

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of )  
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 )  
The Emergency Broadband Benefit Program ) WC Docket No. 20-445  
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**COMMENTS OF NEXT CENTURY CITIES**

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**COMMENTS OF NEXT CENTURY CITIES**

**I. Introduction**

Next Century Cities (“NCC”) submits these comments in response to the Wireline Competition Bureau’s request for input on how the Federal Communications Commission (“FCC” or “Commission”) should implement and administer the Emergency Broadband Benefit Program (“EBBP”) instituted by the Consolidated Appropriations Act of 2021.<sup>1</sup> The EBBP is intended to provide low-income households with the requisite broadband Internet access to work, learn, obtain healthcare, and connect with loved ones from the safety of home during the Coronavirus (“COVID-19”) pandemic.

Being able to service low-income households in every corner of the U.S. will require a matrix of service providers – diverse in size, model, geography, and ownership – to ensure that those who are eligible actually have service options to participate in the program. The Commission seeks comment on documentation requirements and how that eligibility should change depending on the providers eligible telecommunications carrier (“ETC”) status in the

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<sup>1</sup> See generally, *Wireline Competition Bureau Seeks Comment on Emergency Broadband Connectivity Fund Assistance*, Notice of Proposed Rulemaking, DA-21-6 (WCB 2021).

area in which they apply. NCC urges the Commission to take an expansive view of which providers should participate in the EBBP.

The Commission also seeks comment on the standard rates for supported offerings and how to address promotional rates. Simply, price transparency should be built into the architecture of this program. For low-income households who may be skeptical of enrolling in a new program, price transparency helps to bolster its credibility. Moreover, considering that the goal of the EBBP is to ensure that those who cannot afford broadband services are able to get and remain connected throughout the pandemic, review protocols should be put in place to guard against pricing models that lure participants into promotional rate subscriptions that are subject to change with minimal notice and consumer understanding.

Which entities should bear the responsibility of publicizing the program and what are the most effective methods to publicize the availability of the EBBP are both dispositive factors of its success. Promoting the program must be a condition of participation for providers. While the Commission should be responsible for maintaining a central repository for program information, both the FCC and Universal Service Administrative Company (“USAC”) must share in the responsibility for advertising the EBBP. At minimum, the Commission should host a website with centralized program resources, providing a clear path for interested participants, providers, and program allies to find information. This will also help to ensure that regardless of where participants look for program information about enrollment, program benefits, and termination options—be it from the government or a provider—that search can be verified.

The Commission should also take leadership on the public education campaign, using public service announcements (“PSAs”) on television and radio airwaves as well as partnerships with state and local governments to ensure that eligible participants learn about the EBBP.

Effective outreach to largely disconnected populations requires strategic collaboration with state and local governments, nonprofits, and community groups across the nation who work closest with the low-income households that the EBBP was designed to support.

The Commission must fundamentally design the EBBP to reach and support low-income households who are unable to afford broadband connectivity. That guiding principle should be used to develop an inclusive list of providers, robust service offerings for participants, and publication strategies that reflect a unified effort to inform Americans in need.

## **II. The Commission Must Take an Inclusive Approach to Including Providers.**

### **A. Eligibility for ETC Providers**

The Commission seeks comment on whether providers designated as eligible telecommunications carriers (“ETCs”) under Section 214(e) of the Communications Act may participate in the EBBP without seeking approval from the Commission.<sup>2</sup> The Commission proposes that an ETC provider submit notice of:

- The states in which it intends to participate;
- Whether it is already a “broadband provider” in each state it wishes to participate;
- Whether a provider seeks to participate in each state because it is already designated as an ETC, or if it is seeking designation by the Commission to participate;
- Whether the provider intends to distribute connected devices in each state;
- A description of the Internet service offerings for which it plans to seek reimbursement in each state; and
- documentation demonstrating the standard rates for the services for which it may claim reimbursement.<sup>3</sup>

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<sup>2</sup> *Id.* at 2.

<sup>3</sup> *Id.* (the Commission uses the definition of “broadband provider” outlined in the Consolidated Appropriations Act of 2021, this definition includes all providers of a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any

All of this information is useful if a provider that is not an ETC wishes to be made one for the purposes of administering this program. However, requiring ETC designated providers to submit documentation showing the states in which it intends to participate and whether it is a broadband provider undermines the efficiencies the Commission proposes in its expedited approval scheme. USAC is required to synchronize which providers are already ETCs and which are seeking recognition as ETCs for the purposes of the EBBP. Building in procedures that will essentially double the work required to verify providers already administering Universal Service Fund (“USF”) programs will reduce the speed at which providers that already understand how to navigate FCC and USAC processes are able to serve households in need.

Requiring duplicative submissions from authorized providers, such as resubmitting the states in which it intends to participate and reconfirming that in each state it is a broadband provider, could also deter participation. The Commission and USAC have already collected that information in the ETC vetting process that could be used to determine whether a provider is also eligible for participation in the EBBP. Accordingly, participating providers already designated as ETCs that support USF programs should be automatically approved for the EBBP.

