

Table of Contents

EXECUTIVE SUMMARY i

I. INTRODUCTION.....1

II. DISCUSSION1

 A. HISTORIC COST ACCOUNTING RULES.....1

 B. ELIGIBLE TELECOMMUNICATIONS CARRIER REPORTS3

 C. ONGOING IMPORTANCE OF UNIVERSAL SERVICE.....5

 D. DIGITAL DISCRIMINATION9

 E. BROADBAND LABELS.....10

 F. MANDATORY DISASTER INFORMATION REPORTING SYSTEM (DIRS)
 REPORTING11

 G. MISCELLANEOUS RULES PERTAINING TO COMMON CARRIERS –
 NOTIFICATION OF SECURITY BREACHES.....12

 H. EXCLUSIVITY AND NON-DUPLICATION RULES.....15

 I. RETRANSMISSION CONSENT “BUNDLING”.....17

 J. CERTAIN REGULATORY OBLIGATIONS APPLICABLE TO MVPDS18

 K. BROADCAST OWNERSHIP RULES20

 L. DATA CAPS.....22

 M. AUDITS23

 N. BROADBAND MAPPING24

 O. PERMITTING26

III. CONCLUSION.....28

EXECUTIVE SUMMARY

In initial comments, NTCA–The Rural Broadband Association (NTCA) identified several sets of Federal Communications Commission (Commission) rules as candidates for elimination, pruning, or streamlining; each of these rules as identified by NTCA are to various extents outdated, unnecessary, unduly burdensome, or inconsistent with their governing statutory authority.

Like NTCA, other parties in initial comments note where the Commission’s historic cost allocation rules may be outdated or in need of reform. That said, these parties also join NTCA in cautioning the Commission to review these in a thoughtful manner that takes care to minimize the creation of regulatory uncertainty and disruption. In a similar manner commenters like NTCA point to the need to streamline certain eligible telecommunications carrier reports and in identifying certain aspects of FCC Forms 481 and 555, as well as the interplay of Broadband Data Collection (BDC) and High-Cost Universal Service Broadband (HUBB) reporting, as ripe for additional examination.

NTCA urges the Commission to reject those questioning the need for universal service programs. These parties suggest dismantling and deleting these programs, but their arguments proceed from a fundamental misunderstanding of law and fact, and they fail as well to understand the precise nature of the statutory mandate for universal service. Even worse, these arguments are based on generalized and misinformed claims as to missions accomplished that should be rejected.

Like NTCA, other commenters urge the Commission to discard the disparate impact standard in its digital discrimination rules and focus regulatory attention on intentional discrimination instead. As NTCA and these other parties note, the disparate impact standard is inconsistent with the governing statute and the breadth of the rules exceed what Congress

intended. Moreover the record also indicates support for shuttering the Further Notice of Proposed Rulemaking (FNPRM) in that docket.

With respect to broadband labels, several parties along with NTCA recommend specific, surgical adjustments to enhance administrative efficiencies including, among other suggestions, that providers be permitted to display a web icon or a link rather than the actual label. Several parties echo NTCA's call for the Commission to shutter the FNPRM in that docket as well.

Like NTCA, a number of parties request that the Commission revisit its 2024 decision changing Disaster Information Reporting System (DIRS) reporting from voluntary to mandatory. The obligation to submit daily infrastructure reports is burdensome, particularly for small businesses in the midst of responding to and recovering from an emergency during which DIRS would be activated.

Numerous commenters, like NTCA, also urge the Commission to delete or reverse the data breach reporting rules adopted in 2023. These rules not only vastly expanded the scope of customer proprietary network information to include personally identifiable information, but also created an overly broad and subjective definition of harm that in many instances would be difficult at best for a provider to determine. The record also demonstrates that these rules exceed the Commission's statutory authority.

With respect to Multichannel Video Programming Distributor (MVPDs), commenters join NTCA in seeking to eliminate exclusivity and non-duplication and other retransmission consent rules that allow broadcasters to drive up rural consumers' rates for video services and limit their access to desired programming. Other parties also point to the breathtaking regulatory regime applicable to MVPDs as a good candidate for significant pruning. NTCA further notes

herein that broadcasters' calls to relax broadcast ownership rules should be rejected as this could harm the video industry and consumers.

NTCA and other parties urge the Commission to set aside its data cap Notice of Inquiry. As one party states, these rules could be counterproductive.

NTCA herein calls the Commission's attention to its audit rules that, while valuable as a matter of accountability for universal service support recipients, are in need of some amendment. These rules should be revisited with an eye towards reducing unnecessary burdens on small entities while maintaining accountability.

NTCA also addresses the need to unify BDC and HUBB reporting in a thoughtful manner. Specifically, any effort of this nature should be optional for high-cost support recipients under existing programs pending the establishment of new service obligations.

Finally, NTCA is joined by other commenters in urging the Commission to address its National Environmental Policy Act and National Historic Preservation Act rules. Compliance with these rules delays needed broadband deployment, and the Commission can streamline these processes and serve as a model for other federal agencies to do the same.

remote areas, commenters agree with NTCA that a number of these rules should be reviewed for pruning or potential elimination.

As several examples in its initial comments, NTCA suggested further review of a series of provisions governing the allocation and jurisdictional separation of costs associated with outdated equipment or services,³ as well as rules governing the assessment of rate elements that have little to no applicability in the wake of reforms enacted years or even decades ago.⁴ For similar reasons, NTCA recommended that the Commission evaluate whether aspects of its rules governing prescription of the interstate rate of return might be streamlined.⁵ The other parties addressing these issues echo NTCA's request for further examination. For example, USTelecom suggests a "sweeping review" – perhaps as part of the Commission's next biennial review process – "of outdated legacy regulation targeting incumbent carriers in light of the dramatic changes in the communications marketplace," listing as examples many of the same parts of the CFR cited by NTCA (and others too, such as Part 53 that applies only to Bell Operating Companies).⁶ Importantly, however, USTelecom notes that this review must be thoughtful and "detailed," emphasizing that care should be taken to minimize the creation of regulatory

³ Comments of NTCA–The Rural Broadband Association (NTCA), GN Docket No. 25-133 (fil. Apr. 11, 2025) at n. 1 (citing 47 C.F.R. §§ 32.200, 32.2211, 32.8211, 32.2220, 32.2232, 32.2310) and n. 7 (citing 47 C.F.R. §§ 36.123, 36.141, 36.172, and 36.374).

