

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| Inquiry Concerning Deployment of |) | GN Docket No. 20-269 |
| Advanced Telecommunications |) | |
| Capability to All Americans in a |) | |
| Reasonable and Timely Fashion |) | |



COMMENTS

I. INTRODUCTION & SUMMARY

ACA Connects hereby submits comments in response to the Federal Communications Commission (“Commission”) Notice of Inquiry (“NOI”) issued in the above-captioned proceeding.¹ The NOI commences the annual inquiry on broadband deployment required under Section 706 of the Telecommunications Act of 1996.² Each year the Commission must determine whether “advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion.”³ As in previous years, the Commission should find that the answer is “yes.” Driven by competitive

¹ See *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, GN Docket No. 20-269, Notice of Inquiry, FCC 20-112 (rel. Aug. 19, 2020).

² See 47 U.S.C. § 1302.

³ See *id.*, § 1302(b).

factors, and aided by the Commission's policy efforts to promote deployment and remove barriers to investment, ACA Connects members and other broadband providers have continued to expand and upgrade their broadband networks throughout the previous year.

The onset of COVID-19 put these networks to the test—and they delivered. As Americans turned to broadband to meet their daily needs and to stay connected in the midst of this pandemic, broadband networks were able to bear the increased traffic loads and shifting patterns of daily usage. This success story is the result of broadband providers' sustained investments in their networks – driven to a significant extent by a light-touch regulatory regime and the Commission's efforts to remove barriers to deployment – to meet their customers' rapidly growing appetites for high-performance, high-capacity broadband service.

That said, as the Notice recognizes, there are areas that remain unserved—hence, the Commission's work is not done. We therefore encourage the Commission to take further steps, as discussed below, to stimulate deployment in these unserved areas and close the digital divide.

II. ACA CONNECTS' MEMBERS ARE CONTINUING TO DO THEIR PART TO BRING BROADBAND TO ALL AMERICANS, INCLUDING BY HELPING THEIR CUSTOMERS AND COMMUNITIES STAY CONNECTED DURING COVID-19

As in previous years, the Commission proposes to apply a 25/3 Mbps speed benchmark to measure deployment of fixed broadband service. ACA Connects agrees that broadband service at this speed tier continues to provide users the ability “to originate and receive high-quality voice, data, graphics, and video telecommunications”, and that maintaining the same benchmark across multiple years' reports makes it easier

to measure deployment progress over time.⁴ We therefore support maintaining the existing benchmark for fixed broadband service.

Over the past year, ACA Connects members have continued to make steady progress deploying fixed broadband service that, in virtually all instances, vastly exceeds the Commission's 25/3 Mbps benchmark. Here are a just a few examples of ACA Connects members' recent deployment milestones:

- Atlantic Broadband has made 10 Gbps service available for business customers in its Western Pennsylvania, Rochester, New Hampshire and Southern Maine service areas.⁵
- Cedar Falls Utilities in Iowa has deployed a 10 Gbps broadband service city-wide.⁶
- Ritter Communications has made a \$16 million investment to bring 100-percent fiber broadband services to businesses in Texarkana, Ark. and Texarkana, Tex.⁷
- TDS Telecom has completed fiber builds in the village of Oregon and the city of McFarland, Wisconsin. "Combined, the two projects connect more than 5,000 Oregon and 5,700 McFarland residential and business addresses to up to [1 Gbps] Internet speeds, TV, and phone service."⁸

⁴ See 47 U.S.C. § 1302(d)(1) (defining "advanced telecommunications capability"); see also NOI, ¶ 11.

⁵ See Business Wire, "Atlantic Broadband Deploys 10 Gig Fiber Service for Business (Mar. 5, 2020), <https://www.businesswire.com/news/home/20200305005058/en/Atlantic-Broadband-Deploys-10-Gig-Fiber-Service>

⁶ See Cedar Falls Utilities, "Internet service with speeds up to 10 gigabits per second (gbps) is now available across Cedar Falls. Business and residential customers can upgrade to internet speeds that rank among the fastest in the world," <https://www.cfu.net/tv-internet/internet-service-info/10-gig-internet> (last visited Sept. 18, 2020).

⁷ See Ritter Communications, "Ritter Communications Completes \$16 Million Investment to Provide 100 Percent Fiber Internet Service to Businesses in Texarkana, Arkansas and Texarkana, Texas," (June 11, 2020), <https://www.rittercommunications.com/newsroom/ritter-communications-completes-16-million-investment-to-provide-100-percent-fiber-internet-service-to-businesses-in-texarkana-arkansas-and-texarkana-texas>.