The Commission should require all participating providers, ETCs and non-ETCs, to submit information regarding Internet service offerings for which they seek reimbursement. Those disclosures should include standard rates for services, speed information, and whether the provider distributed a device to support service. Even if a provider is automatically enrolled into the program, both the Commission and USAC will have intel on the level of service an ETC intends to provide, what the standard rate of that service shall be, and if consumers are also able to receive a connected device from the provider. Importantly, this type of disclosure also enables

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capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up Internet access service).

the Commission to track service and pricing across providers and states, ensuring that the level of service at a given price point is meaningfully similar.

Program redundancies will only delay the approval process. If a provider is established to be an ETC, the Commission should require providers to only submit that information which USAC does not already have. New information regarding service levels, pricing, and device rentals should be required to supplement USAC's existing information.

### **B. Eligibility for Non-ETC Providers**

The Commission also seeks comment on the designation of broadband providers that are not ETCs.<sup>4</sup> Specifically, the Commission seeks input on whether the application for non-ETC broadband providers should include a declaration of:

- Which states the provider is seeking to operate;
- Which service areas in which it has the authority to operate;
- A plan to combat waste, fraud, and abuse;
- Whether a provider seeks automatic approval because it offers an established program in each state in which it is applying for approval;
- and, if seeking automatic approval, documents proving that the broadband provider offers established service in each state.<sup>5</sup>

Collecting this information will help to ensure that potential providers not only have the capacity to provide service, but that it has the ability and authority to operate in a specific service area.

Non-ETC providers seeking approval should not need to document whether the service provider is or is not an ETC in an area it seeks to provide service as the Commission has proposed.

Mandating providers to alert the Commission to where they are and are not ETCs is an unnecessary step that will reduce the efficiency of USAC's processing of applications.

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<sup>4</sup> *Id.* at 4.

<sup>5</sup> *Id.*

Regarding pricing disclosures, the Commission should impose the same obligations on ETC and non-ETC providers alike. Pricing information is critical for determining that the level of service being provided is competitive with other service providers in the area. It also ensures that program participants know whether the broadband benefit discount will cover their service option in part or in whole.

### **C. Automatic Approval for ETC and Non-ETC Providers**

The Commission seeks comment on the procedure by which it should approve applications seeking automatic approval in one or more states.<sup>6</sup> While ETCs providers in good standing that already service USF programs should be automatically approved, automatic approval should not apply to non-ETC applications conditioned on subsequent verification and potential revocation. The latter could lead to a wide array of providers being admitted to the program and initiating service programs, then upon the discovery of some deficiency, being removed from the program, disconnecting the consumers that relied on the disqualified provider for service.

Instead, the Commission should work with USAC to approve non-ETC provider applications on a rolling basis. This approach would provide adequate opportunity for the Commission and USAC certify that a provider meets all program requirements. Additionally, approval for non-ETC providers must be completed before the Commission, through USAC, distributes any reimbursement payments under the program, which will also help to ensure program integrity.

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<sup>6</sup> *Id.* at 5.

#### **D. Community Networks, Mesh, and Other Service Providers Would Increase EBBP Service Options.**

Community-level input is critical for the EBBP to have a successful launch. In particular, communities that have had to develop their broadband service networks and facilitate Internet support for low-income residents can provide crucial insights into effective administration of the EBBP. Success calls for the Commission to develop ongoing channels of communication to collaborate with local leaders and state leaders, with a shared goal of ensuring the EBBP benefits low-income households in need. Chiefly, the Commission should ensure that community-owned service providers can easily and in a timely manner become eligible for the EBBP, regardless of their ETC status.

##### **1. Community-Owned Networks May Be the Only or Best Option for Service and Should Be Included in EBBP.**

Local leaders across the country have deployed a variety of solutions targeted at reducing digital inequities in their communities. However, the FCC's funding mechanisms and decision-making processes tend to provide more robust support for traditional service providers, aiming grants directly at private Internet Service Providers ("ISPs") companies while overlooking local governments that are sometimes better equipped to select service models that work best for residents.

Community-owned networks generally include broadband networks owned by municipal governments and cooperatives (co-ops). They are most prevalent in areas in which incumbent providers cannot justify the cost of providing service to all residents. In what would otherwise be unserved or underserved areas, municipal governments have been required to step up and provide residential or business broadband service directly to consumers through their own networks. Other similarly situated local governments have employed open access models, for instance, building a fiber ring to connect a downtown area or city-owned buildings then allowing

providers to use the network to provide last-mile infrastructure and contract with residential or business customers for service. It is essential that these non-traditional providers are welcomed into the EBBP as they may be the only service option in some communities.

