



Broadband Implementation Committee

Berryville/Clarke County Government Center, 2nd Floor
101 Chalmers Court, Berryville, Virginia 22611
Main Meeting Room

Wednesday, August 11, 2021 2:00 pm

1. Call to Order
2. Minutes:
 - April 21, 2021
3. Update on VATI Application and American Rescue Plan Act funds
4. Next Meeting:
 - October 13, 2021
5. Adjournment

- Town of Berryville's internet backbone is fiber and then coaxial drop cables to the house; there are 1G speeds in this area.
- Doug Lawrence asked, and Mr. Comes confirmed, fiber the speed of light.

4. Shentel Update

Highlights include:

- Had a phone call scheduled but had to reschedule it to next week.
- Chris Boies hoped to have a proposal for the framework buildout throughout the County should the County use the funds received by the American Rescue Plan. Hopes to have a complete overview very soon.
- Shentel has stated they are interested in being in Clarke County. Have sold the cellular business and look to expand to different areas, specifically a beam technology to propose to us.
- Will have more information next week.

5. American Rescue Plan Funding Update

Chris Boies highlights include:

- Clarke County has been designated \$2.8 million in new federal funding.
- Department of Treasury has not provided the details of what those funds can be used for, but we know that broadband was mentioned in the legislation; we need to know the rules of engagement.
- Congresswoman Wexton's office was still waiting on guidance from the Department of Treasury.
- Pre-steps to receiving the money, such as getting a DUNS (federal identification number) number, were issued last week, but most Counties have already completed this step, so the announcement was no real help.
- The Board of Supervisors did not include these funds in the FY22 budget, waiting to see the rules for the money and then do propose uses and do a budget amendment. There will be a Public Hearing on the budget amendment to bring those funds into the budget and approve the expenditure of them.
- Reiterating the County is still waiting on the rules.
- Trying to get things moving so we can move quickly.
- Dr. William Houck inquired into how far the \$2.8 million would go. Chris Boies believes that is what Shentel will tell us on the next call.
- Chair Doug Lawrence pointed out when Rappahannock Electric talked about installing fiber into all 22 Counties; they estimated it would cost \$700 million. Basing on those, Chair Doug Lawrence believes it would cost roughly \$10 million to do all Clarke County.
- Doug Kruhm asked if the numbers Chair Doug Lawrence was referring to would be fiber to pole or fiber to the home. Chair Doug Lawrence stated that was fiber to the home. Chris Boies clarified that is not what Shentel will bring. Shentel will bring

technology on towers so it should be cheaper than fiber to the house. Chair Doug Lawrence explained that Shentel has the new beam technology, which will use radio waves for various Counties that have auctioned those off. One representative stated they bought a larger share than in other counties, but they have a rural broadband model they are trying to follow, putting broadband out into the rural areas by running fiber on main trunk lines and hanging a transmitter that would broadcast the signal. Chair Doug Lawrence is curious about what the hardware looks like.

- The next meeting would not be until July unless we called a special meeting. Chair Doug Lawrence noted he had some questions on timing and what this committee would need to do regarding recommendations to the Board of Supervisors. Would like to leave the meeting with a vote to allow staff to pursue a VATI grant in combination with this other money, if necessary.
- Chair Doug Lawrence asked if the Board of Supervisors can authorize staff to pursue a VATI grant or if this committee would need to do that. Chris Boies stated staff would like input from this group, but the Board of Supervisors could authorize a VATI grant application.

6. Clarke County/Comcast VATI 2019 Project Recap

Brianna Taylor indicated:

- She is still finalizing everything, but the project is complete. Just finished the six-month review. An audit review was completed on Monday but still waiting on the official letter; but the auditor said everything looked good. A 12-month review is scheduled for June 18, 2021.
- Chris Boies pointed the additional work required on both the staff and the vendor's side when it comes to a VATI grant. Vendors have indicated they are very interested in seeing what can be done with the funds from the American Rescue plan because there is less red tape. Noting there is not a lot of interest from the private sector and the VATI grant because of the hurdles involved.
- Felicia Hart added the County tried to reach out last year about doing another VATI Grant, and Chris Boies stated no providers were interested at the time.
- Chair Doug Lawrence commented he remembered reading it was roughly \$1,100 per home to hook up. Believes it was initially 200 homes that would get hooked up, but Winchester Wireless came in and dropped their prices if homes signed up for a term of X-number of years, so even the citizens who did not take advantage of Comcast got a reduction in price.
- Chair Doug Lawrence believes \$2,600 is the limit on running fiber to houses with a seven-year payback.
- Brianna Taylor clarified the project hooked up 97 houses, it was about \$146K, so \$14,00 per house.