⁸ See TDS Telecom, "TDS' fiber network builds in Oregon and McFarland, Wisconsin are complete," (July 16, 2020), https://tdstelecom.com/about/news/categories/tds/Oregon_McFarland_Fiber_Builds_Complete.html.

ACA Connects members continue to invest in upgrading and expanding their broadband networks in response to the intense competitive dynamics they face. The typical ACA Connects member competes directly with at least one other wireline provider, and also faces competition from fixed wireless providers, mobile carriers, and other sources. These dynamics are expected only to intensify in the years ahead as consumer demand for high-bandwidth service increases and competition from new broadband technologies emerges in the marketplace.⁹

Over the previous six months, ACA Connects members have leveraged their deployments of high-performance broadband networks to help their customers and communities stay connected in the midst of COVID-19. Hundreds of ACA Connects member companies signed on to the “Keep Americans Connected” pledge,¹⁰ and that is only the beginning. ACA Connects members implemented the following initiatives, among many others, when the COVID-19 crisis hit:

- Mediacom increased the speed of its Connect2Compete low-cost internet program to 25/3 Mbps (from 10/1 Mbps); offered 60 days of this service to qualifying families; and reduced the price of “Access Internet 60” (60 Mbps) broadband service.¹¹

⁹ See Comments of ACA Connects on Communications Marketplace Report, GN Docket No. 20-60 at 3-4 (filed Apr. 27, 2020).

¹⁰ See Federal Communications Commission, Keep Americans Connected, <https://www.fcc.gov/keep-americans-connected> (last visited Sept. 18, 2020); ACA Connects, Keep Americans Connected, <https://acaconnects.org/covid-19/fccs-keep-americans-connected-pledge/> (listing ACA Connects members that took the pledge) (last visited Sept. 18, 2020).

¹¹ See Mediacom, “Mediacom Announces Company Initiatives to Combat Spread of Coronavirus,” (Mar. 16, 2020), <https://mediacomcable.com/about/news/corona-company-initiatives/>.

- Hiawatha Broadband created a Temporary Free Internet Assistance Program to provide 60 days of free Internet service and router rental to eligible low-income households.¹²
- Vast Broadband offered free broadband services to students at Black Hills State University that lacked internet access at home.¹³
- BELD Broadband upgraded broadband speeds at no additional charge. Customers at the 20, 50, 75 and 100 Mbps Internet speed tiers were upgraded to 155 Mbps.¹⁴
- Shentel waived all installation fees for new broadband data subscribers and increased data allowances by 250 GB for all customers with rate plans that include a monthly data allowance.¹⁵

The costs to implement measures such as these were absorbed by the ACA Connects member companies that provided them. As community-based providers, they appreciate the need to be “a good neighbor” in such unprecedented times.

What has made it possible for ACA Connects members to help their customers and communities in so many diverse ways during this crisis is the robustness and resiliency of their networks. These providers have spent many billions of dollars of private capital in recent years to construct and operate high-performance, future-proof broadband networks, which have been more than capable of handling the extraordinary demands the pandemic-driven surge in traffic has placed on them. As a result, ACA

¹² See Hiawatha Broadband, “HBC to Offer Free Broadband Internet to Families with Students Amid Coronavirus Closures,” (Mar. 14, 2020), <https://www.hbci.com/hbc-to-offer-free-broadband-internet-to-families-with-students-amid-coronavirus-closures>.

¹³ See Black Hills State University, “Business to provide free internet to BHSU students in need,” (Mar. 20, 2020), <https://www.bhsu.edu/About-BHSU/News-Events/business-to-provide-free-internet-to-bhsu-students-in-need-1>.

¹⁴ See BELD Broadband, “Free speed upgrade for BELD Internet customers,” (Mar. 25, 2020), <https://www.beld.net/freespdup>.

¹⁵ See Shentel, “Shenandoah Telecommunications Company's Response to COVID-19,” (Mar. 16, 2020), <https://investor.shentel.com/news-releases/news-release-details/shenandoah-telecommunications-companys-response-covid-19>.

