the GRANTEE, its successors and assigns.

IN WITNESS WHEREOF, the GRANTOR has executed this instrument this _____ day of _____, 2012.

_____ (Seal)

_____ (Seal)

STATE OF VIRGINIA
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 20_____, by _____, Grantors.

My commission expires: _____

Notary Public

The title to this property was not examined in the preparation of this deed.
Instrument Prepared by Phillip Payne IV
VSB #25405

**NELSON COUNTY BROADBAND AUTHORITY
INSTALLATION AND LICENSE AGREEMENT**

This Installation and License Agreement, made this _____ day of _____, 20____, by and between the NELSON COUNTY BROADBAND AUTHORITY (“NCBA”) and _____ (the “Customer”) provides:

NCBA owns and operates a wholesale fiber optic cable network and related telecommunication facilities in Nelson County, Virginia (the “NCBA Network”). Customer is requesting connection to the NCBA Network to obtain telecommunication services, including retail voice, video, and data from a provider of such services (the “Service Provider”). By this Agreement, Customer grants NCBA a license to install the necessary equipment to establish the connection.

1. License. Customer grants NCBA a non-exclusive license twenty (20) feet in width for underground or aerial telecommunication lines in, on, along, through, across, and under Customer’s property at _____ (the “Premises”) situated in Nelson County, Virginia, to connect the NCBA Network to the NCBA demarcation point located inside or outside of Customer’s building, TOGETHER with the right to NCBA, its successors, assigns, contractors, and agents, to construct, install, operate, maintain, inspect, repair, renew, remove, and relocate at will, optic cable, conduit connections, and facilities, to run fiber optic cable and install all other appurtenant equipment, including an Optical Network Terminal (“ONT”) (all hereinafter called "NCBA's Equipment"), and the right of ingress and egress over the Premise and the adjacent lands of the Customer for the purposes of this license, and the right to trim, cut, or remove any trees, brush, undergrowth or obstructions on the Premises which obstruct or interfere with the use of this License by NCBA, and for doing anything necessary or useful or convenient in connection with the foregoing.

2. Installation. NCBA or its contractors or agents shall install NCBA’s Equipment on the Premises in accordance with a sketch provided to and approved by Customer which is incorporated herein by reference. The cost of installation, after applying the applicable discount of _____ is \$_____ which is due upon installation. Customer will also be responsible for the payment of any additional costs incurred in connection with the installation caused by unforeseen or undisclosed circumstances. By signing this Agreement Customer acknowledges the promise to pay. In the event NCBA must pursue collection efforts to recover installation costs, Customer shall be responsible for, in addition to all other costs and expenses, the attorney fees incurred by NCBA or its agents.

3. Ownership. NCBA’s Equipment shall at all times remain the personal property of NCBA, it successors or assigns, and may be removed by NCBA upon the termination of this Agreement.

4. Term. The term of this Agreement shall commence on the date above and shall have an initial term of _____ years subject to earlier termination specified in this

Agreement. This Agreement shall renew automatically each year thereafter unless either party provides the other with sixty (60) days' notice of its intention not to renew at the end of the then current term. NCBA may terminate this Agreement, after thirty (30) days' written notice, upon Customer's failure to pay in a timely manner any sum due.

5. Limitation of Liability. NOTWITHSTANDING ANY OTHER PROVISION HEREOF, NCBA SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES (INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOST PROFITS, LOST REVENUES, OR THE COST OF PURCHASING REPLACEMENT SERVICES) ARISING OUT OF THE PERFORMANCE OR FAILURE TO PERFORM UNDER THIS AGREEMENT OR ANY SERVICE AGREEMENT.

6. Disclaimer of Warranties. A Service Provider provides the telecommunication services carried by NCBA's Equipment and NCBA disclaims any responsibility or liability for the quality, dependability, or cost of such service. NCBA MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE.

7. Location of Boundaries. In the event Customer has identified the boundaries of the Premises to NCBA in connection with the location of NCBA's Equipment, the cost of relocation of any of NCBA's Equipment due to an error in such identification shall be the responsibility of Customer.

