

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

In the Matter of )  
 )  
Inquiry Concerning Deployment of ) GN Docket No. 18-238  
Advanced Telecommunications Capability )  
to All Americans in a Reasonable and )  
Timely Fashion )

**REPLY COMMENTS**



**I. INTRODUCTION & SUMMARY**

The American Cable Association (“ACA”)<sup>1</sup> hereby files reply comments in response to the above-captioned Federal Communications Commission (“Commission”) Notice of Inquiry (“NOI”) commencing its annual inquiry “whether advanced telecommunications capability is being deployed to all Americans in a reasonable and

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<sup>1</sup> ACA represents more than 700 small and medium-sized fixed broadband service providers, which together pass some 18 million households and serve almost 7 million. Over the past five years, ACA members have invested more than \$10 billion to upgrade and expand their networks, in both rural areas and as overbuilders bringing competition to urban areas, and they continue to spend about \$1 billion each year to meet the ever growing demands of their subscribers for real-time, high-speed access to the Internet and other IP-based services.

timely fashion.”<sup>2</sup> In its initial comments, ACA presented evidence that, once again, the answer is yes: The Commission’s efforts to remove barriers to broadband deployment and provide targeted deployment subsidies where necessary, which have only progressed in the past year, are fostering “reasonable and timely” deployment from ACA members and other broadband providers.<sup>3</sup> ACA also commented on various aspects of developing the next annual report, including how to evaluate fixed broadband service under Section 706 and what data on fixed broadband deployment the Commission should include in the report. ACA finds ample support in the comment record for its recommendations, and it encourages the Commission to move forward with their adoption.

## **II. THE RECORD SUPPORTS AN AFFIRMATIVE FINDING UNDER SECTION 706**

Numerous commenters agree with ACA that broadband is being deployed on a reasonable and timely basis to all Americans.<sup>4</sup> As USTelecom documents, the Commission’s recent embrace of policies that reduce barriers to deployment has coincided with increased capital investment in broadband network infrastructure.<sup>5</sup> Indeed, the investments of the cable industry—including from ACA members<sup>6</sup>—are

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<sup>2</sup> See *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, GN Docket No. 18-238, Fourteenth Broadband Deployment Report Notice of Inquiry, FCC 18-119 (rel. Aug. 9, 2018); see also 47 U.S.C. § 1302(b).

<sup>3</sup> See Comments of ACA on NOI, GN Docket No. 18-238 at 1-7 (filed Sept. 17, 2018) (ACA Comments).

<sup>4</sup> See Comments of AT&T on NOI, GN Docket No. 18-238 at 2 (filed Sept. 17, 2018); Comments of Free State Foundation on NOI, GN Docket No. 18-238 at 1 (filed Sept. 17, 2018) (Free State Foundation Comments); See Comments of ITTA on NOI, GN Docket No. 18-238 at 11 (filed Sept. 17, 2018) (ITTA Comments); Comments of NCTA on NOI, GN Docket No. 18-238 at 6 (filed Sept. 17, 2018) (NCTA Comments); Comments of USTelecom on NOI, GN Docket No. 18-238 at 1 (filed Sept. 17, 2018) (USTelecom Comments).

<sup>5</sup> See USTelecom Comments at 2-5.

<sup>6</sup> See, e.g., ACA Comments at 3-4 (reporting on several ACA members’ 1 Gbps deployments).

expected to bestow “at least 70 to 75 percent of American households [with] access to cable gigabit services by the end of 2018.”<sup>7</sup> Other industry sectors are also investing heavily in broadband under the Commission’s policies, fueling competition and more investment.<sup>8</sup> And as multiple commenters note, in areas that remain too costly to serve with private capital, billions of dollars of universal service support are being made available to fund new deployments.<sup>9</sup>

Without a doubt, this tremendous progress continues to meet the standard of “reasonable and timely” deployment.<sup>10</sup> While ACA recognizes that more work must be done to close the digital divide,<sup>11</sup> the Commission is indeed “on the right track when it comes to deployment,” and so a positive Section 706 finding is once again warranted.<sup>12</sup>

### **III. THE COMMISSION SHOULD FOLLOW COMMENTERS’ ADVICE TO MAINTAIN A “25/3” SPEED BENCHMARK FOR FIXED BROADBAND SERVICE WHILE REPORTING DEPLOYMENT DATA AT OTHER SPEEDS**

Commenters agree with ACA that a 25 Megabits per second (“Mbps”) download/3 Mbps upload (“25/3”) speed benchmark remains the appropriate measure whether a fixed broadband service provides “advanced telecommunications

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<sup>7</sup> NCTA Comments at 2.

<sup>8</sup> See, e.g., Comments of CTIA on NOI, GN Docket No. 18-238 at 5-13 (filed Sept. 17, 2018); Comments of SES Americom and O3b Limited on NOI, GN Docket No. 18-238 at 1-2 (filed Sept. 17, 2018); Comments of WISPA on NOI, GN Docket No. 18-238 at 8 (filed Sept. 17, 2018) (WISPA Comments).

<sup>9</sup> See Comments of National Rural Electric Cooperative Association on NOI, GN Docket No. 18-238 at 6-7 (filed Sept. 17, 2018); NCTA Comments at 2-3; WISPA Comments at 8.

<sup>10</sup> See *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, GN Docket No. 17-199, 2018 Broadband Deployment Report, 33 FCC Rcd 1660, 1708-09 ¶¶ 94-99 (2018) (2018 Report).

<sup>11</sup> See ACA Comments at 6-7.

