

Nov. 13, 2020

Delivered via email: l.mcglinchey@fordfoundation.org



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RE: Recommendations for the Commission to Improve Broadband Access and Adoption

Dear Ms. McGlinchey,

We appreciated the opportunity to meet with Lindsay Gorman yesterday. We discussed ways for the Reimagine New York Commission's ("Commission") efforts to improve broadband connectivity statewide in the wake of the coronavirus ("COVID-19") pandemic.

As you know, Next Century Cities is a nonprofit composed of over 200 member municipalities across the United States, including Albany, Rochester, Jamestown, Saratoga Springs, Schenectady, and Syracuse, that are working to connect residents with reliable, high-quality broadband by both expanding access and improving adoption rates. We meet with local officials and community leaders on a regular basis to learn about ongoing local and state efforts from states of all sizes and specialties. The following policy recommendations reflect their sentiments and expand on the recommendations that we shared with Ms. Gorman.

We generally support other public interest groups' suggestions for creating broadband nutrition labels, competitive deployment strategies in multi-dwelling units, and broadband subsidies for residents in need. Some of the most prevalent concerns expressed in our conversations with local leaders involve the need to reduce state barriers, such as preempting and limiting local control, and increasing funding opportunities for local governments, and improving broadband data collections. State support, working together, and fostering a spirit of collaboration between the State of New York and local and Tribal governments are all essential for long-term success.

Declare Broadband as an Essential Service.

Access to reliable affordable broadband connectivity is part of the fabric of economically viable and resilient communities. When the COVID-19 pandemic forced government, business, and other essential services to migrate almost exclusively online, the need for equal access broadband became as important as access to electricity and clean water.



At the height of the pandemic, New York residents who had access to broadband were able to comply with remote learning mandates, had economic opportunities, and maintained access to healthcare. Those who did not were unable to adapt and often put themselves in harms ways to work, buy groceries, and access essential services. Months later, residents who continue to struggle with broadband access still have limited options to cope and recover.

Improve Broadband Data Collection and Mapping.

Through participating in the National Telecommunications and Information Administration's National Broadband Mapping program, the State of New York has taken the lead in providing accurate information about broadband availability.¹ Still, there are opportunities to expand data collection to lower deployment costs for residents without access and direct resources to the people who need them.

Infrastructure mapping is an important component of broadband mapping. By making the locations of dark fiber public, for example, cities can make public Wi-Fi available, decrease the costs of connecting residents' homes, and address new innovations like shared office spaces.² In addition to wireline infrastructure, community leaders in rural New York have discussed the role that the State can play in collecting information about pole locations.

In one instance, a rural New York resident and her neighbors were quoted thousands of dollars for an assessment in which the provider would determine whether it is possible to service their homes. There are no subsidies or tax credits available for residents to shoulder that type of expense. Moreover, residents would not get a discount on internet service after incurring thousands of dollars in exploratory costs.

Especially in light of the pandemic, people do not have disposable income to spend for the possibility that they may have service, they need broadband quickly and at an affordable cost. One way in which the State of New York can offset these costs is by making the pole's location, its number, and its owner publicly available in a statewide database.

Including pricing data can also help the State of New York address affordability. By collecting information about what companies charge for services at different speed tiers, the differences between promotional pricing and pricing for repeat customers, and the costs of installation that are passed onto consumers, New York residents

¹ See press release, National Telecommunications and Information Administration, NTIA Awards Grants for Broadband Mapping and Planning in Arkansas, the District of Columbia, and New York (Oct. 26, 2009), <https://www.ntia.doc.gov/press-release/2009/ntia-awards-grants-broadband-mapping-and-planning-arkansas-district-columbia-and->

² See e.g. Guadalupe Gonzales, *After Stumbling Upon 'Dark Fibers' in New York, This 24-Year-Old Built a Cheaper, High-Speed Internet Provider* (May 16, 2018), <https://www.inc.com/guadalupe-gonzalez/30-under-30-2018-pilot.html>.



would have useful information about the service offerings available in their home. Absent price information, expanding investment opportunities for community-owned networks are a proven way to decrease broadband prices while often increasing service quality.³

New York has long been an innovator of state programs that facilitate widespread, high quality broadband services. Networks need to be designed with accessibility and useability at the center. One key aspect of accessibility and useability is increasing the threshold broadband speed.