IN WITNESS WHEREOF, the Customer has executed this Agreement as of the date first- above written.

_____ (SEAL)
Customer Signature

Printed Name

Witness

Printed Name

NELSON COUNTY BROADBAND AUTHORITY
P.O. Box 336 • Lovingson, VA 22949-434-263-7000- Fax 434-263-7004

MEMBERS

Thomas H. Bruguire, Jr. Chair
Constance Brennan, Vice Chair
Thomas D. Harvey
Allen M. Hale
Larry D. Saunders

Candice W. McGarry, Secretary
Debra K. McCann, Treasurer

RESOLUTION R2013-03
NELSON COUNTY BROADBAND AUTHORITY
REVISION OF ESTABLISHED SCHEDULE OF RATES, FEES AND CHARGES
AND AUTHORIZATION FOR PUBLIC HEARING

WHEREAS, Pursuant to §15.2-5431.25 (B) and (C) 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 revised 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):

Class of Service		Speed (Mbps)	MRC
<u>Tier 1</u> Last Mile (E7 to ONT)		25x5	\$ 25
		50x10	\$ 50
<u>Tier 2</u> Last Mile or Service Provider Middle Mile (OLT to ONT/OLT)		25x25	\$ 75
		50x50	\$ 150
		100x100	\$ 300
		250x250	\$ 700
		500x500	\$ 850
		1,000x1,000	\$ 1,000
<u>Tier 3</u> Private WAN	Two Site WAN "P2P" (ONT to ONT)	25	\$ 250
		100	\$ 800
		500	\$ 1,280
		1,000	\$ 1,660
	Three or More Site WAN "Cloud" (per node)	100	\$ 500
		500	\$ 800
		1,000	\$ 1,040

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 cost on the following terms.

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

Term of Contract	Discount
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 CC 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 an annual rate of \$1250 per leased fiber per mile for durations longer than 60 months. Leases for 60 months or less will be priced at an annual rate of \$1550 per leased fiber per mile. 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 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 revised 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 and hereby resolves that the proposed revised schedule of rates, fees, and charges shall be in effect for the interim period until formally approved.

Approved: February 28, 2013

Attest: Candice W. McLaughlin Secretary
Nelson County Broadband Authority

BYLAWS OF THE
NELSON COUNTY BROADBAND AUTHORITY
A VIRGINIA NONSTOCK CORPORATION

ARTICLE I
OFFICES

The principal office of the Nelson County Broadband Authority (the “Authority”) will be located at the office of the County Administrator, Nelson County, 84 Courthouse Square, Lovingston, Virginia 22949. The authority may have such other offices as the Authority Board (the “Authority Board”) may determine from time to time.

ARTICLE 2
AUTHORITY BOARD

The Authority Board will have five (5) members.

The initial members of the Authority Board shall be the members of the Board of Supervisors, whose terms of office shall be concurrent. The terms of office of the initial members will begin on the date the Certificate of Incorporation or Charter is issued by the State Corporation Commission and will continue for one (1) year.

Henceforth, The Authority shall be comprised of five (5) members appointed by the Board of Supervisors and there shall be one (1) appointee from each election district. Each succeeding member appointed by the Board of Supervisors, shall serve from July 1 until four (4) years hence on June 30 when their term shall expire. Any person appointed to fill a vacancy shall serve the unexpired term of the member being replaced. Board members shall continue to sit beyond the expiration of their term until such time as their successor may be appointed; however, the successor's term shall not be extended by such delay.

ARTICLE 3
GENERAL POWERS AND MEETINGS

- 3.1 GENERAL POWERS. The affairs of the Authority will be managed by the Authority Board, who will conduct its business in public meetings as provided by state law, the Authority’s Articles of the Incorporation, and these Bylaws.
- 3.2 REGULAR MEETINGS. At the Authority Board’s first meeting, it will establish a time, place and location of its meetings. The members of the Authority Board may provide, by motion and recorded vote, the time and place for holding additional regular meetings.

