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Technology Committee Meeting
Wednesday, March 3, 2004 - 6:00 p.m.
Virginia Tobacco Commission Conference Room
Richmond, Virginia

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APPEARANCES:

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The Honorable Clarke N. Hogan, Chairman

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The Honorable Kathy J. Byron, Vice Chairman

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The Honorable Michael J. Schewel, Secretary of Commerce and Trade

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The Honorable Matt Erskine, Deputy Secretary of Commerce and Trade

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The Honorable Thomas C. Wright, Jr.

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The Honorable Mary Sue Terry

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Mr. Thomas W. Arthur

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Mr. Edward Owens

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Mr. L. Jackson Hite

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The Honorable Eugene Huang, Deputy Secretary of Technology

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COMMISSION STAFF:

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Carthan F. Currin, III, Executive Director

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Mary Cabell Sherrod, Manager of Communications and Committee Operations

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Stephane Wass, Director of Finance

24

Timothy J. Pfohl, Grants Program Administration Manager

25

Ned Stephenson, Managing Director of Strategic Investments

26

Britt Nelson, Grants Program Administrator - Southside

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ATTORNEY GENERAL'S OFFICE:

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Frank F. Ferguson, Senior Assistant Attorney General

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Anne Marie Cushmac - Senior Assistant Attorney General

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Hud Croasdale, Virginia Tech

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David Hudgins, Mid-Atlantic Broadband Cooperative, Inc.

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Tad Deriso, Mid-Atlantic Broadband Cooperative, Inc.

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DELEGATE HOGAN: Let's get started, it's 6:00 p.m. We've got three

CRANE-SNEAD & ASSOCIATES, INC.
4914 Fitzhugh Avenue, Suite 203
Richmond, Virginia 23230
Tel. No. (804) 355-4335

1 items that we've got to take care of or take some action on today.

2 MR. CURRIN: Mr. Arthur?

3 MR. ARTHUR: Here.

4 MR. CURRIN: Mr. Hite?

5 MR. HITE: Here.

6 MR. CURRIN: Mr. Montgomery?

7 MR. MONTGOMERY: (No response.)

8 MR. CURRIN: Mr. Owens?

9 MR. OWENS: Here.

10 MR. CURRIN: Ms. Terry?

11 MS. TERRY: Here.

12 MR. CURRIN: Mr. Owen?

13 MR. OWEN: (No response.)

14 MR. CURRIN: Senator Wampler?

15 SENATOR WAMPLER: (No response.)

16 MR. CURRIN: Delegate Wright?

17 DELEGATE WRIGHT: Here.

18 MR. CURRIN: Secretary Schewel?

19 SECRETARY SCHEWEL: Here.

20 MR. CURRIN: Vice Chairman Byron?

21 DELEGATE BYRON: Here.

22 MR. CURRIN: Vice Chairman Thompson?

23 MR. THOMPSON: (No response.)

24 MR. CURRIN: Mr. Chairman?

25 DELEGATE HOGAN: Here.

26 If we could get a motion to approve the Minutes of the last meeting?

27 MR. OWENS: So moved.

28 DELEGATE BYRON: Second.

29 DELEGATE HOGAN: All in favor say aye? (Ayes.) Opposed? (No
30 response.) Thank you. The Minutes are approved.

31 We can do this at your pleasure, we have three things we need to take action on. I
32 understand there might be some things people want to chat about. I think the three issues that
33 we've got to take some action on as approved at our last meeting is that EDA is going to fund
34 this, and I think we've got some people that can address that shortly, and, then, who the network
35 operator is going to be and what the composition of the Board looks like. I guess we might hear
36 from Mr. Hudgins about the EDA funding and where that stands right now. We don't have to
37 take action on it, but we'd like to hear that it's there.

38 MR. HUDGINS: In your packages there's a letter from EDA discussing the
39 funding. Any questions about the letter or the process?

40 DELEGATE HOGAN: Are there any questions for Mr. Hudgins about
41 where that stands? All right. We've got that taken care of.

42 Network operator. Mr. Croasdale is going to address that as far as where we stand on
43 that and how the process is working and why MBC has arrived at the conclusions they've arrived
44 at.

1 MR. CROASDALE: Thank you, Mr. Chairman. As you know, we went out
2 with an RFP to solicit input from providers to provide several things on this network. Basically
3 that involved a number of things including fiber, operation, management, billing and basically
4 everything that is required to run, operate and build the network. We had a large amount of
5 interest, I think there were fifty or sixty some odd inquiries, and five companies responded back
6 to the full proposal and responded to the RFP proposal, and we did an analysis of those
7 responses.

8 Right off the bat it was clear that only two encompassed the points that we wanted
9 them to address and were reasonable in their price, we thought. Those two were Looking Glass,
10 and we'd spoken to them before in the past at the one meeting we had in Farmville, and Adesta,
11 and let me give you a little background on Adesta. Adesta comes from a Latin word meaning
12 coming together.

13 Essentially, both of these companies have the same common background, and they
14 were both formed with individuals that came out of MFS Corporation. MFS had a subsidiary
15 before they became part of WorldCom. They had a subsidiary called Looking Glass, which
16 retained its independence after they were purchased by MCI. Adesta was founded by other
17 individuals that were once with MFS. They formed a separate company, and they're based out of
18 Omaha, Nebraska.

