

# CONNECT NEW MEXICO COUNCIL MEETING

## Hybrid

September 19, 2024, 1:30 – 3:30 PM

In-person meeting location: 411 S. Capitol St., Santa Fe, NM 87501, Room 311

### 1. WELCOME AND CALL TO ORDER

The meeting of the Connect New Mexico Council was called to order by Shawna Rosales, at 1:39 p.m., on Thursday, September 19, 2024, in Santa Fe, New Mexico. Ms. Rosales introduced herself and reviewed general rules and procedures regarding the meeting.

#### **MEMBERS PRESENT-**

Luis Reyes	Jim Ruybal
Nora Sackett	Godfrey Enjady
Eli Guinnee	Jason Clack
Leonard Manzanares	Ramona (Mona) Martinez
Katherine Crociata	Steve Grey

#### **MEMBERS ABSENT-**

Joseph Navarette  
Launa Waller  
Isaac Bush

#### **OTHERS PRESENT**

Shawna Rosales, OBAE Administrative Assistant  
Renee Narvaiz, DoIT, Public Information Manager  
Natalie Runyan, GIS  
Drew Lovelace, OBAE Acting Dir.  
Cass Brulotte (OBAE Counsel), Sandeep Taxali (OBAE), Richard Govea (OBAE), Matejka Santillanes (NMECG), Cato Garcia, Jeff Wordman, Jerry Smith, Mitch Hibbard, Amanda Baron, Heather Floyd, Johnny Montoya, Katherine Irvin, Dianne Lindstrom

### 2. APPROVAL OF MEETING AGENDA AND MINUTES

**MOTION:** Ms. Rosales called for a motion to approve the Agenda for today's meeting. Mr. Enjady so moved, seconded by Mr. Grey

**VOTE:** There being no opposition the Agenda was approved.

**MOTION:** Ms. Rosales called for a motion to approve the minutes of the 08/15/2024 meeting. Mr. Manzanares so moved, seconded by Mr. Clack.

**VOTE:** There being no opposition the minutes were approved.

### 3. CHAIR UPDATES/COMMENTS – Luis Reyes

Mr. Reyes gave recognition to Mr. Ovidiu Viorica and his staff on the recently processed awards, as well as the team for starting the BEAD process which has begun over the past week, and that he looked forward to a report on this process during their report later in today's meeting.

He noted that there will be further discussion today about the MOU which needs to be finalized in the near future which will cement the relationship between the Council and the Office of Broadband. He expressed his hope for Council member participation in this process, as well as public comment. He also encouraged engagement of the Council moving forward toward the next legislative session with respect to the funding needed for the BEAD projects.

### 4. MOU Discussion – Jason Clack

Before going into the overview of the MOU Mr. Clack informed the Council members that he has been designated as the representative for DoIT on this Council. He also introduced Ms. Mona Martinez, who is now the Public Schools Facilities Authority designee on the Council.

Mr. Clack reviewed the draft MOU document which had been sent out to Council members previously. He commented that this is basically a restatement of the statute under the Connect New Mexico Act as well as the

Office of Broadband Act, which outlines the different authorities to the Council from the Office of Broadband under these legislative actions. He noted that the items which need to be addressed in order to finish the MOU are the duties and responsibilities that may lie outside of the statutory authority, what other duties does the Council believes it should have which are still within the statutory authority, how can the Council assist OBAE in its responsibilities and how can OBAE assist the Council. The discussion today needs to address what is not in the MOU which should be considered for addition, which will not exceed the statutory authority which already exists, but will help meet the goals of the statute(s).

Mr. Reyes commented that after the previous discussion last month it seemed that the initial intent of the Council was advise and consent, but it seems that during the last legislation the consent function had been removed, which make the Council essentially an advisory board. In trying to understand this his observation was that if the Council is to remain engaged there should be some consent associated with this as well as some oversight, which is needed for any agency working with public funds. He opened the discussion on these points and queried if the Council is agreeable to just having an advisory role, or would they prefer a more active role in understanding what OBAE is doing and where the awards are going across the State. He then asked if any other Council members had comments, questions, additions or deletions related to the MOU that hopefully everyone has received.

Mr. Guinnee stated he did not seem to have received the draft MOU and asked when that was sent out, or if it could be sent out at this time.

Ms. Rosales stated that the MOU could be screen-shared at this time.

Mr. Reyes stated that the document is now on-screen and perhaps it should be reviewed page by page for ease of discussion and asked for comments.

Mr. Enjady stated that he is traveling and cannot view the document and asked for a summary of what is going on with the document and any changes.

