

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

Resolution 2022-03

URGING THE FCC AND STATES TO SUPPORT EFFORTS AND PROGRAMS THAT PROMOTE DIGITAL EQUITY, DIGITAL INCLUSION, DIGITAL LITERACY, AND ADOPTION OF BROADBAND INTERNET ACCESS SERVICES

WHEREAS, the Congress of the United States (Congress), in the enactment of the Infrastructure Investment and Jobs Act, P.L. No. 117-58 (Infrastructure Act), stated that “It is the sense of Congress that--

- (1) a broadband connection and digital literacy are increasingly critical to how individuals--
 - (A) participate in the society, economy, and civic institutions of the United States; and
 - (B) access health care and essential services, obtain education, and build careers;

- (2) digital exclusion--
 - (A) carries a high societal and economic cost;
 - (B) materially harms the opportunity of an individual with respect to the economic success, educational achievement, positive health outcomes, social inclusion, and civic engagement of that individual; and
 - (C) exacerbates existing wealth and income gaps, especially those experienced by covered populations;

- (3) achieving digital equity for all people of the United States requires additional and sustained investment and research efforts;

- (4) the Federal Government, as well as State, tribal, territorial, and local governments, have made social, legal, and economic obligations that necessarily extend to how the citizens and residents of those governments access and use the internet; and

- (5) achieving digital equity is a matter of social and economic justice and is worth pursuing.”

(47 U.S.C. § 1722);

WHEREAS, Congress, in the enactment of the Infrastructure Act, has defined the term “adoption of broadband” as

“The term ‘adoption of broadband’ means the process by which an individual obtains daily access to the internet--

- (A) at a speed, quality, and capacity--
 - (i) that is necessary for the individual to accomplish common tasks; and

- (ii) such that the access qualifies as an advanced telecommunications capability;
- (B) with the digital skills that are necessary for the individual to participate online; and
- (C) on a--
 - (i) personal device; and
 - (ii) secure and convenient network.”

(47 U.S.C. § 1721(1));

WHEREAS, Congress, in the enactment of the Infrastructure Act, has defined the term “digital equity” as

“The term ‘digital equity’ means the condition in which individuals and communities have the information technology capacity that is needed for full participation in the society and economy of the United States.”

(47 U.S.C. § 1721(10));

WHEREAS, Congress, in the enactment of the Infrastructure Act, has defined the term “digital inclusion” as

“The term ‘digital inclusion’--

- (A) means the activities that are necessary to ensure that all individuals in the United States have access to, and the use of, affordable information and communication technologies, such as--
 - (i) reliable fixed and wireless broadband internet service;
 - (ii) internet-enabled devices that meet the needs of the user; and
 - (iii) applications and online content designed to enable and encourage self-sufficiency, participation, and collaboration; and
- (B) includes--
 - (i) obtaining access to digital literacy training;
 - (ii) the provision of quality technical support; and
 - (iii) obtaining basic awareness of measures to ensure online privacy and cybersecurity.”

(47 U.S.C. § 1721(11));

WHEREAS, Congress, in the enactment of the Infrastructure Act, has defined the term “digital literacy” as

“The term ‘digital literacy’ means the skills associated with using technology to enable users to find, evaluate, organize, create, and communicate information.”

(47 U.S.C. § 1721(12));

WHEREAS, Congress, in the enactment of the Infrastructure Act, stated the following with respect to “digital discrimination”:

“(a) Statement of Policy.--

It is the policy of the United States that, insofar as technically and economically feasible--

- (1) subscribers should benefit from equal access to broadband internet access service within the service area of a provider of such service;
- (2) the term ‘equal access’, for purposes of this section, means the equal opportunity to subscribe to an offered service that provides comparable speeds, capacities, latency, and other quality of service metrics in a given area, for comparable terms and conditions; and
- (3) the [Federal Communications] Commission should take steps to ensure that all people of the United States benefit from equal access to broadband internet access service.

(b) Adoption of rules.--

Not later than 2 years after the date of enactment of this Act [November 15, 2021], the Commission shall adopt final rules to facilitate equal access to broadband internet access service, taking into account the issues of technical and economic feasibility presented by that objective, including--

- (1) preventing digital discrimination of access based on income level, race, ethnicity, color, religion, or national origin; and
- (2) identifying necessary steps for the Commissions to take to eliminate discrimination described in paragraph (1).

(c) Federal Policies.--

The Commission and the Attorney General shall ensure that Federal policies promote equal access to robust broadband internet access service by prohibiting deployment discrimination based on--

- (1) the income level of an area;
- (2) the predominant race or ethnicity composition of an area; or
- (3) other factors the Commission determines to be relevant based on the findings in the record developed from the rulemaking under subsection (b).

(d) Model State and Local Policies.--

The Commission shall develop model policies and best practices that can be adopted by States and localities to ensure that broadband internet access service providers do not engage in digital discrimination.

(e) Complaints.--

The Commission shall revise its public complaint process to accept complaints from consumers or other members of the public that relate to digital discrimination.”

