

6. Comments on Executive Summary

The Broadband Communications Association of Pennsylvania (BCAP) appreciates the efforts of the PA Broadband Development Authority (PBDA) to address the Digital Divide. BCAP member companies provide broadband services in all the Commonwealth's 67 counties and are an integral part of the fabric of their communities. We look forward to working with PBDA to bring the benefits of broadband to our neighbors in unserved and underserved areas of Pennsylvania.

7. Comments on Section 2.1: Vision for Digital Equity

In the "Did You Know" section on page 10, PBDA notes that "4.1% of Pennsylvanians (over 520,000 people) live in households without broadband availability." This is an incredible figure - 95.9% of Pennsylvania households *have* broadband! This is a tribute to private sector broadband providers, like BCAP members who, with private capital, constructed a robust broadband network. BCAP members, and other private sector ISPs, can be credited with providing the broadband resources that kept the Commonwealth's economy alive through the COVID crisis. It would behoove policy makers, crafting regulations for the use of taxpayer dollars to bring broadband to unserved and underserved Pennsylvanians, to listen to providers that have constructed, managed, and currently operate modern broadband systems.

On page 11, the plan states that \$30,000 for a family of four is "*a low amount* for families juggling food, housing, and health costs." Why is PBDA making a judgement call about the poverty level?

On page 12, PBDA embraces University of Texas professor Dr. Sharon Strover's term "digital dignity." While it may not be intended that way, the term is demeaning both to folks that don't have access to broadband and to families that have decided not to bring a broadband product into their home. This section reinforces the tremendous benefits of broadband but doesn't acknowledge that purchasing broadband is an individual and family decision, not a decision the government should make.

9. Comments on Section 2.3: Goals and Objectives to Advance the Digital Equity Vision

On page 20, the document promotes the Affordable Connectivity Program (ACP). All BCAP operators participate and promote ACP. A December 15, 2023, a letter (<https://www.thune.senate.gov/public/index.cfm/press-releases?ID=4EC3DDD6-6718-4C80-A031-C1782ED691D9>) to the FCC from U.S. Senator John Thune (R-SD) and a number of other Senate and House members noted, "America's current fiscal situation in a state of crisis" and expressed concerns with the FCC's management of the Affordable Connectivity Program. The letter said, "it appears the vast majority of tax dollars have gone to households that already had broadband prior to the subsidy." Obviously, there are serious concerns about ACP being renewed. What efforts is PBDA making to prepare for a potential lapse in ACP funding?

On page 25, the document states "PBDA could serve as the permanent clearinghouse for additional broadband-related grants and, with state funding, establish permanent programs to close the digital divide." Act 96 of 2021 states that "the Authority will dissolve upon the later of ten (10) years from the effective date of the legislation or such time when all federal funds available for the purposes of the legislation have been exhausted and all applicable duties and responsibilities under federal law or guidance have been completed." The Pennsylvania General Assembly seemed clear in Act 96 when PBDA will end. For the state to establish PBDA as "permanent" in the absence of federal funding is beyond the scope of the Act.

10. Comments on Section 3.1: Digital Inclusion Resources Across the Commonwealth

On page 30, the document notes the importance of libraries in eliminating the digital divide. There is no better example of a trusted community anchor institution than local libraries. Public libraries have an exceptional track record and are the “go-to” place for both Internet access and digital skills training. Supporting public libraries is sound public policy.

11. Comments on Section 3.2: Existing Digital Equity Plans

No comments.

12. Comments on Section 3.3: Existing Digital Equity Programs

No comments.

13. Comments on Section 3.4: Broadband Adoption

On page 45, the document notes state programs that could incentivize participation in broadband and digital equity initiatives, and specifically mentions Pre-Apprentice and Apprenticeship Grant programs. It is worthwhile to note that a high percentage of the broadband training for both union and non-union broadband fiber splicers and outside plant personnel has been through industry training/certification programs from the Pennsylvania-based Society of Cable Television Engineers (SCTE) and Cable Labs, and not through union apprenticeship programs. At a very minimum, these industry programs should be acknowledged.