Mr. Reyes stated that there have not been any changes, but some comments have been received. He was hoping to have more participation at this meeting regarding any potential changes. He noted his previous comments regarding consent, and that from Mr. Enjady's perspective making sure the tribal constituency was protected and had access to the broadband funding was important. He stated that this is the purpose of this discussion, to determine the direction the Council wants to go relative to the MOU and if there need to be any changes in statute that this is taken to the next level.

Mr. Enjady stated that he remembered from the last meeting the question of how the tribal consultation process would be administered. He added that he knows the Council does not interact with many of the tribes directly, however, OBAE does, so he wanted to make sure there was some oversight on this consultation process going into BEAD or any other programs, and to ascertain if there will be any kind of report to the Council or the Tribal Working Group on this process. He expressed his concern about the BEAD process, especially in the northern areas where there are checkerboard areas, going through tribal areas or non-tribal areas, which will be a complex process to determine how best to provide service, including decisions regarding the type of technology to be used.

Mr. Guinnee asked if the process on the MOU could be paused as he did not receive it and it was noted in the chat that Mr. Grey did not receive it as well. He added that he did not get the Agenda for today's meeting and wondered if there was a missed email.

Mr. Reyes stated this will be investigated.

Ms. Rosales stated she just sent the MOU out to Mr. Guinnee and Mr. Grey and asked them to check for it.

Mr. Clack noted that the question at hand is how the tribal governments and local governments will be consulted and that is in the document, that the Council will consult with them and then coordinate with OBAE, but the issue is the details of how this consultation will occur, whether it will be individual Council members who are in the tribal entities to consult with the tribal authorities and for the local government if any of the Council members represent those entities and will consult with them and bring that back to the Council. These are the details that need to be addressed.

Mr. Reyes asked Director Lovelace how this process is currently being addressed. Director Lovelace stated that there are formal tribal consultations which are required by federal programs and in those cases they are usually

accompanied by a federal program officer, so in the instance of BEAD there is a very specific process for this. He added that concerning other consultations these are generally at the request of the tribal entity, and gave examples of the areas concerning programmatic in project units for BEAD and described the details of this process.

Mr. Reyes asked how OBAE would reach out to local governments. Director Lovelace replied that they usually go through the Municipal League lists as well as the County Association. He added they have attended every event for which they have received a request or invitation. He noted that they have a significant engagement with these entities with many members of these organizations on their distribution list to keep them advised of OBAE activities.

Mr. Reyes asked Director Lovelace how OBAE is advising the Council of these consultations and interactions, or if this is even something the Council should be advised about. Director Lovelace noted that many of the Council members are participants with these associations, groups or entities so there has not be a formalized process to advise the Council about these interaction, other than those involving specific programmatic. He added that reports have gone out on those types of things, especially on the tribal consultations as required by BEAD, with multiple reports over the last year as part of that requirement, as they met with all 23 tribes, pueblos and nations, and gave status updates on those. Mr. Reyes stated his question was in response to Mr. Enjady's stated concerns and finding out what mechanisms were in place for reporting on these activities. Director Lovelace added that over the last couple of years activity reports across all work groups have been going out bi-weekly and have now transitioned to monthly, with the Council and the work groups collectively with the Office multiple times regarding multiple programs and specialty areas. Mr. Reyes thanked Director Lovelace for this clarification. Director Lovelace asked if these report-outs could be filtered up through the work group Board process. Mr. Reyes responded that this could be done, however, some work groups, such as the PROP work group, may not be active currently, so in his opinion a report directly from OBAE to the Council would be better at this time which would give the Council more information to better support these projects and programs. Director Lovelace stated there should certainly be more discussion on this topic. He also reminded the Council that every OBAE legislative report is also sent out to the Council over the last couple of years and the Data Collection Report will be coming out on October 1<sup>st</sup>. Mr. Reyes thanked Director Lovelace, stating that reporting is important and that Council members must also be mindful about potential conflicts of interest, so asking for more transparency can help eliminate any potential conflicts. Director Lovelace noted that this has been addressed previously with the conflict of interest forms signed by the Council members, and the last time this occurred only two Council members signed these in order to have access to information during the curing process. Mr. Reyes asked Mr. Clack if there should be a mandatory conflict of interest form which Council members must sign if they want to participate. Mr. Clack responded that yes, this is already in the document as a duty of the individual Council members to ensure that their activities do not present a conflict of interest.

Mr. Reyes asked if there were any other comments from Council members.