The pandemic has stretched local funding and other resources much farther than originally anticipated.<sup>7</sup> Municipal revenue is declining even as cities must make the difficult decisions to reduce their staff.<sup>8</sup> In the absence of EBBP resources, local leaders have crafted a variety of solutions to help connect low-income residents who would not otherwise have access. Some municipalities have used single payer agreements as a solution in, for instance, Chicago and central Ohio.<sup>9</sup> These arrangements can ensure that funds are available for residents who cannot afford a broadband subscription and allow an opportunity for the city to set terms that are not always included in providers' low-cost programs, such as restricting ISPs from engaging in collections against people with outstanding debts.<sup>10</sup> Notably, communities that have had to resort to single payer models include the same low-income populations that are intended to benefit from the EBBP. Like the EBBP, this emergency response solution was also designed to expand broadband access during the COVID-19 pandemic.

Community-owned networks may be able to serve low-income populations in areas where no traditional service providers exist. Further, considering the congruent goals of the single payer programs and EBBP, the Commission should consider ways for single payer service providers to be able to participate in the EBBP. Each of these models illustrate the deep-seated

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<sup>7</sup> See Gerald Young, *10 Common Outcomes of COVID-19 on Local Government Budgets* (Nov. 4, 2020), <https://icma.org/blog-posts/10-common-outcomes-covid-19-local-government-budgets>.

<sup>8</sup> *Id.*

<sup>9</sup> See Sean Davis, *What Are Single-Payer Agreements?* (Aug. 28, 2020), <https://www.digitalinclusion.org/blog/2020/08/28/what-are-single-payer-agreements/>.

<sup>10</sup> *Id.*

commitment and breadth of local expertise needed to serve eligible populations that may be difficult for other providers to reach.

## **2. When Combined with the EBBP, Community Network Models Can Provide High-Quality Service at an Affordable Price.**

Community-owned networks generally offer gigabit speed service at comparable or lower prices compared to private providers. Since many municipal or co-op owned networks were traditionally electricity providers, rather than phone service providers, they may not offer voice services and are not always authorized ETCs. The Commission should ensure that this does not prevent them from easily and expeditiously becoming eligible to be EBBP providers.

Community-owned networks provide many natural benefits that can assist the Commission in ensuring that the EBBP serves its intended goals of ensuring that no one in the United States lacks broadband access because they cannot afford it. Namely, community-networks provide competitive service options at affordable prices.

A 2018 Harvard study included price comparisons in 27 communities that had community-owned networks and found that community-owned models offered lower prices and did not use promotional pricing models that increased after the promotional period ended.<sup>11</sup> In addition to lower prices, the study also found that community-owned networks had *clearer* pricing than private providers.<sup>12</sup> Some low-income households that struggle with maintaining subscriptions have had to disconnect broadband service when promotional rates expire. EBBP participants should have service options at a static rate that is not subject to change or promotion.

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<sup>11</sup> See generally, David Talbot, Kira Hessekiel, and Danielle Kehl, *Community-Owned Fiber Networks: Value Leaders in America* (Jan. 2018), <https://dash.harvard.edu/bitstream/handle/1/34623859/2018-01-16-Pricing.final.pdf?sequence=5&isAllowed=y>.

<sup>12</sup> *Id.*

This will give consumers a clear indication of what the service they are receiving costs and assurance that they will not be priced out of their subscription for the duration of the program.

Some municipal networks like Chattanooga, Tennessee, have offered affordable Internet programs that include the same recipients that the EBBP targets, including households with students enrolled in the free and reduced lunch program, for several years.<sup>13</sup> Arlington, Virginia, is a great example of a city that has stepped up during the pandemic, providing one year of free service for households that qualify for other low-income programs.<sup>14</sup> Clearly, municipal network providers that are not ETCs may nonetheless have the experience and credibility to offer affordable broadband service for EBBP consumers.

Local governments and electric co-ops nationwide have reluctantly explored the possibility of developing their own networks. Considering the time, planning, and resources it takes to develop successful networks, participating in the EBBP program may be a natural progression of their service goals to bring broadband within reach for every resident, including low-income households. Inviting community network providers in the EBBP would not only increase service options for EBBP participants, it would help the Commission ensure that everyone who qualifies for the program has a provider nearby that can offer affordable and high-quality service.

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<sup>13</sup> See press release, EPB, EPB to offer discounted Internet for low-income families (April 28, 2015), <https://epb.com/about-epb/news/articles/8#:~:text=Chattanooga%20Mayor%20Andy%20Berke%20announced.month%20for%20100%20Mbps%20service>.

<sup>14</sup> See press release, Arlington, Arlington County Grants \$500,000 to Provide Free, High-Speed Internet to Students in Need (July 6, 2020), <https://newsroom.arlingtonva.us/release/high-speed-internet-comcast-aps-students-covid19/>.

