

May 8, 2018

Virginia:

AT A REGULAR MEETING of the Nelson County Broadband Authority Board at 1:00 p.m. in the General District Courtroom located on the third floor of the Nelson County Courthouse, Lovingston Virginia.

Present: Thomas D. Harvey, North District
Thomas H. Bruguere, Jr. West District- Chair
Jesse N. Rutherford – East District
Stephen A. Carter, County Administrator
Candice W. McGarry, Secretary
Debra K. McCann, Treasurer
Susan Rorrer, Director of Information Systems

Absent: Larry D. Saunders, South District - Vice Chair
Gary W. Strong – Central District

I. Call to Order

Mr. Bruguere called the meeting to order at 1:08 PM with three Members present to establish a quorum and Mr. Saunders and Mr. Reed being absent.

II. Public Comments & Presentations

A. Public Comments

1. Joe Lee McClellan, Nelson Cable

Mr. McClellan read the following prepared comments:

1. I learned from the County Web Site that the NCBA is considering giving the NCBA system to the CVEC.
2. I believe that the CVEC has a very good proposal for supplying Internet to all the households and business in the County that they serve.
3. The CVEC should consider having several contingencies, if they decide to give the NCBA to the CVEC:
 - a. Require that the CVEC continue with the "open access" policy currently in place to allow all Internet subscribers to have a choice of Internet providers.
 - b. Provide a plan for either the NCBA or the CVEC to provide service to AEP service areas, as their tax dollars were used to support the NCBA.
 - c. Allow the CVEC to only provide meter reading in areas serviced by competitors.

He later submitted revised comments as follows:

- I. I learned from the County Web Site that the NCBA is considering giving the NCBA system to the CVEC.

May 8, 2018

II. I believe that the CVEC has a very good proposal for supplying Internet to all the households and business in the County that they serve.

III. The NCBA should consider having several contingencies, if they decide to give the NCBA to the CVEC.

- a. Require that the CVEC continue with the "open access" policy currently in place to allow all Internet subscribers to have a choice of Internet Service Providers.
- b. The NCBA allows the Internet Subscriber on the NCBA Network to reimburse the NCBA over the life of the contract for service for their installation cost which is billed to the customer by the Internet Service Provider and submitted to the NCBA, along with the customer's charge for Internet service. The NCBA should take this into consideration when negotiating with CVEC, by requiring the CVEC to retain its current and future Internet Service Providers, so the NCBA will not lose these funds.
- c. The NCBA gives its customers a \$750.00 discount on the installation cost. The current "active" NCBA Internet Service Providers match this discount with their own \$750.00, thus the first \$1,500.00 for installation is paid for by the NCBA and its Internet Service Provider. The NCBA should take this into consideration when negotiating with CVEC, by requiring the CVEC to retain its current Internet Service Providers, so they will not lose these funds.

IV. Provide a plan for either the NCBA or the CVEC to provide service to AEP service areas, as their tax dollars were used to support the NCBA.

V. Allow the CVEC to only provide meter reading in households or areas served by its competitors.

Note: *Items* b. and c. were discussed with Susan Rorrer and added after the meeting.

III. Consent Agenda

Mr. Harvey moved to approve the March 18, 2018 minutes and Mr. Rutherford seconded the motion. There being no further discussion, Members voted unanimously (3-0) by roll call vote to approve the motion and the following resolution was adopted:

A. Resolution – R2018-02 Minutes for Approval

**RESOLUTION R2018-03
NELSON COUNTY BROADBAND AUTHORITY
APPROVAL OF MEETING MINUTES
(March 13, 2018)**

May 8, 2018

RESOLVED, by the Nelson County Broadband Authority that the minutes of said Authority meeting conducted on **March 13, 2018** be and hereby are approved and authorized for entry into the official record of the Broadband Authority meetings.

IV. New/Unfinished Business

A. Network Operations Report

Ms. Susan Rorrer presented the report as follows, she noted that she had refined the information from working with the Network Operator and the previous month's numbers given were slightly high.

