

June 27, 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: Thomas D. Harvey, North District – Chair  
Allen M. Hale, East District  
Constance Brennan, Central District  
Larry D. Saunders, South District – Vice Chair  
Thomas H. Bruguere, Jr. West District  
Stephen A. Carter, County Administrator  
Candice W. McGarry, Secretary  
Debra K. McCann, Treasurer  
Phillip D. Payne, IV – County Attorney  
Susan Rorrer, Director of Information Systems

Absent: None

**I. Call to Order**

Mr. Harvey called the meeting to order at 6:07 pm, with all Members present to establish a quorum.

**II. Public Comments**

There were no persons wishing to be recognized for public comment.

**III. Consent Agenda**

Ms. Brennan moved to approve the consent agenda and Mr. Bruguere seconded the motion. There being no further discussion, Members voted (4-0-1) by roll call vote to approve the motion, with Mr. Harvey abstaining and the following resolution was adopted:

**A. Resolution – R2013-09 Minutes for Approval**

**RESOLUTION R2013-09  
NELSON COUNTY BROADBAND AUTHORITY  
APPROVAL OF MEETING MINUTES  
(May 23, 2013)**

**RESOLVED**, by the Nelson County Broadband Authority that the minutes of said Authority’s meeting conducted on **May 23, 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**

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Mr. Carter reported that staff was working with NTIA and Icon Engineering to complete the project closeout. He noted that because of NTIA's procedural processes, the project could not actually be closed out for ninety days. He added that staff was ready to submit close out documents but had to wait.

Mr. Carter reported that VDOT had completed its last inspection relative to the Land Use Permits (LUPs) and had the following comments:

1. The County had to ensure that all fiber optic cable markers were at the Right of Way line or at the guardrail and the County would need to determine if these needed to be moved or left as is. If left as is, the County would need to certify to VDOT that the County absolved them of any damage.

2. The county had to submit as built drawings.

Mr. Carter noted that some of the markers were connected to the fiber.

#### **B. Network Operator Report - Blue Ridge Internetworks**

Mr. Fooks of Blue Ridge Internetworks was absent from the meeting and staff reported the following:

Mr. Carter noted that work was being done on two fiber extensions, one along Oak Ridge Road and one off of Rt. 151 at Mill Road beside Patrick Brothers Store.

Mr. Carter reported that staff had received the Pole Attachment agreement with AEP to review; which may create opportunities for aerial deployment. He added that the Authority had one with CVEC already.

Mr. Carter reported that staff was working with BRI and Paul's Creek Subdivision to deploy the first neighborhood extension. He noted that they were at the point where it was financially feasible to go forward and planned to do so. He added that staff would work with BRI to make this work and that GPON technology would be used to split the fiber to deploy services.

Mr. Carter reported that he thought that BRI was up to 15 fiber connections.

Ms. Brennan asked who was running the orange fiber up Route 29 from Woods Mill and Mr. Stewart in attendance stated that he thought it was being installed by Midatlantic Broadband (MBC). Mr. Carter note staff should see this come from VDOT.

Mr. Hale inquired about the Registrar's new Office connection and Ms. Rorrer noted that the AEP pole attachment agreement would be signed and then they could start the process of installing fiber. She added that staff had arranged for her to use Daniel Rutherford's DSL connection until they could get her connected to our network. She noted that the fiber would be available to others in Lovingston and the Authority could extend it as it was demanded. She noted that it would go to Front Street along the poles by Tom Berry's office.

Ms. Rorrer corrected Mr. Carter's earlier statement and noted that BRI was leasing nineteen (19) transport circuits and a few more would be online soon.

**C. NCBA FY14 Budget**

Mr. Carter noted that the FY14 budget year begins July 1, 2013. He added that it was his hope that the Authority would approve the budget as submitted with the knowledge that staff would bring back changes as the fiscal year went along since the operations were in such a state of flux. He noted that the total budgeted revenues and expenditures were \$474,575.00 with the substantial expense being \$250,000 set aside as a loan fund for installations. He added that the budget was as exact as staff could make it based on what was presently known and that staff needed to gain more experience as the network grew.

Mr. Carter then advised the Members that the State Code did not require a public hearing or notice and he recommended that it be approved by the Authority.

