

**Testimony of Chris Lewis<sup>1</sup>  
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**Before the U.S. House of Representatives Committee on Energy & Commerce  
Subcommittee on Communications and Technology**

**Broadband Equity: Addressing Disparities in Access and Affordability**

**May 6, 2021**

**I. Introduction**

Chairman Doyle, Ranking Member Latta, Chairman Pallone, Ranking Member McMorris Rogers, and members of the Communications and Technology Subcommittee: Thank you for inviting Public Knowledge here today to testify on this vitally important topic -- disparities in broadband access and affordability. My name is Chris Lewis and I am the President and CEO of Public Knowledge, an organization that is celebrating its 20th anniversary this year, and is dedicated to promoting freedom of expression, an open internet, and access to affordable communications tools and creative works.

Over the life of Public Knowledge, we have testified before Congress; filed comments with various agencies, including the Federal Communications Commission; and written extensively about the need to ensure all Americans have access to affordable, reliable high-speed broadband. Before the pandemic, broadband was already the essential communications tool of the 21st century, but the pandemic has brought into clear focus just how essential broadband is, and how persistent the digital divide is. As schools have gone virtual, a lack of broadband access for schoolchildren means they are falling behind their peers. In fact, we know that going into this pandemic, approximately 17 million students lacked access to home internet.<sup>2</sup> A lack of broadband access for working parents means they risk being unable to continue to provide for their families. A lack of broadband access for retired couples living in the many rural parts of our country means living in isolation because they cannot connect with loved ones. A lack of broadband access for many with pre-existing conditions means being unable to receive medical care because they cannot risk in-person care, nor access telehealth.

Low-income, marginalized, and Tribal communities are particularly unlikely to be connected. Only 66% of African Americans and 61% of Hispanics report having broadband at

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<sup>1</sup> I would like to thank Jenna Leventoff and Greg Guice for their support in preparing this statement.

<sup>2</sup> Hailly T.N Korman et. al, *Missing in the Margins: Estimating the Scale of the COVID-19 Attendance Crisis* (Oct. 21, 2020), <https://bellwethereducation.org/publication/missing-margins-estimating-scale-covid-19-attendance-crisis#Why%20aren't%20students%20attending%20school?>.

home.<sup>3</sup> On rural Tribal lands, less than half of residents have access to fixed broadband.<sup>4</sup> The cost of broadband, a lack of devices and digital skills, and a pervasive problem of broadband providers investing less in broadband infrastructure in low-income and marginalized communities are to blame for this disparity. These inequities cannot remain, so I am here today to talk about how Congress can make sure that *everyone* gets connected to affordable, reliable, high-speed internet.

## I. Broadband Is an Essential Utility

Just like water and electricity, broadband is an essential utility. Long before the COVID-19 crisis, Americans turned to broadband “for every facet of daily life.”<sup>5</sup> Broadband provided students with academic support to meet their specific education needs; it offered veterans and others in remote areas a way to connect more often with their health care providers; and it was the primary place to find a job -- all before the COVID-19 crisis hit. Broadband helps small businesses serve their customers and reach markets worldwide; allows first responders to prepare for, respond to, and recover from natural disasters and acts of terrorism; and enables constituents to access essential government services (like renewing a driver’s license), connect with family and friends, and keep up to date on what is happening in the country and abroad.<sup>6</sup> However, COVID-19 has made the importance of broadband all the more evident. During the pandemic, broadband has been critical in supporting online school and work, access to health care and medical information, and even vaccine distribution. This is why a recent survey shows that 76% “agree” or “strongly agree” that internet service is as important as electricity or water.<sup>7</sup>

Congress agrees with the public. In the CARES Act, which passed the Senate unanimously and on a voice vote in the House, Congress included internet access as a utility, defining a “covered utility payment” as “payment for... electricity, gas, water, transportation, telephone or internet access.”<sup>8</sup>

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<sup>3</sup> Andrew Perrin and Erica Turner, *Smartphones help blacks, Hispanics bridge some - but not all - digital gaps with whites*, (August 20, 2019), <https://www.pewresearch.org/fact-tank/2019/08/20/smartphones-help-blacks-hispanicsbridge-some-but-not-all-digital-gaps-with-whites/>.

