

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

In the Matter of)
)
Emergency Broadband Connectivity) WC Docket No. 20-445
Fund Assistance)

COMMENTS OF THE CITY OF LONGMONT, COLORADO

I. Introduction

The City of Longmont, Colorado (“Longmont” or “the City”) submits these comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) Public Notice released on January 4, 2021, seeking comment on the provision of assistance from the Emergency Broadband Connectivity Fund and through the Emergency Broadband Benefit Program (“EBBP” or “Program”).¹ Longmont is a home rule municipality with a population of approximately 99,000, located in Boulder County, Colorado, just north of Denver. The City covers approximately 28 square miles. Longmont has provided municipal electric services to its residents for more than 100 years, and since 2014, has also provided a municipal broadband service called NextLight. NextLight is a “fiber to the premises” network that offers gigabit services to all households, businesses, and other entities within Longmont’s electric service territory, which includes the entire municipality and certain areas outside of the City limits.

NextLight has won numerous accolades and awards since its inception, including the 2018 PC Magazine Speed Test Award for Fastest ISP in the nation; the 2019 Cornerstone Award for

¹ Public Notice, *Wireline Competition Bureau Seeks Comment on Emergency Broadband Connectivity Fund Assistance*, WC Docket No. 20-445 (Jan. 4, 2021) (“Public Notice”).

Excellence by the Broadband Communities Summit; and multiple awards from the National Association of Telecommunications Officers and Advisors (NATOA), the most recent for “Community Broadband Project of the Year;” as well as consistent ranking by a number of industry sources as among the nation’s fastest providers.² NextLight’s affordability was also recognized in 2019 when it received two awards from BroadbandNow, earning a place in the top 10 list of mid-sized providers in the nation for “Most Affordable Gig Internet Plans” and “Most Affordable Broadband Plans,” with NextLight being the only ISP in Colorado to make either list. Through NextLight, Longmont has been providing unsubsidized broadband service to low-income households in its community since the start of the COVID-19 pandemic, prior to April 1, 2020. Longmont, while situated within the relatively affluent Boulder County, has a median household income of \$57,142, which is well below the county median as well as below the statewide median of \$58,244.³ To best serve its residents, the City has been resourceful in expanding availability to households of limited means, and fully supports the possibility of further expansion through the EBBP.

To that end, the EBBP must fundamentally be designed to reach and support low-income households who are unable to afford broadband connectivity at a time when broadband connectivity is of the utmost importance. That foundational principle—indeed, the express purpose of the Program itself—should be used to develop an inclusive, nationwide list of providers and household eligibility requirements. Longmont respectfully asks that the Commission consider the factors below when implementing this program.

² See <https://www.longmontcolorado.gov/departments/departments-e-m/longmont-power-communications/awards-and-honors>.

³ See <https://www.longmontcolorado.gov/community/community-data-summary> (citing 2013 Census Bureau estimates).

II. The Commission Must Develop an Inclusive Approach to Designating Non-ETC Providers

The Commission seeks comment on the designation of broadband providers that are not Eligible Telecommunications Carriers (“ETC”).⁴ Longmont does not at present have ETC designation but has begun the process of seeking that designation in Colorado. As such, our Comments here will focus on Program designation for non-ETC providers. Specifically, the Commission asks whether the application for non-ETC broadband providers should include a declaration of:

1. What states the provider is seeking to participate in;
2. Which service areas it has the authority to operate in;
3. A plan to combat waste, fraud, and abuse;
4. Whether a provider seeks automatic approval because it offers an established program in each state in which it is applying for approval;
5. If seeking automatic approval, documents proving that the broadband provider offers established service in each state.⁵

As a baseline, applications for non-ETC broadband providers must be processed quickly and efficiently by the Universal Service Administrative Company (“USAC”) to ensure that the intent of the program—providing support to low-income households for broadband during an unprecedented global pandemic where internet connectivity is of the utmost importance—is met to the fullest possible extent. Any extraneous requirements on providers such as Longmont to receive approval beyond information needed to verify service and to prevent waste, fraud, and abuse will only serve to delay the approval process, in turn delaying the provision of affordable

⁴ *Id.* at 4-5.

