

October 24, 2013

**Virginia:**

AT A REGULAR MEETING of the Nelson County Broadband Authority Board at 6:00 p.m. in the General District Courtroom located on the third floor of the Nelson County Courthouse.

Present: Thomas D. Harvey, North District – Chair  
Allen M. Hale, East District  
Alan Patrick, Central District  
Larry D. Saunders, South District – Vice Chair  
Thomas H. Bruguire, Jr. West District  
Stephen A. Carter, County Administrator  
Candice W. McGarry, Secretary  
Susan Rorrer, Director of Information Systems  
Baylor Fooks, Network Operator – BRI

Absent: Debra K. McCann, Treasurer

**I. Call to Order**

Mr. Harvey called the meeting to order at 6:05 pm with all members present to establish a quorum.

**II. Public Comments**

Mr. Harvey opened the floor for public comment and the following person was recognized:

1. Clay Stewart, Stewart Computer Services, SCS

Mr. Stewart noted he wanted to give the Authority a status report and he noted that he had the first tower lease in for approval from the County at Martin’s Store and this was based on need. He added that he would be able to set exact dates for future leases once this was up and running.

Mr. Stewart then noted that the company he dealt with for radios announced gigabit radios as of last month for a low price and that he was switching his backbone over from 50-80 MB pipes to 2.0 GB pipes. He noted that this would allow them to jump up plans to 8-15 MB and business customers could get up to 30 MB and above. He added that this was amazing technology that would allow for more radios to be put up. Mr. Stewart also noted that his company would brand nationally with this company and that other WISPS would as well. He noted that they would do national marketing and then would subsidize his marketing from local TV to newspapers etc.

He then thanked Mr. Carter for his patience and he noted that hoped to make use of cheaper fiber in the near future.

**III. Public Hearings & Presentations**

**A. Public Hearing -Wireless Internet Service Providers -Tower Access Charges**

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Proposed establishment of revised rates, fees, and charges to Wireless Internet Service Providers for Tower Access Charges only; as authorized on June 27, 2013 by the Broadband Authority. **(R2013-13)**

Mr. Carter noted that the public hearing had been duly advertised according to Code with an extended timeline of 60-90 days.

He noted that the amendment to the established rates, fees, and charges entailed the following paragraph:

“The tower access charges for wireless internet service providers, also known as fixed wireless broadband services, shall be one-half of the tower access charges set forth in the chart above but in any event, not less than \$50.00 per antenna. This reduced rate shall apply for no more than three years from the date of the initial structural lease agreement with each such provider.”

Mr. Carter then explained that the WISP pricing would be half that of a cellular company and he reiterated the chart and rates provided for the various sections of the tower. He added that for WIPS, the 50% discount applied for three (3) years after the lease was signed.

Mr. Carter noted that SCS had lobbied for lower rates and the Board had given favorable consideration of the rate change.

Mr. Hale then inquired as to whether or not the three year reduced rate period could be renewed and Mr. Carter noted that it was not currently renewable and would not be unless this was changed by the Authority prior to the end of the three year period. He added that this would be memorialized in the lease agreements.

There being no further questions, Mr. Harvey opened the public hearing and the following person was recognized:

1. Clay Stewart, SCS

Mr. Stewart noted that he was concerned about how the end of the three year reduced rate would affect him and he asked if there would be any way possible that the lease agreement could allow re-negotiation of this at the end of the three (3) years. He added that it took thirty (30) customers to pay for the monthly lease costs he was taking on now. He added that his company already served these areas and he had competition. He reiterated that AT&T could also deploy there in the future, his adoption rates would not change, and he would be concerned if the lease rates did double in three (3) years. Mr. Stewart then noted he would guarantee that he would not have enough customers to cover the full rate and that the Authority should set rate increases based on a national CPI factor. He noted otherwise it could put people out of business and take away services.

There being no other persons wishing to be recognized, the public hearing was closed.

Mr. Harvey noted that he had heard that technology pricing was going down and that the Authority Board was aware that if he could not make a living, then the Authority could not make a living.

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Mr. Hale then moved to approve Resolution **R2013-13** Schedule of Revised Rates, Fees, and Charges Wireless Internet Service Providers, Tower Access Charges. Mr. Bruguere seconded the motion and 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 R2013-13  
NELSON COUNTY BROADBAND AUTHORITY  
SCHEDULE OF REVISED RATES, FEES AND CHARGES  
WIRELESS INTERNET SERVICE PROVIDERS  
TOWER ACCESS CHARGES**

**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 resolution **R2013-10**, 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, 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 and conduct of said public hearing on October 24, 2013;

**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 costs on the following terms.

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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 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.

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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.

The tower access charges for wireless internet service providers, also known as fixed wireless broadband services, shall be one-half of the tower access charges set forth in the chart above but in any event, not less than \$50.00 per antenna. This reduced rate shall apply for no more than three years from the date of the initial structural lease agreement with each such provider.

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*.