<sup>4</sup> Consumer & Governmental Affairs Bureau et al., *Report on Broadband Deployment in Indian Country, Pursuant to the Repack Airwaves Yielding Better Access for Users of Modern Services Act of 2018* at 3 (May 2019), <https://docs.fcc.gov/public/attachments/DOC-357269A1.pdf>.

<sup>5</sup> Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act, GN Docket No. 14-126, 2015 Broadband Progress Report and Notice of Inquiry on Immediate Action to Accelerate Deployment, 30 FCC Rcd. 1375, 1377 ¶ 2 (2015).

<sup>6</sup> Broadband Connects America, *Supporting Broadband Keeps Small Businesses Alive and Promotes Economic Development*, <http://www.broadbandconnectsamerica.com/wp-content/uploads/2020/09/Broadband-and-Small-Business.pdf>; Broadband Connects America, *How Broadband Connectivity Powers Civil Engagement*, Broadband, <http://www.broadbandconnectsamerica.com/wp-content/uploads/2020/09/Broadband-and-Civic-Engagement.pdf>; Broadband Connects America, *Why Supporting Broadband Is an Investment in Our Homeland Security and Public Safety*, <http://www.broadbandconnectsamerica.com/wp-content/uploads/2020/09/Broadband-and-Homeland-Security.pdf>.

<sup>7</sup> Consumer Reports, *Importance of Broadband Internet*, Consumer Reports Research Snapshot (Feb. 2021), <https://advocacy.consumerreports.org/wp-content/uploads/2021/03/2021-Feb-Broadband-Survey.pdf>.

<sup>8</sup> CARES Act, 15 USC 9005(a)(5) (2021).

Recently, President Biden’s administration noted that with electricity generations ago, “the federal government recognized affordable access is necessary to fully participate in modern society and the modern economy.”<sup>9</sup> He went on to say that “broadband internet is the new electricity,” and we must bring “affordable, reliable, high-speed broadband to every American.”<sup>10</sup>

Our nation’s leaders understand that broadband is essential, so our nation’s policies must account for that fact by having the agency that, until recently, oversaw broadband, the Federal Communications Commission, re-engage to ensure all Americans have access. Doing so will lead to more ubiquitous, robust, reliable, and affordable broadband.

## **II. Congress Must Ensure That Broadband Is Affordable**

Broadband in the United States is too expensive -- in fact, it’s among the most expensive in the world. According to New America’s Open Technology Institute, the average monthly price for fiber broadband averages \$79.92 in the U.S., compared to just \$47.63 in Europe.<sup>11</sup> Furthermore, ancillary fees (like modem rental fees, data overages, and early termination fees) can add up to an additional 75% to the cost of monthly internet service.<sup>12</sup> The high cost of broadband is one of the primary reasons why the United States has such a staggering digital divide. A 2019 survey of American households found the cost of broadband to be among the top reasons for households not subscribing to broadband service.<sup>13</sup> This is why 35% of low-income households with schoolchildren do not have high-speed internet.

In order to ensure that everyone can afford broadband, Congress must take steps to increase competition in the marketplace, which will reduce prices. However, even with lower prices, some of our nation’s most vulnerable will still be unable to afford this critical service. For this reason, Congress must create a long-term benefit so that no one, particularly those most in need, is left behind.

### **A. Congress Must Direct the FCC To Collect Data About the Price of Broadband**

We can’t fix our nation’s affordability problem without understanding it. Congress can take a key first step to promote broadband affordability by passing the Lift America Act, which would, in part, ensure that the FCC is regularly collecting data about the price of broadband.<sup>14</sup> Just as a bipartisan Congress recognized that we need accurate data about where broadband is

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<sup>9</sup> The White House, *Fact Sheet: American Jobs Plan* (Mar. 31, 2021), The White House Briefing Room, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/03/31/fact-sheet-the-american-jobs-plan/>.

<sup>10</sup> *Id.*

<sup>11</sup> Becky Chao & Claire Park, *The Cost of Connectivity 2020* at 28 (Jul. 15, 2020), New America, [https://d1y8sb8igg2f8e.cloudfront.net/documents/The\\_Cost\\_of\\_Connectivity\\_2020\\_XatkXnf.pdf](https://d1y8sb8igg2f8e.cloudfront.net/documents/The_Cost_of_Connectivity_2020_XatkXnf.pdf).

<sup>12</sup> *Id.* at 7 (“Modem rental fees in the United States can add an additional 75 percent to the cost of monthly internet service.”).

