Good afternoon Commissioners. My name is Cullen Robbins, and I am the Director of the Telecom/NUSF department under which this program will be administered. I appreciate the opportunity to discuss our proposal with you, and I also appreciate the comments that have been submitted in this docket. I think that they were, on the whole, useful in helping us refine what we put out for comment. As you know, when we opened this docket in June of this year, we set forth a proposed application package for the broadband grant program and sought comment from interested parties on the proposed application process. I will go through some of those comments and our responses to them now. I intend to focus on the points that we believe would be beneficial for refining the grant process.

First, I want to point out a couple of details about LB 388 and how it informed what we originally proposed. LB 388 targets support to areas that lack broadband according to the definitions of unserved and underserved and provides priority tiers for which the grants should be awarded. My belief is that those priority tiers would work to direct grants more towards rural areas, but they do not preclude the grants from being awarded to areas that are in-town. Also, ETC designation was included as a required factor in the weighted scoring system, but we do not believe it was intended to be a requirement to receive grants. Our proposal reflects that understanding. Finally, I believe that all projects supported through this program should be able to deliver at least 100/100 Mbps to any household within the project area that orders that service once the project is complete.

For the application process, commenters didn't seem to take issue with the requirement to provide a polygon shapefile of the proposed project area. There also seemed to be support for requiring that all locations within the identified project area are capable of being served upon completion of the project. We do believe supplementing the polygon shapefile with a point file containing serviceable locations would be useful and could be filed confidentially if there are concerns from the applicant.

Several commenters mentioned the application had an incorrect speed tier identification (it should be 100/20) for what is considered underserved – we do plan to make that correction.

We proposed to allow non-contiguous areas to be included in an application, and while we think it is reasonable to allow this, we would propose two additional requirements for applications with non-contiguous areas – first, that they explain why the areas are not connected, and second, that applications are limited to areas that are either within the same ILEC exchange, or are within adjacent exchanges. We believe this provides the proper constraints to ensure we don't receive applications with areas that have no natural connection to each other.

We received a number of comments regarding whether applications should be allowed that include both unserved and underserved areas. We believe it is likely that a project area would include both, and we proposed to consider such applications under the lower priority tier. While there were some ideas presented regarding how applications could be evaluated that contain both unserved and underserved areas, I was not convinced that there is an objective and administratively efficient method to make those determinations, and I would suggest moving forward with our proposal, except that applicants could separate those areas into two separate applications if they so choose, and each would be considered independently.

There did seem to be support from commenters for allowing applicants whose proposals include overlapping geographic areas to amend their applications. We recommend implementing that change.

At least one commenter suggested that we define the federal or state programs that would otherwise make an area ineligible for a grant. As a general matter, any area that receives support to deploy fiber to the premise would be ineligible if the construction would be completed within 2 years of the grant award date. Therefore, that would rule out any area receiving support for fiber builds supported through NUSF-99. Projects already noticed and/or underway through NUSF-108 that utilize NUSF Broadband Deployment Support, or BDS, would also be ineligible. We believe there could be situations where areas eligible for BDS could be built out faster if BDS were allowed as a match since the BDS allocation for a given funding year may not be enough to build out the entire area. We suggest that could be an efficient use of both the grant money available through this program and NUSF BDS, and not duplicative. We would also plan to rule out areas supported through the USDA ReConnect program. I would also expect that census blocks with locations fully funded through A-CAM would not be eligible since the funding model is based on a fiber to the home architecture. Areas that were awarded bids in the Rural Digital Opportunity Fund, or RDOF, could be eligible if the applicant could show that the RDOF awardee won't provide service within 2 years and/or if the application was not challenged.

There was also significant comment about whether and/or how in-kind contributions would be allowed as a match source. In response to the comments, we think it would be prudent to restrict the sources of in-kind contributions to only items for which the value can be identified, such as equipment and inventory on hand. Applicants would need to identify the price originally paid for such items. We would require applicants to prove the value of any in-kind contribution. We would also propose to disallow labor-related expenses as an in-kind contribution match source.

There were several suggestions made with respect to the scoring process that I also think warrant consideration. First, regarding the financial capability of the applicant, I think it is appropriate to require either audited financial statements <u>or</u> a copy of the applicant's federal tax return, not both. We agree with some commenters that indicated the former should be sufficient to establish that the applicant is financially viable. We also agree that ETCs that currently hold that designation meet the financial requirements by virtue of being an ETC in good standing.

Next, for the rate comparability metric, we agree with a commenter that suggested we use the pricing information for the speed tier that is at least 100/100 to do the rate comparability test. Therefore, we would expect that the rates offered for that speed tier would be comparable to the rates charged for that speed tier in the other areas of the state where the applicant or carrier partner provide service. Documentation that supports that the rates are comparable should be included with the application.

Some commenters indicated that they believed no additional points should be awarded for projects that are capable of higher speeds. I disagree, and I think that providing additional points for projects that utilize technologies that are capable of scalability to meet future needs should be incentivized. We would also recommend that for alternative technologies, a statement from an engineer attesting to the speed capabilities of the technology proposed should accompany the application.

Most commenters seemed to favor the removal of the households covered factor. The rationale for including it was that the priority tiers would by nature favor rural applications, and that if two applications were otherwise equal, it would be preferable to cover the most households possible. Removal of this factor, though, would be acceptable if Commissioners so choose.

With respect to the overall weighting of the factors, my opinion is that once the technical, legal and financial capability of the applicant/carrier partner have been established, the most important factors to be considered are the match source and percentage, and the speed tiers made available to the customer. We attempted to weight the factors accordingly, but we understand that we may need to modify them to account for some irregularities, as was pointed out by at least one commenter.

With respect to the challenge process, we took note of a couple of things that we think are worth mentioning. One commenter suggested allowing challengers to notify the Commission of their intent to challenge ahead of the deadline for challenges. We think this is a reasonable approach and should be adopted. We would recommend that it is mandatory for challenging parties to notify us of their intent prior to the deadline that we will establish for these notices. At least one commenter didn't think that plant maps should be required to be included with a challenge. We disagree - we believe that they can be filed confidentially and would be a clear way to show that customers in the challenged area are being served. At least one commenter also argued that requiring a list of customers in the challenged area would cause them to have to provide sensitive information – we suggest that having them file address information only, and confidentially, would remove those concerns. We do believe as a general matter that this information is important to establish that service is available in the area being challenged.

The final item that I want to bring up is the post-construction speed testing. We think it would be a good idea to require the grant recipient to provide a service at least capable of 100/100 Mbps service to the locations that will be subject to speed testing, at least for the testing period. We think this would allow for a better evaluation of the service capabilities.

With that, I thank you for your time, and I'm happy to answer any questions you might have.