



**TESTIMONY OF THE NEW ENGLAND CONNECTIVITY AND
TELECOMMUNICATIONS ASSOCIATION, INC. ON HOUSE BILL NO. 3527 AND
SENATE BILL NO. 2318**

May 13, 2025

Dear Chairs Barrett and Cusack and distinguished Members of the Telecommunications, Utilities & Energy Committee,

The New England Connectivity and Telecommunications Association (NECTA) appreciates the opportunity to provide comments expressing our serious concerns with House Bill 3527 and Senate Bill 2318, both entitled *An Act preserving broadband service for low-income consumers*.

Introduction

NECTA members—who are leading providers of broadband Internet access service in Massachusetts and throughout the country—have proudly led the industry in ensuring affordable broadband access. Broadband providers will continue to advance this objective regardless of any legal mandates.

For over a decade, NECTA members have worked with the Commonwealth to close the digital divide and have been part of the solution in bringing high-speed broadband to over 99% of Massachusetts households. NECTA members were essential partners in Massachusetts Broadband Institute’s (MBI) “Last Mile” program which worked to connect 53 towns in central and western Massachusetts with broadband providers and are current participants in federal programs designed to build out to unserved and underserved locations such as MBI’s GAP Networks program that used funding from both the federal American Rescue Plan Act’s Capital Projects Fund (CPF) and the Bipartisan Infrastructure Act’s Broadband Equity, Adoption and Deployment (BEAD) programs and the Rural Digital Opportunity Fund (RDOF).

Our record of success is exemplary and undermines the notion that legislation is needed to promote affordability. Cable broadband providers nationally, and in Massachusetts, have invested billions of dollars in state-of-the-art networks, which has enabled expanded geographic footprints and continual increases in broadband speeds. In Massachusetts alone, our members have invested over \$1 billion in the past three years. Indeed, broadband speeds have skyrocketed over the last decade-plus; between 2011 and 2023, average download speeds went from around

10 Mbps to around 250 Mbps.¹ Even as speeds rose dramatically, prices have fallen sharply on a per-megabit basis. The most popular tier of wireline broadband service in 2015 was, in nominal terms, 37 percent cheaper (while offering 142 percent faster speeds) in 2023 than it was in 2015.² Similarly, the highest-speed tier in 2015 was nearly 40 percent cheaper (while offering speeds that were more than twice as fast) in 2023.³ Adjusting for inflation, the real price of the most popular and fastest tiers of broadband service have declined by approximately 55 percent and 56 percent, respectively.⁴

NECTA's members have made extraordinary efforts to bridge the digital divide. Our members established award-winning, privately subsidized programs to enable low-income consumers to purchase broadband service at substantially reduced rates well before Congress created the Emergency Broadband Benefit and Affordable Connectivity Program (ACP) subsidy programs. In 2011, Comcast launched Xfinity's national "Internet Essentials" program in Brockton, MA, which provides broadband service to eligible low-income households at 75 Mbps downstream for \$14.95 per month or 100 Mbps for \$29.95. Charter likewise provides discounted broadband to low-income households through its "Spectrum Internet Assist" program, which was launched seven years ago and now offers broadband at 50 Mbps downstream for \$15.00 per month. Additionally, Cox Communications offers broadband at up to 100 Mbps downstream to low-income households through programs including "ConnectAssist" (\$30 per month) and "Connect2Compete" (\$9.95 per month for households with at least one K-12 student). And Breezeline offers "Breezeline Internet Assist" for \$9.99 for 50 Mbps downstream to eligible households. These programs have no data caps, no contracts, and include free modems with no early termination fees and have connected millions of low-income consumers to the Internet.

The Proposed Low-Income Broadband Mandates in Senate Bill 2318 and House Bill 3527 Are Unnecessary and Would Be Counterproductive

NECTA members clearly share the sponsors' interest in ensuring universal adoption to broadband, but we respectfully submit that mandated minimum speeds and pricing which amount to rate regulation is not an appropriate approach. To the contrary, such mandates are unnecessary and would be counterproductive.