<sup>13</sup> Rafi Goldberg, *Unplugged: NTIA Survey Finds Some Americans Still Avoid Home Internet Use*, National Telecommunications and Information Administration, (Apr. 15, 2019), <https://www.ntia.gov/blog/2019/unplugged-ntia-survey-finds-some-americans-still-avoid-home-internet-use>.

<sup>14</sup> See *LIFT America Act*, 117th Cong. (introduced, bill number pending). § 12302 (2021).

and isn't available in order to close the digital divide, so too should it realize that we need data about price to better tailor support programs to close the digital divide.<sup>15</sup>

## **B. Congress Must Foster a Competitive Broadband Marketplace**

Creating a competitive broadband marketplace is essential for making broadband affordable. We know from competition data that new providers entering a region allow consumers to access better and more affordable broadband options.<sup>16</sup> For example, AT&T customers in regions where a competitor is present pay approximately \$70 per month for gigabit connections; AT&T charges \$60 more a month for that same connection in regions with less competition.<sup>17</sup> Although competition is key to lowering prices, unfortunately more than 20% of households have access to just one fixed provider offering broadband speeds, and 44% have access to just two.<sup>18</sup> We need more competition and must fight monopoly pricing.

These studies demonstrate that we need more continual studies on the impact of competition on broadband prices and the quality of service. Luckily, the Lift America Act requires a biennial study of how competition impacts the price of broadband.<sup>19</sup> This information can help policymakers better promote affordability and determine if and where consumers face monopoly pricing.

Municipal networks can also promote competition. Many traditional providers don't serve areas that do not promise sustained profitability over time, even with deployment funding, so federal funds should be used to encourage local broadband deployment by whatever means necessary. Congress and the FCC have been working to ensure access to broadband for the last two decades. It is no longer enough for us to tell these underserved communities that they must continue to wait. States like Arkansas have realized this fact and have moved to repeal their prohibitions on municipally owned broadband providers.<sup>20</sup> Unfortunately, municipalities in 22 states are still blocked or banned from serving their communities.<sup>21</sup> Congress should preempt these unduly restrictive laws by passing the Community Broadband Act (included within the Lift

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<sup>15</sup> See *Broadband DATA Act*, 47 USC 609 (2020).

<sup>16</sup> Jonathan Sallet, *Broadband for America's Future: A Vision for the 2020s* at 49-50, Benton Institute for Broadband & Society (Oct. 2019), [https://www.benton.org/sites/default/files/BBA\\_full\\_F5\\_10.30.pdf](https://www.benton.org/sites/default/files/BBA_full_F5_10.30.pdf).

<sup>17</sup> Karl Bode, *Harvard Study Shows Why Big Telecom Is Terrified of Community-Run Broadband*, Vice (January 12, 2018) [https://www.vice.com/en\\_us/article/d345pv/harvard-study-shows-why-big-telecom-is-terrified-of-community-run-broadband](https://www.vice.com/en_us/article/d345pv/harvard-study-shows-why-big-telecom-is-terrified-of-community-run-broadband).

<sup>18</sup> Federal Communications Commission, *2020 Communications Marketplace Report* at 87, GN Docket No. 20-60 (Dec. 31, 2020), <https://docs.fcc.gov/public/attachments/FCC-20-188A1.pdf>.

<sup>19</sup> *LIFT America Act* § 11102(1)(G).

<sup>20</sup> Nick Keppler, *Why Did Arkansas Change Its Mind on Municipal Broadband*, Bloomberg CityLab (Apr. 17, 2019), <https://www.bloomberg.com/news/articles/2019-04-17/arkansas-will-allow-municipal-broadband-after-all>.

<sup>21</sup> On April 13, 2021, Tyler Cooper at BroadbandNow listed 23 states that block or ban municipal broadband, but since then Arkansas has reversed course. Compare Tyler Cooper, *Municipal Broadband Is Restricted in 18 States Across the U.S. in 2021*, BroadbandNow Research, (Apr. 13, 2021), <https://broadbandnow.com/report/municipal-broadband-roadblocks/> with Nick Keppler, *Why Did Arkansas Change Its Mind on Municipal Broadband*, Bloomberg CityLab (Apr. 17, 2019), <https://www.bloomberg.com/news/articles/2019-04-17/arkansas-will-allow-municipal-broadband-after-all>.