14. Comments on Section 3.5: Broadband Affordability

No comments.

15. Comments on Section 4.1: Population Challenges and Barriers

On page 59, the document says, “Consumer confidence in the government and its ability to ensure ISPs expand internet service to rural Pennsylvania has been a longstanding topic of discussion.” Rural Pennsylvanians have not looked to government for municipal water, sewage, and gas connections; they accept the fact that services offered in the city may not be available in rural areas due to limited population density, difficult terrain, etc. Only more recently, with widespread public adoption of digital communications and the internet, have rural residents begun to demand government and providers to expand service.

On page 68, the topic of “Limited Providers and Digital Redlining” is addressed. “Further, franchise agreements can create monopolies for one provider and prevent other ISPs from offering services in an area. Individuals can feel stuck or become strategically exploited through price gouging based on the lack of competition.” This statement is wrong and inflammatory.

There are no exclusive cable franchises. The Cable Television Consumer Protection Act of 1992 “prohibits a cable television franchising authority from granting an exclusive franchise or unreasonably refusing to award additional cable television franchises.” The video and internet packages & prices BCAP members offer are not based on whether the customer lives in an urban, suburban, or rural area.

16. Comments on Section 4.2: Adoption Challenges

Page 78 begins with “Need for Increased Competition and Customer Choice,” and notes the limit in plan options and costs for customers with only one provider. “A lack of competition especially impacts rural areas...” It’s critical to realize the focus of the BEAD program is deploying broadband services, in most cases wireline broadband, to the unserved. BEAD is not designed to bring “competition” to an area that currently has one or more broadband providers.

17. Comments on Section 4.3: Affordability Challenges

Page 81 looks at “Affordability Challenges.” It cites a 2021 *NTIA Internet Use Survey* showing that the mean price offline households wanted to pay was \$10 per month. Additionally, 54% of respondents said they would only purchase home internet service if it were \$0.” What’s a policymaker to make of these statements? James McMillan ran for Governor of New York in 2010, on the “Rent is Too Damn High Party” ticket. Not surprisingly, he captivated public interest.

If broadband service is available, should taxpayers subsidize broadband bills, so they are free or only \$10 per month? The question becomes more interesting when one considers that a high percentage (particularly in urban/suburban areas) of individuals without wireline broadband use a mobile phone. At what stage do we allow individuals/families to decide whether they want wireline broadband and, if so, make some financial investment to do so? Such statements discredit the real costs to construct, operate, maintain and upgrade broadband systems. In addition, the revenue collected from broadband subscribers pays the salaries of the workforce (and organized labor organizations) that PBDA appears to be so fond of. How does one resolve the tension between these conflicting sentiments? Further, a \$10/month price would not even cover the expense of pole attachments and compliance requirements imposed by the government.

18. Comments on Section 4.4: Sustainability of Resources Needed

No comments.

19. Comments on Section 5.1: Coordination and Outreach Strategy

Page 94, “Statewide Participation” sentence 2 (typo): “Responses were received from residents in all every Pennsylvania county...”

20. Comments on Section 5.2: Continued Collaboration and Strategic Implementation

BCAP applauds PBDA’s “Leveraging the strength of existing coalitions and organizations” to extend PBDA’s overall impact. Using the 211-information system is an outstanding way to increase awareness about digital equity programs. BCAP agrees with the use of Community Anchor Institutions, particularly libraries, as trusted community assets with experience educating and working with a diverse range of consumers on broadband issues.

21. Comments on Section 6.1: Goal 1 - Get People Online

On page 99, PBDA encourages “reliable, low-cost broadband subscriptions that are a minimum of 100/20 Mbps for download/upload speeds.” It notes the “action” as incentivizing BEAD-funded projects to have a middle-class affordability plan. The document highlights the following key performance indicator: “KPI: Distribute \$1.16 billion in funding for BEAD projects within five years with adherence to affordability metrics being 25% of scoring.”