Additional regular meetings will be held at the principal office of the Authority or at such other place as may be designated by the Authority Board.

- 3.3 SPECIAL MEETINGS. Special meetings of the Authority Board may be called by or at the request of the Chairman or any two (2) members and will be held at the principal office of the Authority or at such other place as the members may determine.
- 3.4 NOTICE OF SPECIAL MEETINGS. All notices for special meetings shall be in accord with the provisions of the Virginia Freedom of Information Act (“VFOIA”) at such time, as well as any other applicable state law.
- 3.5 QUORUM. A majority of the members of the Authority Board will constitute a quorum for the transaction of business at any meeting of the Authority Board, but if less than a majority of the members are present at any meeting, then a majority of the members present may adjourn the meeting from time to time without further notice.
- 3.6 BOARD DECISIONS. An act of majority of the members of the Authority Board present at a meeting in which a quorum is present will be an act of the Authority, unless the act of a greater number is required by law or by these Bylaws.
- 3.7 COMPENSATION. Members of the Authority Board as such will not receive any stated salaries for their services, but will receive such compensation as may be fixed from time to time by resolution of the Board of Supervisors and will be reimbursed for any actual expenses necessarily incurred in the performance of their duties. Nothing in these Bylaws will be construed to preclude any member of the Authority Board from serving the Authority in any other capacity and receiving compensation for serving in that capacity, unless the service and compensation violates the law.
- 3.8 VACANCIES. No vacancy in the membership of the Authority Board will impair the right of a quorum to exercise all the rights and perform all the duties of the Authority. If a vacancy on the Authority Board occurs by reason of the death, disqualification or resignation of a board member, then the Nelson County Board of Supervisors will appoint a successor to fill the unexpired term.
- 3.9 ABSENCES. If an Authority Board member should miss three consecutive Board meetings, or five such meetings at any time in a calendar year, then he shall have been deemed to have resigned and the seat shall be vacant until filled by the Board of Supervisors.
- 3.10 MEETINGS OF AUTHORITY BOARD AND COMMITTEES. The Authority Board and all committees of the Authority Board are subject to the requirement of the VFOIA.

ARTICLE 4
OFFICERS

- 4.1 OFFICERS. The officers of the Authority are a Chairman, a Vice Chairman, a Secretary, a Treasurer, and such other officers as may be elected in accordance with this Article 4. No two (2) or more offices may be held by the same person, except the offices of Secretary and Treasurer. Neither the Secretary nor Treasurer need be members of the Authority Board.
- 4.2 ELECTION AND TERM OF OFFICE. The officers of the Authority shall be elected annually by the Authority Board at its annual meeting. If the election of officers is not held at the annual meeting, then the election will be held as soon thereafter as is convenient. New officer positions may be created and filled by the Authority Board by amendment to these Bylaws. Each officer will hold office until his successor has been duly elected and qualifies, even if such term of office extends beyond the date of the annual meeting.
- 4.3 REMOVAL. Any officer elected or appointed by the Authority Board may be removed by the Authority Board whenever in its judgment the best interests of the Authority would be served thereby.
- 4.4 VACANCIES. The Authority Board may fill a vacancy in any office because of death, resignation, removal, disqualifications, or otherwise for the unexpired portion of the term.
- 4.5 POWERS AND DUTIES OF OFFICERS.
- (A) Chairman. The Chairman of the Authority will preside at all meetings of the Authority Board at which he is present. The Chairman also will discharge such other duties as the Authority Board may direct. The Chairman will sign or countersign all instruments that require his signature and will make such reports and perform such other duties incident to his office as required of him by the Authority. Subject to such limitations as the Authority Board may propose, and subject further to the exception of signing or countersigning all instruments that require the Chairman's signature, the duties of the Chairman may be discharged by employees of the Authority except for presiding at meetings of the Authority Board.
- (B) Vice Chairman. In the absence or disability of the Chairman, the Vice Chairman will exercise all of the Chairman's responsibilities and functions.
- (C) Secretary. The Secretary will (i) maintain custody of the corporate seal and books, (ii) issue notices of all meetings of the Authority Board, and (iii) keep the minutes of all meetings of the Authority Board. The Secretary also will keep