IV. Operational

Total Number of Connections on 2/28/2018:	495
Installations for March and April:	37
Total Number of Connections on 4/30/2018:	532
Pending Installations:	76
Total Customers on 4/30/2018:	608

V. Administrative

- Installation of the Tanbark neighborhood is complete
- Installation for the following neighborhoods will begin in the May – June timeframe:
 - Sunrise Drive - 6
 - Blundell Hollow - 18
 - Crawford's View – 17
- One additional neighborhood with approximately 19 customers has expressed strong interest in connecting to the network.

Ms. Rorrer advised that installation on Blundell Hollow would begin the following Monday. Mr. Harvey advised that the additional neighborhood was Lodebar Estates and since the numbers worked, he thought they should still be interested.

B. Treasurer's Report

Ms. McCann reported the following:

BROADBAND FUND @ 4/30/2018

OPERATIONS

Beginning Balance 7/1/2017	\$103,653.40
July 2017-April 2018 Expenditures	\$ (430,033.35)
July 2017-April 2018 Revenues	<u>\$ 349,950.88</u>

May 8, 2018

Subtotal	\$ 23,570.93
General Fund Transfer 7/1/2017	\$200,000.00
Available Bank Balance@ 4/30/2018	\$223,570.93

Ms. McCann noted that revenues included the annual tower payment from ATT of \$32,000. She noted that the draft FY19 NCBA budget was given to them for review. She added that the budget requirements were different from those of the General Fund budget and the budget did not require a public hearing and appropriation.

C. County Administrator's Report

Mr. Carter reported the following:

The emphases County staff have been working towards over the previous 30-45 days include:

1. Continuing to complete final reconciliation of all financial responsibilities, including a specific focus on outstanding accounts payments, following the transition of network operation from BRI/Ting to Wide Open Networks. This work is nearing completion.
2. Ongoing network subscriber installations and network administrative responsibilities.
3. Conferring with federal NTIA and with Central VA Electric Cooperative on the ability to transfer the Nelson County/NCBA middle mile network to CVEC (see agenda and summary report on this subject, inclusive of recommendations).

D. Potential Transfer of Fiber Optic Broadband Network to CVEC

Mr. Carter provided the following memo regarding transfer of the network to CVEC for discussion:

County staff have continued to confer with staff of the federal National Telecommunications and Information Administration (NTIA) on the subject of transferring the Nelson County owned and Nelson County Broadband Authority administered fiber optic based middle mile broadband network to Central Virginia Electric Cooperative (CVEC), which is planning to implement in the fall of 2018 a five year project to construct and operate a fiber optic based broadband network throughout CVEC's service area. CVEC's \$110 million project has an objective of providing the availability of affordable, high speed internet services to the 36,000 customer accounts (business and residential) currently comprising the Cooperative's service area. CVEC's project will be owned by the Cooperative but operated through a subsidiary business (as CVEC is presently prohibited from directly providing internet services).

CVEC currently has 8,900 accounts in Nelson County that could realize broadband service through the completion of the Cooperative's project. CVEC may also provide extension of its internet service to an estimated 1,000 +/- additional American Electric Power electric utility customers, thereby increasing the number of potential subscriber to high speed internet services in

May 8, 2018

Nelson County to 9,900 businesses and residences. CVEC's currently proposed service levels and subscription rates are: 100 mbps service at \$49.99 per month and 1 gigabit service per second at \$79.99 per month. The cost of service installation is \$100 or waived if a subscriber accepts service from CVEC when it is initially available. CVEC will also, as an outcome of its broadband project, establish and provide a VOIP Telephone Service with unlimited local and long distance service for \$29.99 per month.

The Nelson County/NCBA middle mile network, which began operation in 2012, currently has just under 600 subscribers over a 74 mile, underground, fiber network. The network is capable of service levels comparable to those CVEC will provide but most subscribers, (service on the County network is provided through private Internet Service Providers (businesses) are at service levels less than those CVEC will provide and at monthly service costs greater than CVEC will offer. Another constraint for the local network in comparison to CVEC's is the cost of service installation. While CVEC's is \$100 or no cost, the County/NCBA installation cost, which is variable dependent on distance from the middle mile backbone and which is provided through a contract installation firm, can range from \$800+/- to \$1,500+/- or, even greater. An advantage the local network has is its compatibility with the CVEC network, as the current location(s) of the County/NCBA network is almost entirely within the routing the CVEC network will deploy.

