April 30, 2020

The Honorable Sonny Perdue
Secretary
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250

Re: Paycheck Protection Program and Rural “501(c)12” Cooperatives

Dear Secretary Perdue:

This letter is sent on behalf of NTCA–The Rural Broadband Association, which represents nearly 850 providers of voice and broadband services offered atop some of the most robust and advanced networks to be found in rural America. As you may recall from speaking at our Fall Conference last September and from meeting a number of our members in person, these are “hometown providers” based largely in the areas they serve, with an unparalleled sense of community commitment and an entrepreneurial spirit that helps to drive economic development.

I write today to ask for your assistance as these small businesses grapple with the economic effects of the coronavirus crisis in their rural communities. Your Department has already been so helpful, offering relief from loan covenants and extending deadlines for things like new ReConnect program applications. These measures have allowed our members to focus on the business of keeping Americans connected at a time when this vital connectivity is needed more than ever. Nonetheless, due to the economic impacts of the pandemic, many rural Americans are finding themselves out of work or facing reduced pay. Our members are struggling in some cases as well to sustain their own operations, confronting the challenges of keeping their employees on payroll even as customers find it increasingly difficult to pay and certain functions cannot be performed in the current environment.

For these reasons, some NTCA members have sought to participate in the Paycheck Protection Program (“PPP”). Although some have been able to secure PPP loans with relative ease, certain of our cooperative members unfortunately face significant uncertainty in terms of their eligibility for such loans. Specifically, we have heard that some (but not all) lenders are declining to issue loans to so-called “utility cooperatives” – non-profit telecommunications and electric cooperatives – under the theory that those organized in accordance with Section 501(c)(12) of the Internal Revenue Code may be ineligible for the PPP. These entities, of course, constitute a sizeable portion of your agency’s Rural Development borrowers, and these small businesses could use PPP relief just as much as any corporation or for-profit cooperative.

The Small Business Administration (“SBA”), in consultation with the Department of the Treasury, has released guidance on the PPP, and it recently stated that “[a]s long as other PPP eligibility requirements are met, small agricultural cooperatives and other cooperatives may receive PPP loans.” We believe this guidance was likely provided as a direct result of your intervention, and we are grateful for this. Despite the broad nature of this statement, we continue to hear that some lenders believe this only clarifies the eligibility of certain kinds of cooperatives, and that uncertainty remains specifically with respect to non-profit Section 501(c)(12) cooperatives, such as “utility cooperatives.”
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The work that NTCA members and other non-profit cooperatives do in connecting rural America to communications and electric infrastructure is essential – in fact, at a time like this, the value of these services is highlighted like never before. But some of these firms need help to sustain their operations, and the PPP offers such promise. There is no sound reason to deny these firms access to PPP as small businesses.

We therefore respectfully request your help in obtaining public guidance as soon as possible from the SBA and Treasury Department that all cooperatives, including those described in Section 501(c)(12) of the Internal Revenue Code, are eligible to apply for and receive PPP loans. Given that the deadline for returning any loans received is May 7, 2020, this request is highly time-sensitive. We believe that a simple clarification by SBA and Treasury in the guidance that those agencies update periodically is essential to provide lenders and would-be borrowers alike the assurances they need – and such a measure would go a long way toward helping these cooperatives, many of whom are also borrowers of loans through your agency, continue in their mission of delivering connectivity to the most rural and remote reaches of the United States.

Thank you for your attention to this letter. We have been so deeply appreciative of your leadership and your efforts to promote the economic vitality of rural America, and we are hopeful that you can assist these rural small businesses in furthering our shared mission.

Sincerely,

Shirley Bloomfield  
Chief Executive Officer

cc: Deputy Under Secretary Bette Brand  
Administrator Chad Rupe

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