

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)
)
Broadband Data Collection Challenge Processes) **WC Docket Nos. 11-10, 19-195**
)
)

**COMMENTS OF
THE NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION
(NRECA)**

The National Rural Electric Cooperative Association (“NRECA”) hereby submits these Comments in response to the January 19, 2024 Public Notice, requesting comment on the Broadband Data Collection (“BDC”) challenge processes.¹

I. INTRODUCTION

A. Background on NRECA

NRECA is the national service organization for more than 900 not-for-profit rural electric cooperatives that provide electric power to 56% of the nation’s landmass, approximately 42 million people in 48 states, or approximately 12 percent of electric customers. Rural electric cooperatives serve 327 of the nation’s 353 persistent poverty counties, which is 92% of these persistent poverty counties.

Rural electric cooperatives were formed to provide safe, reliable electric service to their member-owners at the lowest reasonable cost. They are dedicated to improving the communities in which they serve, and the management and staff of rural electric cooperatives are active in

¹ Public Notice, *Broadband Data Task Force Seeks Comment on the Broadband Data Collection Challenge Process*, WC Docket Nos. 11-10, 19-195, rel. Jan. 19, 2024 (“*BDC Challenge Public Notice*” or “*Public Notice*”)

rural economic development efforts. Electric cooperatives are private, not-for-profit entities that are owned and governed by the members to whom they deliver electricity. Electric cooperatives are democratically governed and operate according to the seven Cooperative Principles.²

B. Electric Cooperatives Are Deeply Committed to Promoting Broadband

America’s rural electric cooperatives are deeply committed to promoting the deployment of advanced telecommunications capabilities within the rural communities and areas in which they serve and are expected to play a crucial role in the development of broadband infrastructure to serve rural unserved and underserved locations. Over 200 rural electric cooperative broadband projects are already underway across the country, and NRECA estimates that another 100 or so are currently exploring the feasibility of providing broadband. NRECA members are providing (or will provide) these broadband services either by themselves or through partnerships of some kind with affiliated or unaffiliated ISPs.

C. NRECA Members Are Keenly Interested in the BDC Challenge Process

NRECA is keenly interested in the BDC challenge process and appreciates this opportunity to provide its Comments. In fact, NRECA assisted numerous member cooperatives submit bulk challenges for over 266,000 locations in the first iteration of the map. We anticipate that many NRECA members will seek federal and/or state funding for rural broadband projects, and many already receive such support. Primarily, though, NRECA seeks to ensure that rural consumers in general are properly represented in the National Broadband Map, with respect to both Fabric data and broadband availability information.

² The seven Cooperative Principles are: Voluntary and Open Membership, Democratic Member Control, Members’ Economic Participation, Autonomy and Independence, Education, Training, and Information, Cooperation Among Cooperatives, and Concern for Community.

II. COMMENTS

A. Summary

NRECA commends the Broadband Data Task Force, Wireless Telecommunications Bureau, Wireline Competition Bureau, and the Office of Economics and Analysis (collectively “BDTF”) on the development of an ambitious and generally user-friendly Broadband Data Collection process. NRECA’s comments, like those of all interested parties, are intended to provide a constructive basis for improvement in the coming months and years. We focus on four main points:

1. Providers should not be permitted to recharacterize mobile service as fixed wireless service.
2. The Commission should allow submission of challenge data relating to the quality (including speed and latency) of fixed Internet access service.
3. The Commission should approve additional speed test applications (“apps”).
4. Fabric data, alongside State broadband data, is at present balkanized and confusing.

B. Providers Should Not Be Permitted To Recharacterize Mobile Service As Fixed Wireless Service

Reportedly, several large national cellular service providers have represented mobile 5G (and perhaps even 4G LTE) wireless service as fixed wireless service for purposes of the National Broadband Map and the BDC challenge process. These providers apparently utilize in-home mobile hotspots to convert a mobile 5G signal into a home broadband service, and are presenting the service as a fixed wireless service.

For a variety of reasons, mobile 5G is not equivalent to fixed wireless service. Fixed wireless service provides a more reliable connection, with more consistent speeds, than mobile service. Unlike mobile service, fixed wireless service can employ MIMO antennas and beamforming techniques to enable improved throughput to a particular recipient. And unlike

mobile service, fixed wireless service is less likely to employ data caps or impose additional fees for overages.

While mobile 5G service is of tremendous value for its mobility, allowing mobile 5G service to masquerade as fixed wireless service improperly skews the BDC data and does a disservice to consumers looking for reliable broadband service in rural areas and other hard to reach locations. The Commission should not permit mobile providers to recast mobile 5G service as anything but a mobile service, and should explicitly prohibit such practices, with appropriate enforcement mechanisms (including penalties) for noncompliant entities.

C. The Commission Should Allow Submission Of Individual Challenge Data Relating To The Quality (Including Speed And Latency) Of Fixed Internet Access Service

Currently, individuals are permitted to submit challenges to mobile service claims based on individual speed test data, but the Commission allows speed test claims for wireline and fixed wireless service only in the form of crowdsource data.