As BCAP detailed in our comments on PBDA’s Volume II, as currently drafted, the Commonwealth’s affordability-related proposals violate the IJJA, which explicitly prohibits the use of the BEAD Program to regulate broadband rates. Congress’s decision to center the IJJA’s affordability initiatives on direct financial assistance for the families most in need makes sense when NTIA’s data over the last decade consistently show that, while the barriers to broadband adoption are multi-faceted and complex, where affordability is the biggest barrier to adoption, non-adopting households are disproportionately the poorest households.

PBDA proposes to score applications based on the applicant’s willingness to commit to price caps that PBDA sets based on its flawed assessment of what a middle-class household can afford for symmetrical gigabit service, and the price cannot be an “introductory rate[], subject to

arbitrary cost escalation, or part of a bundle.” Specifically, using a sliding scale approach, PBDA will award the full 25 available points to applicants that offer 1G/1G service for \$54 or less per month, including all equipment, taxes, fees, and charges billed to the customer. Zero points will be awarded if the cost of the service is \$95 or more. The methodology for determining the \$54 price mandate is itself specious and arbitrary, essentially taking the \$30 ACP benefit as a proxy for how much of a low-income household’s income should be used for broadband (1.25%) and applying it to what it claims should be the income for all middle-class households, i.e., the median income for households that have income between 201% and 400% of the poverty level. Congress established \$30 as the amount appropriate to *subsidize* the cost of broadband for low-income families, which is why it mandated that the ACP benefit be available for use on any tier of service a provider offered; it did not identify \$30 as the maximum price that a low-income family should have to pay for broadband service. The unreasonableness of the arbitrary \$54 figure for gigabit symmetrical service is made all the more apparent by the PBDA’s adoption of the *same* dollar amount for 100/20 Mbps service in its “recommended service plan” in the middle-class affordability discussion (discussed below).

BCAP strongly opposes this proposal because PBDA’s use of specific prices for plans amounts to unlawful rate regulation that is prohibited by the IIJA. PBDA can avoid this legal pitfall while still fulfilling the IIJA’s affordability-related provisions by requiring providers to offer broadband pricing in BEAD-funded service areas that is consistent with the broadband pricing the subgrantee makes available in unsubsidized areas within the Commonwealth, or utilizing the FCC’s Urban Rate Survey’s (“URS”) reasonable comparability benchmark as an objective benchmark to score residential plans under the affordability criterion, consistent with the URS reasonable comparability benchmark’s long history as a standard to evaluate affordability in subsidized high-cost areas.

Unfortunately, the adherence to affordability metrics being 25% of scoring will attract providers funded by venture capital interests who will “game” their numbers to offer an attractive price, while undercutting the investment needed to maintain and operate modern broadband systems. The result will be BEAD-funded systems being sold off in 5-6 years and legitimate broadband providers with a long-term investment in the community, picking up the taxpayer-funded systems at fire sale prices.

22. Comments on Section 6.1: Goal 2 - The Right Tools

Strategy 2.3: Build partnerships with industries that have high technology turnover. • Action: Facilitate connections between industry partners with high technology turnover and community partners who need devices. “Prioritize building partnerships with digital equity stakeholders and other industry subject matter experts who may have device turnover (e.g. banking, universities, local governments etc.) by placing this topic on at least two annual committee agendas.”

BCAP urges caution on this KPI. There are thousands of donated computers collecting dust in school closets and in the storage rooms of non-profits throughout the state. Ensuring a donated device has compatible software, is scrubbed of inappropriate materials, has the necessary cybersecurity and identity protection and parental control software and can readily interface with a provider, are difficult tasks.

23. Comments on Section 6.1: Goal 3 - Grow Skills

No comments.

24. Comments on Section 6.1: Goal 4 - Stay Safe and Secure

No comments.

25. Comments on Section 6.1: Goal 5 - Strengthen the Foundation

No comments.

26. Comments on Section 7: Conclusion

BCAP appreciates all the work that has gone into Commonwealth's Digital Equity Plan. We look forward to continued efforts with PBDA and stakeholders to close Pennsylvania's Digital Divide.