### **III. Pricing Stability and Transparency is Crucial for Establishing Consumer Confidence in the Level of Service They are Receiving.**

The Consolidated Appropriations Act of 2021 defines the “standard rate” of broadband service, as “the monthly retail rate for the applicable tier of broadband Internet access service as of December 1, 2020, excluding taxes or other governmental fees.”<sup>15</sup> Because there is no “standard rate” in the Commission’s lexicon and no consistency in tiers of service among providers in different markets, the Commission should clarify its meaning. Affordability and minimum service standards cannot be separated from that analysis.

#### **A. Pricing Information is Essential.**

It would be impossible for the Commission to fulfill its fundamental mandate under Section 1 of the Communications Act to determine whether a carrier’s charges are reasonable without a specific point of comparison. Ensuring that participants have access to a “standard rate” is impossible to determine without collecting pricing information.<sup>16</sup> The Commission should collect as much pricing information as possible. Without pricing information, the Commission is unable to do any meaningful analysis on broadband affordability.

The Emergency Broadband Benefit was intended to make broadband more affordable for low-income households limited to working, learning, and obtaining medical care from home during the COVID-19 pandemic. Even though there are instances in which the Commission collects pricing information on standalone Internet service rates,<sup>17</sup> it has yet to set a benchmark for which broadband services are affordable. There are a number of ways in which the Commission could evaluate whether participants in varying markets have comparable service, and pricing is one of the two most meaningful data points. The other is speed.

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<sup>15</sup> Consolidated Appropriations Act of 2021, Pub. L. No. 116-260, § 904(a)(13) (2021).

<sup>16</sup> Next Century Cities Comments, WC Docket No. 19-195 and 11-10 at 11 (Sept. 8, 2020).

<sup>17</sup> See generally FCC, *Urban Rate Survey Data & Resources*, <https://www.fcc.gov/economics-analytics/industry-analysis-division/urban-rate-survey-data-resources> (last visited Jan. 22, 2020).

Pricing data is essential for ensuring that consumers are able to afford an Internet service plan that meets their daily needs. The benefits of the institution of pricing data collection will likely extend well past the EBBP and directly impact the granularity and accuracy of current broadband mapping projects at the federal level. In fact, one of the many reasons the EBBP garnered bipartisan support in Congress was because low-income families across the U.S. are in zip codes nationwide are unable to afford high Internet prices, a reality with dangerous consequences during a pandemic. Naturally, the FCC should be curious about at what rate broadband service is affordable.

Unfortunately, there is no other federal government agency that collects data on ISP pricing, leaving policymakers bereft of critical information that could be used to inform future statutory and regulatory measures. Affordability still remains one of the largest barriers to broadband adoption, and the Commission's efforts to close the digital divide will remain deficient as long as it is missing a clear piece of the puzzle.<sup>18</sup>

### **B. Standard Rates Must be Set for Speed Tiers that Allow Consumers to Meaningfully Work and Learn from Home.**

In the wake of the pandemic, speed and affordability quickly became top concerns for local officials responding to residents' needs. Increased reliance on video conferencing and a concentration of high-demand applications during work and school hours tested the capabilities of existing networks. Some connections were up to the task; others were not. In many communities across the country, connectivity gaps persist that remain unaddressed.

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<sup>18</sup> See Monica Anderson and Madhumitha Kumar, *Digital Divide Persists Even as Lower-Income Americans Make Gains in Tech Adoption* (May 7, 2019), <https://www.pewresearch.org/fact-tank/2019/05/07/digital-divide-persists-even-as-lower-income-americans-make-gains-in-tech-adoption/> (A survey in 2019 revealed that whereas 81 percent of households with incomes between \$30,000 and \$99,000 have home high-speed broadband service, 44 percent of adults with household incomes below \$30,000 a year do not).

## **1. The Current Minimum Broadband Speed is Insufficient to Support Household Needs in Light of COVID-19.**

Now more than ever, residents rely on fast, reliable Internet access that can support several household members learning and working from home simultaneously. When businesses and government services started to transition almost exclusively online in March 2020 and people began working from home, the demand for home broadband capacity also increased pushing many residents to question whether the current 25 Megabits per second (Mbps) download and 3 Mbps upload minimum speeds are still adequate.

It is also important to note that there is a distinct difference between advertised speeds versus what is actually delivered to households, often resulting in service at slower speeds than those advertised.<sup>19</sup> The bandwidth required for telecommuting, distance learning, and online healthcare applications are an ongoing source of frustration for users with minimal connectivity. In administering the EBBP, the Commission should incorporate lessons learned from the pandemic into EBBP benchmarks, recognizing that program participants will rely on EBBP service to work, learn, and access online services from home, some with several members of a household relying on the same connection.

Prioritizing both access to affordable services and requiring speeds that are fast enough to support household needs fits squarely within the Congressional intent of the EBBP. Consequently, the Commission should encourage a wide variety of high-speed broadband providers to become certified for the program. It should also continuously revisit any speed benchmarks for the duration of the program.