⁵ *Id.* at 5.

broadband service to the low-income consumers who need it most. Longmont urges the Commission to adopt its current proposal without adding any more information to be required from potential providers. As a municipal broadband provider of services with minimum speeds of 100 MBPS asymmetrical, Longmont's primary concern is that there are no barriers created that would make municipal participation in the Program difficult. Unlike many commercial providers that bundle internet service with voice and video, and encourage sales of bundles of services, Longmont focuses primarily on its provision of broadband internet service. There is no incentive to "hook" subscribers with one service and encourage sales of other services. Municipalities like Longmont are already well-positioned to provide broadband service to its residents within the Commission's standards. Increasing the burden of receiving approval to provide service will contravene the purpose of the EBBP, and harm the very people the Program is intended to help.

III. The Commission's Initial Focus Should be on Facilitating Subsidized Broadband Service as Quickly as Reasonably Possible

A. The Commission's Requirements Should Provide for Automatic Approval for non-ETC Providers.

The Commission seeks comment on the procedure by which it should approve applications seeking automatic approval in one or more states.⁶ Specifically, the Commission asks whether it should immediately approve an application to the extent it seeks automatic approval, subject to later verification and potential revocation, or verify that an applicant qualifies for automatic approval before issuing an approval.⁷

Longmont urges the Commission to immediately approve applications seeking automatic approval subject to later verification. Immediate approval of providers seeking automatic approval is the best way to implement the express intent of the EBBP: to provide adequate

⁶ *Id.*

⁷ *Id.*

broadband service to the Americans who have been most impacted by the COVID-19 pandemic as quickly as possible. Verifying providers before issuing an approval would greatly extend the time it takes for low-income households to receive broadband service at a time when it is most desperately needed for necessities like telehealth and online schooling.

We support the goal and obligation to combat waste, fraud, and abuse in Commission programs, and later verification of providers who have received automatic approval subject to revocation will strike an appropriate balance between the intent of the EBBP and the need to combat waste. The ability to revoke a provider's status after later verification will provide the Commission with the ability to enforce against waste, fraud, and abuse while simultaneously encouraging the provision of broadband service to as many people that need it as quickly as possible. Additionally, as noted below, most participating providers will likely already have programs in place to adequately qualify individuals and combat waste, fraud, and abuse.

B. The Commission Should Interpret “Widely-Available” as Meaning Available Where a Provider Offers Broadband Internet Service.

The Commission asks how it should interpret the phrase “widely-available” in connection with the provision of broadband services when evaluating filings seeking automatic approval.⁸ The Commission expects that each provider seeking automatic approval will be able to detail “with specificity” that their broadband services were “widely available” as of April 1, 2020.⁹

The Commission asks how to interpret “widely available” in connection with its obligation to automatically approve a broadband provider whose established program as of April 1, 2020 offers internet service to eligible households and is “widely available.” There is no need to make this more complicated than it needs to be. Longmont urges the Commission to interpret “widely available” as meaning “available to consumers throughout a provider’s particular

⁸ *Id.* at 4.

⁹ *Id.* at 5.

footprint.” For example, beginning in March 2020, in response to the pandemic, Longmont began offering low-cost broadband connectivity to low-income subscribers meeting the verification criteria described below in Section IV. The low-cost service is available everywhere that Longmont’s internet service is available. Providers should make the subsidized service available at all locations within its broadband service footprint, unless it can demonstrate that it is not technically possible to do so.