19 Comparing these two proposals, which we did by a side-by-side comparison, it was an
20 apples-to-apples comparison, and looked at some of the other options that were included. Then
21 we came up with the fact that Adesta included all of the end-points that we were discussing in all
22 fifty-six parks and some of the other end-points and secondary sites that we wanted them to take
23 a look at connecting. They designed a network, and they were both very similar in the network
24 design. The difference in the network design is that Adesta had thirteen nodes versus eleven for
25 Looking Glass. The value in that is that you have an additional couple of node sites, and that
26 means that the build out on the local loop component is shorter in length, which results in lower
27 costs connecting those points. The bottom line price on the proposal is sixteen point four million
28 for Looking Glass, I'm sorry, it's thirteen point nine million for Looking Glass and thirteen point
29 four million for Adesta, a half million or so less. Basically, Adesta had a technically better
30 proposal, they covered all of the secondary and primary sites. The proposal itself, I would say,
31 was more focused on what we're trying to accomplish. Their core mission is providing network
32 connectivity in some of the secondary and rural areas. They built the Iowa State network, and
33 that's their core business. So they have an interest in how to do rural telecommunications and
34 also which did not include in the analysis, but it's interesting to note that its value, and what they
35 also wanted to do in moving forward with this already is consolidating the network operation
36 centers for other networks that they have in rural areas. I believe they have one in North
37 Carolina also. They want to consolidate those network operation centers with this network
38 operation center that they are proposing and place it in South Boston at Riverstone Industrial
39 Park. They want to employ people in the region and not just for this network but for other
40 operations that they're going to have. That just demonstrated that they had a commitment in the
41 region. That was an interesting addition to the proposal, which doesn't cost us, and it's
42 something that they are going to do. It's something that they are going to absorb, and it's the cost
43 of doing business for their other existing business. I think it will be twelve employees.

44 MR. DERISO: It's up to twenty, I believe.

1 MR. CROASDALE: So, twelve to twenty. Basically, that's it. The network
2 is better designed and they have demonstrated a commitment and the cost is lower, and they are
3 actually a substantially larger company than Looking Glass in terms of employees. We were
4 basically very impressed with their proposal.

5 DELEGATE HOGAN: MBC's Board has reviewed these proposals, and
6 this is the one they have chosen?

7 MR. CROASDALE: I believe that is correct.

8 DELEGATE HOGAN: Are there questions for Mr. Croasdale or Mr.
9 Deriso?

10 MR. HUANG: Mr. Chairman, I have one question. If you read the letter in
11 the packet, the last paragraph indicates that EDA is inviting applications that are contingent on
12 EDA's review and approval. What happens if EDA does not approve the application?

13 DELEGATE HOGAN: I think we would get our money back. I don't
14 know the answer to that, Eugene, what do you think?

15 MR. HUANG: I'm just asking if you read the caveats from the October
16 Minutes.

17 MR. HUDGINS: In the history of EDA management for regional
18 representatives, once the invitation has been extended for final application no one has been
19 refused except when the applicant itself withdraws the application. There's no getting around,
20 the paragraph I saw is that the federal government is saying if you don't like it, don't try it. That
21 was in the conversation. It's a standard kind of thing in all the grant applications.

22 DELEGATE HOGAN: We received some indication from the Department
23 of Commerce and the Secretary of Commerce, he was real excited about the project and perhaps
24 would come down with an announcement.

25 SECRETARY SCHEWEL: Suffice it to say that if EDA doesn't approve the
26 grant by such and such a date that MBC will return the money to the Commission, let's say by
27 January 1st, 2004 or 2005 or something like that.

28 DELEGATE HOGAN: 2007.

29 MR. HUDGINS: Yes, I'll do that. I don't see a problem.

30 DELEGATE HOGAN: I think that's reasonable. If we become the first that
31 they decide to pull, then at least we'll get our money back. Any other questions for these folks
32 on this deal?

33 All right, I do have a comment. One of the things that we were concerned about
34 earlier is that whoever the provider was, or whoever the network operator was, was going to be
35 of such stature in the telecom community that entities like Virginia Tech would be interested in
36 working with this entity, and we felt that was important to ensure, are you satisfied, and I know
37 you can't say absolutely, and I know you can't say that Tech will become part of this network, but
38 do these people meet the threshold of satisfying the professional community that they can run
39 this thing?

40 MR. CROASDALE: The answer is yes. I passed this by some people at
41 Tech that are familiar with Adesta, and they've got a solid reputation. MFS is a well-run
42 profitable entity, but, yes, they meet the test. They've met that threshold.

43 DELEGATE HOGAN: Another question for you, why are these proposals,
44 or what's different from the original proposal that we looked at at Longwood, and why are they

1 cheaper?

2 MR. CROASDALE: Well, part of it is that you're splitting basically the
3 scope up a little bit. Originally what we had was a proposal for everything, and now we have the
4 58 corridor, which is an EDA funded, Tobacco Commission funded component in the amount of
5 fiber that they need to deploy as part of it. Also, they come back, and originally we were looking
6 at some lease fiber option, and they are going to actually lay the fiber. So there are some
7 differences in the way it is being assembled but basically a major part in fewer, you have two
8 projects here basically instead of one.

9 DELEGATE HOGAN: You lost me there, but go ahead, Mr. Owens.

10 MR. OWENS: Was the initial one all underground and now some are above
11 ground?

12 MR. CROASDALE: That's correct, there were some aerial components.
13 Originally we looked at this entire region, this is a little hard to see. Originally we were looking
14 at one project that included everything here and all of this and the 58 corridor and all the other
15 counties and everything. Basically, what we have now is this project and managing this link,
16 that's the EDA Commission money. That's pulled out from this proposal because they're doing
17 the purple here and these lines here and then doing the other work with monitoring the network.

