Utilities Technology Council™

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Sen. Joe Manchin
306 Hart Senate Office Building
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Dear Senator Manchin:

The Utilities Technology Council ("UTC") hereby writes to express its support for providing flexibility regarding the designation of unserved areas eligible for broadband funding under the "American Broadband Buildout to Eliminate America's Digital Divide Act" (hereinafter "ABBEDDA"). We also write to express our support for funding the deployment of high-capacity, future-proof broadband networks that would provide consumers with faster speeds. Finally, we write to oppose provisions in the legislation that would impose pole attachment regulations on eligible entities. Please note that we also support the provisions of the Broadband Reform and Investment to Drive Growth in the Economy (BRIDGE) Act of 2021, which provide flexibility with regard to eligible areas and with regard to future-proof technologies and broadband speeds.

About UTC and utility communications networks.

By way of background, UTC is an international organization that represents the telecom and information technology interests of electric, gas and water utilities, and other critical infrastructure industries. UTC's members include all types of utilities from large investor-owned utilities who may serve millions of customers across multi-state service territories to smaller rural electric cooperatives, and public power utilities who may serve thousands of customers in remote areas and isolated communities across the country. Although these different types of utilities are distinct from each other in both their ownership structure and the size of their service territories, they all own, operate and maintain extensive communications networks that they use to ensure the safe, reliable and secure delivery of essential energy and water services. [1]

These communications networks are designed, built and maintained to extremely high standards for safety, reliability and resiliency to support these critical infrastructure services. In addition to operating these private internal communications networks, many utilities have deployed communications networks through which they provide retail broadband services themselves, through a broadband subsidiary or arrangements with third party ISPs to help bring fast, reliable and affordable broadband services to unserved areas. The impact of the COVID-19 pandemic underscores the importance of funding provided under the ABBEDDA. Broadband provides direct and measurable economic, societal, and educational benefits, and funding under ABBEDDA would help utilities offset the high cost of broadband deployment into rural areas and remote communities.

Eligibility for funding should be flexible.

The terms and conditions for eligibility for broadband funding under the ABBEDDA will be key to its success, and UTC supports the development of provisions in the bill that would provide flexibility regarding targeting funding for projects in "unserved areas" by an "eligible entity." UTC requests clarification that all types of utilities, including investor-owned utilities as well as electric cooperatives and public power utilities would be expressly eligible to receive broadband funding under the ABBEDDA. In addition, UTC respectfully requests that you consider including provisions under the

[1] For more information about UTC, please visit our website at www.utc.org.

ABBEDDA that would provide flexibility to expand eligibility for unserved areas more broadly, particularly as the accuracy of broadband mapping improves and the speed of broadband services continues to increase.

Restrictions on eligibility could have the unintended effect of preventing many people who currently lack access to broadband services from getting the speeds they need to work from home, educate their children and access medical services. Flexibility with regard to "eligible entities" to include all types of utilities is important for promoting broadband access, because utilities are deploying broadband networks and providing broadband services to unserved areas and need access to funding to help reduce the digital divide. Flexibility with regard to "unserved areas" is also important for promoting broadband access, because many areas still lack access to broadband services that are reasonably comparable to the speed and affordability of broadband services that are available in other parts of the country.

It is widely acknowledged that the FCC's broadband mapping is flawed, and some studies have estimated that the number of people who lack access to broadband is almost three times as high as the FCC has reported.[2] The gross disparity between the accuracy of the FCC's broadband data was recently illustrated by the NTIA using its own interactive map, which shows the comparative state of broadband access based upon various different sources of data from other sources besides the FCC's Form 477 data.[3]

Even so, these FCC maps, which rely on self-reporting by commercial service providers and generally tend to overstate broadband access, still show that a significant digital divide continues to exist, particularly in rural areas. Moreover, they are based upon broadband speeds that are becoming increasingly outdated, particularly considered against the backdrop of the impact of COVID-19. The number of connected devices per home was steadily increasing even before the pandemic, and now that people are working, learning and recovering at home, dependency on faster upload and download speeds is increasing as they engage in more interactive, real-time applications such as video conferencing, file sharing, telehealth, and virtual classrooms, which require higher capacity and reliability, and lower latency broadband services.[4]

Americans need broadband now more than ever, and they should not be made to wait any longer for broadband access or be forced to accept slower speeds, unreliable or unaffordable prices, data caps, high-latency, and other problems with existing broadband services that may be available today. Rigid restrictions on eligibility will have the practical effect of preventing broadband access to areas that remain unserved today, and they will preserve a technology status-quo that will not satisfy the ever-increasing real-world requirements of today and tomorrow.

