

February 5, 2025

The Honorable Brendan Carr
Chairman
Federal Communications Commission
45 L Street, NE
Washington, DC 20554

Dear Chairman Carr,

On behalf of the nearly 900 not-for-profit electric cooperative members of the National Rural Electric Cooperative Association (NRECA), congratulations on your appointment as Chairman of the Federal Communications Commission (FCC). NRECA has appreciated working with you and your staff during your tenure as Commissioner and looks forward to continuing this relationship as you take the helm of the Commission.

We greatly valued your participation in NRECA's 2024 Broadband Leadership Summit last June and have extended an invitation for you to keynote our 2025 event taking place in Washington, D.C. from June 4-6. The Leadership Summit is a great opportunity to share your priorities and vision for the industry with over 200 cooperative leaders committed to deploying or developing plans to deliver broadband service to rural America.

NRECA shares President Trump's vision that all Americans have access to secure, modern, competitive high-speed broadband networks that will unleash economic opportunity and meet the growing communications needs of rural communities for years to come, while limiting regulatory burdens and being good stewards of taxpayer dollars.

I am writing today to share NRECA's perspective on critical issues affecting our shared goal of closing the digital divide and making sure rural communities can access affordable, truly high-speed, reliable broadband. Attached is a priority list of burdensome regulations and recommendations on how the Commission can proceed to empower rural communities to succeed in the growing digital economy.

Please do not hesitate to contact me or have your staff contact Brian O'Hara, Senior Director, Regulatory Affairs at (703) 907-5798 for additional information.

Sincerely,



Jim Matheson
CEO, NRECA

NRECA's Priority FCC Actions

Digital Discrimination (GN Docket No. 22-69)

Authority and Description

The new rules, required under the Bipartisan Infrastructure Law, became effective on March 22, 2024. They were presumably established to prevent digital discrimination of access to broadband services based on income level, race, ethnicity, color, religion, or national origin. The order imposed two notable sets of affirmative obligations on broadband providers: (1) submit an annual, publicly-available report, as a supplement to the FCC's Broadband Data Collection (BDC) process, describing any "large-scale broadband deployment, upgrade, and maintenance projects that were completed or substantially completed during the preceding calendar year and the communities served by such projects"; and (2) establish an internal compliance program requiring "regular internal assessment" of what communities are served by "recent, pending, and planned large-scale projects" and whether the provider's policies might differentially impact consumers' access.

NRECA Position

These overbroad rules could result in ISPs potentially facing claims of violating anti-discrimination rules while undertaking routine business practices, such as deploying to one community before another. NRECA members are small businesses, owned by their members, and thus treat all consumers equally. The agency has no justifiable reason to impose new annual reporting or internal compliance obligations on rural electric cooperatives and their broadband subsidiaries. In light of this, NRECA urged the Commission to adopt an exemption of cooperatives and small entities, and to define a small entity as ISPs with less than 100,000 broadband customers (all broadband affiliates included). Your dissenting vote on this order was appreciated and if the order is not dispensed with by the courts, we urge you to reevaluate the ruling.

Broadband Data Collection Filing Certification Requirement /Mapping Accuracy

Authority and Description

Starting in February 2021, the Commission embarked upon an agency-wide effort to implement a new Broadband Data Collection (BDC) (WC Docket No. 19-195). The BDC fundamentally changed from the Commission's prior efforts to collect broadband data. As required by Congress in the Broadband Deployment Accuracy and Technological Availability (DATA) Act, the Commission's rules require that fixed broadband service providers report broadband availability on a location-by-location basis, and that mobile wireless broadband service providers report their coverage areas using standardized propagation modeling parameters.

NRECA Position

NRECA fully supports efforts to improve the granularity, accuracy, and veracity of the BDC process. However, the agency decision to require the semiannual BDC filings to be signed by a certified Professional Engineer (PE) is overly burdensome and will not meaningfully improve the accuracy of BDC data. It is certain, though, that a certified PE requirement will impose a burdensome expense on many, particularly smaller ISPs and cooperatives by requiring them to procure a PE stamp for each semi-annual submission. The Commission has issued a temporary waiver of this requirement which has been extended at least once.

The Commission should enact a permanent waiver of this requirement as the opening of a proceeding on a periodic basis to extend the temporary exemption does not serve the public interest but only expends agency and stakeholder resources and the agency has shown no harm from the continuation of the temporary exemption to date.

NRECA also continues to advocate broadly for improvements to the FCC broadband data collection and maps, both with Congress and the FCC. While the new national broadband maps are indeed an improvement from previous census block level maps, they still do not possess the accuracy necessary to precisely guide where federal funds should be targeted.