⁴ *Id.* at 5-6.

⁵ *Id.* at 5.

⁶ Comments of USTelecom – The Broadband Association (USTelecom), GN Docket No. 25-133 (fil. Apr. 11, 2025) at 17-19.

uncertainty and disruption in this process.⁷ Similarly, the U.S. Chamber of Commerce and WTA advocate for additional proceedings “to pursue an omnibus review and modernization”⁸ and otherwise update rules to “account for modern technology and to eliminate references to obsolete equipment.”⁹ Taken together, these comments provide a useful roadmap for a thoughtful and thorough examination of cost accounting rules for potential pruning and/or elimination.

B. ELIGIBLE TELECOMMUNICATIONS CARRIER REPORTS.

In its initial comments, NTCA flagged several reports that eligible telecommunications carriers (ETCs) are mandated to file for further review on the basis that they offer limited value in ensuring accountability while imposing meaningful burdens on reporting entities. Specifically, NTCA identified aspects of FCC Forms 481 and 555 as well as the interplay of Broadband Data Collection (BDC) and High-Cost Universal Service Broadband (HUBB) reporting as ripe for additional examination.¹⁰ Numerous other parties weighed in on this subject matter, likewise urging the Commission to tackle the burdens imposed by certain ETC reports and to assess how they might be streamlined or mitigated altogether.

⁷ *Id.* at 17 (urging that this review *not* address certain provisions, such as those that impact pole attachment rates, and further highlighting the potential need to retain aspects of existing rules to avoid disruption of mechanisms that support the delivery of advanced data services and fulfillment of universal service in rural areas).

⁸ Comments of the U.S. Chamber of Commerce (Chamber), GN Docket No. 25-133 (fil. Apr. 11, 2025) at 19.

⁹ Comments of WTA – Advocates for Rural Broadband (WTA), GN Docket No. 25-133 (fil. Apr. 11, 2025) at 5 (identifying the very same examples of outdated equipment noted by NTCA in its comments).

¹⁰ NTCA at 6-8.

USTelecom, for example, highlighted the need to re-evaluate continued application of ETC obligations generally where another provider has “overbuilt” an ETC using its own funds and/or resources provided through other governmental programs.¹¹ NTCA concurs. ETC obligations play an important role – one expressly contemplated by statute – in promoting accountability at the federal and state levels in the use of universal service support. But, where grant programs and/or private investment efforts have effectively created a new “provider of last resort” in a given geography, it makes no sense to attach legacy ETC regulations to another entity simply because it happened to be the incumbent telephone company for that area thirty-plus years ago – especially for those places where the Commission no longer provides any universal service support to the ETC.

Other stakeholders similarly highlight the need for a fresh look at ETC reporting. For example, the Small Company Coalition (SCC) identifies a series of reporting obligations, including but not limited to ETC-specific requirements, that taken together represent substantial burdens for smaller providers.¹² NTCA agrees with the SCC that the Commission should undertake a comprehensive review of the systems, processes, and substantive requirements associated with Form 481; among other things, compelling duplicative filings with multiple governmental entities makes no sense in today’s digital age, and the obligation to submit detailed financial information regarding the provider’s operations (and not just its use of universal service support specifically) is likewise a vestige of a time of more intrusive regulation that almost certainly could be mitigated, if not eliminated. Streamlined processes, coordinated portals as

¹¹ USTelecom at 6-7.

¹² See Comments of the Small Company Coalition (SCC), GN Docket No. 25-133 (fil. Apr. 11, 2025) at 5-6.

between the Commission and the Universal Service Administrative Company,¹³ and the elimination of unnecessary aspects of such reports should all be express objectives of a proceeding to examine these reports further. Finally, several parties raise concerns about the continuing relevance of Form 555, noting the inanity of continuing to submit a certification that regularly contains no information due to subsequent developments in customer verification.¹⁴

C. ONGOING IMPORTANCE OF UNIVERSAL SERVICE.

A handful of parties argue that technological and marketplace developments have effectively “resolved” the nation’s universal service mission, and that the Commission can therefore now go about dismantling and deleting its universal service programs. These arguments proceed, however, from fundamental misunderstandings of law and fact, failing to capture the precise nature of the statutory mandate for universal service and substituting generalized claims as to missions accomplished (or failed) without a careful review of facts on the ground in any given market.

As one example, the Information Technology and Innovation Foundation (ITIF) proceeds from the sweeping premise that “[t]he High-Cost Fund is a legacy program in need of dramatic distribution reform.”¹⁵ ITIF posits that infusions of broadband grant funding from

¹³ *See id.* at 4-5 (urging better coordination between BDC and HUBB submissions); *see also* WTA at 2-3 (urging a single portal and dashboard reflecting all Commission-imposed reporting obligations).

¹⁴ SCC at 7; WTA at 2; USTelecom at 26.

¹⁵ Comments of the Information Technology and Innovation Foundation (ITIF), GN Docket No. 25-133 (fil. Apr. 11, 2025) at 2; *see also* Comments of National Taxpayers Union Foundation (NTUF), GN Docket No. 25-133 (fil. Apr. 11, 2025) at 3-4 (arguing “particular attention must be paid to whether other existing federal and state initiatives to meet the specific functions and objectives of individual [universal service] programs”).

other agencies should solve our nation’s universal service program, asserting that “[i]f we cannot deploy to everyone with that sum of money, then no amount of money will do it.”¹⁶ Missing from ITIF’s analysis, however, is a proper statement of the mission of universal service or facts to back up the conclusions asserted. Starting with the statutory backdrop, ITIF’s use of the verb “deploy” is telling – and fatal. The statutory mandate for universal service is not merely to “deploy.” Deployment is an essential prerequisite, to be sure, to the achievement of universal service, but the statutory text itself could not be clearer that the end goal of universal service is something far more lasting than the ephemeral act of deployment. Indeed, even a cursory reading of the law quickly reveals that universal service is defined not statically, but rather as an *ongoing* state; as just one example of several, the law mandates the continuing assurance of reasonably comparable services at reasonably comparable rates.¹⁷ Thus, a myopic focus on the one-time act of getting every American connected misses the mark when it comes to evaluating the need for and effectiveness of the Commission’s universal service programs against the statutory backdrop.