7. Commonwealth Connect Update

Felicia Hart Updates:

- Because there has been no information released regarding the American Rescue Plan, the April meeting has been cancelled and moved to the May 20 meeting.
- Page 7 packet: information from the General Assembly regarding broadband, \$424K has been added to redo the mapping piece through the Department of Housing and Community Development. This update will help to get accuracy for the RDOF.
- Highlighted that digital equity budget language, any SNAP-eligible families are eligible for some additional funding each month; will work with the Department of Social Services to make the public aware.
- Chair Doug Lawrence stated he volunteered Felicia Hart to work with the Department of Social Service on putting together information for distribution at the Social Services offices regarding subsidies for families who qualify for SNAP. Ms. Minter with the Department of Social Services stated that most people are signing up online for SNAP. Felicia Hart will coordinate with Desiree Minter.

Questions/Comments

Dr. William Houck

Asked if there was anything the Board of Supervisors could do to push our State representatives on regarding Broadband? Chris Boies mentioned a meeting that was held with Congresswoman Wexton a couple of months back and informed her broadband was one of the biggest priorities for Clarke County. Also listed broadband as an item at the State Legislative Luncheon. They understand our concern. Felicia Hart further clarified she had a conversation with Delegate Gooditis, and broadband was discussed. Pointing out, she said once they understand the money that is coming from the State, how can she help the localities.

Buster Dunning

Chair Doug Lawrence asked Buster Dunning how the system he mentioned, previously Virginia Air now Livestream Internet, has been working. Mr. Dunning stated the system is working for him but feels like he is an outlier because people use more internet than he typically does.

Doug Kruhm

Stated internet service where he lives is spotty and intermittent. Service is provided off a tower noting there are many trees and hills, confident the only way to get consistent service is by hardwire or fiber. Believes there are other places in the County with similar service issues.

Asked Mr. Comes if when the surveys are happening, do they consider homes that are private schooling or homeschooling or are they excluded. Mr. Comes stated anyone could use a LIFTZONE location. There is a qualification as to how many people can use one in a week. There is one location in Martinsburg at the Boys and Girls Club will have one opening soon. If Clarke has a location, Comcast can start surveying.

Chair Doug Lawrence

Spoke with Mr. Comes about the possibility of connecting Wadesville Road. Noting Comcast come down out of Clearbrook and stops at the creek outside Brucetown. Asked Comcast to see if they could continue the line by coming across the creek and help those citizens. Also asked Shentel because that would be one area where cell service is also. Mr. Comes stated he has spoken with his people and will survey near Wild Cat Hollow again. Chris Boies conveyed that was an area the County had hoped to do a VATI Grant on but never received a response.

Asked Mr. Comes if 25 homes per linear mile would be a good figure for Clarke County to start getting denser rural roads connected. Mr. Comes will have to have engineering look at that.

Mr. Comes

Mentioned that Comcast has a program for students costing \$9.95 a month for a 55/5 upload/download service. If anyone has any information on whom to speak with about this to please pass that along.

New program called LIFTZONE will connect non-profit community centers along a Comcast provided path and work with them to get a WIFI connection. Has worked with the Boys and Girls Club, churches, community centers by trying to connect 1,000 of those types of facilities by the end of this year at no charge for the next two to three years. Chair Doug Lawrence stated this committee had discussed running off the main trunks to churches to provide WIFI there to allow students to use the Sunday School Rooms or upload/download homework.

8. Next Meeting

- July 14, 2021, 2:00 pm, Main Meeting Room.
- Chair Doug Lawrence stated that he would like to discuss the possibility of a potluck for the Committee and Staff at the park around 6:00 pm.

9. Adjournment

At 2: 40 pm, Chair Doug Lawrence adjourned the meeting.

Minutes Recorded by Brianna R. Taylor and Transcribed by Tiffany R. Kemp

PHASE ONE MEMORANDUM OF UNDERSTANDING

This Phase One Memorandum of Understanding (this “Memorandum”) is made effective as of June 30, 2021 (the “Effective Date”), by and between Virginia Electric and Power Company dba Dominion Energy Virginia, a Virginia public service corporation (“Dominion”), All Points Broadband Partners, LLC, a Virginia limited liability company (“All Points”), Shenandoah Valley Electric Cooperative (“SVEC”), a not-for-profit electric distribution cooperative, and each of the participating localities who subsequently join this Memorandum in the manner set forth herein (collectively the “Participating Localities” and individually a “Participating Locality”). Dominion, All Points and SVEC are, collectively, the “Organizing Parties”, and Dominion, All Points, SVEC and each Participating Locality are each a “Party” and collectively the “Parties”.