America Act) and should prioritize funding municipal broadband projects and other alternative providers (like co-ops).<sup>22</sup>

Deployment funding should also prioritize funding for “open access” infrastructure -- infrastructure that is built and owned by one entity (often local governments, but sometimes private companies) but leased by service providers. Open access projects create a competitive marketplace without adding significantly to the cost of deployment. For example, the municipally owned open access network launched in Ammon, Idaho, "reduced the cost of a 1 Gbps connection available via one of the ISPs from \$99 a month... to \$9.99 a month."<sup>23</sup> Finally, Congress should direct the FCC and other federal agencies to remove “overbuilding” restrictions from future deployment funding (although they may still prioritize funding completely unserved areas). Overbuilding is just a synonym for competition or upgrades to local networks. To encourage competition and not discourage states from investing in broadband, we need to provide funding for these efforts.<sup>24</sup>

### C. Congress Must Create a Long-Term Broadband Subsidy For Low-Income People

Last year, Congress took an enormous step towards ensuring that low-income households and those struggling financially because of the pandemic can afford to connect by establishing the Emergency Broadband Connectivity Fund in the Consolidated Appropriations Act of 2021.<sup>25</sup> The fund gave the FCC \$3.2 billion to establish an emergency broadband benefit (EBB) which would provide eligible households with a \$50 discount on their broadband service up to six months during the pandemic. However, low-income consumers will still need assistance when the pandemic ends, even if the cost of broadband is eventually decreased through competition. This is why Congress must take steps to create a long-term broadband benefit.

Congress has a history of enabling low-income households to access utilities (like broadband) by providing financial support.<sup>26</sup> A long-term emergency broadband benefit must continue the EBB’s legacy of broad consumer eligibility, should provide enough funding to enable consumers to access service that meets their needs, and should guarantee that all eligible consumers complete enrollment by promoting automatic verification of identity and eligibility.<sup>27</sup>

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<sup>22</sup> See *LIFT America Act* § 14001; H.R. 1631, 117th Cong. (2021).

<sup>23</sup> Jay Woodruff, *The City with the Best Fiber-Optic Network in America Might Surprise You*, FastCompany (Oct. 21, 2019), <https://www.fastcompany.com/90416863/the-city-with-the-best-fiber-optic-network-in-america-might-surprise-you>.

<sup>24</sup> See Jenna Leventoff, *The FCC's New Initiative Punishes States That Have Tried to Close the Digital Divide*, Public Knowledge Blog (Feb. 20, 2020), <https://www.publicknowledge.org/blog/the-fccs-new-initiative-punishes-states-that-have-tried-to-close-the-digital-divide/>.

<sup>25</sup> *Consolidated Appropriations Act of 2021*, H.R. 133 § 904 (2020).

<sup>26</sup> *Low Income Household Water Assistance Program*, U.S. Department of Health & Human Services <https://www.acf.hhs.gov/ocs/programs/lihwap>; *Help With Bills*, USA Gov <https://www.usa.gov/help-with-bills>; Brett Walton, *Congress Adds \$638 Million in Water-Bill Debt Relief to Coronavirus Package* (Dec. 22, 2020), <https://www.circleofblue.org/2020/world/congress-adds-638-million-in-water-bill-debt-relief-to-coronavirus-package/>.

<sup>27</sup> Congress took great pains to ensure that the Emergency Broadband Benefit was open to a broader range of individuals in need than Lifeline. In addition to Lifeline recipients, it made Pell recipients, students getting free/reduced school meals, and those financially harmed by the pandemic eligible for the Emergency Broadband Benefit. *Consolidated Appropriations Act of 2021* § 904. It should keep eligibility for a long-term subsidy broad, to

Of course, we will need to figure out how to pay for any long-term broadband benefit. We urge Congress to consider a broad array of options, and combinations of options, for doing so. One sustainable option is funding through a modified Universal Service Fund (USF). The current USF contributions mechanism unfairly burdens some more than others, but an expanded contributions base that assesses all fixed and mobile broadband revenues would offer a predictable, sustainable way to pay for a long-term subsidy.<sup>28</sup> Congress could also consider using the billions of dollars brought in from spectrum auctions to create or supplement a long-term benefit.<sup>29</sup> We are concerned that solely funding a long-term benefit through Congressional appropriations would not be predictable or sustainable; however, federal funding would be an excellent way to supplement other funding mechanisms. Combined with the pricing data called for earlier in my testimony, we can ensure that the benefit amount evolves as we tackle the overall affordability of broadband, adjusting with the prevailing market price of the service.

