

providers, as well as the FCC's stringent timeline to implement the ACP established by the Infrastructure Investment and Jobs Act (Infrastructure Act). The MPSC, however, has concerns regarding the automatic approval of these participating providers. As the FCC is aware, states play a vital role in combating waste, fraud, and abuse as it relates to the Lifeline program through their delegated authority including thorough and detailed reviews of ETC applications, certifications, and recertifications. Granting automatic approval and bypassing the ETC process for these non-ETCs raises concerns about potential waste, fraud, and abuse by providers participating in this important broadband assistance program. The MPSC reiterates its previous recommendation made during the EBBP comment period and recommends that non-ETCs that participate in the ACP should be required to become ETCs.² Simply requiring documents to be filed with a non-ETC's ACP notice/application, and then automatically approving their participation in this program, removes the ability for thorough review of these documents and ensure that providers are in good standing before allowing participation.

If the temporary program was expanded in the future, the MPSC recommends that new participating non-ETC providers become ETCs, or if the temporary program transitions into a permanent program, the FCC should require all participating providers to become ETCs (regardless of their current status of participation).³

² [MPSC Comments in WC Docket 20-445 \(Pages 1-3\)](#)

³ [MPSC Comments in WC Docket 20-445 \(Pages 3-4\)](#)

The MPSC also recommends that the Wireline Competition Bureau be encouraged to contact states for any questions or concerns that the Bureau may have regarding a particular provider. This will help to ensure (to the extent possible) that providers are in good standing within the state that they may be operating in.

Household Eligibility

The FCC proposes to apply the same “household” definition as used under the Lifeline rules and not limit the number of participating households that could be located at a particular address. The MPSC agrees with the FCC that it should apply that same definition and approach to the ACP.

Additionally, the FCC notes that in the EBBP Order, households with students enrolled in schools or school districts participating in the Community Eligibility Provisions (CEP) are eligible for the EBBP regardless of whether anyone in the household applied for school lunch or breakfast assistance individually and seek comment on whether this should be applied to the ACP. The MPSC agrees with the FCC that households with students enrolled in schools or school districts that are participating in the CEP should remain eligible to participate in the ACP regardless of whether anyone in the household applied for school lunch or breakfast assistance individually. If the school or school district is already participating in the CEP, it is likely that many households within that school or school district are in need or close to receiving assistance levels. By allowing these households to be eligible for the ACP if their school or school district is participating in CEP, it

allows many households, including those households on the verge of being eligible for assistance to qualify for the ACP. The ACP's purpose is to help close the digital divide in America by making broadband more affordable and allowing this participation will help to achieve that goal.

The FCC also seeks comment on whether and how the free and reduced-price school lunch and breakfast program eligibility criteria would apply to schools that are electing administrative provisions under the National School Lunch Act. The FCC provided examples of how students may receive meals from schools that elect to participate in alternative United States Department of Agriculture mechanisms without annual eligibility determination that may result in students receiving free school breakfast or lunch even though the student did not individually apply for assistance. The MPSC recommends that eligibility for participation in the ACP be expanded to include students attending Provision 2 and Provision 3 schools. The MPSC understands the concerns expressed by the FCC that, by broadening this eligibility, it may include some households that would not necessarily otherwise be eligible for participation. However, as the FCC points out, schools with high rates of poverty are most likely to use these provisions. Therefore, expanding the eligibility of the ACP to these schools and school districts will have a greater impact on those households in need of broadband assistance. While it is possible that some of these households may not be eligible otherwise, many of these households in these schools and school districts are potentially on the fringe of eligibility and would benefit greatly by being eligible to participate in the ACP.

Covered Services and Devices

The FCC seeks comments on minimum service requirements and whether they should be imposed for the ACP. The goal of the ACP is to bridge the digital divide by connecting low-income and vulnerable populations to broadband service. The MPSC believes it is important for the FCC to ensure households participating in the ACP have the same quality of service and speed offered to non-ACP customers. It is important that access to affordable and quality high-speed internet is available to all customers, regardless of whether they are participating in the ACP. The MPSC also recommends that the FCC require participating providers to be transparent regarding their internet service offerings and associated terms.

The MPSC believes it is important to ensure that the ACP will allow eligible households access to reliable broadband service regardless of where that household may be located. Digital redlining has resulted in many low-income and vulnerable household locations from not receiving network upgrades from providers. The ACP can help benefit households impacted by digital redlining by creating minimum service standards.

The MPSC also shares the FCC's concern that some providers may introduce into the marketplace internet services offerings that seek to maximize the ACP benefit reimbursement without providing households with a market-rate internet service. The MPSC encourages the FCC to take steps to prevent providers from price gouging and to prevent providers from introducing new internet service

offerings in the marketplace with the sole purpose of maximizing ACP benefit reimbursement.