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<sup>19</sup> See Chris Hoffman, *Why You Probably Aren't Getting the Internet Speeds You're Paying For (and How to Tell)* (July 10, 2017), <https://www.howtogeek.com/165321/why-you-probably-arent-getting-the-internet-speeds-youre-paying-for-and-how-to-tell/#:~:text=Actual%20vs.&text=Data%20showing%20that%20most%20people,cases%2C%20the%20speeds%20are%20slower>.

## **2. The Commission Should, at Minimum, Encourage Speeds That Are Sufficient to Meet Household Needs.**

While the Commission reaffirmed the minimum benchmark speed for broadband as 25/3 Mbps in the 2021 broadband deployment report, it should seek participating providers that provide service options above the minimum requirements, ideally symmetrical speeds. Many consumers do not even know the speeds to which they subscribe. Even those that do find that the speeds they receive are not always what is advertised. However, consumers understand when they have inadequate service, many having to create bandwidth strategies that accommodate video conferencing and remote learning platforms.

The FCC quantifies minimum speed as a relatively static metric, which runs contrary to the reality that technology drives both speed capabilities and users' expectations on an ongoing basis. Over the past two decades, the FCC has reclassified the minimum broadband speed three times, first in 1996 when it designated broadband speeds 200 Kilobits per second upload and download, then it revisited that threshold in 2010 when it was increased to 4 Mbps download and 1 Mbps upload, and most recently in 2015 when the current speed threshold was introduced.<sup>20</sup> These leaps in minimum service expectations suggest that by the time the agency is able to reclassify broadband service at a specific speed tier, that speed is already on the way to becoming obsolete.

While the benchmark began as symmetrical, the FCC's reclassification efforts have yielded a huge disparity between download and upload speeds, which is felt particularly hard in households that have several people working and going to school on the same home broadband

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<sup>20</sup> Jameson Zimmer, *FCC Broadband Definition Has Changed Before and Will Change Again* (Feb. 10, 2018), <https://broadbandnow.com/report/fcc-broadband-definition/#:~:text=The%20official%20FCC%20broadband%20definition.download%20and%203%20Mbps%20upload.>

subscription.<sup>21</sup> At the same time, the FCC has been unwilling to deviate from the five-year-old benchmark, designating billions of dollars in 2019 to funding to projects charted for the next decade.<sup>22</sup> It should not make the same mistake with the EBBP. This is a new program intended to support an extraordinary need to access various parts of daily life online. The Commission has an opportunity to set a new minimum speed for the EBBP, the first of its kind, it should not remain tied to its current benchmark.

### **3. The Commission Can Support Faster Speeds by Enabling High-Quality Service Providers to Participate in the EBBP.**

COVID-19 offers a real time test of whether the benchmark actually does what it is intended to do—determine what speeds are sufficient to meet consumer expectations for high-speed Internet performance. The Commission has already confessed that minimum service speeds are not sufficient for more than one user to utilize high demand applications at a time, stating that if two or more users wish to engage in high bandwidth applications such as video conferencing, they will require medium to advanced service.<sup>23</sup> If a household has 3 or more devices connected running high use applications, the Commission solely recommends advanced service.<sup>24</sup>

The EBBP is one opportunity for the Commission to set its sights higher by enabling participation from providers who offer high speeds. On the capacity side, residents in cities that host robust FTTH infrastructure generally enjoy gigabit speeds (1,000 Mbps) or higher.<sup>25</sup>

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<sup>21</sup> *Id.*

<sup>22</sup> See *Rural Digital Opportunity Fund*, Dissenting Statement of Commissioner Jessica Rosenworcel (Aug. 2, 2019), <https://docs.fcc.gov/public/attachments/FCC-19-77A5.pdf>.

<sup>23</sup> See Federal Communications Commission, *Household Broadband Guide*, <https://www.fcc.gov/consumers/guides/household-broadband-guide> (last visited Jan. 22, 2021) (The Commission defines “Medium Service” as download speeds between 12 and 25 Mbps, and defines “Advanced Service” as a download speed above 25 Mbps).

<sup>24</sup> *Id.*

<sup>25</sup> See Ansel Herz, *It's Time for Seattle to Become a Gigabit City* (Jan. 28, 2015), <https://www.thestranger.com/seattle/its-time-for-seattle-to-become-a-gigabit-city/Content?oid=21567078>.

Though coaxial cable can technically exceed current minimum broadband speeds, actual performance varies from household to household, leading hundreds of people to complain to the FCC about not receiving advertised speeds.<sup>26</sup> Furthermore, Digital Subscriber Line (DSL) customers already receive the slowest and least reliable service, and are no longer receiving service upgrades from AT&T, creating huge challenges for rural areas that are the most expensive to connect with FTTH.<sup>27</sup>

While FTTH providers offer the fastest service, those that have never provided phone service are unlikely to be classified ETCs.<sup>28</sup> Ensuring that the FCC's provider certification process encourages high-speed broadband providers to participate will benefit EBBP subscribers struggling with the extraordinary strain of the pandemic.