#### **D. Congress Must Mandate That Providers Offer a Low-Cost Option**

Congress should also require any entity receiving federal funding to offer a low-cost option for anyone who wants to take advantage of it. Asking beneficiaries of federal funds to help us tackle affordability just makes good sense. These low-cost options will be essential for those who might not qualify for low-income support, but who nevertheless must stretch their budgets in order to afford broadband. Any low-cost option should enable users to meaningfully engage online, but need not be as fast as higher-priced options. Such a requirement should be relatively easy for providers to implement, as many already offer a low-cost plan.<sup>30</sup>

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allow anyone in need to access help. Congress should also prepare to ensure that consumers can easily apply and be verified for a long-term subsidy. The National Verifier is intended to verify consumer eligibility through an automatic process, enabled by connections with state and federal databases containing information about eligible program recipients. Unfortunately, the National Verifier does not have connections with many (if not most) relevant databases -- including the Department of Education's database about Pell recipients. This means that many applicants are forced to undergo a manual application process. However, a Government Accountability Office study has shown that "more than two-thirds of new applicants and reverification applicants who went through the manual review process abandoned their applications." Government Accountability Office, *FCC Has Implemented the Lifeline National Verifier but Should Improve Consumer Awareness and Experience* at 16 (Jan. 2021), <https://www.gao.gov/assets/gao-21-235.pdf>. In order to ensure that consumers can complete their applications, Congress should consider ways to mandate that relevant state and federal agencies enter into data matching agreements with USAC, or should find other ways to reduce the burden on long-term subsidy applicants.

<sup>28</sup> See Michael Williams & Wei Zhao, *NTCA-USF Study* (May 7, 2020), <https://www.ntca.org/sites/default/files/documents/2020-05/2020-05-07%20-%20Williams-Zhao%20report%20Final.pdf>; In the Matter of Universal Service Contribution Methodology, *Comments of AARP* at 11, WC Docket No. 06-122 (Jul. 15, 2020) (Noting that the current contributions mechanism places a "lopsided and unfair burden...on older Americans" and results "in a situation that is both unsustainable and unfair").

<sup>29</sup> See generally Michael Calabrese and Lester M. Salamon, "How to Close America's Digital Equity Gaps: Toward a Digital Futures Foundation," *A Concept Note*. (Baltimore, MD: Johns Hopkins Center for Civil Society Studies and Washington, DC: New America, April 2021).

<sup>30</sup> Comcast's Internet Essentials program provides 50/5 Mbps service for \$9.99 a month. *Internet Essentials*, Internet Essentials by Comcast, <https://www.internetessentials.com/>; See also *Spectrum Internet Assist*, Spectrum, <https://www.spectrum.com/internet/spectrum-internet-assist>; *Access from AT&T*, AT&T, <https://www.att.com/internet/access/>.

### III. Congress Must Ensure Everyone has Access to a Device and Can Learn Digital Literacy Skills

Even if broadband is available and affordable, some consumers may still be left behind because they lack a device or the digital skills necessary to meaningfully use the service. Congress must take action to ensure that these problems are not standing in the way of getting everyone across the nation connected so that all people can fully participate in society.

Thirty-one percent of non-broadband users cite the cost of a computer as one of the reasons they don't have broadband at home.<sup>31</sup> The problem is particularly stark for those living in marginalized communities. Latinx teens are twice as likely to say they don't have access to a home computer.<sup>32</sup> In order to ensure that everyone can get online, Congress must create policies (such as a voucher program) that make affordable and reliable devices available to everyone who needs them. In most cases, these programs should provide devices based on the needs of a household so that families don't have to choose who gets to attend online classes or work remotely. Moreover, these programs should prioritize computers and tablets with keyboards. For most consumers, computers and tablets are best suited to homework, remote work, and telehealth. As Acting FCC Chairwoman Jessica Rosenworcel has noted, "A phone is just not how you want to research and type a paper, apply for jobs, or further your education."<sup>33</sup> Congress acknowledged that desktops, laptops, and tablets are the right tools in its establishment of the EBB and we believe that is the right policy to continue.