NRECA respectfully submits that the Commission has not adequately explained why individuals are denied the opportunity to demonstrate that actual speeds do not approximate advertised speeds for the service. Speed tests are well known to consumers, and they are the only real tool consumers have to ensure their ISP is providing the level of service promised. The Commission has an opportunity, despite the *Third Report and Order*,³ to empower consumers to improve the BDC process by providing a means through which consumers can hold service providers accountable for the actual service delivered. “Quality,” in this case, can refer to actual

³ See *Establishing the Digital Opportunity Data Collection*, WC Docket Nos. 19-195, 11-10, Third Report and Order, 36 FCC Rcd 1126, 1156 para. 72, n.230 (2021) (Fixed availability challenge process “is not meant to address disputes that subscribers have with their broadband provider about quality of service issues, such as network performance experienced at a particular location.”)

speed received, latency, jitter, and other factors that bear directly on the utility of a given broadband connection. The Commission has stated that the BDC “is not meant to address disputes” between consumers and service providers, but the Commission can and should play a meaningful role in ensuring that the broadband service reported by service providers approximates reality.⁴

This issue goes beyond abstract assertions about the “quality” of service, in the parlance of the *Third Report and Order*. In the case of broadband ISPs that have promised service “up to” the key threshold of 100Mbps/20Mbps, many locations in reality do not receive that level of service at all, or receive such a level of service only rarely. Importantly, those locations should be designated as “underserved,” so that they can be eligible for support under BEAD (and perhaps other programs). Unfortunately, however, because an ISP can simply state that it will provide service “up to” that threshold, those locations are summarily removed from eligibility.⁵

Standing up the BDC program has of course been a major endeavor, and the Commission’s initial, straightforward focus on “access” to fixed broadband made sense in the initial iterations of the National Broadband Map. But as the mapping data improves over time, the Commission should take the opportunity to address the “quality” of service – that is, whether ISPs are delivering service as claimed. Individual speeds tests would help enable this determination.

NRECA does not suggest that the Commission can or should require service providers to promise a minimum speed, nor that speeds will invariably exceed a given threshold, but the

⁴ *Id.*

⁵ This issue is particularly acute in the case of wireless providers that claim a large area is “served,” removing locations within that area from BEAD eligibility. NRECA is aware of anecdotal evidence suggesting that, in some cases, there may be very few (or even no) actual subscribers within the area, making it virtually impossible to confirm whether the service delivers claimed speeds of 100Mbps/20Mbps.

Commission could reasonably adopt a speed verification standard requiring service providers to, for example, deliver speeds of at least “x” percent of the maximum advertised speed, and to deliver them at least “y” percent of the time.

In conversations with NRECA members, the inability to submit challenge data based on individual speed tests is perhaps the most frustrating aspect of the overall BDC initiative for consumers, and because of their location rural residents are disproportionately affected. NRECA urges the Commission to better explain its position on this point or, preferably, explore an alternative approach enabling submission of individual speed test data for fixed service.

D. The Commission Should Approve Additional Speed Test Apps

Currently, the only speed test app approved by the Commission for mobile BDC challenges is the FCC Speed Test app.⁶ While the Commission has adopted procedures for approval of third-party speed test apps, none has yet been approved.⁷ So far as NRECA is aware, the Commission has not explained why several well-known, reputable, commonly used speed tests have not been approved for use. NRECA urges the Commission to allow the use of any speed test app that meets certain standards, and to promptly approve their use for BDC challenges.

E. Fabric Data, Alongside State Broadband Data, Is Balkanized And Confusing

While perhaps not directly related to the BDC challenge process, NRECA members have reported substantial confusion in managing broadband map location data as between the BDC and State broadband mapping data, and reconciling HUBB data with the CostQuest Fabric. One member reported: “This process is very fragmented.... It seems to be that too many contractors

⁶ *Public Notice*, at 10.

⁷ *Id.*

are responsible for piecemealing their software platforms together and the data is not consistent across platforms.” This electric cooperative member noted that HUBB data (based on Fabric data from CostQuest) indicates that their broadband project is only 90% complete, but their project in fact serves 100% of the co-op’s electric membership, which encompasses the entire county. The co-op added, “I don’t know how to reconcile this data, and nobody at the FCC, CostQuest, or USAC has been able to assist me.”

In short, NRECA members are experiencing conflicts and confusion in attempting to manage data derived from, and to be reported to, various sources, and this confusion is having a deleterious effect on cooperatives that have invested significant resources to build out broadband systems. While NRECA appreciates the complexity involved in the BDC initiative and development of the National Broadband Map generally, NRECA urges the Commission to recognize that mapping and data submission compliance is presenting real-world challenges and potential harm for service providers and consumers. Recognizing that the Commission has produced copious educational materials to assist users already, NRECA respectfully contends it is necessary to redouble efforts to simplify and streamline the process as much as reasonably possible. The Commission also should evaluate the extent to which first-line customer service personnel at the FCC, CostQuest, and USAC could be further trained to assist in sorting through this confusion.

III. CONCLUSION

NRECA commends the Commission, and the BDTF specifically, for progress to date on implementing a comprehensive and accurate National Broadband Map. Given the complexity of the mission, the challenge process is generally user-friendly, but NRECA respectfully requests

that the Commission consider further improvements to the BDC challenge process consistent with these Comments.

Respectfully submitted,

National Rural Electric Cooperative Association

By: /s/Brian M. O'Hara
Brian M. O'Hara
Senior Regulatory Affairs Director | Broadband and
Telecommunications
National Rural Electric Cooperative Association
4301 Wilson Blvd.
Arlington, VA 22203
703-907-5798
brian.ohara@nreca.coop

Of Counsel:
Casey Lide
Thomas B. Magee
Keller and Heckman LLP
1001 G Street NW, Suite 500 West
Washington, DC 20001
202-434-4186
lide@khlaw.com
magee@khlaw.com

Dated: February 16, 2024