



and an additional reporting burden on top of the many to which small rural providers like those in NTCA’s membership are already subject would add to the burden these small businesses already face. NTCA discusses herein how the Commission can obtain the data necessary to determine whether the ACP is an effective tool for closing the “affordability gap,” and how it can do so within the specific bounds for the collection as set forth by statute and in a manner that does not overly burden participating providers.

**II. THE COMMISSION SHOULD COLLECT ONLY THAT DATA STRICTLY NECESSARY TO FULFILL ITS STATUTORY RESPONSIBILITY WITH RESPECT TO ACP TRANSPARENCY, AND THEREBY MITIGATE THE BURDEN ON SMALL OPERATORS.**

The small businesses that make up NTCA’s membership are subject to a number of time-consuming reporting requirements – these operators also report that the ACP is already an administratively complex program. With this in mind, the Commission should adopt an ACP Data Collection focused directly and only on the *adoption gains* made possible by ACP. This should include the services and applicable rates available to ACP-eligible subscribers, as well as an indication of how many ACP enrollees were “new” subscribers in a given period. This data, along with total ACP enrollment as compared to the number of ACP-eligible consumers across the nation will, in turn, allow policymakers to evaluate whether the ACP is effective in its mission – more specifically, this data will enable policymakers to determine whether the \$30 per month subsidy level is sufficient to close the “affordability gap” that exists between low-income consumers and the broader U.S. population.

**A. The ACP Data Collection should reflect the administrative complexity of the program, and as well as smaller rural providers' existing, significant and time-consuming reporting requirements.**

NTCA and its member operators are highly supportive of the ACP, and enthusiastically welcomed its establishment by Congress. NTCA members recognized the incredible potential of this vital program – placing the successful Emergency Broadband Benefit on firmer footing and thereby helping to ensure that the broadband adoption gains made possible by that program can be sustained and expanded. Affordability however can be a special challenge in rural areas – one that the ACP cannot solve by itself. In rural America, it is often far more costly to deploy networks and deliver services, making it harder to deliver service that is affordable even to the average consumer, never mind for a low-income consumer. For this reason, even as the ACP is a critical part of the affordability puzzle in rural areas, the Commission's high-cost universal service initiatives are important as well in ensuring that, as a baseline matter, the average price in rural areas more closely resembles those in urban areas – such that the ACP can then better help solve challenges for rural low-income consumers specifically. Nonetheless, a large number of NTCA members participate in the ACP, and they do so to help ensure that every rural consumer, regardless of income, can benefit from all that an Internet connection can offer.

As it establishes the specific data points that will make up the ACP Data Collection, NTCA urges the Commission to keep in mind that the program is administratively complex, and the enrollment, reimbursement, and record-keeping processes are quite time-consuming for small operators. More directly relevant to the ACP Data Collection, these very same staff are also typically responsible for fulfilling any data requests/reporting responsibilities applicable to

voice and broadband operators<sup>5</sup>, and these staff members often “wear multiple hats.” They have responsibility for these data collections as well as administration of not only the Lifeline and ACP programs, but also compliance with the Schools and Libraries, High-Cost, and Rural Health Care programs, customer billing and customer service overall – and with the tight labor market and the need to operate efficiently that comes with serving high-cost rural markets, adding new staff is not always realistic. To be sure, NTCA members looks forward to the results of the ACP Data Collection, as it can shed light on whether the program is helping to close the “affordability gap.” NTCA merely raises these points to underscore the need for a data collection that is *tightly focused*, to both limit the burden on small operators and, just as importantly, ensure that it elicits a true picture of the adoptions gains the ACP has enabled.

**B. The collection should be narrowly tailored to only that which is necessary to determine ACP-enabled adoption gains.**

The Commission should decline to include “introductory” or “promotional” rates, or taxes or other fees and discounts,<sup>6</sup> within the ACP Data Collection; nor should it require providers to identify separately the specific prices of discrete services within “bundled” service packages. With respect to introductory or promotional rates, these are, by their temporary nature, not informative as to whether the ACP subsidy level is effective in enabling low-income consumers’ access to broadband services. Being temporary, these time-limited offerings that evolve into more standard monthly rates do not reflect the true, average monthly cost of

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<sup>5</sup> In a survey conducted several years ago by NTCA, members reviewed a list of data forms and were asked to provide the typical number of hours spent preparing their response to each – these included both Commission reporting requirements (such as FCC Form 477) as well as cost/industry submissions such as those associated with National Exchange Carrier Association and other cost recovery mechanisms. Responses indicated that the average annual reporting burden for all forms is 587 hours.

<sup>6</sup> NPRM, ¶ 5.

broadband service within a particular market where they are available. In a similar way, taxes and fees and various other items raised in the NPRM<sup>7</sup> should be outside the ACP Data Collection as well. For example, promotional discounts for streaming services or paperless billing would likewise provide little insight into whether the \$30 ACP subsidy is increasing broadband adoption among eligible consumers across the nation. Moreover, the fact that taxes and other fees, or modem/equipment charges, are assessed on top of monthly service rates is not something with which policymakers are unfamiliar. The product of the ACP Data Collection – a window, for policymakers, into the program’s success in improving broadband adoption – is not intended to be “consumer facing,” and thus the inclusion of these taxes/fees is unnecessary.