18 DELEGATE HOGAN: But, the point is that with the six million dollars
19 EDA funding plus this thirteen and a half million.

20 MR. CROASDALE: That's about where we were before.

21 MS. TERRY: I'm sorry, I didn't quite follow you. You're talking about
22 thirteen million to build this link on the top?

23 MR. CROASDALE: Yes, all of this, and then additionally it would be
24 managing the entire network, doing other things like marketing and other components.

25 MR. HUDGINS: One of the interesting things of that proposal is that
26 Adesta and what they put on the table was the fact that they worked for the State of Illinois in
27 traffic management and they laid fiber to the tune of about a twenty-eight million dollar project.
28 They went to the State of Illinois and said, look, we have excess capacity on this fiber, and we'd
29 like to go and sell it for you, and that project ended up costing the state four million dollars by
30 the time it came up because of the players. They sold that excess capacity and reduced the costs
31 to the State of Illinois, and it ended up costing them four million. So they're very astute business
32 people. They're just astute engineers, and that's a fact.

33 SECRETARY SCHEWEL: I'm a little confused, and I'd like to know what
34 it is. The proposal before us now is to approve the matching funds in order to meet the caveat
35 for the EDA's six million. What we're talking about today is six million?

36 DELEGATE HOGAN: Yes.

37 SECRETARY SCHEWEL: Are we also effectively saying that by
38 approving this six million, we are in addition approving another seven point three million to
39 ultimately get us to the thirteen point three million?

40 DELEGATE HOGAN: Yes and no, I think, is the answer to that. What we
41 said before we would approve the original six million is that we wanted to have a comprehensive
42 plan for the whole area, we wanted to know what it was going to cost, we wanted to have the
43 ability to approve the network operator for the whole cost of the project. We were not going to
44 piecemeal just 58 and worry about the rest later. The motion is for six million. The commitment

1 that the Commission needs to make internally is to fund the rest of that, and frankly I need the
2 folks sitting here right now on the Commission to make sure that, I've spoken with the Chairman
3 and I spoke to several other members saying we have this money and this is how much it's going
4 to cost and we've got to have it so it had better be in the budget. I think coming forth with that or
5 most of it. We wanted to know what our total commitment was and how good the operator was,
6 and we can go ahead and do the rest as fast as possible.

7 SECRETARY SCHEWEL: So we approve the six million and EDA's six
8 million comes in and we satisfy the caveats and we've got the six million, we've got a total of
9 twelve million bucks in the deal for a project that is essentially a twenty million dollar project.
10 So what happens if the other seven point three million is not approved, what does the project
11 look like?

12 MR. HUDGINS: It would be a very lean project stretching from Stuart in
13 Patrick County with a leg up to Rocky Mount, continuing on down to Emporia with a leg up to
14 360 to the regional industrial park and connect every park. From the EDA perspective as we
15 look at job creation, their viewpoint is that eighty percent of the industries are located within the
16 58 corridor in Southside.

17 SECRETARY SCHEWEL: Especially that northern loop that's funded with
18 the other seven point three, is that a rough approximation?

19 MS. TERRY: Mr. Chairman, is it correct in terms of the loop going around
20 the top, which I believe is the twenty-eight, is the estimated cost of that, is that thirteen point
21 five?

22 MR. HUDGINS: Thirteen point two without the secondary, schools,
23 hospitals, libraries, things like that, an additional one point five on the secondary sites. Well, one
24 point five million for the secondary sites.

25 MS. TERRY: Mr. Chairman, we put that out for bids, and we got bids on
26 that. We don't have any bids on this proposal, the twenty million, is that right? This hasn't been
27 submitted for a competitive process?

28 MR. HUDGINS: This is the process. In order to satisfy the condition of
29 the network operator we had to bid the whole project out. Adesta understands it's not funded
30 until you all get together and make that funding.

31 MS. TERRY: They bid twenty million for that?

32 MR. HUDGINS: No, thirteen point two million.

33 MS. TERRY: For the top part?

34 MR. HUDGINS: Yes.

35 MS. TERRY: How do you, what is the validity for the twenty million
36 dollars for the bottom part?

37 MR. CROASDALE: That was the original RFP. In Longwood we had the
38 RFP's and we requested information from the providers, and it came back with twenty million.

39 MR. HUDGINS: It was a competitive process, but it apparently was
40 dropped by about seven million.

41 MS. TERRY: But we didn't have a proposal at Longwood that called for
42 laying fiber down 58. You all had the proposal from the start on 58, and that's never been --

43 DELEGATE HOGAN: -- I think I can answer that. I think Looking Glass,
44 or what we looked at in Farmville included that run, albeit it was constructed differently but

1 making that run, and I'm sure it did.

2 MR. HUDGINS: Both of them came back on the second run without the
3 leased fiber. The problem we had determined with the Looking Glass proposal when we looked
4 at it was the fact that they had not, they had not contacted any of the companies with the fiber.
5 The point was that the leased fiber was available, neither one of them came back, or at least my
6 supposition is that they went out and checked prices and the availability and found out it wasn't
7 going to be as simple as they thought it was.

8 MS. TERRY: As I understand it, and this is a new venture as far as all this
9 fiber, how confident are you as far as what steps you have taken to ensure that you can build this
10 as you suggested?

