

**TESTIMONY OF JUSTIN FORDE**

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**on**

**Recent Federal Actions to Expand Broadband: Are We Making Progress?**

**before the**

**Committee on Commerce, Science, and Transportation**

**UNITED STATES SENATE**

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Chair Cantwell, Ranking Member Wicker, and Members of the Committee, thank you for inviting me here to discuss Midco's experience with federal broadband funding programs. My name is Justin Forde, and I am the Senior Director of Government Relations at Midcontinent Communications ("Midco"). Midco is the leading provider of Internet and connectivity, cable TV, phone, data center and advertising services in the Upper Midwest. We also operate a regional sports network, Midco Sports Network, which broadcasts live, local high school and regional college sports.

More than 440,000 residential and business customers count on Midco services across five states: South Dakota, North Dakota, Minnesota, Kansas, and Wisconsin. Midco communities range from just over 100 people in places like Dodge, North Dakota, to our largest community, Sioux Falls, South Dakota, which has a metro population of nearly 250,000. The majority of the 400 communities we serve are very rural. Many have less than 50,000 people, with most having populations between 500 and 5,000.

The COVID-19 pandemic put a spotlight on the importance of broadband connectivity for all Americans, and America's ISP networks delivered. At Midco, our investment of over \$457 million in the last five years positioned us to serve the needs of our customers as they fully integrated their work, school and home lives. We also connected 2,500 families to free internet at home (including our rural, fixed wireless network), partnered with school districts to connect students needing service, and signed on to former Federal Communications Commission ("FCC") Chairman Pai's "Keep Americans Connected" pledge.

Collectively, ISPs have invested more than \$1.8 trillion in capital over the last twenty - three years to get America connected. Light-touch regulatory policy from the FCC and Congress has enabled this work. The U.S. cable industry now offers 1 Gigabit service to 88 percent of

American households, in both urban and rural communities. Currently, over 95% of the country has access to broadband service that offers speeds of at least 25 Mbps download and 3 Mbps upload. But we need to solve the remaining broadband deployment challenge of connecting those who do not have internet available – primarily in the most rural areas that are difficult to serve in a cost-effective manner.

Midco provides Gigabit services to more than 95% of the largely rural communities it serves. Many of our service areas are adjacent to areas that are not economical to serve without federal assistance, and we have sought and obtained funding through federal and state programs to assist with expanding to those areas.

I'm here today to share our experience with those programs, including those administered by the FCC – we participated in the FCC's Connect America Fund ("CAF") auction and the Rural Digital Opportunity Fund ("RDOF") auction – as well as the Department of Agriculture's Rural Utilities Service ("RUS"). I will say that there have been significant improvements to federal broadband funding programs since I last appeared before this Committee in 2019, but there remain important ways to improve them further. With many billions of federal funding dollars being focused on broadband expansion, it is more important than ever to get these programs right.

### **Midco's History of Innovation**

Before discussing Midco's experience with funding programs, I want to explain how we have innovated to provide broadband to rural communities in various ways. Innovation and foresight have shaped Midco's course for more than 90 years. We have made it our mission to ensure that our most rural communities are at the leading edge of technology. Across our

footprint, our goal is always to continue to find ways to meet and exceed the communications needs of our customers.

Founded in 1931, Midco began by operating movie theatres, and then entered the radio business. In 1954, our owners launched the first television station in South Dakota. From there, Midco evolved its service line to include cable television and phone service. On April 15, 1996, in Aberdeen, South Dakota, a town of about 25,000 people then, Midco launched our broadband internet service.

Our commitment to innovation continues to motivate our business initiatives. We own and operate four data centers in North Dakota and South Dakota to give local businesses a cost-effective way to secure their critical data and IT infrastructure. We provide solutions for regional and national banking, healthcare, energy, and government customers, among many other industries. We combine our data center services with powerful network solutions through our wholly owned, operated and engineered Midco fiber network. Our data centers are directly connected to our fiber backbone, giving businesses access to some of the fastest internet speeds in the country.

