



VIEW*S* & VISIONS

A publication of Bowles Rice LLP

Summer 2018



Community Development Block Grant Funds Assist West Virginia Communities in Broadband Development

Kelly Workman, Project Development Manager
West Virginia Development Office

Kelly Workman serves as Community Development Manager for the West Virginia Development Office, where she has managed numerous state and federal programs within the West Virginia Department of Commerce.

In 2017, she was appointed as the West Virginia Department of Commerce liaison to the West Virginia Broadband Enhancement Council to pursue the development of this industry throughout the state.

As Manager of Project Development, she coordinated water and wastewater infrastructure and housing construction programs funded through the Community Development Block Grant and other programs of the U.S. Department of Housing and Urban Development. Workman has also managed the Local Economic Development and Certified Development Community programs as well as related state and federal development programs and initiatives during her 20-year tenure.

Workman earned a bachelor's degree from Concord University and a master's degree from Marshall University. Prior to joining the Development Office, she held positions in the West Virginia Senate, West Virginia Department of Administration and the Contractors Association of West Virginia.

Active in numerous professional and civic organizations, Workman's professional background includes project management, technical writing, training, human resource management, media relations and marketing.

Governor Jim Justice announced in a February 2018 press release that for the first time in West Virginia, Community Development Block Grant (CDBG) funds are being dedicated to broadband planning and infrastructure projects. The governor said, "My administration is dedicated to improving the quality of life for all West Virginians. If West Virginia expects to be competitive with the rest of the world, we must have high speed internet connectivity, and this is going to help see this through."

More than half of the state's 55 counties are represented in the 12 projects funded in the first year of this initiative, with a total investment of approximately \$1.5 million, as detailed in the 2018 CDBG Broadband Projects chart (opposite page). The West Virginia Broadband Enhancement Council (Council) partnered with the West Virginia Development Office to develop the program. The CDBG program is administered by the U.S. Department of Housing and Urban Development (HUD) and is one of the longest running programs of the agency.



While CDBG funding is primarily utilized for the development of water and sewer infrastructure throughout West Virginia, there is a growing recognition that broadband infrastructure is a critical factor in the state's ability to compete for economic development and job creation opportunities. As communities and economies become more connected, broadband infrastructure is an increasing concern, particularly among rural areas of West Virginia and areas in which low- to moderate-income residents may not have adequate access to this technology.

"To date, West Virginia has not aggressively pursued broadband funding and we want to change this. We found that our local governments needed assistance in starting this process and in finding the best path forward," said West Virginia Broadband Enhancement Council Chairman Robert Hinton. "We also believe that it's critically important to develop

	Population in Millions	Fixed Broadband 25 Mbps/3 Mbps		State Rank
		Population With Access	Percent of Population	
United States	322.518	297.766	92.30%	
Maryland	6.001	5.85	97.50%	8
Pennsylvania	12.774	12.124	94.90%	15
Ohio	11.61	10.724	92.40%	22
Tennessee	6.64	6.049	91.10%	24
Virginia	8.387	7.617	90.80%	27
Kentucky	4.428	3.799	85.80%	39
West Virginia	1.83	1.504	82.20%	44

Source: FCC 2018 Broadband Deployment Report
[HTTPS://WWW.FCC.GOV/DOCUMENTS/FCC-RELEASES-2018-BROADBAND-DEPLOYMENT-REPORT](https://www.fcc.gov/documents/fcc-releases-2018-broadband-deployment-report)

2018 CDBG Broadband Projects

County/Region	Project
Clay County Commission	Calhoun-Clay-Roane Regional Plan
Fayette County Commission	Fayette County Broadband Plan
Gilmer County Commission	Fixed Wireless Design Plan
Hampshire County Commission	Broadband Expansion Project
Jackson County Commission	Sandyville Area Wireless Project
Mingo County Commission	Mingo-Town of Gilbert Design Plan
Morgan County Commission	Morgan County Broadband Plan
Nicholas County Commission	Hinkle Mtn. Pilot Project
*Taylor County Commission	Regional Broadband Strategic Plan
Tyler County Commission	Tyler County Broadband Plan
*Webster County Commission	Broadband Initiative for Southern WV
*Wyoming County Commission	Regional Broadband Strategic Plan

*Lead Applicant for Regional Project

successful project models and that is where a planning grant can assist a community in moving forward with a solid broadband development strategy.”

The Council is encouraging the pursuit of broadband funding through numerous federal programs, administered by the U.S. Department of Agriculture (USDA) Community Connect, the U.S. Economic Development Administration, the Appalachian Regional Commission and other agencies. The Council is also forging partnerships to assist in the development of the broadband industry with the U.S. Small Business Administration (SBA) and West Virginia Small Business Development Center.

The USDA works in conjunction with the SBA to ensure that small businesses have the resources they need to be successful. During a recent tour of southern West Virginia, representatives from the SBA and USDA joined other state and local representatives to meet with residents, business owners and government leaders to discuss the importance of high-speed, reliable internet service.

Broadband is described by the Federal Communications Commission (FCC) as a benchmark of 25 megabits per second

(Mbps) downstream and 3 Mbps upstream, or a rate of 25/3. West Virginia currently ranks 44th in the nation for the percentage of residents with access to fixed broadband, according to the FCC definition, as shown in the chart on the opposite page.