While the Federal Communications Commission (“FCC”) defines broadband as 25 Mbps for downloads and 3 Mbps for uploads, that standard is no longer adequate for the variety of high-bandwidth applications used to comply with COVID-19 restrictions. Even for basic video conferencing applications, 3 Mbps is hardly enough to support a call, particularly if there are multiple applications running in the same household, as is often the case. Notably, for people with hearing and vision disabilities, the need for increased speeds is even greater because there may be an interpreter on another line during the call, or captioning that needs to occur in real time, and diminished service quality will ultimately lead to an inability to participate online in work, school, and healthcare.

The State of New York and the FCC both request data from providers and do not include data about user experience at particular addresses. By implementing a crowdsourced speed test that allows residents to measure the speed they experience at home and share that in a state map, New York can lead the charge in collecting accurate information about broadband availability at particular locations for various service providers.

Residents need high-speed connectivity but setting higher speed goals alone is not enough. Funding should prioritize higher speed services and low latency, highly resilient, and robustly secure connections. All are essential for New Yorkers working, learning, and receiving healthcare from home.

Make Funding Available for Access *and* Adoption.

While broadband access remains a problem in many areas, broadband adoption is increasingly becoming the main barrier that keeps people disconnected. The FCC estimates that 318,000 of New Yorkers lack broadband access.⁴ According to Microsoft, data shows that around nine million people living in New York do not use the internet at broadband speeds.⁵ While part of that disparity is likely due to

³ David Talbot, Kira Hessekiel, & Danielle Kehl, *Community-Owned Fiber Networks: Value Leaders in America* (Jan. 2018),

https://cyber.harvard.edu/sites/cyber.harvard.edu/files/2018-01-10-Pricing_Study_.pdf.

⁴ Microsoft, *Microsoft Airband: An update on connecting rural America*, <https://news.microsoft.com/rural-broadband/> (last visited Nov. 12, 2020).

⁵ *Id.*



overstatements in the FCC's data, another part of that statistic tells a story about gaps in broadband adoption.

High broadband adoption rates offer a myriad of benefits including improving educational outcomes, increasing economic mobility, providing a platform to upskill our workforce, improving access to healthcare and overall well-being, promoting civic engagement, and facilitating emergency response and recovery efforts. There is no doubt that funding broadband adoption is a worthwhile endeavor even though most funding programs focus on access to the network without addressing barriers that prevent residents from using service when it is technically available.

Oftentimes, broadband funding contains explicit or unclear limitations on whether the money can support broadband adoption efforts. Local officials are painfully aware of the obstacles that the most disadvantaged residents face in being able to get online and have limited resources to find work arounds or incur risk. Accordingly, state funds should be used to address robust plans for issues related to access and adoption. Flexible spending allows communities to think innovatively and deploy long-term solutions, improving their digital infrastructure as well as their residents' ability to benefit from digital opportunities.

Particularly during the COVID-19 pandemic and for people with mobility disabilities, the need for broadband access is immediate and pressing. Temporary wireless solutions have been essential as cities across the country have found promise in leveraging existing broadband infrastructure to expand public Wi-Fi so that residents are not distance learning, teleworking, and accessing telemedicine from fast food parking lots. However, for people who relied on libraries and schools for broadband access—namely low-income, seniors, Black, Brown populations—will not be able to access Wi-Fi from parking lots in harsh winter weather. For them, the pandemic has been especially difficult and there is no end in sight, which only illustrates the need for long-term solutions.

A lesser known issue is that some of New York City's parks have public Wi-Fi, but many are served by private providers who cap the free data available to users.⁶ During the pandemic, data caps have presented a plethora of challenges for residents, since video calling uses a larger amount of data than text-based applications. Even before the pandemic, the City of New York City released a report on public Wi-Fi, stating that:

Free public Wi-Fi is essential for a connected city and a basic ingredient in defining public space. A fast, free, safe Wi-Fi signal can be a reassuring amenity, the way good lighting or a place to sit can make a space feel

⁶ NYC Parks, *Wi-Fi in Parks*, <https://www.nycgovparks.org/facilities/wifi> (last visited Nov. 12, 2020).



welcoming. It can fill a gap in cellular phone coverage. For many New Yorkers and visitors, a hotspot is a vital link to the digital world.⁷

Ultimately, Wi-Fi is not a substitute for reliable, high-quality home broadband service. Without an adequate statewide access and adoption plan that includes comprehensive data collection, funding for both infrastructure development and consumer subsidies, and resources for local governments to meet the needs of their residents, Wi-Fi will remain the only link to the digital world and, because of its technological limitations, an incomplete and inadequate link for meeting the many capacity demands for video conferencing applications.