IV. The Commission Should Adopt Requirements for Household Eligibility that can be Readily Obtained from Responsible Sources

To track the eligibility of households and prevent duplicative support, the Commission proposes to require all participating providers to track enrollments of eligible households in the EBBP in the National Lifeline Accountability Database.¹⁰ Section 904 establishes three means of verifying eligibility, and the Commission seeks comment on each:

- First, for providers that seek to use the National Verifier and National Lifeline Accountability Database, the Commission proposes to require eligible households to directly interact with the National Verifier to apply for the EBBP, as is currently required for the Lifeline benefit.
- Second, for providers that rely on a school to verify eligibility based on participation of a member of the household in the free and reduced-price lunch program or the school breakfast program, the Commission proposes that a provider identify the school it relied on when enrolling a household in the National Lifeline Accountability Database.

¹⁰ *Id.* at 6.

- Third, for providers that use their own alternative verification process, the Commission proposes that a provider identify the process used when enrolling a household in the National Lifeline Accountability Database. In order to use such a process, a participating provider must submit information detailing the verification process to the Commission and explain why that process is sufficient to avoid waste, fraud, and abuse.¹¹

Longmont urges the Commission to adopt the least-burdensome requirements for verifying household eligibility. Burdensome requirements for verification are likely to deter providers from opting into the program or unduly limit those potential subscribers deemed eligible—in direct contravention of the purpose of the EBBP. Indeed, many municipalities, while they are not designated as ETCs, already have programs in place to independently qualify households in their jurisdictions to receive low-income broadband support. Longmont, for instance, already has a program to provide broadband for qualifying low-income households. Both new and existing NextLight customers are eligible to receive COVID-19 financial hardship relief in the form of a monthly discount up to \$25 for three months. Additionally, the pandemic accelerated NextLight’s rollout of a reduced price offering of \$14.95 per month, with the first two months free for new subscribers. This income-qualified rate is available to households participating in particular programs such the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), the Supplemental Nutrition Assistance Program (SNAP), the Pell Grant program, and Longmont public housing subsidies. We note that the Commission did not reference local public housing subsidies as a criterion for verifying eligibility. Longmont is not unique in having a local housing authority. Many other cities do as well and still other

¹¹ *Id.* at 7.

areas are served by regional housing authorities. Qualification for public housing should also be an acceptable method of verification. By using already-existing programs for low-income Americans as a proxy for qualifying for the provision of its low-cost broadband services, Longmont already has an effective verification program in place which will serve to protect against waste, fraud, and abuse when subsidizing these services in its community. Requiring further information from providers such as Longmont before they can receive approval, when they already have programs in place to verify eligibility through qualifications of other local, state and federal programs, will only serve to prevent or delay the provision of adequate internet service to the people who need it most.

V. The Commission Should Allow Providers to Submit Rate Information Already Made Publicly Available

The Commission seeks comment on the most efficient method for having participating providers submit their standard rate information. Longmont urges the Commission to allow participating providers to submit their rate information in the form in which it is already available to subscribers.

Requiring participating providers to develop new documentation for their standard rate information when these providers already publicize such information would only add an unnecessary administrative burden to a program with the express goal of providing broadband internet service to as many people as quickly as possible. Most participating providers, including Longmont, already have such information available on their websites, on subscriber bills, and in other documents that are publicly available to potential subscribers. Participating providers should be able to satisfy the standard rate information requirement by submitting this already available documentation to the Commission.

VI. Local Governments are Well-Positioned to Promote Awareness of the EBBP

The Commission seeks comment on the best methods to publicize the availability of the services and connected devices supported by the EBBP. The Commission asks if participating providers should have any obligation under the program's rules to publicize the availability of the benefit, and what the most effective means of publicizing this benefit to the communities most in need. The Commission also seeks comment on best practices employed by providers with existing low-income broadband plans to reach low-income households. Longmont asks the Commission to recognize and acknowledge that local governments are well-positioned to promote awareness of the EBBP in collaboration with the Commission.

Longmont, for instance, has an arsenal of tools at its disposal to promote the availability of the EBBP, and is prepared to utilize them to the fullest extent. Through its cable system, Longmont and its partner, Longmont Public Media, operate three Public, Education and Government (PEG) access channels, providing a wide range of community, City government and educational programming serving the Longmont community and the St. Vrain Valley School District.¹² Much of this programming content is also available through a variety of online platforms utilized by the City. Like private sector providers, local governments also have ability to promote the EBBP through bill inserts, electronic notification to customers, and provider websites. In addition, local governments routinely send both hard copy and electronic newsletters to citizens in the community, which will be used to publicize the Program.