Mr. Guinnee asked why the Council is still the rule-making agency. Mr. Clack stated that this is because the legislature did not change that in the wording of the statute, so rule-making still goes through the Council.

Mr. Guinnee then asked if the Council will need to vote on acceptance of the MOU at some point. Mr. Clack replied that yes, the Council will most likely need to vote a couple of times, once to accept the draft, then OBAE would also need to propose their own revisions, if there are any proposed revisions for their sections regarding responsibilities in the MOU, and that would need to be discussed again with the Council and changes negotiated to the original draft approved by the Council and once all are in agreement the Council would need to vote on the final draft which is then signed by the Chair. Mr. Guinnee asked if the intention would be to have a vote today. Mr. Reyes replied no, discussion only today, noting the need for transparency and obtaining everyone's input so this is a thoughtful process.

Mr. Guinnee asked about an item which states there is an October 1<sup>st</sup> deadline and whether this deadline will be met. Mr. Clack replied that this is for the reports to Interim Committees and that is subject to [REDACTED]. Director Lovelace stated that this is the Data Collection Report required in the statute and the Council will receive a draft of that. He noted that last year a contractor prepared this for the Council and OBAE, and the Office is just doing an update to this as there has not been a great deal of data change because this uses census data, so much of this will be a narrative summary of what has changed. This will be provided to the Council soon. Mr. Reyes had a question about the description of the report and if this is the Data Collection Report Director Lovelace is referring to. Director Lovelace stated, that is correct, this is the Data Collection Report.

Mr. Guinnee asked Mr. Clack if there is a corresponding RACI format that contains all of this information. Mr. Clack stated that this MOU was based on the old RACI document as well as the statute. Mr. Guinnee asked then

if any RACI he might have should be considered outdated at this point. Mr. Clack replied that yes, this MOU is to take the place of the RACI.

Mr. Reyes asked if there were any further questions or comments on the MOU. There were none. He then asked Mr. Clack to integrate today's comments into the draft and continue the process for approval. Mr. Clack replied that he will do so and circulate the updated draft to the Council members.

## **5. OBAE Update – Drew Lovelace**

Director Lovelace reported that Digital Equity has not had much of an update since the last meeting, pending approval from NTIA as well as their oversight agency, NIST, however, all of the curing has been done and things are still in the waiting pattern for the Digital Equity, state [REDACTED] (? ASTI) grant, to distinguish this from the separate program which NTIA runs as a competitive grant directly with any eligible applicant, which is outside of the state. There is a due date of September 23<sup>rd</sup> for this competitive grant and the Digital Equity group has been actively discussing participating and how to do the applications. The Digital Equity group can give better update on this. In summary the Digital Equity State Capacity grant is pending approval to move forward with NOFOs, trainings, webinars, technical assistance, etc.

Regarding the \$675 million BEAD program which was approved, as a reminder, the Initial Proposals Vol. 1 & 2, were sent out for public comment as well as comment from the Council and work groups, and IP-2V was approved on July 26<sup>th</sup> and there is a one year timeline from that date to complete the grant making process, which is moving very quickly, and the project area units have been out for public comment since September 1<sup>st</sup>, and goes through September 30<sup>th</sup>. He added that this was not a requirement but had been suggested in IP-V2 to obtain participation from the public as well as from the service providers to make sure project areas are designed that can actually be built. He described the access for leaving comments through the portal on the Connect New Mexico website, under programs for BEAD. He added that feedback had been received from providers, before this process was launched, stating concern that project areas were too large and in discussion it was found there was perhaps not a clear understanding of the alternative percentage unit in the grant making program, and described this. In response, Andrew Wilder, the BEAD coordinator, put together a webinar discussing this and how it can be addressed. He again noted the deadline for public comment of September 30<sup>th</sup>, and comments must go through the portal to be considered valid. He added that per the guidebook information the 23 recognized tribes, pueblos and nations were notified that the Office could do tribal consultations. This was sent out in multiple ways, early in the process, and gave details of this process, however, at this time there has only been one request for consultation.

Another critical item in the BEAD process is the launch of the prequalification portal on 09/16/24. He was not certain of the deadline for this, but it should be open for approximately 45 days. He gave details regarding the process for becoming the lead applicant and again noted the webinar which is available on the portal. He added that Mr. Wilder would also be available to meet one-on-one, and there will also be office hour timelines set up.