Midco's willingness to evolve stems from our desire to serve the communities where we live, work and educate the next generation. In 2017, we launched the Midco Gig Initiative – a commitment to bring Gigabit internet speeds to our entire service area – from the region's smallest towns to its largest cities. In 2019, Midco Gig was available to more than 90% of our customers. That year, we announced our involvement in the 10G initiative, a commitment to invest \$500 million over 10 years on a global cable industry standard that will provide ultra-fast multigigabit speeds in both directions, combined with low latency, unmatched reliability, and rock-solid security for a broad range of customers. Today, more than 95% of Midco's customers

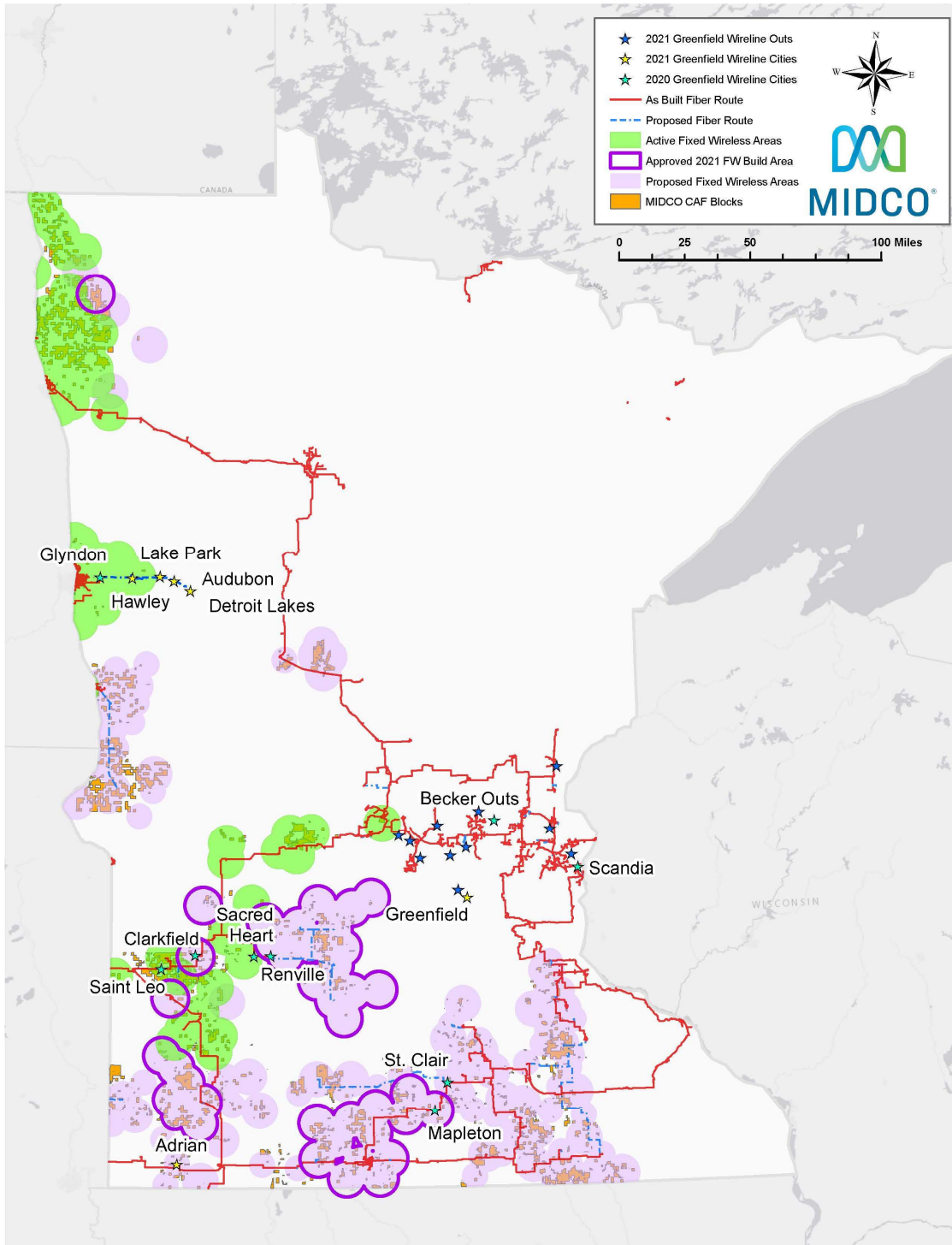
across our footprint are receiving service that exceeds 1 Gig speeds. In the coming months, we will announce a major upgrade that will give even more customers greater speeds.