Congress must also pass legislation -- like the Digital Equity Act (included within the Lift America Act) -- intended to teach residents how to use devices and navigate the internet.<sup>34</sup> According to the National Skills Coalition, one-third of Americans lack digital skills they need to successfully navigate digital devices.<sup>35</sup> Others lack the skills they need to navigate the web. Congress must ensure that everyone is able to learn the skills they need to meaningfully connect.

### IV. Congress Must Ensure Universal Access to Affordable, Reliable, High Speed Internet by Banning Digital Redlining

Access to affordable, reliable, high-speed internet must be available to *everyone* regardless of where they live, how much money they earn, or what they look like. Unfortunately, that is not the case in America today. Not only are rural and Tribal communities unconnected, but many other low-income and marginalized communities also find themselves subject to slow, unreliable internet (if they have internet access at all), because internet service providers have determined they are uneconomic to serve. The same neighborhoods that were once redlined by

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<sup>31</sup> Monica Anderson, *Mobile Technology and Home Broadband 2019*, Pew Research Center (June 13, 2019), <https://www.pewresearch.org/internet/2019/06/13/mobile-technology-and-home-broadband-2019/>.

<sup>32</sup> Brooke Auxier & Monica Anderson, *As Schools Close Due to The Coronavirus, Some U.S. Students Face a Digital 'Homework Gap,'* Pew Research Center Factank (Mar. 16, 2020), <https://www.pewresearch.org/fact-tank/2020/03/16/as-schools-close-due-to-the-coronavirus-some-u-s-students-face-a-digital-homework-gap/>.

<sup>33</sup> Jessica Rosenworcel, Remarks of Commissioner Jessica Rosenworcel at the National League of Cities Congressional City Conference (Mar. 12, 2018), <https://docs.fcc.gov/public/attachments/DOC-349670A1.pdf>.

<sup>34</sup> Digital Equity Act, S. 1167, 116th Cong (2019); *LIFT America Act* § 11001.

<sup>35</sup> National Skills Coalition, *Applying a racial equity lens to digital literacy* (March 20, 2020) <https://www.nationalskillscoalition.org/resources/publications/file/Digital-Skills-Racial-Equity-Final.pdf>.

banks and insurance companies now face similar discrimination by ISPs, which adds to an already substantial digital divide. This practice of investing less in broadband infrastructure in low-income and marginalized communities is called “digital redlining.” There is documented evidence of digital redlining occurring in Cleveland, Oakland, Dallas, Detroit, and Kansas City -- and it’s likely far more widespread.<sup>36</sup> Advocates suspect it happens at the outskirts of population centers in urban and rural areas, as well as in Tribal communities and marginalized communities. In the past, we had laws in place that prevented this redlining, requiring that cable and telecommunications providers had an obligation to serve all residents in their franchise of service areas.<sup>37</sup>

Internet service providers likely redline because they don’t feel that offering or upgrading service in these communities is profitable enough. However, because many of these communities are densely populated with paying customers (and there could be even more paying customers if Congress were to create a long-term broadband benefit), ISPs can still profit. The Electronic Frontier Foundation studied Frontier's bankruptcy filings and found that despite high upfront costs, over time, the company could have easily profited if it upgraded households from DSL to fiber.<sup>38</sup> In addition, Chattanooga, Tennessee, which is not particularly dense, outlaid about \$20,000 in 2009 to build fiber. By 2019, they were making about \$40,000 a year in profit, even though, as a municipal network, they are not trying to make a profit!<sup>39</sup> Thus, profitability is not a good excuse to keep leaving marginalized communities behind.

Congress must step in and ask the FCC to conduct a study to better understand the scope of the problem and see how widespread digital redlining is. Once we know, the FCC should take whatever remedial steps are needed to ensure providers offer everyone in their service area *comparable* affordable, reliable, high-speed broadband. This would ensure that those in low-