Mr. Hale inquired as to the year-ending balance of \$250,000 on the revenue side and Ms. McGarry noted that the installation loan fund in the amount of \$250,000 was appropriated in the current fiscal year and had been unexpended; so the full amount was carried forward as year ending balance in FY14.

Mr. Saunders then moved to approve the proposed FY14 budget as presented in the amount of \$474,575.00 and Mr. Bruguere seconded the motion. There being no further discussion, Members voted unanimously (5-0) by roll call vote to approve the motion and the FY14 budget was approved.

**D. Tower Access Rates, Fees, and Charges**

Mr. Carter noted that concern was expressed by the Authority at the last meeting that no one was using the towers and staff was directed to take another look at the rates. He noted that staff had received input regarding tower rates for WISPs from CIT on Tuesday afternoon. He reported that a polling of private and commercial companies in the State had shown that the average cost across all towers for 3 antennas with power was \$514.32 per month, the average for commercial towers was \$480 per month, and the average rate for private towers was \$618 with 3 antennas. He noted that staff used this as the basis for presenting a percentage discount of the current tower rates. Mr. Carter added that staff had also received input from Dr. Picchi, a consultant, who had provided a rate calculation tool that seemed to be more applicable for future use.

Mr. Carter then distributed and referred to a chart provided that showed the current tower rates and discounted amounts at 40%, 50%, and 60%. Mr. Carter noted that Staff has focused on a 50% discount which comported to the average cost of 3 antennas. Mr. Carter then noted that the handout showed various examples of the cost for different scenarios of tower usage.

Mr. Carter then proposed that the Authority consider moving forward with implementing a discount for WISPs but keeping the current rates for commercial carriers such as AT&T etc. He also recommended that the Authority consider revising the rates for a three year period and authorize staff to move forward with a public hearing.

Mr. Bruguere then inquired as to how leasing the tower sections worked and Mr. Carter noted that this mirrored the current rate structure and kept the 30 ft sections. He noted that the proposed rates used the same basis but reduced the numbers and that the top 30 ft sections were all the same price and then the

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next 30 ft sections were lower. He added that the tower access fee would be discounted and the lessee would pay less depending on where they were on the tower.

Mr. Carter then gave examples of how the pricing would work per section of the tower. He noted that every time, the lessee was in a new 30 ft section, there would be a new site access fee charged. Ms. Rorrer referred Members to example 6 and noted that if a lessee was in a lower section, the rate was also lower.

Mr. Carter noted that so far the primary interest in the towers had been from SCS; however there had been some interest from a cellular company.

Members then asked if it was possible to have a Broadband provider and a Cellular provider in the same ten foot section and Ms. Rorrer noted that typically a cellular company would use their whole section and liked to be by themselves. She then noted that one inquiry into the rates had provided input that larger carriers were accustomed to paying \$2,300 to \$2,800 per month; therefore, Staff was discouraging the Authority from discounting rates to these carriers.

Mr. Payne then noted that he needed direction from the Authority on this and that if they wanted to have a differential rate, he was not finished researching whether or not they could do this.

It was noted that there was no concern that the cellular companies would buy up all of the tower space.

Mr. Stewart of SCS noted that he was concerned that if a cellular provider went on the top spot of the towers, then there would not be much load capacity left for others. He suggested that tower loading be a consideration when leasing space. He noted that according to the tower specifications he had gotten from the manufacturer, the NCBA towers can handle 90 mph per square foot and with ice they can handle 35 mph per square foot. He added that by his calculations, this equated to 12 antennas and 2 dishes.

Mr. Carter noted that staff could re-address this with Icon Engineering; however the NCBA towers were built for the loading of at least two cell carriers. He added that the loading would be explored depending on who came forward with interest in locating on the towers. Ms. Rorrer added that prior to the NCBA signing a lease with a company; it would be standard practice to require that a structural analysis be provided that showed all of the equipment to be placed on the tower. She noted that staff was aware of the fact that the load capacity could be impacted by heavy installations.

Mr. Harvey then inquired as to the comparison of cellular and WISP equipment loading and it was noted that cellular providers could use dual band equipment, which would be a larger antenna 8 feet wide; whereas the largest antenna of a WISP was about 4 feet wide.

Mr. Stewart noted that it was common for companies to share space with cellular providers. He reiterated that he was concerned that two cellular carriers would take the entire load capacity of a tower.

He then added that splitting the band was better in terms of wind load but not service. He noted that more antennas were required to provide better service; however dual frequency equipment eliminated the need for more radios.