To be sure, as the Commission has already indicated in the context of its relatively recent “future of universal service” inquiries, it will be appropriate to evaluate and calibrate how the high-cost and other mechanisms should operate as more “fully-built” networks come online¹⁸ –

¹⁶ ITIF at 2.

¹⁷ 47 U.S.C. § 254(b)(3).

¹⁸ *Connect America Fund*, et al., WC Docket No. 10-90, et al., Report and Order, Notice of Proposed Rulemaking and Notice of Inquiry, 38 FCC Rcd 7040 (2023) at ¶ 154 (“We seek comment on whether and how the Commission should modify its USF high-cost support program considering the anticipated deployment in most high-cost areas of robust, scalable, next-generation broadband networks offering a minimum of 100/20 Mbps service made possible

and it should be noted that high-cost programs already *do* calibrate and result in reduced support as costs of deployment are recovered.¹⁹ But it is essential to not lose sight of the fact that the more comprehensive mission of universal service lasts long past the stage of “deployment,” and that in this regard, the Commission’s universal service programs aim to achieve far more than the capital-focused grant programs of recent years.

Moreover, it is just as important to assess the effectiveness of the existing programs against an accurate factual backdrop. Sweeping assertions that the high-cost programs “fund legacy telecommunications networks that could be better served by IP-based broadband networks”²⁰ lack any factual basis whatsoever and fly in the face of the facts in rural America. Indeed, if one looks at the rural areas where grant funds are *not* needed, it is primarily in places where funds have been distributed through programs like Connect America Fund-Broadband Loop Support and the Alternative Connect America Cost Model. Why is grant funding unnecessary in so many of these areas, even as the deployment obligations attached to these programs may have been for lower speeds? Precisely because a mix of private capital, loans, community commitment, and the promise of specific and predictable ongoing universal service support to help recover the costs of investment and operations over time permitted providers to make the business case for deployment of networks that often are far in excess of baseline

through Commission programs, programs created by the Infrastructure Act, and other state and federal subsidy programs.”).

¹⁹ *Id.* at ¶ 74 (recognizing that E-ACAM support recipients will “continue to experience ongoing operational and depreciation costs associated with these already-constructed locations.”). *See also* Comments of NTCA, WC Docket No. 10-90, et al. (fil. Sep. 18, 2023) at 13 (stating that “the process of excluding grant obtained capital from CAF-BLS and HCLS support calculations is indeed ‘self-effectuating.’”).

²⁰ Comments of Jeffrey Westling, GN Docket No. 25-133 (fil. Apr. 11, 2025) at 2.

deployment speed targets and enable IP-based applications of all kinds.²¹ Thus, the Commission’s high-cost universal service programs should hardly be seen as anachronistic failures or unnecessary initiatives in a post-grant world. To the contrary, they have been the most successful programs to date both in enabling early and better access to broadband in rural America without reliance upon grant funds – and then in *keeping* robust broadband available throughout rural communities at rates that are reasonably comparable for *all* users in those communities to the rates paid in urban areas.

As a corollary to this discussion of how best to ensure the ongoing availability of reasonably comparable services at reasonably comparable rates in rural America, NTCA urges the Commission to proceed with caution in considering substantial changes to frameworks that govern interconnection arrangements among operators. Although it is true that certain obligations may have limited applicability in an IP-enabled world and in a market where the notion of incumbent carriers has evolved,²² smaller rural providers are concerned that if the slate of existing interconnection arrangements is swept clean, this could result in a shift of sizeable unanticipated costs to rural operators and, ultimately and most importantly, to rural consumers – thereby undermining the mission of universal service. The existing interconnection rules were designed in no small part precisely to mitigate this risk, and care must be taken in deconstructing them to avoid this very outcome. Indeed, even as most smaller rural providers *are* IP-enabled

²¹ *NTCA Broadband/Internet Availability Survey Report*, Dec. 2024 (“2024 NTCA Survey”), at p. 2 (finding that respondents reported that 76.4% of their customer base on average can receive fixed broadband with maximum speeds of Greater than/equal to 1 Gig) (available at <https://www.ntca.org/sites/default/files/documents/2025-01/2024-broadband-internet-availability-report.pdf>).

²² Comments of the Digital Progress Institute, GN Docket No. 25-133 (fil. Apr. 11, 2025) at 3-4.

within their own networks and capable of interconnecting in IP with other providers,²³ NTCA members increasingly report that they face two equally untenable options for interconnection: (1) leverage legacy tandem switches owned and operated by larger carriers who refuse to upgrade them; or (2) pay substantial fees for dedicated facilities that attempt to bypass those tandems, whether in TDM or IP format. If the Commission moves down this path, it should do so in a manner that does not neglect the potential universal service implications in the process.

D. DIGITAL DISCRIMINATION.

In comments in the Digital Discrimination proceeding, NTCA explained that the disparate impact standard is inconsistent with the governing statute.²⁴ In the instant proceeding, NTCA urged the Commission to discard the disparate impact standard and focus regulatory attention on intentional discrimination and moreover commended the Commission to shutter the Further Notice of Proposed Rulemaking in that docket. These positions were articulated by other parties here. CCA, for example, urged the Commission to eliminate the disparate impact standard.²⁵ Focusing on the needs of smaller providers, ACA Connects likewise advocated for the adoption of rules that “align with the statute and that are far less operationally burdensome especially for smaller providers.”²⁶ NRECA emphasized that the rules exceed their statutory

²³ *2024 NTCA Survey*, at 4 (“The vast majority of 2024 respondents (83.2%) report using owned or leased IP switching facilities, such as softswitches, for voice telephony services in their ILEC areas.”).

²⁴ Comments of NTCA, GN Docket No. 22-69 (fil. Feb. 21, 2023), at 26-29.

²⁵ Comments of the Competitive Carriers Association (CCA), GN Docket No. 25-133 (fil. Apr. 11, 2025) at 7-8.

²⁶ Comments of ACA Connects – America’s Communications Association (“ACA Connects”), GN Docket No. 25-133 (fil. Apr. 11, 2025) at 8-10.

authority and result in significant uncertainty.²⁷ These comments echo the concerns of many parties, namely that the Digital Discrimination Order exceeded by magnitudes both the expectations and authority of the statute and introduce significant risk and uncertainty into the normal and ordinary operations of broadband providers. Accordingly, NTCA maintains its position that should the Eighth Circuit not vacate the Order, the Commission should *sua sponte* eliminate the disparate impact standard and shutter the Further Notice of Proposed Rulemaking (FNPRM) in the docket.