In multiple proceedings, we have consistently asked the FCC not to rely on advertised speeds when determining eligible locations for federal funds, which can overstate the level of service available in an area. We highlighted the fact that currently wireline broadband consumers have no vehicle to demonstrate that advertised speeds may not be reflective of the service they actually receive. In turn, the Commission should allow submission of individual speed tests by consumers to challenge claims of adequate high-speed wireline broadband. Alternatively, we discussed the prospect of objective third party testing of technological capability. Additionally, we stressed the importance of accuracy and verification in reporting quality of service.

Without these changes, NRECA contends that the BDC and National Broadband Map will remain a flawed reference for coverage, establishing an inaccurate and untenable foundation that will frustrate our shared broadband access objectives, particularly for rural America.

Affordability and Universal Service Fund Sustainability

Authority and Description

The Federal Universal Service Fund (USF) program was established in the Telecommunications Act of 1996. Section 254 of the 1996 Act required that the USF contributions methodology be “equitable and nondiscriminatory” while ensuring that support mechanisms are “specific and predictable.” The low-income Lifeline program has been an important component of the USF since its inception. Most NRECA members offering broadband participate in the myriad of USF programs, with the vast majority participating in the high-cost and low-income programs.

NRECA Position

NRECA has consistently advocated before Congress and the FCC for the USF contributions methodology to be updated to reflect technology changes in the marketplace, meet the nondiscriminatory statutory requirement, and ensure the sustainability of the program. NRECA has also consistently advocated for a permanent, dependable, and effective low-income broadband program that will allow providers to deliver the highest-quality broadband service to eligible households at an affordable price. NRECA strongly urged Congress to act on the Affordable Connectivity Program (ACP) before it expired. NRECA members serve 92% of the nation’s 353 persistent poverty counties, and it is estimated they serve an average of eight customer per mile. Thus, affordability has always been and will continue to be a critical component of the successful adoption of rural broadband and resultant economic development. The ACP assisted in increasing the take rates of many cooperatives working to build out broadband networks in rural and low-income areas. The current Lifeline program is not sufficient to address broadband affordability and urge you to support an adequate substitute support mechanism, perhaps within the USF.

Regarding current USF contributions methodology, we further urge your support for reform of the contributions mechanism to ensure sustainability of the fund, in particular the critical high-cost and low-income programs. With the contribution factor set to be 36.3 percent in the first quarter of 2025, the current antiquated funding scheme is simply unsustainable. Your statements that Big Tech, who benefit greatly from broadband network investment, should contribute into the USF program are well received by our

members. We are hopeful that the U.S. Supreme Court will overturn the Fifth Circuit opinion in *Consumers' Research v. FCC* so the Commission and Congress can get back to the business of ensuring that this critical program will be sustainable, predictable, and strengthened regardless of outcome.

Open Internet (Network Neutrality)

Authority and Description

In October, the Commission proposed rules that would reclassify broadband internet access service under Title II of the Communications Act. This would potentially apply more stringent, legacy telephone regulation on internet service providers. This included network transparency rules.

NRECA Position

Electric cooperatives support rules that prohibit the blocking, throttling, or paid prioritization of internet traffic. To reiterate, electric cooperatives treat all consumers equally, and do not engage in such practices. However, our members are concerned that the implementation of open internet regulations will disproportionately affect small entities by requiring them to comply with burdensome and complex new reporting obligations. In addition, reclassification to Title II could result in additional regulatory burdens. NRECA urged the Commission to create targeted exemptions for small entities from the Open Internet requirements. One such requirement in the order is the network transparency rules that require ISPs to inform their members of their network management practices. In 2021, Congress passed the Bipartisan Infrastructure Law, which directed the FCC to require consumer-friendly labels with information about broadband services. In 2022, the FCC adopted rules requiring broadband providers to display labels showing key information consumers want: prices, speeds, fees, data allowances, and other critical information. Given these existing requirements, the network transparency rules under the Open Internet rules would be redundant and unnecessary.

The vacillation from administration to administration over the rigor of such regulations and the potential reclassification of the broadband between Title I and II created regulatory uncertainty. It is our hope that the 6th Circuit U.S. Court of Appeals decision, depending on the outcome of any appeal, will lead to additional regulatory certainty.

Customer Proprietary Network Information (CPNI) Annual Certification

Authority and Description

The FCC's CPNI rules (47 CFR 64.2009(e)) protect the personal data that consumers disclose to their service providers as a result of their business relationships. The rules require providers to establish and maintain systems that protect this CPNI, among other notification and customer approval requirements. In addition, providers are required to file an annual certification that documents (1) their compliance with the rules, (2) complaints they received from consumers regarding CPNI, and (3) actions they took against data brokers.

NRECA Position

Regulatory requirements are more burdensome for smaller ISPs, such as electric cooperatives. Most cooperatives have one FTE or less to manage all regulatory compliance. Each compliance requirement imposes a costly burden on smaller and rural providers whose scarce resources are better put towards the shared goal of bridging the digital divide. The legacy and outdated CPNI reporting requirement is of dubious benefit and should be eliminated.