11 MR. DERISO: We have hired an engineering firm, Dewberry and Davis,
12 which is partnered with the Atlantic Engineering Group. Dewberry and Davis, as probably
13 everyone here knows, is out of Danville. They have a lot of experience with permitting
14 processes and fiber engineering and design processes. Atlantic Engineering Group, which is the
15 TeleCom partner, is currently working with the City of Danville on their fiber project for the
16 metro area network, as well as the City of Bristol on their fiber project. From an experience
17 level, ODEC, we're not making decisions about how the fiber should be constructed, and that's
18 why we hired the experts. Dewberry and Davis and Atlantic Engineering are going to be
19 completely responsible for developing the contract bids and design document, hiring the
20 contractors, inspecting the contractors for the performance requirements, and this, that and the
21 other. Troutman Sanders is helping us develop that contract with Dewberry and Davis. We had
22 a meeting with them yesterday. So we're having some ironclad contract work with the
23 engineering firm to make sure they perform as needed to build this network.

24 MR. HUDGINS: The construction companies will be bonded.

25 MS. TERRY: If this happens to come in under budget would any surplus
26 dollars then go into the Mid-Atlantic Board, or what would be done?

27 MR. DERISO: Everything is reimbursable. We have a twelve million
28 dollar budget, and if the project comes in and everything is complete and it's eleven million
29 dollars and the Commission has only spent five and a half and EDA has spent five and a half,
30 you'll retain your five hundred thousand.

31 MR. CURRIN: We'll transfer that amount.

32 MR. DERISO: Correct on a reimbursement basis.

33 DELEGATE HOGAN: That's true on every Tobacco Commission grant.

34 MR. CURRIN: That's how we've treated others, it's all on a reimbursement
35 basis.

36 MR. HUDGINS: One question was asked, what happens if we bring it in
37 and we work overtime and at night and we bring it in cheaper than the budget, is there any kind
38 of reward system, and I don't know the answer to that. I don't think that's the way we want to go.

39 DELEGATE HOGAN: I think if we approve this then we're committing X
40 amount of dollars to build the project, and we'd like to have the project built for that amount of
41 dollars. Whatever is the most efficient way that MBC chooses to do that is up to them.

42 SECRETARY SCHEWEL: My next question is to follow up on Mary Sue's
43 question, and that's the other side of that. We're going to have to put on the table twelve million
44 bucks, and there's going to be specification in terms of a completed project, a twelve million

1 dollar turnkey contract, correct?

2 MR. HUDGINS: Yes.

3 SECRETARY SCHEWEL: So, you're at risk, because if the project costs
4 thirteen million dollars it's on your ticket, so to speak.

5 MR. HUDGINS: On Dewberry and Davis' ticket.

6 SECRETARY SCHEWEL: That's the kind of contractual arrangement you
7 anticipate, which is that somebody is going to bear the risk financially other than the
8 Commission?

9 MR. HUDGINS: Not to exceed that, and that was abundantly made clear.
10 When we told Dewberry and Davis this was a signature project for the Commonwealth of
11 Virginia and that there's no such thing as going back to the federal government and saying, we're
12 a million dollars short and two miles from the objective, that's not even under discussion, you
13 guys have got to make it work, and no excuses. They said, we clearly understand that and so,
14 yes, I'm very sensitive to what you just said and that was reiterated today when we had a meeting
15 with them at 10:30, without exceeding the budget.

16 DELEGATE WRIGHT: Does that leave one caveat, who is on the Board?

17 DELEGATE HOGAN: I think it does, David, would you like to talk about
18 who is on the Board?

19 MR. HUDGINS: In order to have a legitimate legal entity that could submit
20 to the Commission for receipt of funds you have to have five members under Virginia state law
21 for the co-op, and these are called founding members. The founding members are Old Dominion
22 Electric Cooperative; Future of the Piedmont Foundation; the Town of South Hill, Virginia; Blue
23 Ridge Power Agency; and Longwood University. That gives us five, the five founding members.
24 The organization belongs to, formation of the co-op, and it's not individuals. So these entities
25 form the co-op in order to respond to the RFP from the Commission. We have since expanded
26 that Board to include Joe Cobbe, a CPA from Martinsville, to give us some more geographic
27 diversity to the west. And then to address some of the concerns about up in the northwestern
28 part, Region 2000, which takes in Lynchburg, Campbell, Appomattox, Lee Cobb, who is the
29 Regional Director of Region 2000. He has an interest in technology and a strong interest in
30 having this kind of infrastructure available and represent multiple counties. We thought that
31 would be a great fit. That's where the Board sits today. We now have converted the founding
32 members to Board of Directors legally, and we sit now with that present Board in front of you in
33 the package. I know there's been some talk about how or the need to expand the Board more
34 inclusively, and different concerns, and we'll do that with all due deliberation, if you will, once
35 we get over these initial organizational issues. Personally, and just from an operational point of
36 view, I would like not to have this Board over nine people for the simple reason that one, two,
37 three, four, five, six, seven, eight, nine, ten, and you throw in Old Dominion's Board which has
38 twenty-four, hard to manage, and then the Commission itself is thirty-one. So, ultimately, nine
39 seems to be from my point of view, the people that run Exxon Mobile with nine people, and they
40 do it. I can address, Mr. Chairman, if you want me to, why each person was chosen. It was
41 deliberately done as to their expertise that they brought to this thing.