The FCC also seeks comment on whether it should adopt measures making it easier for residents in multiple-dwelling units with bulk broadband providers to participate in the ACP. The MPSC recommends that these residents (senior and student living, mobile home parks, apartment buildings, etc.) be allowed to participate in the ACP.

Additionally, the FCC seeks comment on whether monthly rental costs for equipment such as modems, routers, hot spot devices, antennas, etc. should be eligible for the ACP benefit. The MPSC believes the FCC should allow associated equipment rental costs to qualify for the ACP benefit. These additional monthly rental fees can become quite costly to households and allowing the inclusion of these to be covered by the ACP benefit will help ensure these households are able to obtain broadband service.

Regarding “connected devices”, the FCC seeks comment on whether the Commission should prohibit households that received a connected device through the EBBP from receiving a second device in the ACP (and therefore prohibiting providers from claiming a connected device discount reimbursement for a household enrolled in the ACP if that household received a connected device through the EBB Program). The MPSC recommends that the FCC provide access to all households to participate in obtaining a qualifying device through the ACP regardless of prior participation in any auction or program. The ACP is a new standalone program.

The full benefits of the program should not be restricted by previous awards granted by other programs. Furthermore, the device that was obtained through the EBBP may be the only device used by that household. Providing an opportunity for households to obtain another device through the ACP could bring tremendous benefits to a household, especially those households with children.

The MPSC also agrees that providers should be required to retain documentation proving that the eligible household made a compliant financial contribution (including the amount) towards the cost of the connected device before the provider seeks reimbursement. To help eliminate waste, fraud, and abuse, the MPSC agrees that the FCC should require a provider to submit documentation supporting a connected device claim for the ACP. The MPSC also agrees with the FCC's proposal to require a review of a provider's supporting documentation before processing the reimbursement claim for a connected device.

Enhanced Affordable Connectivity Benefits

For Tribal Lands Benefits, the FCC proposes using the same Tribal lands definition from the Lifeline and EBBP programs for determining the areas that qualify for the enhanced benefit in the ACP. The MPSC respectfully requests that the FCC re-evaluate the Tribal lands definition. As the FCC explains, the Tribal land definition covers any federally recognized Indian tribe's reservation, pueblo, or colony including former reservations in Oklahoma, Alaska, and Hawaii. The MPSC has heard from Native-American tribes in Michigan regarding the EBBP, and they have raised concerns that the definition is too limited in scope. Some tribes have

expressed concern that since many of their members live in close proximity to their reservation, but do not live within the actual boundaries of the reservation, they do not qualify for the \$75 benefit. The MPSC proposes that the FCC review this issue and consider where the majority of tribal members live. If most or many of the members live within close proximity of the reservation, but not directly on the reservation, they will not qualify for the enhanced benefit. The FCC could consider expanding the definition to cover those eligible tribal members that live within close proximity of their reservation.

Consumer Protection Provisions

Addressing the timeliness of providers passing through the ACP benefit to households, the MPSC agrees with the FCC that it should affirmatively require providers to immediately apply the discount to households' broadband bill or consumer account upon enrollment in the ACP. Applying this discount immediately will help to reduce and eliminate unreasonable delays by the providers that some customers may have encountered through their participation in the EBBP.

For issues that involve the termination of service due to a subscriber's delinquent/non-payment status, the MPSC agrees with the FCC that participating providers should provide adequate notice to the effected customers before their service is terminated. The providers should be required to utilize several methods of notification including e-mails, letters, notice on billing, and text messages. Notifications should be documented by the provider and could be provided on a 15-day frequency (i.e 60, 45, 30, and 15-day frequency) before the service is interrupted

or terminated. Since households who are participating in the ACP are a low-income population, they may need ample time to obtain the financial resources to make payment on their account. While it is important to not let a subscriber's account be delinquent for a significant amount of time, it is also important to provide ample notice and opportunity for that subscriber to make payment on their account. If a dispute arises between the subscriber and the provider regarding non-payment, the subscriber should be allowed an opportunity to file a complaint against that provider regarding the dispute. The subscriber should state specifically in their complaint, what they are disputing, and provide information that supports their complaint. For the EBBP, the Universal Service Administrative Company (USAC) assisted with complaints, so for the ACP, the FCC could assign complaints once again with USAC. It is important that these disputes are processed in a timely fashion, so it would be important for the FCC to specify the dispute timeline. The MPSC also recommends that the FCC require providers to continue service until after resolution of the non-payment dispute.

Consumer Complaint Process

Currently, under the EBBP, states have a limited role as broadband is not a regulated service and the FCC does not require providers to become ETCs. As stated earlier, the MPSC advocates for all providers participating in the ACP to become ETCs, which would delegate some authority to the states over these providers. Without the ETC requirement, the MPSC agrees with the FCC that it needs to establish a dedicated complaint process for the ACP to allow participating

households to file complaints about the compliance of participating providers with the program rules and requirements. The MPSC recommends that the FCC designate USAC to receive, assist, and track complaints.