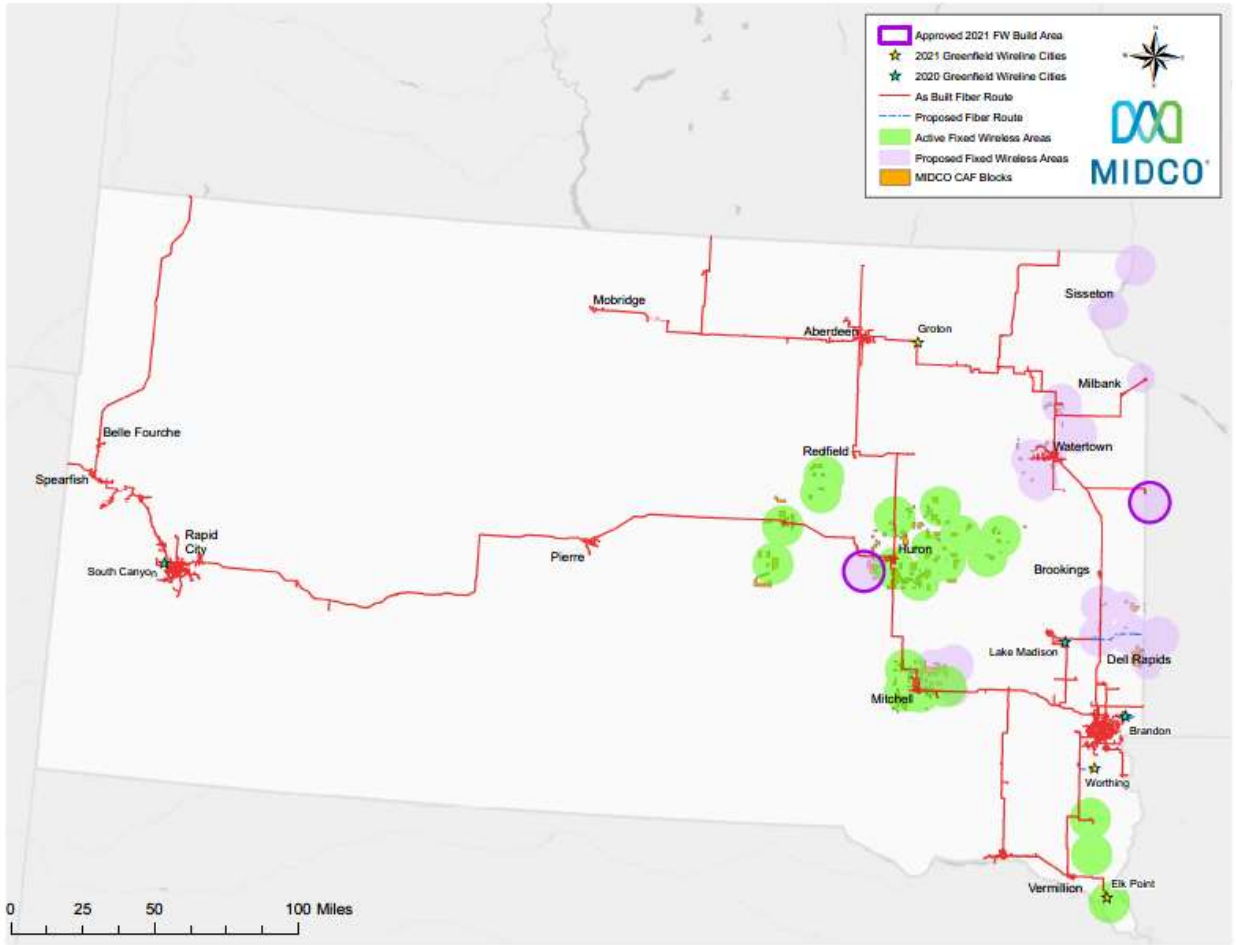
Our growth has included progress in reaching previously unserved areas, thanks in part to our partnership with the FCC through its CAF II and RDOF auctions and our partnership with the state of Minnesota and its Border-to-Border Program. Our experience in Minnesota provides a powerful example of what is going right with these programs and how well-designed programs can help companies like Midco expand their networks to new homes, including those that were previously unserved and difficult to reach.