He added that within BEAD, as things were established in IP-V2 and according to guidance from NTIA, they are looking for partnerships or consortiums to apply, as well as individual companies. These partnerships or consortiums could be a municipality or county joining with an ISP, multiple ISPs, venture capital joining with an ISP, etc. But there needs to be an ISP in the group which has been active for at least a couple of years, or perhaps a utility company.

He encouraged those interested in the application process for fiber bids in the first round that this is the time and place to do so. He gave additional information about submitting applications for unbid locations. He stated that NTIA approval is also pending for the actual locations, what locations are eligible. This information is necessary prior to release of the NOFO, which is expected to occur in mid-November, but this will depend on all of the aforementioned approvals occurring, and will be subject to change. He stated again that this is a fast process involving a lot of office hours and lots of engagement, noting that he spoke at the New Mexico/Arizona Telecom Association meeting earlier this week and will be participating in other such meetings.

He thanked Mr. Reyes for acknowledgement of getting some of the grant funding out with the announcement a few weeks ago and they have been doing the contracts on all of these announcements, with one exception which has had a challenge that is being processed. He added that the Office is now working on additional applications in order to make additional awards.

He added that an offer letter has just been sent out for the Connect New Mexico Coordinator, who will manage the funds.

Mr. Reyes asked Director Lovelace if he has had an opportunity to meet with any of the trade organizations or utilities about pole attachments since the PROPS Subcommittee has not met in quite some time. He expressed concern about reconciling this issue. Director Lovelace stated that the last update he was aware of was through LinkedIn photos posted by previous Subcommittee Chair, Ovidiu Viorica, indicating that NMECG and the Rural Electric Co-Op Association had met and made progress on this. Director Lovelace asked if Mr. Viorica was in the meeting and would like to give an update. Mr. Reyes agreed that this would be helpful as the upcoming legislative session is a long one and if this is not reconciled before the session there could be some legislation to move this forward. He expressed his hope that pole owners, telecoms and OBAE can come to some agreement. Director Lovelace stated that at this time he does not intend to pursue any pole attachment legislation as he believes the parties are working in good faith toward arriving at solutions, noting that last session would have been the time to address this through legislation since the BEAD program will be awarded before any legislation could be enacted or rule-making could be done. Legislation regarding this could be pertinent to subsequent programs, but with respect to BEAD this would not apply.

Mr. Viorica introduced himself, having been a former member of the Council and now an employee of OBAE, and greeted the Council members. He noted that he will be doing the same work as he did before, connecting schools and making connectivity more available and better to schools and students. He stated that he will miss the work on this Council but is happy to see Ms. Mona Martinez joining the Council to represent PSFA, and thanked Ms. Martinez for her participation.

With respect to the PROPS working group Mr. Viorica stated that this working group has not met for several months due to time availability and movement between the agencies, and uncertainty related to this movement. He stated that the work of this group is still important and encompasses a lot, and he believes that the recommendations from this working group have not changed, with several policy recommendations within the Data Collection Report which will be published from OBAE on October 1<sup>st</sup>. He agreed with Director Lovelace's assessment that, unfortunately, time is running out related to legislative initiative, but this is an important area in which progress needs to be made, otherwise, as Mr. Reyes has stated, the entire work associated with BEAD and all of the other funding programs will probably be slowed or come to a stop if improvements cannot be made with the PROP aspects across the State.

Mr. Reyes thanked Mr. Viorica for his comments. He then asked Director Lovelace if there is any plan to meet with the owners of the poles. Director Lovelace replied that yes, he does actually have some plans to meet with the electric co-ops in particular, but has also been engaging on some other topics with NMECG. He added that his understanding is that there have already been some arrangements agreed upon and he will follow up on this and get a status update. Mr. Reyes thanked him for this.

Mr. Reyes asked if there were any other questions for Director Lovelace. There were none.

## **6. Public Comment – Luis Reyes**

There was no public comment, however, Mr. Guinee noted in the Zoom chat that the Digital Equity Summit will be on 09/27/24, in Albuquerque, with an associated link for those interested.

Director Lovelace added that the New Mexico Chamber of Commerce in conjunction with OBAE, will be hosting the Broadband Summit, along with other sponsors, on 10/29/24, at Isleta Pueblo. He noted that Councilman Enjady will be participating with respect to tribal interests, as well as NTIA and other state agencies. He also reported that there will be a concurrent DFA Infrastructure Conference.

## **7. Adjournment – Shawna Rosales**

**MOTION:** Ms. Rosales called for a motion to adjourn. Mr. Clack so moved, seconded by Mr. Enjady.

**VOTE:** There being no opposition and no further business before the Council the meeting was adjourned at 2:30 p.m.