



July 6, 2022

The Honorable Jessica Rosenworcel
Chairwoman
Federal Communications Commission
45 L Street NE
Washington, DC 20554

Re: Second Report and Order and Third Further Notice of Proposed Rulemaking, Modernizing the FCC Form 477 Data Program, WC Docket Nos. 19-195, 11-10

Dear Chairwoman Rosenworcel:

The maps created through the Broadband Data Collection Program will determine the distribution of tens of billions of dollars in broadband funding. A well-designed and transparent fixed broadband Internet access service challenge process will be critical to ensure that communities across the U.S. have access to the funds that they need to close local broadband availability gaps.

Currently, the FCC, NTIA, and the Treasury are managing a historic amount of broadband funding. Due to the long-standing issues with Form 477 data, each entity has different guidance and processes for verifying data. At the same time, leaders at the state, local, and Tribal level have developed unique expertise in expanding digital infrastructure using various information-gathering strategies as distinctive as the communities themselves.

In reaching national connectivity goals, the Commission must take a leadership role that coordinates the fragmented policies within the federal government and ongoing broadband data gathering efforts that are well underway in many communities across the country.¹ This will require clarity and guidance on the fixed service challenge process. Transparency and coordination will be key to ensuring that the challenge process meets the intent of the Broadband DATA Act.

Clarity and transparency from the Commission will become increasingly pressing as the NTIA looks to distribute five million dollar allotments in planning funds through the Broadband Equity, Access, and Deployment (BEAD), some of which will be used for broadband data collection.²

Without clarity on the challenge process, local leaders—who have already devoted limited staff and resources to gathering a wide array of information—face uncertainty

¹ See Government Accountability Office, National Strategy Needed to Guide Federal Efforts to Reduce Digital Divide, at 9 (May 2022), <https://www.gao.gov/assets/gao-22-104611.pdf> (“the situation of having multiple agencies involved in the same area of need can create barriers for program applicants or inefficiencies in service delivery”).

² See NTIA, Notice of Funding Opportunity, Broadband Equity, Access, and Deployment Program, at 1 (May 13, 2022), <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf>.

that threatens to harm their communities. Additionally, the uncertainty promises to burden the Commission's challenge review process, and may lead to well-intentioned, yet inefficient use of federal dollars as local leaders gather data.

With effective coordination, local governments can support the Commission's data enforcement efforts and federal broadband grant programs. Information about where public grant recipients' networks are located and the prices they offer will remain imperative as build-out deadlines arrive and broadband funding authorities determine whether delays warrant enforcement action. Notably, local leaders are often the first to receive feedback about unmet community needs. Few are better informed about whether projects achieve their objectives.

The Commission can support complementary local data collection efforts and coordination between entities by defining the challenge process to whether the map accurately depicts speeds offered in the marketplace. In particular, local leaders and consumers should have access to information on:

- The types of evidence and details allowable in a challenge submission through the Commission's online portal.
- How the Commission will evaluate whether a challenger's evidence, methodology, and basis for assertions meets the required evidentiary standards.
- How the Commission will evaluate whether a provider meets the required evidentiary standard to rebut a challenge.
- How the Commission's evaluations will differ between the preponderance of evidence standard, as required in consumer challenges, and the clear and convincing evidence standard, as required in challenges from government and other entities.
- How the Commission will handle these evaluations when the challenger's evidence and provider's evidence rely on different methodologies.

Additionally, the Commission should provide guidance for communities that have not started the data collection process by providing specific examples of local data collection efforts that would assist with national broadband mapping initiatives.

As federal and state leaders distribute a historic amount of broadband funding, the Commission's maps will play a vital role in determining which communities may access much-needed support. By clarifying what the challenge process will entail, the Commission could facilitate local leaders' participation in informing data sets that will directly impact their communities' funding outcomes. It would also ensure that communities that are desperate for the Commission to deliver on its universal broadband service goals are equipped to help hold the agency accountable.



Respectfully Submitted,

Next Century Cities

National Broadband Mapping Coalition

Buckeye Hills Regional Council

Access Humboldt

SA Digital Connects

National Association of Counties

California Community Foundation

South Bay Cities Council of Governments

cc: Commissioner Brendan Carr
Commissioner Geoffrey Starks
Commissioner Nathan Simington