The MPSC believes it is important to expedite and resolve ACP participant complaints as quickly as possible. Broadband service, while not regulated, is becoming a “utility” which households depend on for daily life for issues such as telehealth, work, education, etc. Since households rely on broadband service for these important functions, it is important for the FCC to establish a complaint process that does not leave customers waiting for weeks for a resolution to their complaint. The complaint process needs to be easily accessed by subscribers and needs to be available by means of telephone, the web, and mail. The FCC should also require participating ACP providers to prominently display information regarding the FCC’s complaint process and contact information on an easily accessible webpage of the provider. The complaint process and contact information should not be placed on a webpage that requires several “clicks” before a user may locate it. The MPSC agrees with the FCC that the complaint process and information should be located on a subscriber’s bill, webpage, and on all the provider’s marketing information. The MPSC also agrees that if a subscriber contacts the provider directly with a complaint, the FCC should require that provider to provide the customer with the complaint process and information if the customer is not satisfied with the resolution of the dispute by the provider.

In the case of misconduct by a participating ACP provider, the FCC should order fines and penalties against providers found to be in violation. In egregious situations, the FCC should consider removing those particular providers from the ACP. The MPSC believes it is important for the protection of subscribers, as well as the integrity of the ACP, for the FCC to move quickly on issues regarding potential misconduct by participating ACP providers.

Disclosures and Consumer Consent

The MPSC supports implementation of similar disclosures to those established by the EBBP to all consumers before enrolling them in the ACP program. To help prevent waste, fraud, and abuse, the MPSC recommends that the FCC promulgate rules to prevent upselling of customers without their consent.

Consumer Protection

The MPSC recommends that the FCC promulgate additional consumer protection requirements for the actual broadband speed provided to subscribers. The MPSC believes it is important to ensure sure that the advertised broadband speed is the actual speed that is being provided to participating ACP customers' devices. Consumer protection rules addressing this issue need to be developed, including disciplinary consequences, to help deter bad actors from altering the speeds that are being advertised and offered.

The MPSC also believes it is important for providers to provide their standard broadband rate to subscribers. Doing so will help reduce waste, fraud, and abuse by providers by allowing customers increased transparency over what is

being provided to them as a broadband service and the actual costs associated with acquiring such service.

Public Awareness

The MPSC recommends that as much notice as is possible be provided to current EBBP customers regarding changes to their existing program as their enrollment transitions to the ACP. This would include, but not limited to, providers supplying customers with 60-, 30-, and 15-day notices regarding the reduction of benefits received by participants transferring from the EBBP to the ACP. The MPSC agrees with the FCC on the important role of providers in notifying customers of the changes of both the sunseting of the EBBP and the transition to the ACP. Promotion of this program may be done by several methods such as billing insert notifications, letters to customers, text messages to customers, information on the providers websites, as well as television and/or radio advertisements. As the FCC is aware, there is an under-utilization of the Lifeline program by potential eligible households. It is important for the FCC to ensure a significant public awareness of the ACP so that potential eligible households can take advantage of this important program.

The MPSC also recommends USAC publicize information on their website regarding the sunseting of the EBBP, as well as information regarding the ACP in a format similar to the current EBBP information on its website. The MPSC also recommends that USAC continue to share enrollment and claims tracking information related to the ACP. Lastly, the MPSC recommends that the FCC

require participating ACP providers to submit copies of their notices regarding the ACP to state commissions. Keeping the state commissions informed would allow state commissions to assist with promoting awareness for this program, as is done with the Lifeline program.

Conclusion

The MPSC appreciates the opportunity to provide comments on such an important broadband assistance program. It is important for the FCC to hold participating providers in the ACP accountable and to ensure they are properly complying with this program. The purpose of the ACP is to help close the digital divide throughout the United States and make it more affordable for vulnerable low-income populations. It is important that the FCC ensure eligible households have access to this important program. It is also important to not limit the scope of this program to just service, but also include devices and equipment. Additionally, like the EBBP, the ACP also targets assistance specifically to Tribal lands. The MPSC encourages the FCC to review the Tribal land definition to ensure that this program is actually capturing those Tribal members that it is intending to capture, and not excluding eligible Tribal members from the full \$75 support amount. The MPSC agrees with the FCC about the need to have robust consumer protections and complaint processes. Lastly, as the EBBP quickly sunsets and transitions to the ACP, it is important that current EBBP participants are timely and effectively notified of this transition. Additionally, it is also important that the public

(especially those who may be eligible for the ACP) is educated and made aware of the ACP once the transition has been completed.

Respectfully submitted,

MICHIGAN PUBLIC SERVICE COMMISSION

Steven D. Hughey (P32203)
Assistant Attorney General
Public Service Division
7109 W. Saginaw Hwy., 3rd Floor
Lansing, MI 48917
(517) 284-8140
hugheys@michigan.gov
P32203

Dated: December 8, 2021

\