



January 11, 2022

Ex Parte

Chairwoman Jessica Rosenworcel
Commissioner Brendan Carr
Commissioner Geoffrey Starks
Commissioner Nathan Simington
Federal Communications Commission
45 L Street, N.E.
Washington, DC 20554

Re: In the Matter of the Affordable Connectivity Program, Emergency Broadband Benefit Program, WC Docket Nos. 21-450, 20-445

Dear Chairwoman Rosenworcel and Commissioners Carr, Starks and Simington:

The United Church of Christ Media Justice (UCC MJ)¹, National Consumer Law Center (NCLC)² and Benton Institute for Broadband & Society³ respectfully submit this ex parte response to the draft Report and Order that would finalize the rules for the Affordable Connectivity Program.⁴

¹ The United Church of Christ is a faith community rooted in justice that recognizes the unique power of the media to shape public understanding and thus society. For this reason, the United Church of Christ Media Justice Ministry (UCC MJ) works to create just and equitable media structures that give meaningful voice to diverse peoples, cultures and ideas.¹ Established in 1959, UCC MJ established the right of all citizens to participate at the Federal Communications Commission as part of its efforts to ensure a television broadcaster in Jackson, MS served its African-American viewers during the civil rights movement. The Cleveland-based United Church of Christ has thousands of local congregations across the United States; it was formed by the 1957 union of the Congregational Christian Churches and the Evangelical and Reformed Church.

² Since 1969, the nonprofit National Consumer Law Center® (NCLC®) has used its expertise in consumer law and communications and energy policy to work for consumer justice and economic security for low-income and other disadvantaged people in the United States. NCLC's expertise includes policy analysis and advocacy; consumer law and energy publications; litigation; expert witness services, and training and advice for advocates.

We appreciate the extraordinary challenges from the tight implementation timelines provided in the Infrastructure Investment and Jobs Act (IIJA).⁵ Overall these draft rules reflect a thoughtful and careful balancing of interests to arrive at a sound approach to handling the transition from the Emergency Broadband Program to the Affordable Connectivity Program (ACP). The draft rules, in large part, build on the program infrastructure used for the Emergency Broadband Benefit (EBB) such as the provider eligibility and elections processes and the consumer eligibility verification and enrollment processes. This will help to quickly stand up the new ACP as stakeholders are familiar with the EBB program rules. The draft Report and Order also provides three pathways to transition the legacy EBB households to the ACP, protecting households from bill shock and to minimizing consumer confusion.⁶ The draft Report and Order provides rules to implement the strong consumer protections provided in the IIJA, which are in addition to the protections provided under the Consolidated Appropriations Act for the EBB.⁷

Ensuring all households are connected to quality, affordable broadband is essential for access to education, healthcare, job opportunities, assistance, commerce and banking, judicial systems, all the essential day-to-day functions that have moved online—particularly during the global COVID-19 pandemic. The ACP will play a critical role in addressing the affordability barrier to essential broadband service, but households will need help learning about the ACP and help enrolling in the program. We

NCLC works with nonprofit and legal services organizations, private attorneys, policymakers, and federal and state government and courts across the nation to stop exploitative practices, help financially stressed families build and retain wealth, and advance economic fairness. NCLC files these comments on behalf of its low-income clients.

³ Benton, a non-profit, operating foundation, believes that communication policy – rooted in the values of access, equity, and diversity – has the power to deliver new opportunities and strengthen communities. Our goal is to bring open, affordable, high-capacity and competitive broadband to all people in the U.S. to ensure a thriving democracy. These comments reflect the institutional view of the Benton Institute for Broadband & Society, and, unless obvious from the text, is not intended to reflect the views of its individual officers, directors, or advisors.

⁴ See Draft Report and Order and Further Notice of Proposed Rulemaking, WC Docket Nos. 21-450 and 20-455, FCC-CIRC22-450-010722 (Jan. 7, 2022) (“Draft Order”).

⁵ Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, div. F, tit. V, sec. 60502 (2021), available at <https://www.govinfo.gov/content/pkg/BILLS-117hr3684enr/pdf/BILLS-117hr3684enr.pdf> (IIJA).

