



March 21, 2018

To: ARC Executive Director  
ARC General Counsel  
ARC Director, Community Investments  
ARC Assistant General Counsel  
From: Hubert Sparks, Inspector General

Subject: Broadband Expansion in Campbell County, TN – Memorandum Report No. 18-10

### Summary

We concluded based on information developed as a result of a protest with respect to an ARC \$1.8 million grant for expansion and upgrading broadband service in Campbell County Tennessee that ARC review of the scope of the grant was appropriate. The protest concerned expansion of federally funded broadband service into a section of the county and facilities that was currently served by broadband service that was at or above Federal standards. At the time of grant approval ARC was not aware that broadband service was being provided by another company in the area that was included in the grant approval. The State emphasized upgraded service as a primary reason for approving the grant application.

The primary issues are the ARC Code that specifies that grant assistance shall not be used for projects that promote unfair competition between businesses in the same community and the use of Federal funds for additional service when current service meets standards and there are currently areas that are not serviced or underserved with broadband service.

### Background

ARC approved the \$2,365,730 grant that included \$473,146 match by the grantee on July 11, 2017 to help fund approximately 50 miles of fiber optic broadband service through portions of Campbell County.

An April 10, 2017 letter to the Tennessee Department of Economic and Community Development (TDEC) from the eventual grantee states that it is seeking ARC funds to build a fiber optic network which would provide broadband to the unserved area of northwest Campbell County. The letter also states the network would proceed northwest toward the communities of Pioneer, Newcomb and Jellico.

The application dated June 13, 2017 states the applicant will construct a fiber optic network which will provide high speed broadband service to approximately 1,288 homes and

businesses in the underserved areas of northwest Campbell County. The application also notes that this section of Campbell County is non-served or underserved with broadband service. Approximately 50 miles of fiber would be constructed and would include a branch proceeding northwest toward the communities of Newcomb and Jellico. The application supporting documentation notes partnership support for providing reliable internet capabilities to schools in the region, the Jellico hospital and to the Jellico Power Company substation.

Impact measures noted in the application are that if a 65 percent participation rate on broadband services is achieved it is estimated that approximately 748 households and 87 businesses will subscribe to the new fiber optic broadband service. The system would provide speeds up to 1 GIG by 1 GIG and the lowest speed offered would be 25/3 Mbps.

The grant application did not indicate the availability of broadband service in sections of Campbell County, including Jellico and Newcomb.

The primary issue between the grantee and complainant concerns service to the Jellico and Newcomb communities that have current service and service to potential customers in a yet undeveloped area.

The complainant currently providing broadband service to the Jellico and Newcomb communities of Campbell County did not agree that these communities were underserved or not served and did not believe Federal funding should be used for additional service in an area currently served by broadband that met or exceeded Federal standards. Underserved is generally defined as an area (census tract) where 25/2, Mbps is not available.

## Results

There is significant disagreement between the two impacted parties with respect to the extent of overlap between the number of households and businesses included in the grant application and approval and the services currently being provided. Available information indicates that the Jellico and Newcomb communities constitute a significant proportion of the population in the areas for which the grant is applicable and this population is the primary issue between the parties. Provision of service to the underserved or not served communities in the less populated areas was not identified as a priority by either party.

Contact with both parties and available background information supported contentions that both service providers met Federal standards and provided or could provide service in excess of Federal standards. Both parties also noted that much service is provided that is below Federal standards based on customer requests, including the reduced costs of such service.

Contact with officials responsible for broadband service at Campbell County schools and the Jellico hospital disclosed they were satisfied with current service.

The grantee initiated engineering services and as not yet received ARC funds.

ARC initiated action to preclude or reduce similar concerns in connection with other potential grants by providing that additional information be included in grant applications about other related services in the intended grant area in order to improve review and processing of grant applications.

We concur with the ARC provision that grant assistance shall not be used for projects to promote unfair competition between businesses in the same community.

However, based on discussion with legal sources a clear definition of unfair competition was not identified. Thus, judgmental decisions are necessary based on information about the adequacy of services in a particular area including potential negative impact on current service providers and potential improvement of services in an area.

Negotiation between grantee and complainant with respect to areas of service is in process.

We recommend:

- ARC, in conjunction with TDEC, review any agreements between grantee and complainant to assure compliance with ARC regulations.
- ARC utilize information provided by future grant applicants and status of service in the applicable grant area to make decisions about unfair competition.