As noted above, over the last decade-plus, broadband speeds have skyrocketed while prices have fallen sharply on a per-megabit basis. Additionally, well before the federal government provided billions in subsidy support for affordable broadband access, the cable industry stepped up to the

¹ See Declaration of Mark Israel, Bryan Keating and Allan Shampine at 19 (Dec. 14, 2023), appended to Comments of NCTA – The Internet & Television Association, WC Docket No. 23-320 (Dec. 14, 2023), *available at* <https://www.fcc.gov/ecfs/document/121484978453/1>.

² *Id.* at 34 (describing pricing changes on an average-subscriber weighted basis).

³ *Id.* at 34-35.

⁴ *Id.* at 35.

plate by establishing low-income programs that enable qualifying households to purchase broadband plans at significantly reduced rates. These programs, which include Comcast's Internet Essentials, Spectrum's Internet Assist, Cox's ConnectAssist and Connect2Compete, and Breezeline Internet Assist have helped millions of families obtain broadband connectivity. And, critically, each of these programs offers affordable speeds and price points obviating the need for governmental mandates. As NECTA members are present in 90% of Massachusetts communities, including all Gateway Cities, there is no evidence that an affordability gap exists in Massachusetts that is not being met by our existing programs, much less that the speed and price mandates set forth in the bill would increase adoption among target populations.

Although NECTA members already offer affordable broadband to qualifying low-income households, NECTA cannot support government speed mandates or rate regulation. Market forces, like those that led NECTA's members to introduce their own low-income broadband offerings *without* government intervention, produce the best results for consumers. Centralized rate-setting, by contrast, is a highly inefficient means of maximizing consumer welfare—and also sharply reduces incentives to invest and innovate.

H.3527 and S.2318 would also engender substantial uncertainty and impose serious and unwarranted compliance burdens. For example, the bill would enable the Commissioner of the Department of Telecommunications and Cable, just two years after enactment, to have the power to increase the minimum speeds that rate-regulated broadband offerings must deliver and additional qualifications for eligibility for low-income programs—without providing any guidance or guardrails governing the Commissioner's determination. Thus, an ISP could suddenly find itself obligated to deliver speeds of 1 Gbps, 2 Gbps, or even faster under a government-mandated rate cap. Given the uncertainty it engenders, rate regulation could even cause some broadband providers to discontinue services in Massachusetts; notably, in response to New York's rate regulation mandate, AT&T announced that it would be scrapping plans to offer its 5G fixed wireless broadband service in the state.⁵ Diminished investment in vital broadband services and infrastructure would harm Massachusetts consumers and threaten to undercut Massachusetts's status as a national leader in broadband connectivity and access.

Additionally, the bill's bespoke criteria for determining household eligibility - including assessing whether a household is not in excess of two hundred percent of the federal poverty guidelines - is not currently tracked by ISPs (including ISPs that currently have their own low-income broadband plans). Those eligibility requirements would require ISPs to undertake

⁵ Eli Blumenthal, *AT&T Is Stopping Its 5G Internet Air Service in NY Because of New Broadband Law*, CNET, Jan. 15, 2025, <https://www.cnet.com/home/internet/att-is-stopping-its-5g-internet-air-service-in-ny-because-of-new-broadband-law/> (quoting AT&T statement that “New York’s broadband law imposes harmful rate regulations that make it uneconomical for AT&T to invest in and expand our broadband infrastructure in the state”).

significant costs to develop entirely new systems and sensitive income data-collection processes for applying those criteria.

These harms underscore why it has long been a matter of bipartisan consensus—in Congress, at the Federal Communications Commission (“FCC”), and among other federal agencies—that broadband services should not be subject to rate regulation. The FCC made clear in the *2015 Open Internet Order* that broadband service should not be subject to rate regulation at the federal or state level.⁶ The FCC reaffirmed this determination in the *2018 Restoring Internet Freedom Order*.⁷ Even the *2024 Open Internet Order*, which was recently struck down by the Sixth Circuit for subjecting broadband providers to common carrier regulation, would have cordoned off broadband from rate regulation.⁸