The Council urges commercial and residential internet users in this region to test their internet speed through the West Virginia Speed Test portal at <https://broadband.wv.gov/internet-speed-test>. Data obtained through the speed test will support the pursuit of funding for broadband infrastructure development.



Beyond the technical definition, broadband infrastructure must be a fit for the community and must incorporate the feasible applications of broadband technology. CDBG broadband planning grants will enable communities to develop projects and pursue funding in an efficient manner, consistent with the HUD Consolidated Plan in which the State of West Virginia has identified three primary community development objectives, through which the CDBG program will:

- 1) Support local government efforts to provide affordable infrastructure systems;
- 2) Support local community efforts to assist low- to moderate-income citizens to achieve an improved quality of life; and
- 3) Support job creation and retention efforts.

The utilization of CDBG funding will assist the state in building the foundation, capacity and technical expertise needed for broadband development. Wyoming County is the lead agency for a 2018 CDBG broadband planning project. The project will result in the development of a plan to improve broadband service in McDowell, Mercer, Monroe, Raleigh, Summers and Wyoming Counties.

“The importance of broadband planning and infrastructure for Wyoming County and the surrounding region cannot be emphasized enough,” said Jason Roberts, Region I Executive Director. “Wyoming County has taken a necessary step in advancing the presence of broadband, which will make the region much more competitive in attracting new businesses while boosting the operations of existing businesses.”

The integration of CDBG funding into broadband development was initiated in 2016 when HUD directed that states evaluate the availability of broadband access through its rule, titled “*Modernizing the HUD Consolidated Planning Process*”

Continued on Page 56



Community Development Block Grant Funds Assist West Virginia Communities in Broadband Development

Kelly Workman
(continued from p. 15)

to Narrow the Digital Divide and Increase Resilience to Natural Hazards.”

In this rule, HUD directs that where access to broadband is not currently available or is minimally available, as in rural areas, states must consider ways to bring broadband access to residents, noting, “The importance of all Americans having access to the Internet cannot be overstated.”

As HUD stated in its announcement of the Digital Opportunity Demonstration, published in the Federal Register on April 3, 2015, at 80 FR 18248, “Knowledge is a pillar to achieving the American Dream – a catalyst for upward mobility as well as an investment that ensures each generation is as successful as the last. Many low-income Americans do not have broadband Internet at home, contributing to the estimated 66 million Americans who are without the most basic digital literacy skills. Without broadband access and connectivity, and the skills to use Internet technology at home, children will miss out on the high-value educational, economic and social impact that high-speed Internet provides.”

Upon HUD approval, West Virginia will receive approximately \$13.5 million in fiscal year 2018 CDBG funding. The state intends to dedicate a base amount of \$2 million to broadband development in one or more funding cycles, with the first application deadline of October 30, 2018. A second application cycle may be added in the spring of 2019. The WVDO will coordinate broadband projects with the West Virginia Broadband Enhancement Council, West Virginia Geological and Economic Survey and the West Virginia Office of GIS Coordination.

All West Virginia municipalities and counties are eligible to apply for CDBG funds, except entitlement cities that receive funds directly from HUD, including: Beckley, Charleston, Huntington, Martinsburg, Morgantown, Parkersburg, Weirton, Wheeling and Vienna. Matching funds are not required; however, projects that leverage other federal, state and local funding in the deployment of broadband infrastructure are encouraged. Local governments are generally required to partner with a Regional Planning and Development Council to develop applications and administer CDBG grants. CDBG funds may also serve as matching funds to eligible projects funded by other federal, state and private sources. ▽



Natural Gas Production Severance Tax

Charlie Burd
(continued from p. 31)

and fairly implemented tax structure and more regulatory and environmental regulations that lead to lower cost to explore, drill and operate. These factors can be summed up in higher rates of return on investment and greater profitability to owners and shareholders.

Getting Back in the Game

So how does West Virginia get back into the game? Like many other examples that could be cited from differing industries, West Virginia must simply become more business friendly and more attractive than its competition. The essence of which is in creating value through the utilization of our clean-burning, energy-efficient natural gas in future downstream petrochemical and manufacturing opportunities; increasing the number of natural gas-fired electric generation plants; piping its produced natural gas to facilities to be liquified and shipped, in many cases, to our allies who are growing more dependent for energy supplies; and, finally, in the development and completion of the Appalachian Storage and Trading Hub.

Economic Revitalization

The Appalachian Storage and Trading Hub, once completed, is expected to be the hope for West Virginia’s future manufacturing resurgence. This multi-billion dollar investment will directly impact the entire Appalachian Basin, once again giving West Virginia the opportunity to be at the core of the second largest U.S. petrochemical and manufacturing epicenter. Dr. Brian Anderson, director of the West Virginia University Energy Institute, said it best, “Appalachia is poised for a renaissance of the petrochemical industry due to the availability of natural gas liquids. A critical path for this rebirth is through the development of infrastructure to support the industry. The Appalachian Storage Hub study is a first step for realizing that necessary infrastructure.”

Hope for the Future

The first horizontal well drilled and placed by Chesapeake Energy in Marshall County, West Virginia a decade ago produces 37 times the amount of natural gas than it did in 2008. In that same time period, severance tax collections on natural gas has provided approximately \$959 million in economic benefit to the citizens of West Virginia. Ten percent of those funds, or \$95 million, was held aside and distributed to local governments for their use. The other 90 percent, or \$864 million, was combined with personal income tax collections,