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<sup>36</sup> See Bill Callahan, *AT&T's Digital Redlining of Dallas: New Research* by Dr. Brian Whitacre, National Digital Inclusion Alliance (Aug. 6, 2019), <https://www.digitalinclusion.org/blog/2019/08/06/atts-digital-redlining-of-dallas-new-research-by-dr-brian-whitacre/>; Matthew Marcus, *AT&T Accused of Digital Redlining in Detroit*, *Community Networks* (Oct. 18, 2017), <https://muninetworks.org/content/att-accused-digital-redlining-detroit/>; Greenlining, *On the Wrong Side of the Digital Divide: Life Without Internet Access, and Why We Must Fix It in The Age of COVID-19*, Greenlining (June 2, 2020), <https://greenlining.org/publications/online-resources/2020/on-the-wrong-side-of-the-digital-divide/>; Bill Callahan, *AT&T's Digital Redlining of Cleveland*, National Digital Inclusion Alliance (Mar. 10, 2017), <https://www.digitalinclusion.org/blog/2017/03/10/atts-digital-redlining-of-cleveland/>; Khalil Abdullah, *Google's Broadband War Redlining Black Communities*, *The Philadelphia Tribune* (Jan. 6, 2017), [https://www.phillytrib.com/commentary/googles-broadband-war-redlining-black-communities/article\\_78510d50-d377-59ef-8032-2db568d647c4.html](https://www.phillytrib.com/commentary/googles-broadband-war-redlining-black-communities/article_78510d50-d377-59ef-8032-2db568d647c4.html).

<sup>37</sup> 47 U.S.C. §§ 214(e)(3), 541. In addition to these federal laws, states had their own franchising laws for telecommunications services (usually at the state level) and for cable services (at the franchise level). From 2005-07, local exchange carriers looking to enter the video market -- joined by incumbent cable operators -- persuaded many state legislatures to shift to a system of state-wide franchising and eliminated the requirement to serve all residents within the franchise area. See Heather Morton, *Statewide Video Franchising Statutes*, National Conference of State Legislators (May 31, 2019), <https://www.ncsl.org/research/telecommunications-and-information-technology/statewide-video-franchising-statutes.aspx>.

<sup>38</sup> Ernesto Falcon et al., *Frontier's Bankruptcy Reveals Why Big ISPs Choose to Deny Fiber to So Much of America*, Electronic Frontier Foundation (Apr. 30, 2020), <https://www.eff.org/deeplinks/2020/04/frontiers-bankruptcy-reveals-cynical-choice-deny-profitable-fiber-millions>

<sup>39</sup> Ernesto Falcon, *The FCC and States Must Ban Digital Redlining*, Electronic Frontier Foundation (Jan. 11, 2021), <https://www.eff.org/deeplinks/2021/01/fcc-and-states-must-ban-digital-redlining>.



income communities, marginalized communities, Tribal reservations, and rural communities can connect as reliably as their peers in wealthier communities.

## **V. Promoting Universal Access To Affordable, Reliable, High-Speed Internet Is a Bipartisan Issue**

Clearly, we must close the digital divide and as a policy matter, there are concrete steps Congress can take to do so. Communities without affordable broadband, including low-income and marginalized communities, are the ones being hurt by inaction. Members on both sides of the aisle recognize that their constituents cannot partake in modern society without broadband; they recognize that it's essential. Both Democrats and Republicans included broadband in their infrastructure plans.<sup>40</sup> This is why Congress must come together to ensure universal affordable access to high-speed reliable broadband for *everyone*.

When Congress has come together in the past to tackle the digital divide, it created new broadband maps showing where broadband is and isn't available, provided funding to promote deployment of these networks, and provided funding for digital skills training.<sup>41</sup> Building on that record must be the calling of this Congress. Your constituents have made up their minds and concluded broadband is an essential service; I implore you to help meet their expectations and ensure that, as a country, we provide them meaningful access to affordable, reliable, high-speed broadband.

## **VI. Conclusion**

Congress must come together to close the digital divide. Broadband is too important to continue to allow any community, but particularly low-income and marginalized communities, to go without because they cannot afford it. Broadband represents economic opportunity, educational opportunity, and the opportunity for better health and civic engagement. A lack of access further exacerbates the economic plight and equity issues we face as a nation. We have a shared, achievable goal -- ensuring broadband is universally available and affordable regardless of income, location, or demographic characteristics. Public Knowledge has offered a few solutions here, but we look forward to further engaging with all of you to craft bipartisan solutions that help us address this challenge.

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<sup>40</sup> See The White House, *Fact Sheet supra* note 9; *LIFT America Act*; ; Kelsey Snell, *Countering Biden, Senate Republicans Unveil Smaller \$568 Billion Infrastructure Plan*, NPR Morning Edition (Apr. 22, 2021), <https://www.npr.org/2021/04/22/989841527/countering-biden-senate-republicans-unveil-smaller-568-billion-infrastructure-pl>.

<sup>41</sup> See *Broadband DATA Act*; H.R.1, § 6001, 111th Congress (2009-2010).