Connects members' customers and others in the communities they serve have been able to reap the benefits of broadband when they needed it most.¹⁶

III. COMMISSION POLICIES ARE MAKING A DIFFERENCE, BUT MORE WORK REMAINS TO BE DONE

The Notice seeks comment on the impact of Commission policies on progress towards deployment of broadband to all Americans.¹⁷ ACA Connects applauds the Commission's sustained efforts in recent years to remove regulatory barriers to deployment to accelerate investment, which were vindicated to a large extent in a recent Ninth Circuit decision.¹⁸ These efforts have unleashed investment and led to more robust deployment, as the data presented in recent progress reports has shown.¹⁹

We are pleased the Commission has taken additional measures recently to promote further broadband deployment that are consistent with ACA Connects' recommendations in last year's Notice of Inquiry proceeding. For instance, recently, the Wireline Competition Bureau took an important step to ensure the Commission's pole

¹⁶ See ACA Connects, Network Performance During the COVID-19 Crisis, <https://acaconnects.org/covid-19/broadband-dashboard/>.

¹⁷ See NOI, ¶ 29.

¹⁸ See *City of Portland v. United States*, No. 18-72689, ___ F.3d ___, 2020 WL 4669906 (9th Cir. Aug. 12, 2020).

¹⁹ See *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, GN Docket No. 19-285, 2020 Broadband Deployment Report, FCC 20-50 at ¶¶ 90-91 (rel. Apr. 24, 2020). We are confident the Commission will be able to find once again this year that substantial progress is being made towards deployment of broadband to all Americans, notwithstanding the challenges of COVID-19. That said, the Commission should reasonably take into account the potential barriers to deployment presented by COVID-19 in evaluating deployment progress in coming years' reports.

attachment rules are “properly implemented and enforced”²⁰ by issuing a declaratory ruling that clarifies certain aspects of these rules.²¹

We encourage the Commission to build on this work in the year ahead. Among other measures, the Commission should take regulatory action to ensure that the costs to replace utility poles are fairly and proportionately allocated among pole owners and other parties that benefit from a replacement, such that new attachers are not forced to bear the entirety of these costs. As ACA Connects and others have documented, excessive pole replacement charges can undermine business cases for broadband deployment, especially when venturing into unserved areas. We have therefore urged the Commission to adopt rules that ensure pole replacement charges are “just and reasonable,” consistent with Section 224 of the Communications Act.²²

We recognize that, even when regulatory barriers are removed, there will remain areas that are cost-prohibitive to serve. Government support has a critical role to play in bringing service to these areas, but it must be administered with care. To maximize the “bang for the buck,” the Commission and other Federal and State agencies should define granularly the areas that need support, so as to avoid overbuilding private

²⁰ See Comments of ACA Connects on 2019 Broadband Deployment NOI, GN Docket No. 19-285 at 6 (Nov. 22, 2019) (“And of course, the adoption of new rules to stimulate deployment is only the first step; the rules must then be implemented and enforced.”).

²¹ See Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17-84, Declaratory Ruling, DA 20-796 (WCB rel. July 29, 2020).

²² See Comments of ACA Connects on NCTA Petition for Declaratory Ruling, WC Docket No. 17-84 (filed Sept. 2, 2020); see also NCTA—The Internet and Television Association, Petition for Declaratory Ruling, WC Docket No. 17-84 (filed July 16, 2020); Comments of Charter on NCTA Petition for Declaratory Ruling, WC Docket No. 17-84 (filed Sept. 2, 2020). In addition, ACA Connects has requested that the Commission clarify that “service drop” pole attachments can be performed on an “attach and notify” basis, which would enable new broadband customers to get connected as soon as possible after ordering service. See Letter From Brian Hurley, ACA Connects, to Marlene H. Dortch, Secretary, WC Docket No. 17-84 (filed Apr. 9, 2020).

investment. Also, where appropriate, agencies should pursue auctions or similar mechanisms to award support on a competitive basis, with substantial weight given to bidders that will deploy higher-performance networks.²³ The Commission's Connect America Fund and RDOF auctions have taken substantial steps in this direction, and the Commission should seek to build on these programs and incorporate "lessons learned" into future funding initiatives.

IV. CONCLUSION

ACA Connects appreciates the opportunity to participate in this proceeding, and it encourages the Commission to take its comments into consideration.

Respectfully submitted,



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²³ See, e.g., Comments of ACA Connects on Rural Digital Opportunity Fund, WC Docket No. 19-126 et al. at 5-9 (filed Sept. 20, 2019).