⁶ Draft Order ¶¶ 219-222.

⁷ Draft Order ¶¶ 137-188. See also IIJA div. F, tit. V, sec. 60502(3)(B) (credit check prohibition, disconnection for nonpayment after 90 days, upselling, downselling, inappropriate restrictions on switching, inappropriate requirements to enter into an extended service contract, other unjust and unreasonable acts or practices) and Consolidated Appropriations Act, div. N, tit. IX, § 904 (b)(6)(B)(ii)-(iv); 47 C.F.R. §54.1608(e)(6)(no ETF or mandatory waiting period).

support the establishment of an outreach grant program and agree that \$100 million over the next five years is a reasonable estimate for the suite of ACP outreach activities contemplated by the IJA.⁸

We note that the establishment of an outreach grant program will likely take time to stand up, but we have a pressing need right now to help local organizations with their outreach efforts to help households enroll in ACP and to be ready to help legacy households that will be facing the reduction in the monthly broadband benefit down to a \$30/month maximum benefit (from a \$50/month maximum benefit in EBB). We urge the Commission to prioritize the development of ACP education materials and shopping tools for frontline advocates. In particular, the Order should explicitly direct that USAC collect additional basic information about providers' broadband offerings for the Companies Near Me tool. We recommend that the draft Report and Order, paragraph 17 be modified as follows:

17. Provider elections must include the following information to establish that the provider has met the criteria and can provide enough information to allow USAC to administer the program. We direct USAC, under the supervision of and in coordination with the Bureau, to establish and administer this election process consistent with this Order.

a) List of states or territories in which the provider plans to participate in the Affordable Connectivity Program. A provider must list each state in which it will offer Affordable Connectivity Program services. Consistent with USAC's existing processes, providers should identify to USAC the postal ZIP code(s) or Census Block(s) where the provider will offer the Affordable Connectivity Program service to obtain Service Provider Identification Number(s) (SPINs), Study Area Codes (SACs), and provide information for use in the "Companies Near Me Tool" to the extent necessary.[fn omitted] A provider must also list whether, in the zip code or census block, the provider offers broadband plans for \$30 or less, \$75 or less, or over \$75 and whether the service is fixed or mobile.

This information can be provided in the provider elections as a check box for each zip code or census block.⁹ For example:

⁸ Draft Order ¶ 192.

⁹ See NCLC/UCC MJ Comments on ACP at 9-10 (Dec. 8, 2021).

Boxes must be checked for all of a provider's standard rate services that apply:

For each zip code (plus 4)			
<input type="checkbox"/>	Products < \$30/month	<input type="checkbox"/> Fixed	<input type="checkbox"/> Mobile
<input type="checkbox"/>	Products < \$75/month	<input type="checkbox"/> Fixed	<input type="checkbox"/> Mobile
<input type="checkbox"/>	Products above \$75/month	<input type="checkbox"/> Fixed	<input type="checkbox"/> Mobile

This information can then be added to the Companies Near Me tool and will help local community organizations quickly identify the providers with the types of plans ACP consumers will be interested in and shorten the research time of having to review each provider's website and click through each of the provider's plans to identify which providers have plans in these buckets.

We look forward to working with the Commission and stakeholders on the rollout of the ACP.

Respectfully submitted,

//s// Olivia Wein

Olivia Wein, Staff Attorney
National Consumer Law Center
1001 Connecticut Avenue, NW, Suite 510
Washington, DC 20036
owein@nclc.org
202-452-6252, x103

//s// Cheryl A. Leanza

Cheryl A. Leanza
United Church of Christ Media Justice
100 Maryland Ave., NE, Suite 330
Washington, DC 20002
cleanza@alhmail.com
202-904-2168

//s// Kevin Taglang

Kevin Taglang, Executive Editor
Andrew Jay Schwartzman, Senior Counselor
Benton Institute for Broadband & Society
1041 Ridge Rd, Unit 214
Wilmette, IL 60091
headlines@benton.org
847-328-3040

cc: Christian Hoefly, TAPD, WCB