RECITALS

- A. Pursuant to the Virginia Code § 56-585.1:9, effective July 1, 2019 (the “Broadband Statute”) the Commonwealth of Virginia is seeking to expand broadband service into unserved areas of the Commonwealth. The Broadband Statute further permits electric utilities to pursue deployments with broadband providers and localities to facilitate such expansion.
- B. Dominion and All Points have explored the feasibility of Dominion deploying middle-mile service to facilitate All Points in extending last-mile service to unserved populations throughout the communities within and adjacent to SVEC’s service territory and have identified several localities as viable candidates based on the requirements of the Broadband Statute.
- C. SVEC desires to collaborate with Dominion and All Points in an effort to leverage the proposed middle-mile and last-mile deployments by Dominion and All Points, respectively, to improve the security, reliability and efficiency of SVEC’s electric system and to extend broadband availability to as many of SVEC’s unserved members as possible.
- D. All Points desires to collaborate with SVEC to leverage SVEC’s middle-mile fiber backbone project to facilitate All Points in extending last-mile broadband service to unserved populations throughout the communities within and adjacent to SVEC’s service territory and has identified several localities as viable candidates based on the requirements of the Broadband Statute.
- E. The Organizing Parties believe their partnership as set forth herein (the “Initiative”) can dramatically expand broadband access to presently unserved areas throughout Virginia, and are inviting localities that could benefit from the Initiative to join this Memorandum and become Participating Localities.
- F. The Parties will pursue a relationship whereby: (i) pursuant to the Broadband Statute, Dominion would construct a fiber route that maximizes the number of unserved areas to be served by All Points within each Participating Locality, (ii) Dominion will leverage the additional fiber installed along the route to connect

devices that may not have had fiber connectivity under the original plan pursuant to the Grid Transformation and Security Act, (iii) SVEC will leverage the Initiative to improve the security, reliability and efficiency of SVEC's electric system and to facilitate the extension of broadband availability to as many of SVEC's unserved members as possible, (iv) All Points will collaborate with and invest in each Participating Locality and use the additional Dominion and SVEC fiber capacity and network elements to serve broadband end users in unserved locations in each Participating Locality, and (v) each Participating Locality will share relevant information with the Organizing Parties and collaborate with the Organizing Parties to advance the Initiative. The efforts of the Parties herein in each such Participating Locality shall be referred to as a "Project", and collectively the "Projects").

- G. It is the intention of the Parties that the Initiative will result in the deployment of a fiber-to-the-premises last-mile broadband network to offer service to all locations within each Participating Locality that are unserved as of the date hereof. The Parties acknowledge and agree that the specific details and characteristics of each Project will be analyzed and refined as the Initiative proceeds.
- H. The Organizing Parties have divided the Initiative into three phases.

NOW, THEREFORE, the Parties hereby agree as follows:

1. PROCEDURE TO BECOME A PARTICIPATING LOCALITY

Any locality that is invited to join the Initiative by the Organizing Parties shall have until July 23, 2021 to return a counterpart signature page to this Memorandum to the Organizing Parties; provided the Organizing Parties may extend this deadline for good cause if such extension will not materially delay the Initiative. Upon acceptance of the counterpart signature page by the Organizing Parties, such locality shall become a Participating Locality.

2. INFORMATION SHARING AND COORDINATION

- a) Each Participating Locality and each Organizing Party agrees to share with the Organizing Parties such information as it has in its possession related to broadband deployment and availability that may be useful to the Organizing Parties in conducting their analysis or otherwise facilitate the Initiative.
- b) All Points will serve as the central conduit for all information sharing activities and will be responsible for overall coordination of the Initiative. Upon request from time to time, All Points will provide updates to Dominion and SVEC as to the status of the Initiative.
- c) The Parties will coordinate any communication releases to the public, and all announcements are subject to the prior written consent of Dominion and SVEC.
- d) Notwithstanding anything to the contrary hereunder, in no event does this Memorandum require any Party to disclose confidential or proprietary information not otherwise authorized for release to any Party or Parties.