E. BROADBAND LABELS.

In initial comments in the Broadband Labels proceeding, NTCA (filing jointly with the Wireless Internet Service Providers Association (“WISPA”)) advised the Commission to avoid “infobesity,” the phenomenon of overloading users with information to the point of being unhelpful.²⁸ NTCA also called upon the Commission in these proceedings to forbear from imposing obligations that are overly burdensome and/or impractical for small providers. Although NTCA acknowledged in comments on the Broadband Labels FNPRM that the initial Order exhibited a reasonable approach, NTCA nevertheless concurs with observations borne of recent implementation experience that the process of preparing and presenting such labels could be further streamlined even as the fundamental disclosure obligations mandated by law are maintained and fulfilled.

In this regard, several parties recommended specific surgical adjustments to enhance administrative efficiencies, including that providers be permitted to display a web icon or a link

²⁷ Comments of National Rural Electric Cooperative Association (“NRECA”), GN Docket No. 25-133 (fil. Apr. 11, 2025) at 5.

²⁸ Joint Comments of NTCA and WISPA, CG Docket No. 22-2 (fil. Mar. 9, 2022) at 9.

rather than the actual label, which would relieve providers of the requirement to create entirely separate web pages for the labels. Commenters also requested the Commission eliminate the requirement that labels be machine readable and to simplify labels by eliminating requirements to display government fees. USTelecom sought the elimination of rules requiring the provision of label information in spreadsheet format on provider websites,²⁹ and ACA Connects called for the removal of archiving obligations.³⁰ Commenters also addressed requirements that proliferate provider obligations including point-of-sale regulations that require companies to read labels over the phone as well as mandates to provide labels in multiple languages. Several parties echoed NTCA's call for the Commission to shutter the FNPRM.³¹

Collectively, these comments acknowledge the usefulness and even importance of conveying relevant information to consumers but express, from the perspective of both providers and users of broadband, reasonable boundaries that avoid unnecessary exercises. NTCA joins industry participants in recommending the elimination of specific aspects of obligations that render no clear benefit to consumers as described above and the shuttering of the FNPRM in that docket.

F. DISASTER INFORMATION REPORTING SYSTEM (DIRS) REPORTING

In its initial comments, NTCA requested that the Commission revisit its 2024 decision changing Disaster Information Reporting System (DIRS) reporting from voluntary to

²⁹ USTelecom at 8-9.

³⁰ ACA Connects at 11.

³¹ *See*, Comments of CTIA, GN Docket No. 25-133 (fil. Apr. 11, 2025) at A-5; Chamber at 3.

mandatory.³² The Association pointed out that the obligation to submit daily infrastructure reports is burdensome, particularly for small businesses during an emergency in which DIRS would be activated. Other parties expressed similar concerns about the burden of reporting during disasters. As USTelecom aptly stated, the DIRS reporting requirement “inappropriately forces providers to focus on recordkeeping and compliance during a time when restoration should be the priority.”³³ Also representing smaller providers, ACA Connects pointed out, “[m]ajor disasters strain [smaller providers’] resources and personnel and layering on a reporting mandate could divert resources from repairing networks and restoring service as quickly as possible, to the detriment of their customers and communities.”³⁴ As currently structured, the DIRS reporting requirements “impose significant burdens on providers with little or no corresponding benefits to consumers.”³⁵ The Commission should eliminate, or at least modify, the DIRS reporting mandate to limit the associated burden on small providers.

G. MISCELLANEOUS RULES PERTAINING TO COMMON CARRIERS – NOTIFICATION OF SECURITY BREACHES.

Numerous commenters joined NTCA in urging the Commission to delete or reverse the data breach reporting rules adopted in 2023 that not only vastly expanded the scope of customer proprietary network information (CPNI) to include personally identifiable information (PII) but also created an overly broad and subjective definition of harm that in many instances would be

³² NTCA at 14-18.

³³ USTelecom at 14.

³⁴ ACA Connects at 15.

³⁵ Comments of NCTA – The Internet & Television Association (NCTA), GN Docket No. 25-133 (fil. Apr. 11, 2025) at 12.

difficult at best for a provider to determine.³⁶ Even as these rules are being challenged in court, commenters urged the Commission to repeal the provisions that expanded CPNI to include PII, created a subjective definition of harm, and would require providers to file an annual summary of “small” data breaches.

Commenters described the expanded CPNI definition as burdensome without any commensurate public benefit. The Small Business Administration, for example, commented that including PII in the expanded definition of CPNI would result in “burdensome and time/resource intensive” breach disclosures,³⁷ while NCTA commented that expanding data breach reporting requirements to include PII “misreads section 222 and will harm consumers through overreporting and notice fatigue.”³⁸ Digital Liberty similarly argued “the Commission should eliminate notification, recordkeeping and reporting requirements related to data breaches that involve personally identifiable information.”³⁹

Commenters also recommended that the Commission rescind the expanded definition of harm adopted in the Data Breach Order. Specifically, the SBA pointed out that this new, and unique, definition of harm, which includes “financial harm, physical harm, identity theft, theft of services, potential for blackmail, the disclosure of private facts, the disclosure of contact

³⁶ *Data Breach Reporting Requirements*, WC Docket No. 22-21, Report and Order, 38 FCC Rcd 12523 (2023) (“Data Breach Order”), appeal pending, *Ohio Telecom Ass’n v. FCC*, No. 24-3133 (6th Cir.).

³⁷ Comments of the Small Business Administration (SBA), GN Docket No. 25-133 (fil. Apr. 11, 2025) at 15. *See also* CTIA at A-17 (stating that the Commission should delete the requirements as overly burdensome without any public benefit).

³⁸ NCTA at 12; *See also* Comments of Information Technology Industry Council (ITI), GN Docket No. 25-133 (fil. Apr. 11, 2025) at 11.