Broadband projects should be required to provide faster speeds and better service, using future-proof technologies that are cost-effective.
One-time investments in future-proof technologies that can meet increasing demands for speed and

[2] *See* John Busby, Julia Tanberk, and Tyler Cooper, "BroadbandNow Estimates Availability for all 50 States; Confirms that More than 42 Million Americans Do Not Have Access to Broadband" *available at* https://broadbandnow.com/research/fcc-broadband-overreporting-by-state. *Compare* "New FCC Report Shows Digital Divide Continuing to Close" *available at* https://docs.fcc.gov/public/attachments/DOC-363985A1.pdf (reporting that the number of Americans without access to broadband fell to 14.5 million in 2020).

[3] *See* "NTIA Creates First Interactive Map to Help Public See the Digital Divide Across the Country" (June 17, 2021) *available at* https://broadbandusa.ntia.doc.gov/news/latest-news/ntia-creates-first-interactive-map-help-public-see-digital-divide-across-country.

[4] *See* John Horrigan, "How Much Broadband Speed Do Americans Need?" (Nov. 30, 2020) *available at* https://www.pewtrusts.org/en/research-and-analysis/articles/2020/11/30/how-much-broadband-speed-do-americans-need.

capacity and that can be inexpensively and easily upgraded should be the goal of the ABBEDDA. Utilities learned this lesson long ago, which is why they prefer to deploy fiber-based networks and have transitioned to hybrid fiber/wireless networks. In this regard, UTC supports the provisions of the ABBEDDA that require projects to provide reliable broadband download/upload speeds of at least 100/20 Mbps. Given that broadband speeds are expected to increase for upload as well as download traffic, we support increasing the speeds even further, particularly for upload traffic and to keep pace with future demand. Accordingly, UTC requests that you consider providing additional flexibility within the provisions of the ABBEDDA for faster speeds along with greater capacity to ensure that the broadband projects that are funded continue to meet the forecasted increasing demands. Further, we suggest that the ABBEDDA support funding for projects using advanced technologies that allow cost-effective upgrades without incurring extensive delays or requiring significant changes in the network infrastructure.

Utilities are already enabling infrastructure access to promote broadband deployment, and pole attachments are not a barrier to broadband access.

Utilities are currently partnering with third-party ISPs to provide access to fiber, and they are also providing third-party access to the underlying poles and rights of way for the deployment of broadband infrastructure. Pole attachments is a complex and complicated issue, but utilities continue to quickly process requests for infrastructure access and offer low rates to accelerate broadband deployment and reduce the digital divide. In some cases, utilities have offered to provide free access to poles and other infrastructure as an incentive to encourage third parties to deploy broadband into unserved areas. Certain states have recently adopted similar policies that would provide pole attachment access for $1 per pole per year as an incentive to encourage third parties to deploy broadband into unserved areas. Finally, the FCC has reduced the rates that regulated utilities may charge for pole attachments, based upon the rationale that lower pole attachment rates would encourage broadband deployment in unserved areas.

Despite these efforts, rural communities have not reaped any benefits, and there is no evidence to show that lower pole attachment rates have resulted in better broadband access. In those areas where utilities offered free infrastructure access, none of the cable or telephone providers agreed to provide broadband to those unserved areas. Similarly, states that offered $1 annual rates for pole attachment access have seen no indication so far that cable or telephone providers are interested in providing broadband services to unserved areas either. The reality is that pole attachments are not a barrier to broadband deployment and certainly not the principal barrier.

There are larger economic forces that represent greater barriers to broadband access, including the high cost of deploying broadband into remote areas and the relatively low customer density which reduces return on investment. Federal funding helps to reduce these economic barriers by subsidizing the cost of deployment and helping to make broadband services affordable. Accordingly, UTC recommends that the ABBEDDA refrain from including provisions that would impose pole attachment regulations, because such policies do not address the real barriers to broadband deployment as shown above

Utilities enable broadband access and are answering the call to promote broadband deployment to unserved areas. Their state-of-the-art, fiber-based networks provide broadband services that are much faster, more reliable, more affordable and more widely made available than what the FCC requires and what other broadband providers typically offer. In many cases, utilities are deploying broadband because no one else would do it, and in other cases they are partnering with third parties to promote broadband access. They recognize that providing broadband will promote economic growth and new and better paying jobs in the communities they serve. They also know that there are a variety of other benefits, including improving electric service through grid modernization that are also enabled through the deployment of broadband infrastructure. Just as rural electrification was considered a necessity in the 1930s, today broadband is increasingly considered an essential service and utilities are leading the way to

promoting deployment into unserved areas. As you continue to develop the ABBEDDA, UTC looks forward to working with you to promote broadband access and the deployment of broadband infrastructure and services that are robust, reliable and affordable, now and in the future.

Thank you for your consideration and please do not hesitate to contact me if you have any questions or if you need anything else.

Sincerely,

Sheryl Riggs
President and CEO
Utilities Technology Council