42 DELEGATE HOGAN: Why don't you do that and what the additional
43 Board members might come from.

44 MR. HUDGINS: Duane Dahlquist, with Blue Ridge Power Agency, his

1 firm is headquartered in Danville, but he represents all the unions throughout the region. He's
2 constantly been traveling around municipal electrics, Danville Electric, Blackstone Electric,
3 Bristol Electric. They purchase the power for those communities, so he has a wide and varied
4 background across the entire Southside.

5 Ben Davenport, because of his Future of the Piedmont Foundation, brings in a lot of
6 private sector businesses along the corridor in that Foundation. EDA was particularly interested
7 in having someone that has a private sector background and not government related.

8 Carole Inge, because she is the largest bandwidth user in the region and she represents
9 twenty-two school systems and they consume most of the bandwidth, and also her access to
10 federal dollars. We're already working on trying to identify a million-dollar grant to expand the
11 network, and she's identified to the Department of Education, so she has access to those funds.

12 John Stockton from South Hill was chosen because of his interest in technology, but
13 also he's from a smaller jurisdiction. I heard some grumbling about Danville and didn't want it to
14 be dominated by Danville. So we have a small town like the Town of South Hill, seemed a
15 better fit and represents in essence local government.

16 We talked about Joe Cobbe, a great guy and a CPA. He's the secretary/treasurer, and
17 he can be on the Audit Committee, I hope, if that comes to fruition, and also on the City Council
18 of Martinsville.

19 And, Lee Cobb, because of his multiple years in that region. Prior to Region 2000 he
20 was in Lynchburg, so he's well versed with the entire area and well known.

21 Old Dominion, because a lot of that is our service territory and rural areas, Southside,
22 Mecklenburg, Prince George.

23 I'll be glad to answer any questions, but that was the rationale.

24 DELEGATE HOGAN: We've got six people on the list, and I'll just say that
25 I thought we'd have more time to look at this, I think about three weeks ago when David said
26 we've got to either approve this, we have to approve this funding or we'll lose this EDA funding
27 as of March 4th, and that's it. When that word came down, we've got to scramble around and do
28 something. Do we have your assurance that the other three people that will be put on this Board
29 will add the geographic diversity and professional diversity?

30 MR. HUDGINS: I don't see any reason why you would not. I just want to
31 keep my Board at a management level, which is nine.

32 DELEGATE HOGAN: Those people will add to that?

33 MR. HUDGINS: Yes.

34 DELEGATE HOGAN: Questions for Mr. Hudgins?

35 DELEGATE WRIGHT: If it's time for a motion, I'll make it.

36 MS. TERRY: Mr. Chairman, if I may, Mr. Hudgins, according to the
37 Bylaws how many Board members are allowed?

38 MR. HUDGINS: Thirteen.

39 MS. TERRY: What kind of vote does it take on the Bylaws to change it?

40 MR. HUDGINS: A majority.

41 MS. TERRY: What kind of vote does it take among the members to
42 increase this?

43 MR. HUDGINS: I would assume a majority.

44 MR. DERISO: A resolution for the majority vote.

1 MR. HUDGINS: It would be a resolution that the Board vote to expand the
2 membership and all those in favor and those opposed.

3 MS. TERRY: You mentioned in an earlier meeting that there were going to
4 be ex-officio members. Do you have those set forth in the Bylaws as to what category you'd be
5 talking about?

6 MR. HUDGINS: No, that was something that we kind of bounced around,
7 how do you increase your input into what we're doing. One of the things that I'm conscious of is
8 everybody's time. For the first two years this is very cut and dried, you all are going to approve
9 X number of dollars to lay cable in the ground, and that's it. The Board will meet in essence to
10 vote on this, but there's really no decision to be made. I don't want to waste anyone's time by
11 having these useless Board meetings. I can't deviate from the route that we have laid, EDA is not
12 going to allow me to deviate from that route.

13 MS. TERRY: I think it's fair to say that there are people that would love to
14 have their time wasted, if they're willing to give their
15 time --

16 MR. HUDGINS: If that's the case, we have personally talked about, why
17 we would want somebody on the Advisory Board, the Department of Education or Secretary of
18 Education, ex-officio, Carole Inge, she has access to federal funds.

19 MS. TERRY: Is this in your Bylaws?

20 MR. HUDGINS: No.

21 MR. DERISO: It's a resolution that, our attorney advised us who helped us
22 develop the Bylaws in accordance with State Corporation Commission requirements for a co-op,
23 so that we are a true co-op. She advised us against putting an ex-officio Board in our Bylaws,
24 and she said all it takes is one resolution and attaching that to the Bylaws. By having an ex-
25 officio Board it raises a lot of red flags and would put the IRS, getting a 501C6 tax-exemption
26 certificate as well as the State Corporate Commission. A co-op by its very nature is a
27 democratically controlled entity. We plan to have an ex-officio board, we don't have any idea
28 about the number of people, but what we want it to be is representative of the regions, members
29 of the Commission, members of the Committee, it can be whoever we want. The same thing with
30 committees.

31 DELEGATE HOGAN: I think it's safe to say, Ms. Terry, if you would like
32 to be an ex-officio board member on the Advisory Committee, we'd be happy to have you.

33 MS. TERRY: Mr. Chairman, I have no --

34 DELEGATE HOGAN: We'd be glad to have you. I think within reason
35 anyone that wants to be an ex-officio member and work on this thing, they're welcome to do it. I
36 don't see any objection to that, and I don't see why anyone would have a problem with that.