Since the pandemic began, Longmont has made effective use of its full array of outreach platforms, including its own NextLight website, which hosts community outreach blogs as well

¹² For more information, see <https://www.longmontcolorado.gov/departments/departments-n-z/public-information/cable-television>.

as sections devoted to City programs for children, youth, and families and COVID-19 Relief. Postcards, printed brochures, and a City newsletter published digitally and in print included publicity and outreach regarding the newly available COVID-19 hardship and income-qualifying broadband packages. The City’s public information office issued press releases in March, June, August and December of 2020, and local news outlets ran stories featuring these expanded affordable programs as well as details on how to qualify and enroll. NextLight also engaged existing and new community customers through social media channels, running 20 posts between April and December 2020 featuring its expanded affordability, which reached an average of 360 impressions per post.

The experience of Longmont and other local governments nationwide in promoting available services through the widest variety of media will support promotion of the EBBP and will also address a wide variety of concerns—language barriers, for instance, or skepticism about hidden fees and costs—overcoming the obstacles that might otherwise prevent eligible residents from learning about or participating in the Program.

VII. The Commission Should Use Its Existing Statutory Enforcement Powers to Address Compliance with the Program

The Commission seeks comment on its ability to impose administrative forfeitures and other penalties on program participants found to be in violation of the program rules and requirements.¹³ Section 904 declares that a violation of this section or any regulation promulgated under this section “shall be treated as a violation of the Communications Act of 1934 or a regulation promulgated under such Act.”¹⁴ The Commission proposes to use its existing, statutorily permitted enforcement powers to, for example, initiate investigations and

¹³ Public Notice at 10-11.

¹⁴ *Id* at 11.

impose administrative forfeitures, and to withhold program funds from participants found to be in violation of the Program rules.¹⁵

Longmont supports the Commission’s proposal of using its existing statutory powers for enforcement of the Program. The Commission’s existing enforcement powers are adequate to ensure compliance with the Program and adopting a specific enforcement regime for the EBBP is unnecessary. Additionally, while withholding funding from providers found to be in violation of the Commission’s rules is an adequate remedy for a violation of the program’s rules, Longmont recommends that the Commission adopt a compliance program that allows for the correction of good-faith errors before funding is withheld.

VIII. The Commission Should Audit EBBP Using Similar Procedures to Lifeline Audits

The Commission seeks comment on applying the regulations contained in subpart E of part 54 (USF) to the EBBP, to the extent that those rules do not conflict with the Program parameters established by Section 904. The Commission proposes using the authority granted by Section 904 to use USAC’s services to implement the Program.¹⁶

Longmont supports using USAC to conduct audits of the Program using the same or similar procedures that it uses to audit Lifeline. USAC is already well-equipped to investigate compliance with the Program’s rules, and many participating providers already interact with USAC due to its administration of the Lifeline program. Utilizing USAC to conduct audits will ease administrative burdens on providers.

The Commission also suggests “that participating providers retain records for as long as the subscriber receives support from the Emergency Broadband Connectivity Fund, but no less

¹⁵ *Id.*

¹⁶ *Id.*

than the three full preceding calendar years...”¹⁷ Longmont agrees with this suggestion as it is consistent with local government records retention policies in Colorado.

IX. Conclusion

The EBBP was promulgated with the express purpose of providing adequate broadband service to the Americans who need it most desperately in the midst of a pandemic that requires internet connectivity for things like telehealth and online work and school. The Commission should create a program with the fewest barriers to entry for both providers and participants in order to fulfill this express purpose, and expressly collaborate with local governments in doing so. Longmont requests that the Commission consider all of the factors stated above when crafting rules to implement the Program.

Respectfully submitted on this 25th day of January, 2021.

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¹⁷ *Id.*