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Mr. Harvey then asked Mr. Stewart if he had any comments on the proposed new tower rates and Mr. Stewart noted the following:

He agreed that the proposed 50% discount matched the provided CIT average monthly rates; however it did not include power costs so he would suggest using a discount of 50-60 percent. Ms. Rorrer noted that the County could take care of power costs.

Mr. Stewart added that he did not think the rates should be discounted, but rather the rates should be reduced. He noted that using a discount implied that the original pricing was correct. He also questioned what would happen after the three years. He then added that he thought future pricing should be market rates based on the input from CIT etc.

Mr. Stewart also noted that he agreed with the third party analysis; however tower location was not considered and adoptable installs was not considered. He added that all towers would break even at this point for him. He noted that SCS or any other WISP would need to phase in each tower over several weeks. He added that it took 8 weeks for him to break even on the existing Afton tower. Mr. Stewart noted that he wanted to help the few homes they could not reach already but he did not think there was much profit in locating on the NCBA towers. He added that it would add to SCS's asset portfolio.

Mr. Stewart concluded his comments by noting that he had gotten an agreement to locate on Spears Mountain in Buckingham to repeat from. He added this was important for his partnership with Nelson County as it provided the eastern side of the County with the opportunity for service as well as added redundancy and new links.

Mr. Harvey noted that he would rather revise the rate structure and show it as such rather than applying a discount. Mr. Carter noted that staff could work on this. He added that the Authority could approve the new rates then but then staff would have to sort through the question of different rates for cellular providers and WISPS. He added that they could go forward and that staff could craft the amendment and advertise it and set things in motion.

Mr. Hale noted that the Authority's goal was to see that the towers were used. He added that he was presently not clear whether or not SCS would use them but he thought this should go forward. Mr. Stewart indicated that they would be interested in using the towers.

Mr. Hale then moved that the Broadband Authority move forward with a revised rate structure that represented half of the current tower rates with the exception of those for cellular providers which would remain the same and Mr. Bruguere seconded the motion.

Ms. Brennan noted that if they moved forward and could not separate the WISP and Cellular provider rates, then they could amend it.

Mr. Hale then amended his motion to include that the rates would be reduced for a three year period and providers would be subject to a rate revision at the end of a contract. Mr. Bruguere then seconded the amended motion.

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Members and staff discussed how this would work with contract terms and Ms. Rorrer suggested that the Authority limit its terms of contracts to the term of the rates.

Mr. Saunders commented that these rates were good back in April until the contracts were to be signed and then they became too high.

There being no further discussion, Members voted unanimously (5-0) by roll call vote to approve the motion and the following was thereby resolved:

**RESOLUTION R2013-10  
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	

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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:

<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

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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.

**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. 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*.

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**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.

Mr. Carter then noted that Staff would work through the details and he apologized that staff was not more thorough or faster back in April.

Mr. Bruguere noted that he would like to see that whoever rented space on towers, was bound by contract to put equipment up within six months. He referred to existing towers in Piney River that had nothing on them and he thought that providers should have to do this within a reasonable time. He added that the reason given for this in Piney River was that there was not enough customers.

Staff reiterated that Verizon and others had expressed interest in the towers and Mr. Payne noted that he could include language in the contracts that lessees had six months to install equipment.

Mr. Harvey suggested that conversely if someone installed equipment and then went out of business, the contract should ensure prompt removal of the equipment.

Mr. Harvey indicated that he was happy with the participation on the rates that would benefit the County.

#### **E. Schedule NCBA Work Session**

Mr. Carter noted that this was included on the agenda since members had indicated a desire to have a work session; however staff needed guidance on the subject matter.

Members agreed by consensus to wait on this since the tower rate issue had been somewhat resolved. Ms. Brennan noted that she still wanted the question answered regarding cell companies buying up all of the space on the towers and Mr. Carter noted that a continued focus was how to prevent this. Mr. Payne advised that the Authority had the right to deny tower leases as long as there was a logical reason for it.

#### **V. Other Business (As May Be Presented)**

There was no other business considered by the Authority.

#### **VI. Adjournment**

At 6:54 PM, Mr. Hale moved to adjourn and Mr. Bruguere seconded the motion. There being no further discussion, Members voted unanimously by voice vote to approve the motion and the meeting adjourned.