Mr. Harvey then noted that he appreciated the hard work done on the rates and he hoped it would get things going quickly

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#### **IV. Consent Agenda**

##### **A. Resolution – R2013-14 Minutes for Approval**

Mr. Bruguere moved to approve the consent agenda 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 R2013-14  
NELSON COUNTY BROADBAND AUTHORITY  
APPROVAL OF MEETING MINUTES  
(September 26, 2013)**

**RESOLVED**, by the Nelson County Broadband Authority that the minutes of said Authority's meeting conducted on **September 26, 2013** be and hereby are approved and authorized for entry into the official record of the Broadband Authority's meetings.

#### **V. New/Unfinished Business**

##### **A. Broadband Infrastructure Project Update**

Mr. Carter reported that SCS had submitted an application to the Planning and Zoning department to collocate on the Martin's Store tower and the County had signed off on its local review.

He reported that AT&T was interested in collocating on two towers. He noted that they have been back and forth with this; however it was still moving along. He added that he did not have any reason to believe that they were not really interested; the details were just taking longer.

Mr. Carter then reported on the status of the fiber network. He noted that Mid-Atlantic Broadband (MBC) was now collocated in the hut at the courthouse and this was a positive step forward as it would allow their members to be able to provide services in the county. He then noted that BRI has gotten off to a slow start at Paul's Creek Subdivision; however the installation contractor was back there now and was working to make the drops. He added that the installer had a prior obligation with another locality and they were now reengaged and there should not be these types of delays in the future. Mr. Carter noted that he would report on the CDBG grant process after BRI's Network Operator report.

Mr. Carter then reported on the ARRA grant and noted that grant closeout had been delayed due to the Federal Government shutdown; however it was now back on track. He added that the County had documents to submit and it would take a matter of days to complete.

Mr. Bruguere then asked why SCS had to go back to the Planning and Zoning department and Mr. Carter explained that collocation required administrative approval from them and it was incumbent upon anyone to do this. Mr. Bruguere noted he thought this to be an unnecessary step; however he acknowledged this was what the Ordinance prescribed. Mr. Carter noted that the process was more streamlined and the Director could approve installations. Mr. Carter added that another reason was to have these installations registered. He noted that if the company was not a Telco and was a WISP, then the SCC did not track capital installations for taxation and this was a local responsibility. Mr. Hale added that it was a means of knowing what was on the towers and was not to preclude them from being put up. Ms. Rorrer followed by

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noting that certain permits that were granted by Planning required certain things and they were making sure that things were completed according to the permit. Mr. Carter added that the County was continually being asked by the state about what was out there.

Mr. Carter discussed the CDBG Grant Program following the BRI Network Operator's report as follows:

Mr. Carter distributed information on the 2012 CDBG Grant Program Design and reported the following:

Mr. Carter noted that the Department of Housing and Urban Development (HUD) provided funding to the States for the Community Development Block Grant (CDBG) program through the Department of Housing and Community Development (DHCD). He noted that the program had three National Objectives and one of them had to be met in order to get the funds. He noted that these were: (1) to provide a benefit to 51% Low to Moderate Income (LMI) beneficiaries, (2) to provide the elimination of slum and blight, and (3) to provide for an emergency need. He noted that the last objective was almost never funded and the emergency must be extraordinary. Mr. Carter added that when the fiber backbone was constructed, the County had applied for one of these Innovation Grants and was successful in obtaining an additional \$200,000 which was leveraged with the ARRA Federal Grant funds.

Mr. Carter then noted that DHCD had advised staff that it would be feasible to try for these funds again during open submission. He noted that there was a significant amount of work to be done in the application process in order to secure the \$200,000 grant. He then read aloud some of the submission requirements and noted he thought the project would be eligible because the additional fiber would provide last mile services. He noted that the grant required a 50% local match and the County would be the applicant since the County should own the entire infrastructure. He noted that he thought the County had a good chance at getting the grant and reiterated it would require a local match.

Mr. Carter noted that the project proposed an extension to the county line north to Albemarle and from Martin's Store to Route 664 at Wintergreen. He added that the cost from the installation contractor would be around \$200,000 and it would cost an additional \$30,000 to go up Route 6 West for a little ways.

Mr. Carter then noted that if the Authority and the Board of Supervisors were amenable, he would like to propose that the County work with ICON Engineering again to develop the plan and do the application. He noted that this would cost approximately \$4,500 for these two steps. He added that they would develop the data and plan initially and the County would present this to DHCD to see if the County should move forward with an application.

Mr. Bruguere inquired about meeting the 51% LMI criteria and Mr. Carter noted that this would be met through job creation. He added that with the Federal grant, the County created twelve (12) jobs and 51% were LMI. He added that for this grant, the County would have to create ten (10) jobs over a two (2) year period and six (6) of those would have to be LMI.

Mr. Bruguere then questioned the need to hire ICON if the project was just putting more fiber in and Mr. Carter explained that the County needed them for the plan development and would not necessarily need them for engineering services. He added that they had extensive experience with the DHCD planning grants and in developing the data that got the County the Federal NTIA grant.