In keeping with these consistent policy determinations, FCC Commissioners from both parties have uniformly disavowed broadband rate regulation. For instance, in an amicus brief filed in support of ISPs’ challenge to New York’s Affordable Broadband Act, a bipartisan group of four former FCC commissioners, including two that led the agency (former Acting Chairwoman Clyburn and Chairman Pai), made clear that permitting states to set prices for broadband services “would fundamentally alter longstanding law and practice when it comes to rate regulation” and, in turn, “destabilize our nation’s regulatory framework for communications.”⁹

Congress likewise has signaled its opposition to broadband rate regulation—for example, by specifying in the Infrastructure Investment and Jobs Act (IIJA) that “regulat[ion] [of] the rates charged for broadband service,” even when the government is directly funding broadband deployment under the BEAD program, is not permitted.¹⁰ Other federal agencies similarly have determined that broadband rate regulation, at either the federal or state level, should be prohibited. Consistent with Congress’s directive in the IIJA, for example, NTIA has committed that it “has not, and will not, engage in rate regulation.”¹¹

⁶ See, e.g., *Protecting & Promoting the Open Internet*, Report and Order on Remand, Declaratory Ruling, and Order, 30 FCC Rcd. 5601 ¶ 382 (2015) (“[T]here will be no [broadband] rate regulation.”); *id.* ¶ 433 (explaining that states may not “regulate the rates of broadband”).

⁷ See, e.g., *Restoring Internet Freedom*, Declaratory Ruling, Report and Order, and Order, 33 FCC Rcd. 311 ¶¶ 5, 37 (2018) (“We expressly eschew the future use of prescriptive, industry-wide rate regulation.”).

⁸ *Safeguarding and Securing the Open Internet*, Declaratory Ruling, Order, Report and Order, and Order on Reconsideration, 39 FCC Rcd. 4975 ¶ 386 (2024) (“[W]e forbear from applying sections 201 and 202 . . . to the extent they would permit [*ex ante* or *ex post*] regulation [of ISPs’ rates].”).

⁹ Brief of *Amici Curiae* Former FCC Commissioners 19, *N.Y. State Telecomms. Assn. v. James*, No. 21-1975 (2d Cir. Mar. 2, 2022).

¹⁰ Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, § 60102(h)(5)(D), 135 Stat. 429, 1201 (2021).

¹¹ NTIA, *Frequently Asked Questions and Answers: Low Cost Broadband Service Option, BEAD Program*, available at https://broadbandusa.ntia.doc.gov/sites/default/files/2023-11/Low_Cost_Broadband_Service_Option_FAQs_11032023.pdf.

Enacting either S.2318 or H.3527—in the teeth of this bipartisan consensus against broadband rate regulation—would inevitably invite litigation challenging the measure on federal preemption grounds, and the resulting diversion of resources would be counterproductive for the state as well as for broadband providers and other stakeholders. And now that the U.S. Court of Appeals for the Sixth Circuit has confirmed that Congress intended broadband to be treated as an information service, unfettered by federal or state regulation,¹² the likelihood of federal preemption of common-carrier mandates like those imposed by S.2318 or H.3527 has only increased.

Rather than advancing these unnecessary, counterproductive, and unlawful rate regulation bills, we urge the Committee to continue the successful and proven model in Massachusetts of leveraging state and federal dollars to facilitate successful public-private partnerships to help residents overcome the many barriers to broadband adoption through the digital equity efforts already underway by the MBI and other state agencies and allow broadband providers to continue administering the successful programs they voluntarily established and are successfully operating.

Thank you for your time and attention to this testimony.

Sincerely,

A handwritten signature in black ink, appearing to read 'Anna P. Lucey', with a stylized flourish at the end.

Anna P. Lucey
Executive Vice President of Legislative and External Affairs

ABOUT NECTA

NECTA is a five-state regional trade association representing substantially all private cable broadband companies in Connecticut, Massachusetts, New Hampshire, Rhode Island, and Vermont. Four NECTA members have a presence in Massachusetts, including Charter Communications, Comcast, Cox Communications, and Breezeline and serve 312 municipalities with broadband, video, voice, and home security and automation services. Together, NECTA members invest hundreds of millions of dollars annually into their networks in Massachusetts and directly employ over 3,100 residents.

¹² See *In re MCP No. 185*, 2025 U.S. App. LEXIS 11, at *20-21 (6th Cir. 2025).