³⁹ Comments of Digital Liberty, GN Docket No. 25-133 (fil. Apr. 11, 2025) at 4.

information for victims of abuse, and other similar types of dangers,” should be removed because these types of harm are often subjective, leaving providers without “sufficient information to reasonably determine” whether such harms are likely.⁴⁰ Ensuring the definitions and reporting obligations are consistent with other federal agencies is also critical to avoid confusion and allow providers to focus on addressing the circumstances that resulted in the breach instead of preparing multiple differing reports. Recognizing the need for harmonization, ITI encouraged the Commission to align breach reporting obligations with existing federal frameworks.⁴¹

NTCA further concurs with the SBA’s recommendation to eliminate the requirement to file an annual summary of “small breaches” (as defined in the Order) because the Commission’s stated purpose for collecting this information – to “study trends in breach activity” – is insufficient to justify providers’ compliance efforts.⁴²

As ACA Connects and NCTA commented, the data breach rules exceed the Commission’s statutory authority under Section 222 of the Communications Act, as amended.⁴³ CCA similarly commented that the Data Breach Order contains rules that are “excessively burdensome and may introduce unintended challenges that undercut the Commission’s goals.”⁴⁴ Given the legal and

⁴⁰ SBA at 15-16.

⁴¹ ITI at 11.

⁴² SBA at 16.

⁴³ ACA Connects at 16; NCTA at 13.

⁴⁴ CCA at 23-25.

practical overreach of the expanded rules, NTCA urges the Commission to repeal the rules adopted in the Data Breach Order.⁴⁵

H. EXCLUSIVITY AND NON-DUPLICATION.

As NTCA noted in initial comments, the Commission’s Part 76 exclusivity and non-duplication rules drive up rural consumers’ rates for video services and limit their access to desired programming; these rules also fail to promote “localism” as intended. NTCA member surveys consistently indicate that access to reasonably priced programming is a significant barrier to the provision of affordable video services in rural communities.⁴⁶ Broadcasters’ chokehold over programming – namely, their ability to present “take it or leave it” offers to Multichannel Video Programming Distributors (MVPDs) that include many of these provisions – is not a function of “the marketplace” but rather one of Commission fiat. Due to the exclusivity and non-duplication rules, MVPDs cannot respond to these “take it or leave it” tactics by looking to alternate sources for obtaining programming demanded by consumers (for example purchasing content from neighboring Designated Market Areas (DMAs) that may come at a lower price or give them bargaining power with broadcasters). These rules also come into play

⁴⁵ Chamber at 16-17 (“FCC should ask 6th Circuit to hold the appeal in abeyance while the FCC reverses the rule and eliminated subparts U and EE”); US Telecom at 3, n. 4 (stating that the Commission should repeal CPNI data breach declaratory ruling); WISPA at 5 (“If the Data Breach Order is upheld or remanded, the Commission should take action to eliminate the Part 64 rules adopted in that order.”); ACA Connects at 17 (“Regardless of the outcome in the litigation, the Commission should delete these unlawful rules.”).

⁴⁶ As context, the latest NTCA Broadband/Internet Availability Survey Report found, on average, that of those respondents offering linear video service to customers, 37.2% of respondents’ total operating expenditures went toward retransmission consent fees in 2024, up from 27.9% in 2023. *2024 NTCA Survey*, at 29. Similarly, in these survey respondents’ most recent retransmission consent agreements, retransmission consent fees increased by an average of \$104,020. *Id.* Finally, 81% of these respondents indicated that they passed the increase in retransmission consent fees on to their subscribers. *Id.*

for consumers who live in DMAs that are centered in neighboring states, as it impairs the ability of their local MVPD to obtain content from a neighboring DMA and allow these consumers to receive in-state news or other *local* content that may be more relevant to them. While these rules were intended to promote “localism,”⁴⁷ the irony is that they can serve to *prevent* consumers from obtaining access to local content, and there is also no evidence that broadcasters are using retransmission consent fees to actually invest in local content.

With this as the backdrop, ACA Connects⁴⁸ and Free State⁴⁹ join NTCA in urging the Commission to eliminate the exclusivity and non-duplication rules. Doing so would inject much needed market forces into the retransmission consent process and allow small rural MVPDs to access content from a neighboring DMA to the extent that it is available at a lower rate or to otherwise respond to consumer demand for more relevant broadcast content. In addition, elimination of these rules would negate the need for Commission staff to maintain the “Significantly Viewed List,”⁵⁰ and enable the elimination of corresponding Part 76 rules.⁵¹ It

⁴⁷ See, e.g., Reply Comments of the National Association of Broadcasters, GN Docket No. 24-119 (fil. Jul. 8, 2024); Reply Comments of the National Association of Broadcasters, MB Docket Nos. 20-73, 17-105 (fil. Jun. 15, 2020).

⁴⁸ ACA Connects at 21.

⁴⁹ Comments of the Free State Foundation (Free State), GN Docket No. 25-133 (fil. Apr. 11, 2025), at 13.

⁵⁰ Federal Communications Commission, Significantly Viewed List, Last Modified: May 27, 2021, available at: <https://www.fcc.gov/sites/default/files/significantly-viewed-stations.pdf>

⁵¹ 47 CFR § 76.54.

would also spare Commission staff time spent on considering a methodology for determining whether a television broadcast station is “significantly viewed.”⁵²

I. RETRANSMISSION CONSENT “BUNDLING”

NTCA endorses ATVA’s call for the Commission to “fix the broken retransmission consent regime, characterized by hyperinflationary price increases, blackouts, and anti-consumer carriage terms.”⁵³ As ATVA highlights, current retransmission consent rules enable a particularly pernicious practice, “bundling,” pursuant to which broadcasters force MVPDs to purchase content they do not want and their subscribers do not desire as the price for access to content that is actually desired.⁵⁴ As NTCA has noted on several previous occasions,⁵⁵ this practice drives up end-users rates, prevents MVPDs from offering consumers other independent programming their consumers may otherwise desire, and enriches broadcasters.

Moreover, as ATVA also notes in its comments, “networks increasingly offer their own ‘direct to consumer’ distribution services such as Paramount+ and Peacock—without bundling and similar requirements. This raises obvious competition concerns, as a federal court recognized last August in enjoining the Venu streaming joint venture proposed by Disney, Fox,

⁵² *Significantly Viewed Stations*, MB Docket No. 20-73, Notice of Proposed Rulemaking 35 FCC Rcd 3215, (2020).