37 MS. TERRY: Mr. Chairman, I think nine for the size of the Board is one
38 thing, but the concern I have here is that there are individuals on the Board who are there by
39 virtue of an organization which is geographically based. It begins with geographical anchors in
40 certain parts of the district. If you could help me to know what those geographical anchors are,
41 which Board members are geographical anchors?

42 MR. HUDGINS: Longwood University covers the middle of the heartland
43 region.

44 MS. TERRY: This is the first I've heard of Longwood University. I thought

1 they were --

2 MR. HUDGINS: -- No, they're a founding member. Region 2000 is an
3 anchor up in the northwestern part of the tobacco region. Martinsville with Joe Cobbe brings the
4 western --

5 MS. TERRY: -- Are you saying that's ex-officio --

6 MR. HUDGINS: -- No, when we do the ex-officio
7 board --

8 MS. TERRY: -- I'm talking about right now. You've got the Board
9 members that have to come from certain places. Is Region 2000 a place that a Board member
10 has got to come from?

11 SECRETARY SCHEWEL: Well, what I heard, and I may have heard
12 wrong, was that what David is saying when he came up with the suggestion, he's saying not that
13 these are mandated, but coming up with a group he tried to have it geographically
14 representational, although that's not mandated in the Bylaws and doesn't require it, but coming
15 up with a group, and I assume that's the way a co-op works.

16 MR. HUDGINS: That's right.

17 MS. TERRY: Let me just add something. Then are you saying that the
18 Future of the Piedmont, are you saying that the Bylaws don't provide that they have a member on
19 the Board?

20 MR. HUDGINS: In the sense that they are not chosen, the Bylaws, chosen
21 as a founding member, because you have to have five people to start with.

22 MS. TERRY: I understand that, but now you have a Board elected. In the
23 future does a person have to come from the Future of the Piedmont?

24 MR. HUDGINS: No.

25 MS. TERRY: Or Longwood?

26 MR. HUDGINS: No.

27 MS. TERRY: It's completely open, then?

28 MR. HUDGINS: Yes.

29 SECRETARY SCHEWEL: I just want to see if I understand this, let's say
30 the terms are four years. What are the terms of the Board members?

31 MR. HUDGINS: They are elected. Once we get over this hump, they --

32 DELEGATE HOGAN: How often?

33 MR. HUDGINS: The Board determines that, but I think once a year is how
34 we've got it set up.

35 SECRETARY SCHEWEL: Let's say they are elected once a year, who
36 votes for them?

37 MR. HUDGINS: The members.

38 SECRETARY SCHEWEL: I thought they were the members.

39 MR. HUDGINS: It can be part of the members, part of the co-op law.

40 DELEGATE HOGAN: Isn't it the same way as Southside Electric Utilities
41 and if I'm a member I get to vote for the Board because I'm served as a customer?

42 SECRETARY SCHEWEL: If the member is, is the member Ben
43 Davenport, or is the member Future of the Piedmont?

44 MR. HUDGINS: Future of the Piedmont.

1 SECRETARY SCHEWEL: So there'll be five members or six members
2 initially?

3 MR. HUDGINS: The founding members are five, but --

4 SECRETARY SCHEWEL: -- The Blue Ridge Power Agency, Future of the
5 Piedmont, Longwood University, the Town of South Hill and ODEC?

6 MR. HUDGINS: Correct.

7 SECRETARY SCHEWEL: You all each have one vote?

8 MR. HUDGINS: Yes.

9 SECRETARY SCHEWEL: So a year from now you all will vote for the
10 Board?

11 MR. HUDGINS: You want to do this or me?

12 DELEGATE HOGAN: They start this thing, and then the people that, this
13 is a consumer-driven co-op board. If I say something wrong you tell me. I think I understand it.
14 When the people who purchase services from MBC and they become members of the co-op they
15 vote for the Board.

16 SECRETARY SCHEWEL: So it's a growing membership?

17 DELEGATE HOGAN: Yes.

18 MR. HUDGINS: Right now there's no voting because it's a start-up.

19 MS. TERRY: What are the classifications then, the class of members?

20 MR. DERISO: We have Class A, which are the founding members; Class
21 B, which are the telecommunication companies, such as an ISP, a telecom carrier, folks that you
22 buy services from on a wholesale basis, those are the Class B members. Class C is
23 government/research and education and medical. If a university wants to purchase fiber optics
24 or some type of service from MBC they would be in that class, that's Class C. Class D is the
25 commercial and industrial. If we have an industrial park and a research company comes in there
26 and they decide to lease our fiber instead of using bandwidth, they would be a class member.
27 Once each of those classes has five members or five customers they are then able to elect a board
28 member who serves on the MBC Board for that term. Because a co-op is so different than a
29 normal corporation it's democratically controlled, and the reason why we have six Board
30 members here and will have a total of nine, each of those classes will elect a board of director to
31 sit on the MBC Board. If we were to load it up with thirteen members up front and then have
32 additional class members the IRS will throw their hands up and say you can't do that.

33 SECRETARY SCHEWEL: You have four class members plus nine, and
34 that's how you get the thirteen?

35 MR. DERISO: The five founding members elected an initial Board of
36 Directors of five people, so ODEC instead of David electing David, David elected Lee Cobb of
37 Region 2000 to serve on the initial Board of Directors. Then the Class A members, since they
38 now have five, they can elect a director to represent the Class A members. Represent is probably
39 the wrong word to use, to fill in for the Class A membership. They elected Joe Cobbe to serve in
40 that position, and that's how we have six Board members.

