

March 7, 2024

Re: NTIA's Illegal Rate Regulation

Dear Speaker Johnson, Minority Leader McConnell, Chairwoman McMorris Rodgers, and Ranking Member Cruz:

We, the undersigned organizations and individuals, are alarmed by the National Telecommunications and Information Administration's illegal rate regulation for broadband internet service. **NTIA is weaponizing the Broadband Equity, Access, and Deployment program to force a \$30 per month price mandate on all states that participate in BEAD. This is a direct violation of federal law.**

As section 60102(h)(5)(D) of the Infrastructure Investment and Jobs Act plainly states: **“Nothing in this title may be construed to authorize the Assistant Secretary or the National Telecommunications and Information Administration to regulate the rates charged for broadband service.”** Congress could not have been more explicit in barring NTIA from setting rates, which is counter-productive to broadband expansion according to all available research.¹

NTIA is abusing the program to price fix by proxy through state broadband offices, despite NTIA Administrator Alan Davidson's promise that his agency would not require rate regulation at a December 5, 2023, hearing before the House Communications and Technology Subcommittee. By rejecting all applications a state submits until the desired price point is included, NTIA holds federal BEAD dollars hostage until state governments price fix for them, a form of administrative blackmail.

The most flagrant example is the Virginia Office of Broadband's Volume 2 application. As memorialized by the office's director in the attached December 6, 2023, letter, NTIA rejected the Commonwealth's application because “the low-cost option must be established in the Initial proposal as an *exact price* or formula [emphasis added].”² Virginia has proposed multiple compromises between their desired market-driven approach to middle class affordability and NTIA's preferred \$30 per month mandate, but all have been rejected. NTIA may try to hide behind the fig leaf of state-level cut-outs, but their repeated rejections of reasonable alternatives betray their agenda.

Now that the agency has demonstrated its disregard for the law and a willingness to subvert Congressional intent, **we urge you to swiftly hold NTIA accountable for its lawlessness and**

¹ Jamison, M. (2024, January). *Broadband pricing under the broadband equity, access, and deployment ...* Broadband Pricing Under the Broadband Equity, Access, and Deployment Program. <https://www.aei.org/research-products/report/broadband-pricing-under-the-broadband-equity-access-and-deployment-program/>

² Holmes, T. (2023, December 6). Broadband Equity, Access, and Deployment Commonwealth of Virginia – Volume 2. Richmond, Virginia.

demand the release of BEAD funds to states that have met the criteria duly enacted by Congress, not arbitrarily imposed by political appointees in the Biden Administration.

Signed,



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Americans for Tax Reform



Steve Pociask
American Consumer Institute



Tom Hebert
Open Competition Center



James Erwin
Digital Liberty



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Lorenzo Montanari
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Benita Cotton-Orr
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