Setting aside the above and very brief overviews and comparisons of the CVEC project/network and the County/NCBA network, the primary consideration(s) of a transfer of the local network to CVEC include(s):

- VI.** The CVEC project will provide access to affordable and reliable high speed internet service and affordable phone service to 8,900—9,900 businesses and households in Nelson County within five years. Nelson County currently has 11,500 addresses for structures. Assuming the structure addresses is a good comparison to the 9,900 potential CVEC internet subscribers, eighty-six percent (86%) of business and residents in Nelson County will have access to affordable, high speed internet service. It is almost a certainty that the local network will not be able to achieve this level of service(s) within the ensuing five years or, very probably within the ensuing 10+ years.
- VII.** The CVEC project will enable the Board of Supervisors 2006 goal/objective of providing universal access to internet service in Nelson County to be achieved.
- VIII.** NTIA staff have confirmed, subject to a period of due diligence, that federal regulation(s) do provide for the “transfer of the local network to CVEC. The County and CVEC will have to agree to maintain the responsibilities the County agreed to in receiving federal funding for the construction of its middle mile network (e.g. open access, non-discrimination, etc.) in order for the network transfer to be approved. There was concurrence among the participants in the 4-20 conference call with NTIA, which included CVEC and County staff, that maintaining the NTIA requirements would not/should not be a deterrent for the network's transfer or for the success of CVEC's project.
- IX.** Transferring the local network to CVEC will enable the largest CVEC service area in Nelson County to be among the first build areas within the Cooperative's five-year project. The first County build area could be completed by summer-fall 2019 providing for access to service to 4,500

May 8, 2018

current CVEC subscribers. The balance of the CVEC's 4,400 other subscribers would have access over the ensuing five-year construction period with determination of when service availability would be accessible to be decided by CVEC based upon potential subscriber levels.

- X. Transferring the local network to CVEC will either achieve or substantially achieve the Cooperative's request for \$5.0 million in incentives requested from each of the local governments within CVEC's service area (cash, in-kind or tax abatement).
- XI. The CVEC project, as noted herein, will provide access to very affordable and reliable high speed internet service to the majority of Nelson County's businesses and residents. The federal FCC standard or objective for internet service is presently 25/5 mbps. The service levels CVEC will offer far exceed this service level.
- XII. No other entity broadband/internet service provider has entered or plans to enter the Nelson County market to provide internet service at the level CVEC has proposed.
- XIII. CVEC is just a few weeks away from securing \$66 million in funding of the total \$110 million project cost to provide for its first three years of network construction.
- XIV. Should the transfer of the local network to CVEC not be accomplished, the CVEC network will, essentially, be constructed in parallel to the local network and become a formidable competitor to the local network, even if competing with the local network is not a CVEC goal, objective or strategy.
- XV. Perhaps most importantly, the transfer of the local network to CVEC is considered to be in the best interests of Nelson County; its businesses, residents, tax payers, etc.

Next Steps:

- VI. **It is recommended that the Nelson County Broadband Authority take formal action at its meeting on May 8th to endorse the transfer of the local middle mile network to CVEC.**
- VII. **It is recommended that the Nelson County Broadband Authority take formal action at its meeting on May 8th to establish a moratorium on providing network installation discounts and the ability to amortize the cost of service installation to the network. The moratorium would remain in place until final approval from NTIA is obtained for the transfer of the local network to CVEC and upon final approval of all related agreement necessary to provide for the local network's transfer to CVEC.**
- VIII. **It is recommended that the Nelson County Board of Supervisors take formal action at its meeting on May 8th to authorize County staff to proceed with the actions necessary to provide for approval from NTIA and from the Virginia Department of Housing and Community Development (the local network was also the recipient of federal CDBG grant funding and has obligations related to this funding that must also be addressed) to transfer the local middle mile network to CVEC and to facilitate agreement with CVEC for the transfer of the local network from Nelson County to Central VA Electric Cooperative.**

Mr. Carter referenced the memo and emphasized the ten talking points. He also noted having a conference call with NTIA staff including their transfer attorney and Gary Wood. He related that the network could

May 8, 2018

be transferred but it may take a while. He noted that CVEC would have to maintain the same obligations as the County on the NCBA network and that did not pose a problem for CVEC. He added that he thought the transfer was favorable to the County's interests.

