

Tom Jankovsky, Chair
District 1

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District 2

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District 3



April 21, 2025

The Honorable Arielle Roth
Administrator, National Telecommunications and Information Administration
U.S. Department of Commerce
1401 Constitution Avenue NW
Washington, DC 20230

Dear Administrator Roth:

On behalf of the Board of County Commissioners of Garfield County, Colorado, we write to respectfully but urgently request that NTIA release long-overdue guidance on the allowable uses of BEAD nondeployment funds, and that such guidance preserve broad state and local flexibility — without restriction or delay — to invest these funds in both middle mile and last mile broadband infrastructure. These funds were appropriated by Congress through the Infrastructure Investment and Jobs Act (IIJA), to be allocated to each state based upon its broadband needs and to be used to improve broadband availability and service. Colorado has received its allocation. Our communities are waiting.

Colorado has approximately \$406 million in BEAD nondeployment funds that remain unallocated. These are funds that were authorized by Congress under the Infrastructure Investment and Jobs Act, intended to bring meaningful broadband connectivity to underserved communities across our state. In Garfield County, those communities are waiting.

Garfield County Has Done the Work — Federal Clarity Must Follow

Garfield County has made significant direct investments in middle mile infrastructure, constructing and securing long-term Indefeasible Rights of Use (IRUs) on fiber along the I-70 corridor. This middle mile network connects Carrier Neutral Locations (CNLs) — open-access interconnection points that enable multiple providers to extend competitive broadband services into communities throughout the region. These are not aspirational investments; they are assets already in the ground, ready to support last mile expansion when providers and funding align.

Building on that foundation, Garfield County has conducted formal outreach to internet service providers to catalyze investment in last mile fiber infrastructure. That outreach has produced real results: multiple ISPs have expressed genuine interest in deploying last mile fiber to homes, businesses, and institutions across the county's underserved communities. But in every conversation, those providers have delivered the same message — they cannot finalize plans, commit resources, or seek financing until there is clarity on how Colorado's BEAD nondeployment funds may be used. The County has done its part. We are asking NTIA to do its part as well.

The Cost of Continued Delay

We understand that NTIA postponed the release of nondeployment fund guidance in order to review public input and engage with state broadband leaders. We appreciate the agency's commitment to a deliberate process. However, with no new release date announced, the uncertainty is compounding:

- Internet service providers cannot finalize project scopes, secure financing, or commit to community partnerships without knowing what program rules will apply.
- State broadband offices cannot complete procurement processes or execute subgrant agreements.
- Counties and municipalities cannot align local infrastructure investments with anticipated BEAD-funded projects.
- Investment-ready projects — including critical middle mile backbone infrastructure — remain in limbo.

Every additional month of delay is a month that Garfield County families, businesses, and public institutions go without the connectivity they need. The time for deliberation has been substantial. We respectfully urge NTIA to act now.

Our Request: Broad, Flexible Guidance That Reflects Congressional Intent

We ask that NTIA issue guidance that reflects the intentionally flexible framework Congress established in the IIJA — guidance that empowers states to make strategic investments tailored to their specific broadband infrastructure needs, without imposing restrictions that go beyond the statute. Specifically, we urge NTIA to:

- Issue nondeployment fund guidance without further delay. The March 2026 target date has passed; communities across Colorado cannot wait indefinitely.
- Preserve broad state flexibility. As stated by Members of the House Commerce Committee in their March 10, 2026 letter to your office, NTIA cannot and should not prohibit or limit a state's use of nondeployment funds so long as that use is consistent with the broad parameters of the IIJA. We agree, and we urge NTIA to embrace this interpretation.
- Allow investment in both middle mile and last mile infrastructure. Last mile broadband deployment to homes and businesses must remain a priority — and we support guidance that maintains a focus on high-bandwidth last mile service. But middle mile infrastructure is equally critical to making last mile projects viable, sustainable, and resilient. Guidance should preserve state authority to invest in middle mile where it is strategically appropriate.
- Reject conditions unrelated to broadband. The December 2025 executive order conditioning nondeployment fund eligibility on state compliance with AI regulations is not authorized by the IIJA. It risks penalizing Colorado — and the residents and businesses depending on these funds — for state policy decisions that have no bearing on broadband infrastructure. NTIA should not carry out this restriction.

- Adopt the framework of the SUCCESS for BEAD Act (Supporting U.S. Critical Connectivity and Economic Strategy and Security for BEAD Act), introduced by Senators Wicker and Capito. This legislation establishes clear, flexible parameters for nondeployment fund use — covering network resiliency, public safety, next-generation 911, and other critical infrastructure priorities — and critically, it does not tie funding eligibility to state AI laws. It provides a model for guidance that respects both Congressional intent and community needs.
- Protect states from clawback. A bill introduced by Senator Ernst would rescind the full \$21 billion in nondeployment funds and return them to the federal treasury. Garfield County strongly urges NTIA and the Administration to oppose any such effort and to reaffirm that Colorado will receive and be permitted to use its full BEAD allocation as Congress intended.

A Word on the Benefit of the Bargain

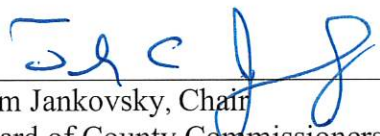
We are aware that the Administration has framed recent broadband policy adjustments under a "Benefit of the Bargain" standard. We respectfully submit that the benefit of the bargain Congress struck with American communities was a commitment to connect the unconnected — to bring reliable, high-speed broadband to every corner of the country. The people of Garfield County struck that bargain in good faith. We ask that the federal government honor it, in full and without further delay.

Conclusion

Garfield County stands ready to support the deployment of these funds as quickly and effectively as possible. We have the community need, the planning foundation, and willing service providers. What we need from NTIA is clear, flexible, and timely guidance that allows Colorado to invest its \$406 million where it will do the most good — in the ground, connecting the communities that have been waiting too long.

We respectfully request the opportunity to engage with your office directly on these priorities. Please do not hesitate to contact the Garfield County Board of County Commissioners at your convenience.

Respectfully,



Tom Jankovsky, Chair
Board of County Commissioners
Garfield County, Colorado

Cc Garfield County Board of County Commissioners
Fred Jarman, County Manager
Jamaica Watts, Finance Director