The State of New York can also support adoption by providing resources and training for local governments that can enable greater competition. One example is by ensuring that local governments have equal access to broadband funding and that they receive notice of the process far enough in advance to participate. Another way the state can support local governments is by providing model real estate contracts that build broadband competition into the agreement, leaving open the option for tenants to select from among all available providers.⁸ Additionally, the state can raise awareness about the model contracts is widely dispersed and the importance of such agreements are highlighted to local governments so that they can ensure they are incorporated in zoning and building requirements.

Invest in Digital Equity and Inclusion Programs.

Across the country, more cities are developing their own digital equity and inclusion programs. Digital inclusion programs help to bring broadband within reach for the most under-resourced households in our communities. Digital equity requires acknowledging that some populations need more support than others in order to get online. Addressing affordability, equipment barriers, digital literacy, and technical support are key success factors.

Digital equity and inclusion plans often begin with a study to better understand community needs. Studies improve the ultimate outcome and help distribute resources to programs that need them, but at the outset use resources and require funding. Allowing funding to cover digital equity and inclusion studies, as well as the programs themselves, can help community leaders and elected officials develop a better understanding of the unique needs facing residents in their area.

Digital literacy is a key component of broadband adoption. For students, digital literacy can be easily integrated into education, but for seniors, residents with

⁷ NYC Connected, *Truth in Broadband Public Wi-Fi Report* (May 2019), https://tech.cityofnewyork.us/wp-content/uploads/2019/07/NYC-Connected-Truth-in-Broadband-Public-Wi-Fi-Report_v2.pdf.

⁸ See e.g. Colorado Office of the State Architect, *Contract Forms*, <https://www.colorado.gov/pacific/osc/contractgrant-forms> (last visited Nov. 12, 2020) (One example of state model real estate contracts).



disabilities, and young people who are not in school, intentional outreach is necessary to ensure that everyone can use the internet. As unfamiliar methods for providing broadband become available, like the transition from wired to primarily wireless connections in the home, even seemingly basic tasks like connecting to Wi-Fi can be incredibly difficult without adequate information. By meeting people where they are, digital literacy programs can transform the skills people already have into valuable experiences that can help improve employment opportunities and help residents with tasks that have become increasingly digital as the pandemic brings services online.

Continue to Support COVID-19 Response Programs.

Though the deadline for spending CARES Act funding comes to an end in December, social distancing will continue well into next year and telecommuting is expected to continue long after the pandemic. As the State of New York develops long-term solutions to tackling broadband access and adoption, it is critical that short term solutions remain in place for as long as residents need them.

Loanable Wi-Fi hotspots are one impactful way that local leaders are increasing opportunities for residents to get online while working on infrastructure expansion and upgrades. The New York Public Library is an excellent example and one of the first entities nationwide to employ this solution. Of course, there is more work to do to ensure that all New Yorkers have access to reliable broadband, regardless of their ability to pay.

The library halted lending new hotspots for the 2020-2021 school year and includes in its eligibility requirements that patrons must have at least one child in school, have no internet access at home at the time of sign-up, and have no more than \$15 in library fees.⁹ Again, data caps on hotspots are an obstacle. Data caps can be particularly difficult for people with multiple people in the home who need to be online at the same time, such as families with several children who are attending school remotely during the same hours that their parents work and their grandparents have telehealth appointments.

It would serve residents for the State of New York to expand funding for hotspots for residents who may not have children in the home but need to be able to telework, receive telemedicine, and access public and private online services. For example, in the wake of the pandemic, many banks began to require appointments prior to in-person visits. For people who lack internet access at home, it may be incredibly difficult to learn about appointment processes, find customer service phone numbers, and access online banking benefits. Similarly, the State of New York can work with providers to reduce data caps and ensure that all residents have the tools they need to stay connected.

⁹ New York Public Library, *Library Hotspot*, <https://www.nypl.org/hotspot> (last visited Nov. 12, 2020).



Like public Wi-Fi, hotspots are not a substitute for a reliable, fixed broadband connection, but they are an adjacent service that people have come to rely on during the pandemic when fixed solutions are unavailable and reducing access to them will undoubtedly leave people who have no connection without any tools to connect with school, work, and healthcare providers.

Conclusion

Local leaders have the best idea of their communities' needs and the thoughtful innovation essential to connecting *all* residents with affordable, high-quality broadband access. Through intentional collaboration and partnerships with local officials and community leaders, the State of New York can support municipalities as they increase broadband access and adoption in their communities, ensuring that everyone in the state can enjoy the fundamental benefits that broadband connectivity has to offer.

Respectfully Submitted,
Next Century Cities

CC: Lindsay Gorman, Consultant to Schmidt Futures

