

Union Calendar No. 274

110TH CONGRESS
1ST SESSION

H. R. 3919

[Report No. 110–443]

To provide for a comprehensive nationwide inventory of existing broadband service, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 22, 2007

Mr. MARKEY (for himself, Mr. DINGELL, Mrs. WILSON of New Mexico, Ms. ESHOO, Mr. DOYLE, Mr. GORDON of Tennessee, Mrs. CAPPS, Mr. SPACE, Mr. HILL, Ms. SOLIS, Mr. GONZALEZ, Mr. GENE GREEN of Texas, and Mr. ALLEN) introduced the following bill; which was referred to the Committee on Energy and Commerce

NOVEMBER 13, 2007

Additional sponsors: Mr. BARTON of Texas, Mr. UPTON, and Mr. STUPAK

NOVEMBER 13, 2007

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on October 22, 2007]

A BILL

To provide for a comprehensive nationwide inventory of existing broadband service, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Broadband Census of*
3 *America Act of 2007”.*

4 **SEC. 2. CENSUS OF BROADBAND SERVICE DEPLOYMENT.**

5 *(a) DUTY TO COLLECT AND REPORT.—*

6 *(1) ANNUAL ASSESSMENT AND REPORT.—The*
7 *Commission shall, on an annual basis, conduct an as-*
8 *essment and publish a report on the nature and de-*
9 *ployment of, and subscription to, broadband service*
10 *capability throughout the States.*

11 *(2) BANDWIDTH SERVICE TIERS.—The Commis-*
12 *sion shall designate bandwidth service tiers by identi-*
13 *fying tiers of increasing data transmission speeds of*
14 *broadband service capability that will provide useful*
15 *information about the nature and extent of deploy-*
16 *ment of broadband service capability. At a minimum,*
17 *the tiers in the aggregate shall encompass all data*
18 *transmission speeds deployed, and shall consist of*
19 *multiple combinations of upstream and downstream*
20 *data transmission speeds. Each tier shall be des-*
21 *ignated, to the extent possible, to correspond to the*
22 *ability to support qualitatively different applications*
23 *and services, which the Commission shall also iden-*
24 *tify.*

25 *(3) INFORMATION COLLECTION.—The Commis-*
26 *sion shall collect, or provide for the collection of, in-*

1 *formation from all commercial and public providers*
2 *of broadband service capability under its jurisdiction*
3 *in each State. Such information shall include—*

4 *(A) for each area encompassed by a United*
5 *States postal zip code of the 5 digit level—*

6 *(i) information concerning the types of*
7 *technology used to provide broadband serv-*
8 *ice capability in such area;*

9 *(ii) the tiers designated under para-*
10 *graph (2) used to provide such capability in*
11 *such area; and*

12 *(iii) the actual number of residential*
13 *subscribers and the actual number of busi-*
14 *ness subscribers in such area; and*

15 *(B) for each State, the actual number of res-*
16 *idential subscribers and the actual number of*
17 *business subscribers for each tier of service des-*
18 *ignated under paragraph (2).*

19 *(4) INFORMATION REPORTED.—In the annual re-*
20 *port required by paragraph (1), the Commission shall*
21 *provide to the public—*

22 *(A) for each area encompassed by a United*
23 *States postal zip code of the 5 digit level—*

24 *(i) a list of the types of technology used*
25 *to provide such capability in such area; and*

1 (ii) the actual number of residential
2 subscribers and the actual number of busi-
3 ness subscribers to broadband service capa-
4 bility in such area, each in the aggregate;
5 and

6 (B) for each State, the actual number of res-
7 idential subscribers and the actual number of
8 business subscribers for each tier of service des-
9 ignated under paragraph (2), each in the aggre-
10 gate.

11 (b) *EVOLUTION OF ASSESSMENT.*—The Commission
12 shall periodically review both the bandwidth service tiers
13 and the types of technology utilized in its assessment under
14 subsection (a) to take into account changes in technology
15 and marketplace conditions.

16 (c) *INTERNATIONAL COMPARISON.*—

17 (1) *INTERNATIONAL COMPARISON.*—As part of
18 the assessment and report required by this section, the
19 Commission shall include information comparing the
20 extent of broadband service capability (including data
21 transmission speeds and price for broadband service
22 capability) in a total of 75 communities in at least
23 25 countries abroad for each of the tiers designated
24 pursuant to subsection (a)(2).