(47 U.S.C. § 1754);

WHEREAS, the Federal Communications Commission (FCC) announced on February 8, 2022, the formation of a cross-agency task force that will focus on creating rules and policies to combat digital discrimination and to promote equal access to broadband across the country, regardless of zip code, income level, ethnicity, race, religion, or national origin;

WHEREAS, the FCC has instituted a Notice of Inquiry, GN Docket No. 22-69, *In the Matter of Implementing the Infrastructure Investment and Jobs Act: Prevention and Elimination of Digital Discrimination* (March 16, 2022), seeking comment on implementing section 60506 of the Infrastructure Investment and Jobs Act, codified in 47 U.S.C. § 1754, which in, pertinent part provides, that the FCC take action to prevent and eliminate digital discrimination. That section

adopts as policy of the United States that “the Commission should take steps to ensure that all people of the United States benefit from equal access to broadband internet access service.” Among other things, section 60506 directs the Commission to adopt final rules to “facilitate equal access to broadband” and prevent “digital discrimination of access [to broadband] based on income level, race, ethnicity, color, religion, or national origin.”

WHEREAS, the FCC, in its Notice of Inquiry, GN Docket No. 22-69, *In the Matter of Implementing the Infrastructure Investment and Jobs Act: Prevention and Elimination of Digital Discrimination* (March 16, 2022) noted in ¶ 6 the strategic goal to “Promote Diversity, Equity, Inclusion and Accessibility,” in furtherance of which the FCC will focus on actions it can take “to eliminate historical, systemic, and structural barriers that perpetuate disadvantaged or underserved individuals and communities.”

WHEREAS, the National Association of State Utility Consumer Advocates (NASUCA) has urged the FCC and States to assure that lifeline eligible households have access to voice and broadband internet access services from a choice of providers and networks with more affordable lifeline support (NASUCA Resolution 2018-01);

WHEREAS, NASUCA has encouraged States and the FCC to take steps to add more broadband internet access service providers as designated Eligible Telecommunications Carriers (ETCs), for the benefit of Lifeline eligible households (NASUCA Resolution 2017-05);

WHEREAS, NASUCA has committed to support Federal and State efforts to improve the availability and affordability of broadband internet access service, without erosion of long-standing requirements to ensure universal access to all essential communications services that are reliable and affordable for all consumers (NASUCA Resolution 2017-04);

WHEREAS, today’s Lifeline program advances the universal principles of Section 254(b) of the Telecommunications Act of 1996 that “Consumers in all regions in the Nation, including low-income consumers ... should have access to telecommunications and information services ...” by focusing federal Universal Service Fund support on making telecommunications and information services more affordable for income qualified households;

WHEREAS, the FCC has determined broadband internet access service to be an essential telecommunications service that qualifies for federal universal service support;

WHEREAS, today’s Lifeline program provides many eligible households with a choice of voice and/or broadband internet access services available over today’s modern communications networks;

WHEREAS, based on data as of end of 2021, nearly 6 million households, including tribal households, were receiving Lifeline voice and/or broadband internet access services; and

WHEREAS, the Infrastructure Act committed funding for and directed the FCC to administer the Affordable Connectivity Program (ACP), to improve broadband affordability and broadband access for eligible households. Households that qualify for Lifeline service also qualify for ACP services. Broadband providers authorized to participate in the ACP may include but are not limited to telephone utilities, affiliates, and carriers designated as ETCs.

NOW, THEREFORE BE IT RESOLVED that NASUCA supports efforts and programs Federal and State efforts and programs that promote digital equity, digital inclusion, digital literacy and adoption of broadband internet access services;

BE IT FURTHER RESOLVED that NASUCA supports the elimination of digital discrimination and efforts and programs targeted to address that goal;

BE IT FURTHER RESOLVED that NASUCA supports the obligation of wireline and wireless providers of broadband internet access services to promote digital equity, digital inclusion, digital literacy and adoption of broadband internet access services.

BE IT FURTHER RESOLVED that NASUCA urges the FCC and other appropriate Federal and governmental agencies to prioritize promoting digital equity, digital inclusion, digital literacy and adoption of broadband internet access services.

BE IT FURTHER RESOLVED that NASUCA urges the FCC and other appropriate Federal and governmental agencies to move aggressively to address and remedy digital discrimination by any participant in the broadband ecosystem;

BE IT FURTHER RESOLVED that NASUCA urges the FCC and other appropriate Federal and governmental agencies to move aggressively to ensure that consumers reap immediate and long-term benefits from the provisions of federal law that promote digital equity, digital inclusion, digital literacy and adoption of broadband internet access services; and

BE IT FURTHER RESOLVED that NASUCA authorizes its Executive Committee to develop specific positions and to take appropriate actions, including litigation, consistent with the terms of this resolution. The Executive Committee shall advise the membership of any proposed action prior to taking such action, when feasible. In any event, the Executive Committee shall notify the membership of any action taken pursuant to the resolution.

Submitted by NASUCA Telecommunications Committee

Approved: 2022 NASUCA Annual Meeting
November 13, 2022

Abstaining

Tennessee