#### **IV. The Commission and USAC Must Work Together With Eligible Providers, State and Local Governments, and Local Nonprofits and Community Organizations to Advertise the Emergency Broadband Benefit Program.**

The Commission needs to partner with local, county, and state entities in order to publicize this new and vital program. Even though much of the structure for the Emergency Broadband Benefit program is based on that used to implement the Lifeline program, the Commission cannot recycle the public same education scheme.

People who are eligible for Lifeline will also be eligible for the EBBP. As illustrated in the Lifeline program participation, when the FCC and USAC have no promotional obligations, and only providers are required to educate eligible participants about the subsidy, the program is woefully underutilized. For example, of the over 33 million Americans who are eligible for the Lifeline program,

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<sup>26</sup> See e.g. Federal Communications Commission, *Freedom of Information Act Request, Consumer Complaints, Less than Advertised Speed* (2017), <https://www.fcc.gov/sites/default/files/foia-consumer-complaints-08292017-565-577-less-than-advertised-speed.pdf>.

<sup>27</sup> See Jon Brodtkin, *AT&T's DSL Phaseout Is Leaving Poor, Rural Users Behind* (Oct. 7, 2020), <https://www.wired.com/story/atandts-dsl-phaseout-is-leaving-poor-rural-users-behind/>.

<sup>28</sup> See Tyler Cooper, *Every ETC Registered with the FCC's Lifeline Program* (Aug. 2, 2017), <https://broadbandnow.com/report/report-every-etc-registered-with-the-fccs-lifeline-program/>.

only one in four, are active in the program.<sup>29</sup> An enrollment rate of 25% in a crucial program represents a failure of public and private sector actors to not only raise awareness of the program’s existence, but also its importance. Lifeline’s lackluster enrollment may be a reflection of a variety of policy and administrative decisions, but there is little contest that Americans who are eligible for the program simply do not know that it exists and have, historically, been deterred by other obstacles to enrollment.

Here, the Commission has an opportunity to correct course on how to effectively promote a USF program designed to reach low-income households. To ensure a higher enrollment rate and more active participation in the EBBP, the Commission should start by improving its website user experience, fostering greater partnerships with local officials and community leaders, and encouraging direct outreach to eligible households.

#### **A. The FCC and USAC are in the Best Position to Host Centralized Information.**

The Emergency Broadband Benefit is a completely new program. Naturally, eligible participants who learn about the program from secondary sources will likely turn to the Commission for verification. Eligible participants, providers seeking clarification, and public servants at every level of government working to promote the program are depending on the FCC to provide direction and accurate information. Thus, the Commission should host a website with centralized information and resources for participants and allies. In particular, eligible populations should be able to use the website as an authoritative resource on program benefits, responsibilities, and instructions to enroll.

The US Department of Agriculture’s “National School Lunch Program” landing page is an excellent example of a website managed by a federal agency, also intended to inform low-income populations. Upon initial review, this website allows visitors to access information specific to their role. It also provides up-to-date information from the Department that keeps stakeholders informed of any changes. A dynamic and accessible website should remove barriers and decrease the administrative

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<sup>29</sup> Universal Service Administrative Co., *Program Data*, <https://www.usac.org/lifeline/learn/program-data/> (last visited Jan. 19, 2021).

burden placed on possible participants.<sup>30</sup> The FCC's current website does have the requisite public notice and could deliver basic information about the program, but lacks depth and the tailored approach taken by the USDA. Changes to the Commission and USAC websites could easily build upon pre-existing infrastructure. It would also be a substantive step to increase awareness and enrollment in the EBBP.

### **1. The FCC Is Uniquely Positioned to Lead the EBBP's Public Education Campaign.**

The economic ramifications of COVID-19 have rendered an innumerable Americans eligible for the EBBP, many of whom have had to rely on government assistance programs for the first time. The Commission, USAC, and participating providers must all work in concert to ensure that low-income households in every state and territory are informed of program eligibility, benefits, and how to enroll.

Using the current Lifeline program framework, an eligible household may enroll through either an online portal or by mailing an application also downloaded from an online portal. For an eligible person who currently lacks broadband access to learn about and enroll in the Lifeline program, they must spend a significant amount of time navigating through the Commission's informational pages and then navigate to the enrollment portal. Prior to the COVID-19 pandemic, people who did not have access to broadband could use public computing stations in a library or another anchor institution to obtain the necessary documents. However, as many public access points, libraries, community centers, and schools remain closed or are severely restricted, the Commission should partner with local and state governments as well as social service entities to ensure that eligible populations can learn about the program via alternative means to have information and applications readily available.