⁵³ Comments of the American Television Alliance (ATVA), GN Docket No. 25-133 (fil. Apr. 11, 2025) at 2.

⁵⁴ *Id.*

⁵⁵ Comments of NTCA, MB Docket No. 15-158 (fil. Aug. 21, 2015) at 11-13; Comments of NTCA MB Docket No. 20-31 (fil. Mar. 5, 2020) at 2. *See also* ATVA at 1-2 (stating that this practice makes “MVPD service more expensive for consumers and hinders MVPDs from carrying independent programming that they—and consumers—may otherwise prefer.”).

and Warner Bros. Discovery.”⁵⁶ The time has come to modernize the retransmission consent rules to account for not only the emergence of these streaming options but also the anti-competitive practices that broadcasters have engaged in as recognized by a federal court. At the very least, the Commission should consider the ATVA suggestion to “eliminate the regulatory presumption that bundling complies with the ‘good faith’ retransmission consent negotiation rules,”⁵⁷ and in fact the Commission should open a proceeding to consider even broader reforms NTCA has suggested⁵⁸ to the broken retransmission consent regime.⁵⁹

J. CERTAIN REGULATORY OBLIGATIONS APPLICABLE TO MVPDS.

In response to the Public Notice, several parties point to the expansive regulatory requirements applicable to MVPDs⁶⁰ – indeed, NCTA included with its initial comments *seven* pages summarizing the dizzying array of requirements applicable to these operators. Many of these, and others highlighted by ACA Connects, no longer make sense in a competitive marketplace where streaming services are increasingly popular. To highlight just a few:

- As ACA Connects notes, a 2022 Commission order requires “Emergency Alert System (“EAS”) Participants, including cable operators, to enable the display of revised language for Presidential emergency alerts. For some operators, because software on existing set-top boxes cannot be upgraded to display the revised text,

⁵⁶ ATVA at 3.

⁵⁷ *Id.* at 2.

⁵⁸ *See, e.g.*, Comments of NTCA, MB Docket No. 15-158 (fil. Aug. 21, 2015).

⁵⁹ NTCA joins ATVA, NCTA and Free State in questioning the continued need for the Commission’s “must-carry” provisions. To be sure, “must-carry” provisions are grounded in statute, but the Commission can and should recommend to Congress that it take up reform, particularly as it may have outlived its usefulness. *See, e.g.*, NCTA, at 7 (“There is, for example, no lawful justification for expansive must-carry rules now that any video programming provider can distribute its video content via the internet.”).

⁶⁰ ACA Connects at 17-21; NCTA at Appendix pp. 1-7.

they could only comply by either replacing the box or overhauling the system used to deliver video. In other words, for cable operators in this situation, the rule effectively forces them to ‘rip and replace’ existing equipment without any reimbursement. *The desire to avoid this costly mandate would likely encourage affected operators, especially smaller ones, to consider exiting the MVPD marketplace entirely, leaving their customers and communities with one less source for emergency alerts.*⁶¹

- As NCTA states, “cable operators remain subject to a wide array of carriage requirements, going back nearly 60 years to the dawn of the cable industry, that obligate them to carry certain types of programming as part of their curated multichannel video offerings. These include must-carry, public, educational, and governmental (PEG) channel obligations.”⁶²

It is possible that certain of the regulatory provisions highlighted in this proceeding remain relevant in today’s marketplace, particularly where they advance competition or protect consumers. Yet the expansive nature of these requirements and the emergence of streaming options in the marketplace should prompt a comprehensive and thorough review to determine where elimination or streamlining of regulations is warranted.

As NTCA suggested in initial comments,⁶³ the asymmetrical nature of such regulations provides a further impetus for this kind of comprehensive review. Specifically, “traditional” MVPD operators (cable/IPTV) are subject to a breathtaking set of requirements while virtual MVPDs not subject to these requirements can offer competitive services with more flexibility and without regulatory overhead. The Commission should remove unnecessary regulatory

⁶¹ ACA Connects at 13 (emphasis added).

⁶² NCTA at 15.

⁶³ NTCA at 27-28.

requirements where possible so that consumer behavior will be driven ultimately by compelling competitive options rather than by asymmetrical regulatory frameworks.⁶⁴

K. BROADCAST OWNERSHIP RULES.

NTCA urges the Commission to reject pleas to relax broadcast ownership rules.⁶⁵

Although eliminating the constraints on broadcast ownership may make it easier for broadcasters to attract capital,⁶⁶ they would do so to the detriment of the rest of the video industry and consumers.

Unlike the Big Tech and streaming services that the broadcasters decry, broadcasters have free and exclusive use of valuable public spectrum, federal preemption of local zoning and environmental regulations to make sure that stations' transmission towers can be erected and send signals to viewers,⁶⁷ and free carriage of programming on local cable systems for which other programmers pay millions.⁶⁸ In exchange, broadcasters are meant to act as trustees for the public interest.⁶⁹

⁶⁴ See also Free State at 2 (“As ongoing trends in the marketplace make plain, facilities-based Multichannel Video Programming Distributors (MVPDs) enjoy no competitive advantage vis-à-vis over-the-top providers warranting one-sided regulations.”).

⁶⁵ See Comments of Sinclair, Inc. (Sinclair), GN Docket No. 25-133 (fil. Apr. 11, 2025) at 7-10; Comments of the National Association of Broadcasters, GN Docket No. 25-133 (fil. Apr. 11, 2025) at 7-10.

⁶⁶ Sinclair at 7.

⁶⁷ 47 C.F.R. § 1.4000.

⁶⁸ 47 USC. §§ 531-537, 47 CFR § 76.56.

⁶⁹ Pub. L. No 104-104, 110 Stat. 56, 108 (1996).