proper records of the contracts, deeds, records, publications, and property belonging to the Authority, including the Articles of Incorporation, Charter, Bylaws, and amendments to those documents. The Secretary will sign or countersign to attest to any instruments that so require his signature. The Secretary will make such reports as the Authority Board may require. The Secretary will discharge such limitations as the Authority Board may propose. The duties of the Secretary may be discharged, with the exception of signing or countersigning any instruments, by employees of the Authority acting under his supervision and direction.

- (D) Treasurer. The Treasurer will have the custody of all monies, funds, securities, contracts, mortgages, deeds of trust, leases and deeds of the Authority. He also will keep proper books of account, which books, at all times, will be open to inspection by each member of the Authority Board. The Treasurer will keep proper records of all appropriations and authorizations of expenditures and will maintain itemized and classified accounts of expenditures and pledges made. The Treasurer will deposit the monies and securities of the Authority in such depositories and on such terms as the Authority Board may direct, and as directed by Virginia law, and when so deposited, the Treasurer will not be personally responsible for the safe keeping of the monies and securities.

ARTICLE 5 COMMITTEES

- 5.1 COMMITTEES OF AUTHORITY BOARD. The Authority Board, by a majority vote of the members in office, may designate one (1) or more committees each of which will consist of two (2) or more members of the Authority Board.
- 5.2 MEMBERSHIP OF COMMITTEES. The Chairman will appoint the members of the committees of the Authority Board. The Chairman or the Authority Board, as the case may be, will instruct a committee in its duties.

ARTICLE 6 CONTRACTS, CHECKS, DEPOSITS AND FUNDS

- 6.1 CONTRACTS. The Authority Board may authorize the Chairman or someone acting in his place or stead, to enter into any contract or execute and deliver any instrument in the name and on behalf of the Authority which is proper and legal for the Authority to enter into, and the authorization may be general or may be confined to specific instances.
- 6.2 CHECKS, DRAFTS OR ORDERS. All checks for the payment of money issued in Authority's name will be signed by both the Chairman and the Treasurer. Any notes or other evidences of indebtedness will be signed by the Chairman and attested by the

Secretary, as directed by the Authority Board. Nothing in these Bylaws will prevent Authority Board from adopting a resolution or resolutions permitting the disbursal of funds by other officers or members of the Authority Board or requiring that any funds so disbursed by any approved officer or member of the Authority Board be counter-signed by another officer or member of the Authority Board.

- 6.3 DEPOSITS. All funds of the Authority must be deposited from time to time to the credit of the Authority in a bank that is insured by the Federal Deposit Insurance Corporation.
- 6.4 GIFTS. The Authority may accept any contribution, gift, bequest, or devise for any purpose of the Authority, unless conditions placed on the contribution, gift, bequest or devise, if any, are contrary to law.

ARTICLE 7
BOOKS AND RECORDS

The Authority's books and records will be audited annually either by the Board of Supervisors or by an independent auditor hired by the Authority. A copy of the annual audit of the Authority's books and records will be made available to each member of the Authority Board immediately after the audit's conclusion. A copy of the annual audit will be forwarded in the same manner to the County Administrator and forwarded to the Board of Supervisors.

ARTICLE 8
RULES OF ORDER

The Authority will use Roberts's Rules of Order as a procedural guideline for conducting all business.

ARTICLE 9
AMENDMENT OF BYLAWS

These Bylaws may be altered, amended, or repealed and new Bylaws may be adopted by a majority of the members of the Authority Board present in any regular or special meeting at which a quorum is present.

Adopted this 14th day of December, 2010, by the Nelson County Broadband Authority.


Member


Member

Alan M. Hale
Member

[Signature]
Member

[Signature]
Member

ATTEST

Caroline W. McGaughey
Secretary