In addition, the Commission should not require providers to separate out the prices of individual services sold within a “bundled” service package. As the NPRM correctly proposes, pricing data collected should “include the monthly charge for the internet service offering that a household would be charged absent the application of the affordable connectivity benefit.”<sup>8</sup> Collecting the total price of the bundle (with an indication of the discrete services that are part of it, as well as the download/upload speed, contained within each available bundle) does just that – it tells the Commission what a non-low income consumer can get in a particular market and how much \$30 off (or \$75 in a Tribal area) gets an ACP-eligible low-income consumer. Moreover, participating ACP providers are required to offer eligible consumers all Internet service offerings generally available to any household (and thus these will all be captured by the ACP Data

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<sup>7</sup> *Id.*, ¶ 5.

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

Collection) – and the Commission will thereby have insight into the price and availability of standalone broadband services available to a consumer, low-income or otherwise.

Finally, the Commission should decline to include “packet loss” within the ACP Data Collection. As an initial matter, while draft rule 54.813 as found in Appendix A of the NRPM includes “packet loss” within the data points listed therein,<sup>9</sup> that is the sole reference to packet loss in the document as a whole. A discussion of the need to collect this data, how it fits within a data collection related to price and subscription rates (as specifically and only called for by the statute) and the Commission’s legal authority to include packet loss is found nowhere in the NRPM proper. This therefore leaves commenting parties and the public limited ability to address the issue; for example, parties commenting on the Commission’s legal authority to collect such data would be greatly assisted by the NPRM’s assertion of such authority. That said, there is no indication in the Infrastructure Act that this very specific data point (unrelated to price and subscription rate) was something Congress contemplated being within this data collection – indeed nothing in the plain text of Section 60502(c) references the performance of networks used to deliver services available to ACP eligible consumers. Just as importantly, as NTCA has observed in another proceeding on this topic, “[w]hile it may seem a facially reasonable measure of performance, the internet was designed to withstand a certain level of packet loss.”<sup>10</sup> Put another way, packet loss is a “feature and not a bug” of broadband service, and beyond its inability to offer insight into network performance, it bears no relation to whether the ACP places broadband service within reach of eligible consumers that could not enjoy this

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<sup>9</sup> NPRM, Appendix A.

<sup>10</sup> Comments of NTCA-The Rural Broadband Association and the Wireless Internet Service Providers Association, CG Docket No. 22-2 (fil. Mar. 9, 2022), p. 11.

valuable service but for the subsidy. Inclusion of packet loss within the ACP Data Collection would therefore be an unnecessary burden on providers.

**C. The Commission should collect data on an aggregated basis, as collecting “subscriber-level” data, via the NLAD and at the time of enrollment, would turn the statutorily mandated “annual collection” into an ongoing reporting requirement.**

The NPRM seeks comment on whether it should collect data on an aggregated or subscriber-level basis,<sup>11</sup> and references as well the statutory direction to which it is beholden, that is, to conduct an “annual collection” pursuant to Section 60502.<sup>12</sup> While the Commission correctly notes that the use of the National Lifeline Accountability Database (“NLAD”) for a subscriber-level collection would leverage a system with which ACP participating providers are familiar, it also acknowledges that this would require providers “to input additional data in NLAD *at enrollment* in addition to the information already required to enroll a household.”<sup>13</sup> As ACP enrollment is done on an ongoing basis, so too will the ACP Data Collection – it would be difficult, if not impossible to define a requirement that providers enter multiple, additional data points *for each individual, new ACP subscriber, at the time of enrollment in the NLAD* (something that happens as frequently as every day, or at least several times per week, for smaller providers) as the kind of “annual collection” that the statute unambiguously requires.

With respect to the burden imposed on providers, should the Commission choose an aggregated approach,<sup>14</sup> that can be minimized as well by, as noted above, collecting only that

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<sup>11</sup> NPRM ¶¶ 17-22.

<sup>12</sup> *Id.*, ¶ 5.

<sup>13</sup> *Id.*, ¶ 21 (emphasis added).

<sup>14</sup> *Id.*, ¶ 24 (seeking comment on whether an aggregated approach would be more burdensome than a subscriber-level collection).

data which is strictly necessary while ensuring that the data collection remains valuable to policymakers. Specifically, the Commission should require ACP participating providers to file, on an annual basis: (1) the details (download/upload speed) for each Internet service offering available to every household without regard to whether they are eligible for the ACP program, which would include an indication of whether the offering is a bundle or a standalone broadband offering; (2) the monthly service charge for that Internet service offering; (3) the number of subscribers receiving the ACP subsidy for each discrete offering as of a specific date (i.e., as of December 21, 2022); and (4) an indication, for each Internet service offering, of the number of subscribers to that plan were “new” customers as of the date of enrollment. In addition, providers should also include – to the extent they offer them – details on Internet service offerings designated for low-income subscribers.<sup>15</sup>

Respectfully Submitted



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<sup>15</sup> *Id.*, ¶ 5.