Midco invested \$44 million in private capital in Minnesota in 2020 and connected more than 20,000 new homes, including 7,500 homes in new markets. But there were communities in adjacent areas that were not economical to serve. With the help of Minnesota's Border-to-Border State Grant Program, Midco extended its network to some of those areas. For example, in Scandia, Minnesota, a town of approximately 4,100 people, we built a Gigabit wired network that will improve access for the residents of Scandia for critical e-learning applications and health care resources, enable telecommuting options for residents, and make businesses and city institutions more efficient.

We have also partnered with the FCC to expand to other previously unserved areas in North Dakota, South Dakota and Minnesota. With the help of an award of \$38.9 million through the FCC's CAF II program, we are edging out our network to reach more than 9,300 new locations with 100/20 speeds to serve previously unserved remote, rural areas. And with the help of RDOF, through which we were awarded \$4.96 million in 2020 to deploy broadband, we will reach 6,506 previously unserved locations across North Dakota, South Dakota and Minnesota with a wireline broadband network that will initially support a 1,000/500 speeds offer, but is

capable of 5 Gbps/5 Gbps speeds. The maps below show our planned 2021 expansion in Minnesota and South Dakota using a combination of wireline and fixed wireless service.





### **Midco’s Innovative Approach To Getting Broadband To Remote Areas**

We have been able to reach many rural communities with broadband by leveraging our extensive fiber backbone through our Midco Edge Out® strategy. We “edge out” our high-speed internet from our fiber backbone in urban areas to rural areas using fixed wireless technology. We use the initial fixed wireless expansion from our wired plant to meet consumers’ immediate needs, and then leverage that expansion to justify a wired network buildout in the future. While some rural areas may support a wired build, other, more remote rural areas will continue to be served with a fixed wireless solution.

For example, the Midco Edge Out® strategy brought high-speed fixed wireless to the rural, “bedroom” communities surrounding Grand Forks, ND. The strong customer base and

increased demand for broadband then allowed Midco to build out such communities with a wired, Gigabit network. We will then repurpose the fixed wireless equipment to serve other rural communities.

I can personally speak to the benefits of the fixed wireless approach, as I am a Midco fixed wireless customer. I have been a fixed wireless customer for more than 10 years and Midco recently updated my service to our LTE, 5G-ready platform. I get my internet from the top of a commercial tower in Grandin, North Dakota to my small farmstead six miles west of Argusville. During the pandemic, my three kids went to school online, my wife used the internet to run a small business, and I worked for Midco remotely. Midco's fixed wireless allowed us to continue educating our children and working during the pandemic.

My neighbors are also Midco fixed wireless customers. One of my neighbors runs a cattle ranch. He uses our fixed wireless to sell his livestock by auction where speed and capacity matter, and where many individuals are participating in the auction at the same time. He is a happy Midco fixed wireless customer running a vital and thriving ranching business in rural North Dakota.