41 MR. HUDGINS: All within the law, and all within the IRS guidelines,
42 that's critical.

43 SECRETARY SCHEWEL: So the class elects four Class A members and
44 the five initial directors, that's nine.

1 MR. DERISO: No.

2 MR. HUDGINS: There's no nine, but theoretically, yes. Through this
3 process of trying to --

4 SECRETARY SCHEWEL: Well, who elects - then the term of the founding
5 members, the original director, only one is elected by class. You said Joe Cobbe was elected by
6 the class, right?

7 MR. HUDGINS: We're skirting the intent of, in order to accommodate the
8 politics that's around the table and to get this thing up and running.

9 SECRETARY SCHEWEL: Then who votes for the founding members? Do
10 the class members replace the founding members?

11 DELEGATE HOGAN: Once there's five members in each class --

12 MR. HUDGINS: -- Once you get five members.

13 SECRETARY SCHEWEL: Let's start with five, we've now got six, plus Joe
14 Cobbe.

15 MR. HUDGINS: And, Lee Cobb. In order to accommodate Lee Cobb I
16 stepped out of the --

17 SECRETARY SCHEWEL: He's one of the founding members. You've got
18 Joe, but he didn't replace anyone.

19 MR. HUDGINS: Correct.

20 SECRETARY SCHEWEL: And then you have three more class members,
21 right?

22 MR. HUDGINS: Correct.

23 SECRETARY SCHEWEL: You've got a total of four classes. Do those
24 three class members, are they going to replace the founding members?

25 MR. HUDGINS: No.

26 SECRETARY SCHEWEL: So then you have, and all that went, and all that
27 happened, and then you'd have nine members, four class members and five original; each person
28 is elected for one year, okay?

29 MR. HUDGINS: Yes.

30 SECRETARY SCHEWEL: I understand how the class members go, and
31 they are elected by the class. How do the five original people get elected or unelected at the end
32 of their term?

33 MR. HUDGINS: The categories they would be in would be a founding
34 member of the Class A member, so technically --

35 MS. TERRY: -- Are you saying then that Longwood would always have a
36 representative?

37 MR. HUDGINS: As a founding member, yes.

38 MS. TERRY: That's what I asked initially. The Future of the Piedmont
39 would always be on the Board?

40 MR. DERISO: Not on the Board.

41 MR. HUDGINS: Remember, there's a difference between the Board and a
42 founding member in the law. Effectively, I don't think it makes any difference, just like ODEC,
43 how much longer do you want us to do it, a couple of years? ODEC is not interested in serving
44 on this forever. The question is to get it up and sustain it. Technically the founding members

1 will stay there with the founding of the co-op.

2 MR. DERISO: For instance, the Future of the Piedmont would not always
3 have a Board seat. If the membership elects, or when they vote on the Board of Directors, they
4 don't necessarily have to vote for the same people. They can vote for whoever they want.

5 MS. TERRY: The Future of the Piedmont will always be able to vote and
6 elect a member.

7 MR. DERISO: Every member has one vote.

8 DELEGATE HOGAN: Let me take a crack at this. The Future of the
9 Piedmont is under what classification, what do they represent?

10 MR. DERISO: A founding member, Class A.

11 DELEGATE HOGAN: Now you've got me confused.

12 SECRETARY SCHEWEL: Let's say Ben's term comes up a year from now,
13 and let's assume all the classes have members, nine Board members, four class members and five
14 founding members. So Ben's term comes up, who gets to vote whether he is reelected or not, all
15 nine members or only the Future of the Piedmont?

16 MR. HUDGINS: Future of the Piedmont, as a founding member.
17 Eventually you fade away, very few people stay forever.

18 MS. TERRY: But the Future of the Piedmont will always be there as a
19 member of the Board, or entitled to be a member of the Board?

20 MR. HUDGINS: Technically and legally that's correct. People's interest
21 change when things get up and running. This is going to be, once you lay the cable on the side
22 of the road and once it's up and running, and I think it's going to be pretty automated. The Web
23 sites are going to be designed, and there's not going to be a lot of decision making here because
24 of the funding. It's going to be a very straitjacket type of operation. We don't have a lot of,
25 there's no money to make discretionary decisions with, is the bottom line.

26 SECRETARY SCHEWEL: I understand that, and I'm just trying to
27 understand it.

28 MR. HUDGINS: Remember the Board, if you will, three people and
29 committed to nine, at some point we'll add whatever you decide to do, and we've got to figure
30 out how to do that so it meets the test. The other four classes, that's how you get to thirteen, at
31 that point you have the full Board and then the Advisory or ad-hoc ex-officio of the Board will
32 address any other concerns as far as input into the process.

33 MS. TERRY: Mr. Chairman, I thought you said you didn't want to go to
34 thirteen but you wanted to keep it at nine.

35 MR. HUDGINS: I don't, but that's still going to be three or four years down
36 the road. By that time I think you'll have enough experience of what we're doing, or if there's an
37 expansion like if you get up to Charlottesville and by federal grant get a direct connection into
38 UVA and tie in with Virginia Tech and Danville, they're going to want somebody on the Board.
39 What we're trying to do is preserve those slots until we get this whole thing built out.