<sup>12</sup> See 2018 Report, ¶¶ 94, 10-13.

capability.”<sup>13</sup> As commenters explain, fixed broadband service at this speed delivers “high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications.”<sup>14</sup> Moreover, as ITTA observes, maintaining the 25/3 benchmark “provides the best vehicle for truly evaluating the progress of broadband deployment,” and this benchmark remains an “ambitious deployment target.”<sup>15</sup>

The Commission should also continue to report on fixed broadband deployment at the 10 Mbps download/1 Mbps upload (“10/1”) speed tier. As NCTA explains, “[t]he Commission’s unanimous decision to approve billions of dollars in subsidies under the Connect America Fund Phase II for services at the [10/1] level confirms that these services are valuable to consumers, particularly consumers that otherwise would be unserved by broadband.”<sup>16</sup> Continuing to report deployment at this speed level will thus provide a more holistic picture of broadband availability in areas that lack 25/3 service.

Several commenters urge the Commission to raise its “advanced telecommunications capability” benchmark for fixed broadband service, to speed levels as high as 1 Gigabit per second (“Gbps”).<sup>17</sup> Because 25/3 fixed broadband service continues to meet the statutory definition at issue, raising the benchmark is

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<sup>13</sup> Comments of ADTRAN on NOI, GN Docket No. 18-238 at 5-7 (filed Sept. 17, 2018); Free State Foundation Comments at 6-8; ITTA Comments at 5-7; NCTA Comments at 3; WISPA Comments at 2.

<sup>14</sup> See ITTA Comments at 4-6; WISPA Comments at 2; see also 47 U.S.C. § 1302(d)(1).

<sup>15</sup> ITTA Comments at 5-6.

<sup>16</sup> NCTA Comments at 3-4.

<sup>17</sup> See Comments of Central Coast Broadband Consortium on NOI, GN Docket No. 18-238 at 2 (filed Sept. 17, 2018); Comments of Common Cause and Public Knowledge on NOI, GN Docket No. 18-238 at 4-8; Comments of Communications Workers of America on NOI, GN Docket No. 18-238 at 3; Comments of INCOMPAS on NOI, GN Docket No. 18-238 at 5-6 (filed Sept. 17, 2018); Comments of Power and Communication Contractors Association on NOI, GN Docket No. 18-238 at 2 (filed Sept. 17, 2018).

unwarranted. But ACA encourages the Commission to continue its current practice of reporting on deployment at speeds higher than the benchmark, as doing so can further illustrate the extent of deployment progress made each year.<sup>18</sup>

#### **IV. OTHER ACA RECOMMENDATIONS FOR THE NEXT BROADBAND DEPLOYMENT REPORT SHOULD BE ADOPTED**

In preparing its next Broadband Deployment Report, the Commission should also adopt other recommendations ACA made in its initial comments.

*Use of Form 477 Data.* ACA maintains support for the Commission’s proposed use of Form 477 data to measure fixed broadband deployment. As ITTA notes, whatever the limitations of Form 477, it remains true that it provides “the most accurate data available to the Commission’ for analyzing deployment of fixed broadband services to Americans.”<sup>19</sup>

*Disaster-Affected Areas.* As ACA suggested in its initial comments, the Commission’s reporting on deployment progress in storm-damaged areas should be done in a manner that enables consistent measurement of nationwide progress year to year. Any separate reporting on progress of broadband providers to restore their networks in the wake of natural disasters should acknowledge their tremendous efforts.<sup>20</sup> The Commission should resist any suggestion that, in connection with its annual inquiry under Section 706(b), it collect more extensive or granular data from

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<sup>18</sup> See 2018 Report, ¶ 45.

<sup>19</sup> See ITTA Comments at 12 (quoting 2018 Report); see also ACA Comments at 8-9.

<sup>20</sup> ACA Comments at 9-10; see also Liberty Cablevision of Puerto Rico on Uniendo a Puerto Rico Fund and the Connect USVI Fund et al., WC Docket No. 18-143 et al. at 2-4 (filed July 26, 2018) (documenting Liberty Puerto Rico’s investments and efforts to restore service to “the vast majority of its network” following Hurricane Maria).

providers operating in storm-damaged areas than from other providers.<sup>21</sup> There is no basis to conclude that introducing this disparity into the Commission's data collection would improve the Commission's performance of the inquiry the statute requires, let alone to a degree that outweighs the burdens the additional collection would impose on providers who have recently faced or are facing the task of restoring their networks.

*Quantifying Broadband Progress.* ACA renews its recommendation that the Commission include three-to-five-year deployment projections in its next report. The comment record is replete with evidence of the "reasonable and timely" broadband deployment that is underway. Multi-year projections would substantiate this progress, and also help focus the government's efforts in coming years to narrow the digital divide in areas unlikely to have advanced telecommunications capability in the future even further.<sup>22</sup>

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<sup>21</sup> See Comments of Free Press on NOI, GN Docket No. 18-238 at 4-5 (filed Sept. 17, 2018) (suggesting that the Commission incorporate "more granular data" from Puerto Rico into its Broadband Deployment Report and also conduct "a comprehensive survey of all communications service providers and network operators in the affected areas in Puerto Rico and other storm-damaged areas, including the location and the type of damage to their assets and infrastructure").

<sup>22</sup> See NCTA Comments at 3 ("Distinguishing between areas where deployment commitments exist and unserved areas that still need to be addressed will be critical for the Commission to achieve the goal of bringing broadband to all Americans.").

**V. CONCLUSION**

ACA appreciates the opportunity to file reply comments in this proceeding and requests that the Commission take these comments into account as it develops the next Broadband Deployment Report.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "B Hurley", is written over the typed name of Brian Hurley.

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