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Mr. Carter then noted that another positive reason to extend the fiber to Route 664 was that the gap at Martin's Store and the fiber that Nelson Cable has to serve Wintergreen would be addressed and it would be helpful to them. He noted that Nelson Cable would then use the County's fiber network and would pay transport fees and that Wintergreen wanted to get away from using banks of T1 lines to provide broadband services.

Mr. Bruguere noted that he thought the County should proceed with this. Mr. Carter noted that staff could show the finances; however he thought this was more of a Board of Supervisors issue since a local match was required.

Mr. Hale noted that the proposed project did not serve an area of the county that needed Broadband. He added that the area being discussed was already a served area and this would be an additional investment the County would have to make in order to provide services to an area already better served than other areas of the county. Mr. Carter noted that it would enable the Authority to serve the whole stretch of the main commercial artery (Route 151). Mr. Hale indicated that he would be in favor of the proposal if it were working towards Shipman, Faber or Arrington; areas that currently did not have broadband service.

Mr. Carter then noted that extending the fiber down Route 151 to Route 664 could help the network advance towards that more quickly due to the income producing potential of the proposal.

Staff reiterated that the LMI objective would be met through job creation, and that six LMI jobs would have to be created.

Ms. Rorrer then asked the members to keep in mind that one goal of the Authority was to reach unserved areas and another was to make the network self supporting and then profitable so it could be expanded. She noted that doing the proposed project lead to where they wanted to go and the network would not be self supporting unless they developed the customer base.

Mr. Hale then noted that he would need to see a very clear cost/benefit analysis and return on investment (ROI) scenario. He added he would like to know when it would generate income and otherwise he thought this proposal was subsidizing broadband to serve a few.

Mr. Carter then noted he would revisit the subject at the ensuing Board of Supervisors meeting.

#### **B. Network Operator Report - Blue Ridge Internetworks (BRI)**

Mr. Tom Berlin of BRI was present to give the Network Operator's Report. He noted that he had limited ability to speak to the report but would answer questions. He added that from his perspective, they did have continued interest from Nelson residents in being served. He noted that it was a matter of time and money to balance the estimate and to schedule work with the existing installation contractor. He noted that they were looking at additional marketing efforts to get the word out about their services.

Mr. Bruguere then asked how it would work if a person wanted to run fiber to every lot in a subdivision even though not every lot was built. Mr. Berlin then noted he would suggest that they pull conduit to the sites. Mr. Bruguere then asked how these costs would be distributed and Mr. Berlin noted that from an

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operations standpoint, it would be considered like a utility; however he could not speak to how an HOA paid for it. He added that in these instances, the developer would work with the Contractor.

Ms. Rorrer suggested that the best route was to contact the County and BRI and then the HOA or developer would see some options on how to deploy their solution and the installation contractor, CCTS would provide quotes based on the various scenarios. She added that they could price out the best solutions for what was there and what would be there in the future.

Mr. Harvey then reiterated that the installation at Paul's Creek was working out with everyone who initially signed up paying the same and those not getting on initially may pay more when they opted to get the service.

The Network Operator's Report was provided as follows:

I. Operational

There have been no installs completed for 62 days (Last install completed 8/20/2013).

Pending Installs:

	<u>Contract Date</u>	<u>Days Waiting</u>
Paul's Creek (20)	6/13/2013	130
Other #1	7/18/2013	95
Other #2	9/18/2013	33
Other #3	10/17/2013	4

Active Circuits:

Blue Ridge	29
Shentel	1
Nelson Social Services	1
TOTAL	31

II. Administrative - N/A

III. Financial

Revenues:

Total Service Revenues on an accrual basis for the period of January 1, 2013 through October 15, 2013 were reported at \$65,154.

Accounts Receivable:

Current Receivables were reported at \$1,760 with receivables at 1-30 days being \$250 for a total of \$2,010. There were no receivables older than 30 days reported.

**C. Treasurer's Report**

Mr. Carter noted that expenditures still outpaced revenues; however revenues were making incremental progress and would get better in time. He noted that the primary revenue source was the County subsidy of operations of the network and he noted it would be that way for the foreseeable future.

The Treasurer's Report showed Revenues Year-to-Date as of 9-30-13 of \$11,763 in Network Access Charges, \$8,908 in Installation Upfront Payments, and \$123,335 in the Transfer from General Fund for a total of \$144,106. The balance remaining was \$330,569.

The Treasurer's Report showed Expenditures Year-to-Date as of 9-30-13 of \$101,344 in Network Operations. The Unencumbered Balance was \$373,231.

**VI. Other Business (As May Be Presented)**

There was no other business considered by the Authority.

**VII. Adjournment**

At 6:50 PM, Mr. Hale moved to adjourn and Mr. Saunders seconded the motion. There being no further discussion, Members voted unanimously by voice vote to approve the motion and the meeting adjourned.