He then added that the NCBA was the operating entity and he recommended action be taken to endorse the transfer to the Board of Supervisors, the owner of the network. He then suggested that the Authority consider a moratorium on future discounts and amortizations which could cause difficulty going forward; however they would honor agreements already in place.

Mr. Carter advised that the first step was to send a letter to NTIA to initiate the transfer and include the talking points. He noted that CVEC was looking at the potential number of subscribers including AEP customers, and if they could complete agreements to serve them at a certain distance from CVEC lines, then they would serve 87% of households and businesses in the county.

Mr. Bruguire asked if the transfer occurred and they honored the commitments to those already contracted, what would happen to the funds left in NCBA accounts? Mr. Carter advised that the NCBA would continue to exist because the County would keep the towers and associated plant, which would support wireless communications and be helpful to the County for public safety.

Mr. Bruguire inquired as to what point CVEC would operate the network and Mr. Carter noted if transferred, CVEC would begin in Appomattox and then CVEC would deploy in Nelson in its largest area as of January 2019 in six months. He added that there was no guarantee Nelson would be served in the first year and it would be over a five year period. He noted that service would not be cut off and there were many details to be worked out; however the first threshold to achieve was approval from NTIA.

Ms. Rorrer related that she suggested that CVEC use Wide Open Networks in the transition period until they were staffed up and could take that on.

Mr. Bruguire asked about maintaining open access and Mr. Carter advised that would be a requirement and that Mr. Wood had indicated it would not be an issue. He noted that the County was obligated to maintain open access over the life of the fiber as well as other requirements such as non-discrimination etc.

In response to questions about AEP customers, Mr. Carter noted that his understanding was that CVEC was in discussions with them about the ability to use AEP infrastructure to connect to them within a certain distance. He noted that may get an additional 1,000 customers and a total of 9,900 potential connections possible.

Mr. Harvey added that another reason to maintain the NCBA was so it could use money on wireless deployment after they saw how the fiber project went.

Mr. Bruguire noted that any outlying areas could be served by towers and Mr. Harvey supposed that CVEC may not be close to some on the back side but when they went around, they may be closer.

Mr. Rutherford asked what the destination of the fiber would be in the event that CVEC failed, and Mr. Carter supposed that some form of reversion clause would be needed and that was a detail to be worked

May 8, 2018

out with them and NTIA. Mr. Carter then reiterated that the first step was to send a letter to NTIA for approval to transfer and then they would work with the County to facilitate next steps. He added that NTIA was in no way opposed to the transfer and it had been done previously.

Mr. Carter then related that the towers would still derive income from cellular carriers as ATT and Verizon were on at least two of them. He noted that revenue could support future towers and the County received \$60,000 per year from them.

Mr. Harvey then supposed that in the future, they may be able to not charge wireless providers in the County in order to make it fair for all. He reiterated the Authority's goal was to get service to residents of the county.

Mr. Carter then advised that his recommendation was endorsement to the Board of Supervisors to proceed with the letter and to consider a moratorium on discounts and amortization beyond current contracts until the transfer was concluded. He noted that they would still work with those that wanted to connect but there would be no discount.

Mr. Harvey suggested that they make that effective June 1st and make that the cutoff date to submit contracts. Mr. Carter noted that a rate change may need to be effected; however, they could institute a moratorium now.

Mr. Bruguiere suggested that the meeting be continued so that Mr. Saunders and Mr. Strong could vote on it and Mr. Harvey suggested having a resolution for both Boards to consider.

Mr. Carter related that because the County owned the network, the transfer request had to come from the County. He noted that the Middle Mile Network was now 75 miles.

V. Other Business (As May Be Presented)

There was no other business considered by the Authority Board.

VI. Adjournment

At 1:35 PM, Mr. Rutherford moved to adjourn and continue the meeting until May 10, 2018 at 6:30 PM in the General District Courtroom. Mr. Harvey seconded the motion and there being no further discussion, Members voted unanimously (3-0) by roll call vote to approve the motion and the meeting adjourned.