3. PHASE ONE TIMEFRAME AND ACTIVITIES

- a) The Parties anticipate that Phase I of the Initiative will continue until approximately August 15, 2021.

b) During Phase I:

- i. The Organizing Parties will conduct community and stakeholder engagement activities in each Participating Locality.
- ii. The Organizing Parties will collaborate to develop preliminary plans and design criteria that: (i) are consistent with the Broadband Statute, (ii) support SVEC's desire to leverage the Initiative to improve the security, reliability and efficiency of SVEC's electric system, and (iii) facilitate the extension of broadband availability to as many presently unserved locations as possible.
- iii. All Points will perform a last-mile feasibility study ("Initial Feasibility Study") for the Project within each Participating Locality.
- iv. All Points will prepare a preliminary financial analysis for the Project within each Participating Locality.

c) At the Conclusion of Phase I:

- i. All Points, in coordination with the other Organizing Parties, will present the results of the Initial Feasibility Study and financial analysis to each Participating Locality.
- ii. All Points will identify the cost of Proceeding to Phase II for each Participating Locality and identify grants and other sources of potential funding to reduce or eliminate each Participating Locality's out-of-pocket costs to proceed.
- iii. Each Participating Locality will decide whether or not to continue to Phase II. Localities that elect to withdraw from the Initiative at the conclusion of Phase I will have no further obligations under this Memorandum.

4. PHASE TWO TIMEFRAME AND ACTIVITIES

a) The Parties anticipate that Phase II of the Initiative will commence upon the conclusion of Phase I and continue until approximately December 31, 2021.

b) During Phase II:

- i. Dominion will prepare a petition (the "Petition") under the Broadband Statute to the Virginia State Corporation Commission (the "Commission") seeking approval of the Projects that are then included in the Initiative. SVEC will take whatever action it deems necessary and prudent to obtain approval of the Projects within its service territory that are then included in the Initiative, including, but limited to, any action that may be permitted to seek cost recovery. All Points will serve as the nongovernmental internet service provider pursuant to the Broadband Statute and for all Projects included in the Initiative. All Points and each of the other Parties will provide such information and assistance to Dominion and SVEC as each may reasonably request to advance the Initiative and will commit to continuing to be involved in the Petition and any other regulatory proceedings that may be required until and after approval of the Petition and/or other regulatory proceedings is received. The Parties agree that implementation of each Project shall be contingent upon Commission approval, or such other regulatory approval as may be necessary, of such Project on terms and conditions approved by Dominion and SVEC, depending on the location of the Project, that are not materially adverse to Dominion or SVEC.
- ii. All Points will complete preliminary last-mile designs for each Project based upon the middle-mile infrastructure of Dominion and SVEC. Such last-mile designs will be tailored to maximize each Project's eligibility for all available state and federal grant, loan, loan guarantee, and other support mechanisms (collectively, "Public

Support Mechanisms”).

- iii. All Points will prepare detailed financial plans for each Project. Each financial plan will address initial capital investment needs, ongoing operational expenses and provide more than one indicative approach for funding each Project through a combination of private capital, Public Support Mechanisms and contributions from Participating Localities.
 - iv. The Participating Localities, and each Organizing Party, as applicable, will agree to support an application for one or more grant programs (“Phase II Grants”) to partially offset the cost of the activities to be conducted during Phase II. All Points will coordinate and oversee the development and submission of applications for Phase II Grants.
 - v. All Points will coordinate and oversee the development and submission of applications for all available Public Support Mechanisms to fund each Project within the Initiative.
- c) At the Conclusion of Phase II:
- i. All Points will present the anticipated outcome of its last-mile designs to each Participating Locality.
 - ii. Each Participating Locality will decide whether or not to continue to Phase III. Localities that elect to proceed to Phase III will enter into negotiations with All Points for one or more binding mutual definitive agreements (“Definitive Agreements”), setting forth their respective commitments and obligations and such particulars as the parties thereto may deem appropriate. Localities that elect to withdraw from the Initiative at the conclusion of Phase II will have no further obligations under this Memorandum.

5. EXPENSES

The Parties understand that various costs will be incurred in relation to activities contemplated herein. The Parties understand that regardless of which party incurs such costs, none of the Parties herein shall be responsible for reimbursement of expenses to any of the others, unless such reimbursement is to be funded by a Phase I Grant or Phase II Grant, or otherwise agreed to in the Definitive Agreements.