Midco believes in the power of fixed wireless to bridge the digital divide and enable our Midco Edge Out® strategy so much that we spent \$8.8 million to acquire spectrum in the FCC's Citizens Broadband Radio Service auction in 2020. This spectrum not only allows us to offer speeds of more than 100/20 Mbps at distances up to eight miles from the vertical asset, but it also gives us access to crucial mid-band spectrum to continue innovating.

We know that fixed wireless technology is a viable solution for rural America. We know that we can reach remote, rural areas that are up to 50 miles away from our fiber network. We can also implement this solution relatively quickly and without the effort or expense of



constructing fiber networks. Fixed wireless technology can also be deployed during the winter months, when harsh weather makes fiber construction impossible. This leads me to my first recommendation for federal broadband support programs: **it is critical that the programs be technology-neutral, encourage the broadest participation of qualified broadband providers, and be as flexible as possible.**

If broadband support programs are flexible, allowing providers to experiment and innovate with different ways of getting broadband service to hard-to-reach places, more Americans will get broadband service. It is not possible or practical to build a fiber network to every location in the country. Some are too difficult to reach, because they are geographically remote, and others are very hard to serve because of their topography – such as granite cliffs and protected national forests. People in those areas should not be constantly passed over for the opportunity to get broadband service because their area cannot support the kind of build that most federal funding programs require. Setting high speed thresholds that can only be delivered by a fiber network build may sound helpful, but in practice will continue to leave many behind.

In addition to keeping an open mind on how companies deliver broadband, based on our experience with the ReConnect program and participating in the CAF and RDOF auctions, we would like to offer a few other recommendations to ensure that future funding is used efficiently and effectively to expand the reach of broadband networks in rural America.

Our second recommendation is to **award funds through open competitive bidding.** Using a “reverse auction” competitive bidding process, as the FCC has done with its CAF II and RDOF programs, will connect the most unserved homes, for the least per-home subsidy, at the highest speed possible in the area – given all of the variables. This gives the country the best bang for the buck. Letting the auction process determine what speed can be most efficiently

provided in a given area – as the FCC did in the recent RDOF auction – also provides the necessary flexibility I mentioned while ensuring that areas that can be served at higher speeds will be. In the recent RDOF auction, which resulted in highly competitive bidding, more than 99% of funded locations will be receiving broadband with speeds of at least 100/20 Mbps, with an overwhelming majority (over 85%) getting gigabit-speed broadband.

Our third recommendation is to **stay focused on unserved areas**. Broadband programs should target funding to truly unserved areas, where private investment is not going to occur without government assistance but consumers need to be connected. In the past, some government broadband programs have allowed funding to be used in places that already have broadband service. Midco was overbuilt with our own tax dollars in Mitchell and Yankton, South Dakota. In Yankton, government dollars were used by a fiber company to overbuild two existing providers; and the new provider used those government funds to “cherry pick” a few business customers. We believe that scarce government resources should be targeted to those who will build out to consumers who do not yet have access to all the benefits broadband provides, for jobs, education and health care services.

Fortunately, both the FCC and RUS took steps aimed at directing new broadband funding where it is truly needed. The FCC requires areas receiving new funding to be unserved and the ReConnect program requires that areas are only eligible if at least 90 percent of households are unserved. These steps were meant to guard against using government subsidies to overbuild private investment or broadband deployment funded through other federal or state government programs, ensuring that any such programs will make meaningful headway in closing the Digital Divide.

These efforts could be thwarted by proposals to redefine what it means to have broadband

service available. When eligibility is restricted to areas that do not receive a basic level of broadband service, such as 25/3, we know that funding will be used to bring broadband where it did not previously exist. But when areas are defined as eligible for funding unless they have a higher level of service – such as recent proposals suggesting an increase to 100/100 – this means that many areas where we and others have invested heavily, including through public/private partnership programs, are suddenly considered “unserved.”