The broadcasters argue that competition is driving their quest for the relaxation of ownership rules, but non-broadcast sources of video programming do not compete with broadcasters for retransmission consent fees, network affiliations, or the provision of local programming, which remain largely unique to broadcast television, as was noted at the last Quadrennial Regulatory Review released in 2023.⁷⁰ Media consolidation has historically led to reduced competition, diminished local news coverage, and homogenized content across markets. Further, local broadcast stations remain an essential component of video service, but the cost of local content to MVPDs has risen exponentially and has emerged as one of the largest sources of income by broadcast station groups.⁷¹ Over the period from 2013 to 2023, the compound average *annual* increase in retransmission consent fees per subscriber was 27.3%.⁷² Small MVPDs lack market power and have no leverage when negotiating with ever larger broadcasters. It is well understood that unequal bargaining power between MVPDs and broadcasters leads to higher prices for consumers.⁷³ The larger the company, the stronger the negotiating position. The broadcast ownership rules not only help to ensure the survival of local programming and diversity of viewpoints, but they also somewhat restrain broadcasters from demanding even higher retransmission consent fees and help to constrain content costs for consumers. Instead of

⁷⁰ *2018 Quadrennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, MB Docket No. 18-349, 38 FCC Rcd 12782 (2023), ¶75.

⁷¹ Winslow, TV Tech, US Broadcast Retransmission Revenue Grew to \$14.5B in 2022 (April 10, 2023).

⁷² *2024 Communications Marketplace Report*, GN Docket No. 24-119, 2024 Report on Cable Industry Prices, Appendix E (rel. Dec. 31, 2024).

⁷³ Eisenach, *The Economics of Retransmission Consent*, Empiris LLC (March 2009).

capitulating to broadcaster demands, the Commission should explore alternative solutions, including retransmission consent reform, that balance economic realities with public interest imperatives.

L. DATA CAPS

In comments on the original docketed proceeding, NTCA opposed data cap rules.⁷⁴ NTCA argued that the record does not support additional regulation of usage-based broadband internet access service plans. NTCA explained that existing transparency requirements, including broadband consumer labels requirements that disclose caps and overage charges, would be sufficient. NTCA also explained that data caps requirements implicate rate regulation, an action from which the Commission forbore when adopting the (now vacated) 2024 Net Neutrality Order. Neither Section 257 of the Communications Act nor Section 706 of the Telecommunications Act provide alternative authority. The Chamber similarly states, “the Commission lacks the legal authority to rate regulate broadband under any of the legal bases proffered in the NOI.”⁷⁵ Moreover, NTCA explained that while some providers may use data caps due to technology constraints or serving dense areas, most NTCA members’ networks can meet increasing consumer demand in rural areas without imposing caps. Parties in the instant proceeding echoed these positions. Digital Liberty explained that, “[t]he broadband industry does not need price controls to deliver affordable service.”⁷⁶ The International Center for Law & Economics advised that, “[r]egulating these practices could be counterproductive, as usage-based

⁷⁴ NTCA Reply Comments, WC Docket No. 23-199 (fil. Dec. 2, 2024).

⁷⁵ Chamber at 3.

⁷⁶ Digital Liberty at 5.

pricing creates fairness by eliminating cross-subsidization, potentially making broadband more affordable to light users and increasing overall adoption rates.”⁷⁷ For these reasons and those set forth by NTCA previously, the Notice of Inquiry should be set aside.

M. AUDITS

NTCA has long championed the good stewardship of USF funds by its members. These monies are critical for the deployment and maintenance of crucial communications networks that enable residents of rural and insular areas to obtain services that are reasonably comparable in both price and quality to those enjoyed by users in urban areas. Indeed, this is the hallmark of national Universal Service policy reaching back nearly a century to the Communications Act of 1934, as amended by the Telecommunications Act of 1996. Moreover, NTCA and its member companies acknowledge the social and regulatory compacts that attend receipt of this funding; the charge to not only use these monies only for the purposes intended, and the recognition that recipients are subject to audit controls, are set forth in 47 C.F.R. § 54.702, *et seq.*

However, NTCA commends the Commission to revisit the rules with an eye toward applying them in a manner that is supplemental to but not duplicative of obligations to which regulated entities may be otherwise subject. For example, the Federal government relies on Generally Accepted Government Auditing Standards (GAGAS). These standards are relied upon by the Government Accountability Office and Comptroller General of the United States and are often referred to as the "Yellow Book" Government Auditing Standards. The Yellow Book sets standards for financial audits, attestation engagements, and performance audits, and articulates specific requirements for individual auditors and auditing organizations. However, agencies of

⁷⁷ Comments of International Center for Law & Economics, GN Docket No. 25-133 (fil. Apr. 11, 2025) at 21.

the Federal government have recognized that certain situations may require a deeper dive and created an opportunity for supplemental investigation *when deemed necessary in special cases*. By way of example, Rural Utilities Service (RUS) rules reference GAGAS for audits of RUS borrowers.⁷⁸ Accordingly, while RUS also reserves the right to take supplemental steps if necessary,⁷⁹ the predominant starting point is a known, nearly-universally applicable set of standards. Accordingly, GAGAS provides the foundational framework and level-sets expectations of all parties involved. Supplemental measures are introduced on a far more efficient basis as may be necessary when a specific situation and identification of material potential impacts may warrant additional inquiry.

N. BROADBAND MAPPING.

NTCA urges the Commission to proceed with caution as it reconciles the reporting of broadband availability data as between the BDC and the HUBB portal. While NRECA rightly suggests that the Commission “explore how to streamline this process so that the BDC and HUBB filings can be unified,”⁸⁰ it is critical that such an effort be undertaken in a thoughtful manner – for example, by making this transition optional for high-cost support recipients under existing programs pending the establishment of new service obligations. As NTCA highlighted in a proceeding seeking comment on a similar issue, even as reporting flexibility may be helpful and efficient, using the Broadband Serviceable Location Fabric to determine compliance (and

⁷⁸ 7 C.F.R. § 1773.

⁷⁹ *See*, Bulletin 1773-1, "Policy on Audits of RUS Borrowers," RD-GD-2018-19 (Apr. 30, 2018). *See*, § 1773.7(a) ("The audit of the financial statements must be performed in accordance with GAGAS and this part in effect at the audit date unless the auditee is directed otherwise, in writing, by RUS.") *See, also* § 1773.6(a)(5), (a)(8).