Eligible participants are not the only ones who will need program education. The EBBP's success depends on support from public servants working in local government, county leadership, social service organizations, and state offices to promote the program. Like participants, they will also need to learn about the program's benefits, responsibilities associated with participation, and provider services. The

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<sup>30</sup> USDA Food and Nutrition Service, *National School Lunch Program*, <https://www.fns.usda.gov/nslp> (last visited Jan. 19, 2021).

Commission should consider hosting virtual town hall meetings for local and state officials as well as community leaders and non-profit organizations who can help to promote and endorse the EBBP.

Collaborating with local and state officials on public awareness campaigns that educate via websites and social media would complement offline promotional strategies. The Commission should develop public service announcements for television and radio to engage with low-income residents who have limited access to online portals. It would also be incredibly helpful to government officials and public interest allies for the Commission to develop and share materials that can be printed and distributed among populations which are historically hard to reach.

Clearly, online and offline resources are not only integral for educating program participants but will better enable providers and allies to help to promote the EBBP.

## **2. There Should Be a Coordinated Direct Outreach Campaign to Households with the Greatest Need.**

As the COVID-19 pandemic continues to force people into their homes, access to social services, community messaging, and public spaces remains severely limited. Some eligible households will benefit from the outreach outlined above, but many will not find out about EBBP without direct outreach. Households with the greatest need, including those with children at home, employees who cannot physically report to work, or other high-risk populations, should receive direct outreach to advertise the benefits and requirements of the EBBP.

The Commission should also maintain a repository of online resources that explain benefits and responsibilities associated with enrollment, noting answers to frequently asked questions. Other government programs have benefitted from direct outreach to eligible participants. A 2017 study of the Medicaid program found that even under a well-known national program, many eligible households lack the necessary program literacy or knowledge of the eligibility requirements to take active enrollment steps.<sup>31</sup> Research conducted by the National Institutes of Health found targeted marketing that emphasizes

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<sup>31</sup> Jeffrey K. Hom, Christian Stillson, Roy Rosin, Rachel Cahill, Evelyne Kruger, and David Grande, *Effect of Outreach Messages on Medicaid Enrollment* (Jun. 2017), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5497892/>.

the most relevant benefits to participants.<sup>32</sup> The study also identified a SNAP outreach program that resulted in a 5% response rate in Philadelphia and 16% across the State of Pennsylvania.<sup>33</sup> The Commission should craft letter or postcard programs to notify low-income households of eligible Emergency Broadband Benefit households to increase early enrollment.<sup>34</sup> Additionally, the Commission could partner with other agencies, including SNAP, to create notices of eligibility on those agencies' website portals.

Program protocols must take into account the barriers and needs that low-income households face. The EBBP should ensure that eligible households, regardless of language spoken, can understand and access the program. Currently, the Commission and USAC provide comprehensive resources in English and Spanish, an important first step, but Census Bureau data has found that Americans speak over 350 languages.<sup>35</sup> Even though the Commission cannot prepare material in every language, it should do so in every language used by the Census Bureau during the decennial count.<sup>36</sup> The Commission and USAC would also benefit from the expertise of local organizations that work daily to enroll vulnerable populations in other government assistance programs. Working alongside these groups would reduce redundancy when developing outreach programs while implementing efficient outreach solutions.

#### **B. Provider Participation Must be Conditioned on a Commitment to Advertise the Emergency Broadband Benefit Program.**

The Commission seeks comment on whether participating providers have any obligation under the program's rules to publicize the Emergency Broadband Benefit to the communities most in need.<sup>37</sup> Unequivocally, a provider's participation in the program should be conditioned on their agreement to advertise the EBBP to the communities in which they operate. This will

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<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> Press release, U.S. Census Bureau, Census Bureau Reports at Least 350 Languages Spoken in U.S. Homes (Nov. 3, 2015), <https://www.census.gov/newsroom/press-releases/2015/cb15-185.html>.

<sup>36</sup> Press release, U.S. Census Bureau, The 2020 Census Speaks More Languages (Mar. 9, 2020), <https://www.census.gov/newsroom/press-releases/2020/languages.html>.

<sup>37</sup> *Wireline Competition Bureau Seeks Comment on Emergency Broadband Connectivity Fund Assistance*, Notice of Proposed Rulemaking, DA-21-6 at 10-11 (WCB 2021).

help to ensure that the communities in which these providers operate know of this program and are able to identify which providers offer discounted service, and that they may qualify for such service offerings.