6. GOOD FAITH COMMITMENT TO INITIATIVE

- a) Each Participating Locality agrees that, for so long as it is a Party to this Memorandum, it shall not participate in any activity or course of conduct that is inconsistent with or competitive to the Initiative, and that it will devote its broadband-related attention and resources to the Initiative.
- b) The Parties understand and agree that, except as provided in the next sentence, this Memorandum (i) constitutes only a statement of intentions, (ii) does not reflect all matters upon which Definitive Agreements must be reached in order for the transactions contemplated hereby to be consummated, (iii) binding obligations with respect to a Project will only result from the execution of one or more Definitive Agreements and subject to the terms and conditions stated therein, and (iv) does not obligate the Parties to enter into any Definitive Agreement relating to any Project. This Memorandum is not

intended to be binding, other than Paragraphs 4(b)(i), 5 and 6.

7. TERMINATION

Any Party may terminate its participation in this Memorandum at any time, with or without cause, upon written notice to the other Parties. In addition, this Memorandum shall terminate and be of no further force and effect if the Commission rejects the petition.

8. LIMITATION OF LIABILITY

No Party shall be liable to the others in contract, tort, or otherwise, for any claims, liabilities or losses arising out of this Memorandum or alleged to result from the failure of the other Party to enter into any Definitive Agreements. The Parties hereby waive, in advance, any claims (whether such claims are based on breach of contract, tort, equity or any other theory) for the failure for any reason to enter into the Definitive Agreements. In no event shall any Party be liable to the other for any incidental, indirect, special, punitive or consequential damages (including without limitation damages for lost profits).

9. GENERAL

9.1. Governing Law.

This Memorandum shall be governed in all respects by the laws of the Commonwealth of Virginia.

9.2. Amendments.

No modification, amendment or waiver of any of the provisions of this Memorandum will be binding without the written consent of the Parties hereto.

9.3. Binding Effect; Assignment.

This Memorandum will inure to the benefit of and be binding upon each of the Parties hereto and their respective successors and permitted assigns to the extent provided in Section 6, but in no respect shall give rise to any third party beneficiary rights or claims. No Party may assign any of its rights, interests, or obligations hereunder without the prior written consent of the other Parties, except that any of the Organizing Parties may assign this Memorandum to an affiliated entity upon written notice to the other Parties.

9.4. Counterparts.

This Memorandum may be executed in counterparts, all of which for all purposes shall be deemed to be an original and all of which shall, taken together, constitute one and the same instrument.

9.5. Relationship of Parties.

Nothing in this Memorandum shall be deemed to constitute, create, give effect to,

or otherwise recognize a joint venture, partnership, or formal business entity of any kind.

9.6. Notices.

All notices, requests and other communications hereunder shall be in writing and delivered by hand, by nationally-recognized delivery service that guarantees overnight delivery, or by first-class registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to Dominion:

Dominion Energy Virginia
600 Canal Street
Richmond, Virginia 23219
Attention: Director, New Technologies and Energy Conservation

with a copy to:

Dominion Energy Services, Inc.
120 Tredegar Street
Richmond, Virginia 23219
Attention: Deputy General Counsel – State Regulatory
Fax: (804) 819-2677

If to All Points:

All Points Broadband Partners, LLC
Attn: Legal Notices
908 Trailview Boulevard, SE
Suite 170
Leesburg, Virginia 20175

If to SVEC:

Shenandoah Valley Electric Cooperative
Attn: J. Michael Aulgur
180 Oakwood Drive
Harrisonburg, Virginia 22801


If to a Participating Locality, to the address set forth on such Participating Locality's counterpart signature page to this Memorandum.

Any Party may change its address at any time upon notice to the other Parties.

IN WITNESS WHEREOF, the Parties have executed this Memorandum as of the Effective Date.

VIRGINIA ELECTRIC AND POWER COMPANY
DBA DOMINION ENERGY VIRGINIA

DocuSigned by:


321B8BAF11804D0

Name: Augustus Johnson IV

Title: Director - Electric Distribution Grid Solutions

ALL POINTS BROADBAND

DocuSigned by:


4C25E8262A374CA

Name: James G. Carr

Title: CEO

SHENANDOAH VALLEY ELECTRIC COOPERATIVE

 7/8/2021

Name: J. Michael Hulgur

Title: V.P. ? Chief Financial Officer

IN WITNESS WHEREOF, the County named below has executed this Phase One Memorandum of Understanding as of the Effective Date.

County of Clarke, Virginia



(Signature)

Name: Chris Boies

Title: County Administrator

Date: 7-21-21

County's Address for Notice:

County Administration
101 Chalmers Court, Suite B
Berryville VA 22611