⁸⁰ NRECA at 4.

penalize perceived non-compliance) with obligations that pre-date the Fabric could be problematic.⁸¹ As NTCA noted, the Fabric “remains a work in progress with a significant portion of the data therein remaining ‘unsettled.’”⁸² Thus tying compliance with existing service obligations to the Fabric now would be disruptive and highly burdensome as providers would be required to undertake manual reconciliation.⁸³ Thus, as NTCA stated in its initial comments in this proceeding, for “high-cost programs like the enhanced Alternative Connect America Cost Model (Enhanced A-CAM) that have prospective deployment obligations already directly tied to the fabric underlying the [National Broadband Map (NBM)], the Commission should consider whether data that recipients of such support file through the BDC can ‘count’ toward measurements of compliance without the need to re-enter all such data in the HUBB.”⁸⁴ For other existing high-cost programs, however, where obligations are not presently tied to the NBM, the more efficient and less disruptive approach is to consider whether these support recipients

⁸¹ Comments of NTCA, WC Docket No. 10-90, et al., (fil. Mar. 15, 2024) at 2-5.

⁸² *Id.* at 3.

⁸³ *Id.* (“NTCA members across the nation report persistent inaccuracies or other discrepancies with respect to BSLs in the Fabric, and they have also shared substantial ongoing efforts to seek corrections to the data based upon known conditions in the rural areas in which they live and that they have served for decades. This work goes beyond continuing to identify instances where a BSL is not present, and also includes missing locations and locations that are placed at geographic coordinates not consistent with where the provider knows a BSL to be – a particularly thorny concern when it comes to reconciliation with prior HUBB reports. *Indeed, even as members make substantial efforts to reconcile this data, discrepancies often must be addressed on a manual and time-consuming location-by-location basis.* Moreover, efforts to reconcile data are placed on hold in the face of pending location challenges that seek to “bring the Fabric closer to reality,” and as additional errors are found in new Fabric releases that then trigger the need for even more location challenges.”) (emphasis added).

⁸⁴ NTCA at 8.

“might be given the *option* to cease entering service availability data in the HUBB and to instead demonstrate compliance with applicable obligations by reference to the NBM.”⁸⁵

O. PERMITTING.

Obtaining access to federal lands for broadband facilities installation – or otherwise obtaining a permit when a project is considered a “major federal action” under the National Environmental Policy Act (NEPA) and/or a “federal undertaking” pursuant to the National Historic Preservation Act (NHPA) – is typically an expensive and time-consuming process for NTCA members.⁸⁶ As NTCA has discussed at length in both Commission proceedings⁸⁷ as well as before Congress,⁸⁸ delays of a year or more are common, and this can be the case even when facilities are placed in “previously disturbed right-of-way.” While NTCA members are first and foremost wireline providers, it must be noted that some offer mobile wireless services to their rural communities, and many employ fixed wireless broadband services to reach locations in

⁸⁵ *Id.*

⁸⁶ Providers must comply with NEPA and NHPA processes even if they are not installing facilities on federal lands; for example, if the deployment is funded by a ReConnect or BEAD grant, providers must adhere to NEPA and NHPA regardless of whether the project is on federal lands.

⁸⁷ *See, e.g.*, Comments of NTCA, WC Docket Nos. 17-84 and 17-79 (fil. June 15, 2017).

⁸⁸ Statement by Michael Romano, Executive Vice President, NTCA–The Rural Broadband Association, Before the United States House of Representatives Committee on Natural Resources, Subcommittee on Federal Lands (Jul. 9, 2024), available at: https://naturalresources.house.gov/uploadedfiles/testimony_romano070924.pdf; Statement by Michael Romano, Executive Vice President, NTCA–The Rural Broadband Association, Before the United States House of Representatives Committee on Energy and Commerce Subcommittee on Communications and Technology “Breaking Barriers: Streamlining Permitting to Expedite Broadband Deployment” (Apr. 19, 2023), available at: https://d1dth6e84htgma.cloudfront.net/4_19_23_Testimony_Romano_c356908700.pdf?updated_at=2023-04-18T20:19:59.156Z

some hard-to-serve areas. Thus, for NTCA, permitting reform across the federal government (including by the Commission) for wireline and wireline communications facility installation and upgrades is a top priority.

Thus, NTCA supports proposals in the record here for the Commission to streamline the agency's NEPA and NHPA rules.⁸⁹ The SBA correctly notes that the administration has called upon all federal agencies to streamline these provisions by early 2026.⁹⁰ Indeed, NTCA urges the Commission, with its particular expertise in communications deployment and operations, to make this a top priority and to coordinate with, and serve as a model for, other federal agencies to do the same and in short order.

In addition, NTCA supports INCOMPAS' call for the Commission to "complete its wireline and wireless deployment proceedings and adopt...(1) shot clocks applicable to wireline fiber deployment applications (as was done for wireless deployment), and (2) [limits on] rights-of-way use charges and siting application fees, consistent with Sections 253 and 332."⁹¹ As NTCA has previously noted, the same logic that underpinned the Commission's previous attempts to streamline small-cell siting "logically applies on a technology-neutral basis to

⁸⁹ CTIA at A-8; SBA at 12.

⁹⁰ SBA at 12 ("Small providers have expressed concerns on the numerous hours and costs associated with seeking environmental and historical assessments under the National Historic Preservation Act and the National Environmental Policy Act (NEPA). These burdensome and time-consuming processes contribute to slow infrastructure development across the country.")

⁹¹ Comments of INCOMPAS, GN Docket No. 25-133 (fil. Apr. 11, 2025) at 8. *See also* Jeffreery Westling at 8-9 ("The Commission should initiate a process to once again review barriers to broadband deployment. This would allow commenters to refresh the record on how the reforms the Commission instituted have been working and note any new barriers that have arisen in the meantime.").

deployment of wireline and wireless network facilities alike.”⁹² NTCA members have experienced an increase in fees at the state and local level, and application processing times have increased as well. The Commission should therefore reinvigorate these proceedings and examine where existing legal authority can be utilized to expedite the deployment of wireline and wireless facilities alike.

III. CONCLUSION

For the reasons stated herein, the Commission should assess the relative costs and benefits of the identified rules and promote outcomes that drive efficiencies and innovation.

Respectfully submitted,



By: /s/ Michael R. Romano
Michael R. Romano
Executive Vice President

Jill Canfield
General Counsel and VP of Policy

Joshua Seidemann
VP Policy and Industry Innovation

Brian J. Ford
Vice President – Federal Regulatory

Tamber Ray
Director of Policy

4121 Wilson Boulevard
Suite 1000
Arlington, VA 22203
(703) 351-2000

⁹² NTCA, *ex parte*, WC Docket Nos. 17-79 and 17-84 (fil. Sep. 18, 2018) at 2.