Providers will naturally apply for funding to serve these newly eligible areas, because those are the places that are easiest to build and serve. This would mean that areas that already have robust broadband service would be newly eligible for funding to build even faster service, increasing the likelihood that funds would be siphoned away from areas that are not economical to reach, and have struggled for years to attract broadband deployment. The likely result would be that those lacking broadband service today will still lack broadband service tomorrow, even after billions of dollars in funding are spent. We believe these proposals should be reconsidered.

Our fourth recommendation is to **continue to improve agency coordination and enact guardrails to ensure funds are wisely spent.** With several federal agencies and a growing number of states dedicating funding to broadband deployment, it is increasingly important to ensure that all relevant agencies and to the extent possible, state programs that are awarding grants for buildout, are coordinating with each other. Close coordination is necessary to ensure that government support is being used to help solve the problem of the unserved and to help achieve the goal of universal connectivity. It is important that the FCC keep its broadband deployment map updated, including showing where and to whom funding has been awarded even if facilities are not yet constructed. Regularly sharing that map with all federal and state

agencies awarding broadband funding, so that everyone is working off a common data set in determining which areas are unserved, is also crucial.

As one example, we have been awarded CAF II funding to reach areas of Dakota County, Minnesota. We have not yet started construction, but are fully on track with the deployment schedule established in that auction. Despite the fact that we have an enforceable commitment to build a network in that area, and the census blocks we have agreed to serve are easily available through the FCC's website, we recently learned that two other providers have been awarded CARES Act funding to serve that same area. Further, because the CARES Act funding comes with very few guardrails or regulatory requirements, such as providing voice service or being an eligible telecommunications carrier (ETC), we will be competing on unequal footing. This is a bad result for everyone. It is a bad result for Midco and the providers winning CARES Act funds, because the area is not economical to serve for even one provider, and it is a poor use of taxpayer money, because scarce funds have been devoted to an area where multiple federal funds were already committed. Had there been better coordination between the two funding sources, this result might have been avoided.

Fortunately, some progress is being made, both with respect to coordination and ensuring that grant money is being wisely spent. The FCC is implementing the mapping requirements of the Broadband DATA Act to ensure that areas without broadband are more precisely identified, and implementation of the ACCESS Broadband Act and the Broadband Interagency Coordination Act should boost coordination efforts so that federal and state funds are complementing each other's efforts to reduce the number of unserved areas. It is critical that in implementing these directives, agencies distributing funding view coordination with each other as an integral part of the award process, not an afterthought.

RUS has also made improvements. During a recent round of ReConnect funding, the RUS not only did field tests to determine if existing service was present before making awards to certain areas of North and South Dakota prior to issuing grants, but also provided our company with specific information about why it was accepting or denying the submission we filed as part of the Reconnect challenge procedures showing that the proposed funded service areas already had access to broadband service. That is progress.

Finally, we recommend **removing barriers to entry and deployment**. In addition to improving the programs themselves, it is appropriate to examine the regulatory landscape at the federal, state, and local levels to ensure that obligations and costs placed on providers—whether they offer wireless or wireline service—are reasonable, lawful, competitively neutral, and not unduly burdensome. Eliminating regulatory barriers to deployment (such as permitting delays and the imposition of excessive pole attachment rates by municipalities and co-ops), and encouraging equitable “dig once” policies, will help accelerate and lower the cost of broadband infrastructure buildout. Every dollar paid in excessive fees and taxes is a dollar that cannot be invested in broadband, making the rollout and upgrade of rural broadband slower and less ubiquitous.

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I commend the Committee for its focus on ensuring that the billions of dollars being spent on broadband deployment benefit all Americans – including those in rural America. Progress has been made with the existing federal and state programs to target funding at unserved areas, largely by improving the design of those programs to better identify unserved areas and by defining broadband service in a way that prioritizes people living in hard-to-reach areas that may require a menu of technologies to serve each and every household. We hope that

new programs, like those included in the American Rescue Plan, will be implemented with similar goals and guardrails in place. Thank you again for inviting me here today, and we look forward to working with you on these important issues.