There is precedent for imposing promotional requirements on USF program providers. Under the Code of Federal Regulations, the Commission requires all ETCs to “publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.”<sup>38</sup> USAC notes that, for example, states and ETCs could post notices at public transportation stops, agencies, shelters, and soup kitchens; run public service announcements; provide information booths at central locations; and use other more accessible methods to help reach those with disabilities.<sup>39</sup> USAC also suggests that states and ETCs develop advertising that can be read by those who do not speak English, and should develop ways to offer details and contact information about the Lifeline Program in other languages.<sup>40</sup> Finally, regarding the Lifeline Program, USAC urges states and ETCs to coordinate their outreach with local government agencies that administer relevant government assistance programs.<sup>41</sup>

The Commission must also ensure that the advertisements put in place by participating providers, regardless of ETC status, meaningfully assists consumers in gaining access to the program. One of the largest shortcomings of the Lifeline Program is that it is notoriously difficult for consumers who may qualify to get information about where to sign up and what information is required to determine eligibility. Providers have claimed that simply because they offer the service and are willing to provide it to those who ask, they have advertised the program and

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<sup>38</sup> 47 C.F.R. § 54.405 (2010).

<sup>39</sup> Universal Service Administrative Company, *Advertise Lifeline*, <https://www.usac.org/lifeline/additional-requirements/advertise-lifeline/> (last visited Jan. 19, 2021).

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

fulfilled their obligations. However, only a quarter of those who qualify for the Lifeline program actually receive its benefits.<sup>42</sup>

The Commission can do more to help advertise the Lifeline program. Here, it can avoid the same promotional pitfalls by ensuring that both ETCs and other providers are working hard to visibly advertise how eligible consumers can take advantage of the EBBP. The Commission and USAC have a responsibility to develop materials that are available in multiple languages and various formats. The Commission should also consider grants awards for local and state governments that coordinate outreach efforts and facilitate sign-ups in a manner that engages the trusted, culturally competent frontline community organizations, anchor institutions, and ethnic media.

### **C. The Commission Must Work with State and Local Governments as well as Local Nonprofit and Community Organizations.**

A successful program rollout for the Emergency Broadband Benefit relies on the Commission's ability to forge partnerships with governmental and non-governmental organizations throughout the continental U.S. and territories. The EBBP program will provide critical connectivity and devices to low-income residents in need, but lack of precision and local understanding could undermine its goals. Through our work, Next Century Cities has grown to understand that there is no single solution to the digital divide, and that countless local options that serve the specific vastly different communities. To better understand and meet these needs, the Commission should seek partnerships that bring together municipal governments, anchor institutions, advocates, and community leaders in substantial ways that further the program mission.

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<sup>42</sup> See Lifeline Participation, *Universal Service Administrative Co.* (Nov. 20, 2019), <https://www.usac.org/lifeline/learn/program-data/>.

For example, at the start of the Census 2020 process, the U.S. Census Bureau and Department of Commerce turned to a nationwide network of partners to support their efforts.<sup>43</sup> Through their program, the U.S. Census Bureau garnered a better understanding of not only the demographics of the country, but challenges faced by local communities to gather our nation's most important count. This successful model benefits from partners by emphasizing:

When you partner with the U.S. Census Bureau, the nation's leading provider of quality data about its people and economy, you create opportunities to engage your employees and constituents more deeply in their communities; support the accurate collection, interpretation, and dissemination of data; and learn how to use data to advance your work.<sup>44</sup>

In 2020, Next Century Cities joined the Census Partnership program to elevate municipal voices as local leaders faced unprecedented challenges to completing an accurate count. Our partnership allowed numerous local stories to be heard at the federal level and effectively disseminate information from the Census Bureau to our network.<sup>45</sup>

Likewise, the Commission should seek to use the Census Bureau's partnership model as an example of the benefits that accompany information sharing. As the Commission determines which data should be made available it should make the data provided by providers to state and local governments, this will ensure communities are aware of which of their providers are participating in the program, what their offerings are, and how they can help ensure that eligible consumers are taking advantage of the EBBP.

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<sup>43</sup> U.S. Census Bureau, *Partner with the U.S. Census Bureau*, <https://www.census.gov/partners.html> (last visited Jan. 19, 2021).

<sup>44</sup> *Id.*

<sup>45</sup> Next Century Cities, *Census 2020*, <https://nextcenturycities.org/census-takeover/> (last visited Jan. 19, 2021).

## **V. Conclusion**

The Emergency Broadband Benefit has the potential to promote universal broadband service, but several objectives must align for it to perform as envisioned. Low-income households must learn about the program, have service options, and understand how to complete the enrollment process.

The Commission must help to develop a competitive list of service providers, including nontraditional providers such as co-ops, municipally run networks, and other network models. These are organizations that have the capacity to serve but have historically been barred from participating in federally funded programs. Pricing data is critical to understanding where broadband is affordable and where consumers are being priced out of the market simply because they cannot afford to connect. This data collected in conjunction with the speed data that is required to be submitted will meaningfully show which providers, in which areas, are able to offer high-speed low cost offerings, and may give insight into areas that may need more focus in terms of adoption programs in the future.

Finally, the burden of advertising this program cannot singularly fall on providers, as it has in the past. The Commission and USAC must work together with providers, state and local governments, and local nonprofits and community organizations to ensure that the EBBP is properly advertised and those who need it the most are able to easily find out how to and apply for the program.