

Nov. 5, 2020

### O’Rielly Addresses Allegations of Subsidized ‘Overbuilding’

FCC Commissioner Mike O’Rielly this week said it was “shameful” that a Wyoming-based broadband company was suffering due to alleged government-funded “overbuilding” of broadband networks in the area it serves.

On Twitter earlier this week, Commissioner O’Rielly said, “My apologies to Tongue River Communications, WY family business apparently facing government-subsidized overbuilding. If accurate, it’s shameful given many Americans have NO broadband access. All fed broadband funding must strongly & clearly prohibit such waste & target UNSERVED.”

In a blog post published on Nov. 2 on the ACA Connects website, the founder of Tongue River Communications, Robert Jacobson, said the Wyoming Business Council “has been wasting millions of dollars by failing to earmark broadband Internet access funds supplied by the taxpayers to their proper destination: unserved households.”

“Rather than focus on those without broadband, Wyoming is in the process of awarding millions in CARES Act money to broadband companies that intend to compete with other broadband providers that already achieve data transmission speeds far in excess of the Federal Communications Commission’s minimum definition of broadband: 25 megabits per second (mbps) downstream and 3 mbps upstream,” Mr. Jacobson said, adding that small broadband providers were being “victimized by Wyoming’s fiscally wanton practices, which are unfair and need to stop to prevent irreparable harm.”

Mr. Jacobson claims that Tongue River, which is co-owned by his wife and son, is “possibly facing a very unhappy ending because of the reckless approach to broadband funding taken by the state of Wyoming in concert with the Wyoming Business Council, which is administering the broadband-centric ConnectWyoming program.” He wants an investigation into the \$1.1 million ConnectWyoming grant to competitor Visionary Communications to build a fiber system. He claims that both Tongue River Communications and CenturyLink offer broadband speeds that exceed the FCC’s baseline definition of broadband in that area.

The Wyoming Business Council on Aug. 14 approved 37 projects to receive federal CARES Act dollars for broadband projects. Visionary received about \$15.6 million in funding for various broadband projects, including the \$1.1 million grant for the Dayton, Ranchester fiber project. According to ConnectWyoming, unserved and underserved areas were funded, and middle-mile and redundant fiber routes were made a priority.

“The process by which Visionary obtained funding was a black box and an inside deal. There was a total lack of transparency, with no notice to affected parties. The process ran afoul of ConnectWyoming guidelines, which stipulate that unserved and underserved areas were first in line and no money was to go to overbuilders like Visionary. There was no public announcement of the availability of funds as was the case for other Wyoming Business Council programs; rather, selected companies were notified of the availability by e-mail. ConnectWyoming guidelines requiring public announcement of applicants and proposed service areas by July 27, 2020, were ignored,” Mr. Jacobson alleges. —Carrie DeLeon, [carrie.deleon@wolterskluwer.com](mailto:carrie.deleon@wolterskluwer.com)

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