40 MS. TERRY: Mr. Chairman, going back to this issue of the role of the
41 Board being not very important, it was my understanding from a previous conversation that it
42 would be anticipated that money would be generated by the Board and then policy decisions
43 would be made where the next build out would be and then decisions made whether you would
44 expand it to a new industrial park or build more lines into Rocky Mount. That's a very important

1 policy decision. The thing that concerns me the most in terms of policy decisions has to do with
2 the rates and which classes subsidize potential expansion. Rate design is as important to this
3 Board as rate design was with Virginia network and small businesses and that type of thing. The
4 fact that these people that occupy these Board seats and set priorities is very important. I'm
5 going back to what I was saying earlier, when Mid-Atlantic selects three geographical areas as
6 founding members and then two others and a power company and then another entity and you
7 start out with that as a lock-in for a Board and we're getting ready to turn over a lot of this money
8 with no assurance where the Board is going and knowing what your preference is. If I was in
9 your position I would have the same preference. We know where you're coming from, and when
10 the ship leaves the dock it's not coming back, and we have no power to do anything.

11 MR. DERISO: I think a lot of that is going to be handled by the ad-hoc ex-
12 officio Board. When you look at our Board structure no one on that Board has the technical
13 background for a rate structure, rate development. That's policy. But, from my perspective in
14 trying to get this thing up and running, the Board of MBC is going to be relying on committees
15 and other input from other entities. I don't think anyone at MBC has ever had the interest of
16 going off on our own and not involving anyone from the Commission or any other groups or
17 agencies in the decision making process. We realize that when you are setting rates there
18 is --

19 DELEGATE HOGAN: Wait, let's be clear. The members of this
20 Commission are not going to be involved in setting rates in any form, let's be real clear on that.
21 That categorically is not going to happen, I don't think.

22 MS. TERRY: I wasn't suggesting that's going to happen. I was suggesting -
23 -

24 DELEGATE HOGAN: -- I understand your point, but let's be real clear
25 about that.

26 MR. CURRIN: This is an arm's-length transaction.

27 MR. HUDGINS: The EDA is very interested to make sure that this is an
28 independent Board, so I'm trying to make it clear between you and the federal government,
29 because they want a business-oriented board for jobs, the private sector, that's why the private
30 sector is so represented. In tax generation, they want a return, they look at it really as an internal
31 investment. A six million dollar project, how many jobs are going to be generated and paying
32 federal taxes back to the federal government. Neal doesn't know about the Board issues, but he
33 is very concerned, and I talked to him today about these Board issues being resolved. I said we
34 were going forward, and they're being very sensitive as to what your concerns are because it's an
35 independent Board and wanted to know that we understood this, and I said, absolutely, and I do
36 understand that.

37 DELEGATE WRIGHT: Is a motion appropriate now?

38 DELEGATE HOGAN: Yes, sir.

39 DELEGATE WRIGHT: Mr. Chairman, I have a three-part motion. First,
40 that the Committee approve the recent election of the MBC Board of Directors.

41 Second, that the Committee approve MBC's selection of Adesta as the network
42 operator and that the Committee approve Adesta's proposal for the regional backbone initiative
43 for Southside Virginia as submitted to MBC on February 17, '04.

44 Third, that the Committee authorize the Staff to negotiate the terms of the subject

1 grant agreement with MBC.

2 MR. HITE: Second.

3 DELEGATE HOGAN: Any discussion?

4 SECRETARY SCHEWEL: When will this happen? When will this be
5 done by?

6 MR. HUDGINS: If the Commission acts in May on the Adesta piece, the
7 northern piece, like Ms. Terry's "leave no county behind", I think that's the right capsulation, two
8 years.

9 DELEGATE WRIGHT: Mr. Chairman, further I'd like to say that, all three
10 caveats having been met, I'll make that motion. First is obtaining the EDA funding, the second is
11 selection of an operator, and the third is the MBC Board composition. Does that meet the
12 attorneys' approval?

13 DELEGATE HOGAN: We've got a motion and a second, any discussion?
14 All in favor say aye? (Ayes.) All opposed like sign? (No response.) Thank you all, the motion
15 passed.

16 Are there any public comments?

17 MR. STEPHENSON: A reading of the Minutes of the Commission meeting
18 and the Committee's meeting leading up to the approval reveals considerable confusion as to the
19 dollar amount of this grant. I want to alert the Commission, the Committee here tonight, that we
20 will bring language to the Commission meeting tomorrow to clear that up. That amount, as I
21 understand it, is six million dollars, figures of three thirty-five and two million and three million
22 is all fuzzy in the Minutes.

23 DELEGATE HOGAN: Was that everyone's original understanding, that it
24 was six million, does that come as a surprise to anyone? Okay. I just wanted to be clear about
25 that. We just didn't say it very well. I want to thank the Committee, and we're adjourned.

26
27 PROCEEDINGS CONCLUDED.
28

29
30
31 CERTIFICATE OF THE COURT REPORTER
32

33 I, Medford W. Howard, Registered Professional Reporter and Notary Public
34 for the State of Virginia at large, do hereby certify that I was the court reporter who took down
35 and transcribed the proceedings of the **Southside Technology Sub-Committee Meeting when**
36 **held on Wednesday, March 3, 2004 at 6:00 p.m. at the offices of the Virginia Tobacco**
37 **Indemnification and Community Revitalization Commission, 701 East Franklin Street,**
38 **Suite 501, Richmond, Virginia.**

39 I further certify this is a true and accurate transcript to the best of my ability
40 to hear and understand the proceedings.

41 Given under my hand this 15th day of March 2004.
42
43
44