1 (2) *CONTENTS.*—*The Commission shall choose*
2 *communities for the comparison under this subsection*
3 *in a manner that will offer, to the extent possible,*
4 *communities of a population size, population density,*
5 *topography, and demographic profile that are com-*
6 *parable to the population size, population density, to-*
7 *pography, and demographic profile of various com-*
8 *munities within the United States. The Commission*
9 *shall include in the comparison under this sub-*
10 *section—*

11 (A) *a geographically diverse selection of*
12 *countries; and*

13 (B) *communities including the capital cities*
14 *of such countries.*

15 (3) *SIMILARITIES AND DIFFERENCES.*—*The*
16 *Commission shall identify relevant similarities and*
17 *differences in each community, including their mar-*
18 *ket structures, the number of competitors, the number*
19 *of facilities-based providers, the types of technologies*
20 *deployed by such providers, the applications and serv-*
21 *ices those technologies enable, and the regulatory*
22 *model under which broadband service capability is*
23 *provided.*

24 (d) *PROTECTION OF INFORMATION.*—*Except for the in-*
25 *formation provided to the public by the Commission in its*

1 annual report pursuant to subsection (a)(4), nothing in this
 2 section shall reduce or remove any obligation the Commis-
 3 sion has to protect proprietary information, nor shall this
 4 section be construed to compel the Commission to make pub-
 5 licly available any proprietary information. Any informa-
 6 tion collected by the Commission pursuant to subsection
 7 (a)(3) that reveals any competitively sensitive information
 8 of an individual provider of broadband service capability
 9 shall not be disclosed by the Commission under subsection
 10 (a)(4) or otherwise.

11 (e) *REGULATIONS.*—The Commission shall, within 180
 12 days after the date of the enactment of this Act, promulgate
 13 regulations to implement this section.

14 (f) *ENFORCEMENT AUTHORITY.*—The Commission
 15 shall enforce this section as if such section was a part of
 16 the Communications Act of 1934. For the purpose of this
 17 section, any violations of this section, or any regulations
 18 promulgated under this section, shall be considered to be
 19 a violation of the Communications Act of 1934 or a regula-
 20 tion promulgated under that Act, respectively.

21 **SEC. 3. BROADBAND INVENTORY MAP.**

22 (a) *ESTABLISHMENT.*—To provide a comprehensive
 23 nationwide inventory of existing broadband service capa-
 24 bility and availability, the NTIA shall develop and main-
 25 tain a broadband inventory map of the United States that

1 *identifies and depicts the geographic extent to which*
2 *broadband service capability is deployed and available from*
3 *a commercial provider or public provider throughout each*
4 *State.*

5 (b) *INFORMATION SHOWN.—The broadband inventory*
6 *map developed and maintained pursuant to this section*
7 *shall be capable of identifying and depicting, nationwide,*
8 *for each State, and for each county or parish of each*
9 *State—*

10 (1) *each area encompassed by a United States*
11 *postal zip code of 9 digit level, census tract level, or*
12 *functional equivalent in which broadband service ca-*
13 *pability is deployed at that time, including—*

14 (A) *each commercial or public provider of*
15 *broadband service capability within such area;*
16 *and*

17 (B) *subject to subsection (f)(5)—*

18 (i) *each type of technology used to pro-*
19 *vide broadband service capability within*
20 *such area; and*

21 (ii) *which bandwidth service tiers des-*
22 *ignated pursuant to section 2(a)(2) are*
23 *available within such area for each provider*
24 *of broadband service capability; and*

1 (2) *each area encompassed by a United States*
 2 *postal zip code of 9 digit level, census tract level, or*
 3 *functional equivalent in which broadband service ca-*
 4 *pability is not deployed at that time.*

5 (c) *DATA USE ENCOURAGED.*—*The NTIA shall—*

6 (1) *seek to overlay demographic data obtained*
 7 *from other sources in the Department of Commerce*
 8 *and elsewhere for use with such broadband inventory*
 9 *map; and*

10 (2) *make available such map, and the informa-*
 11 *tion on which it is based, to such other sources in the*
 12 *Department for demographic purposes, subject to sec-*
 13 *tion 7.*

14 (d) *PUBLIC AVAILABILITY AND INTERACTIVITY.*—*Not*
 15 *later than 2 years after the date of the enactment of this*
 16 *Act, the NTIA shall make the broadband inventory map de-*
 17 *veloped and maintained pursuant to this section accessible*
 18 *by the public on a World Wide Web site of the NTIA in*
 19 *a form that is interactive and searchable.*

20 (e) *UPDATING.*—*The NTIA shall update the broadband*
 21 *inventory map developed and maintained pursuant to this*
 22 *section to ensure that the information provided by the*
 23 *broadband inventory map is timely and accurate.*

24 (f) *OBTAINING INFORMATION.*—

1 (1) *IN GENERAL.*—*The NTIA shall request and*
 2 *obtain such information as may be necessary to carry*
 3 *out this section from the following:*

4 (A) *eligible entities under section 4;*

5 (B) *the Commission; and*

6 (C) *commercial and public providers of*
 7 *broadband service capability.*

8 (2) *PRIORITY OF INFORMATION REQUESTS.*—*If*
 9 *the NTIA has not otherwise obtained such informa-*
 10 *tion pursuant to paragraph (3), the NTIA shall—*

11 (A) *first request and try to obtain such in-*
 12 *formation from such eligible entities before re-*
 13 *questing and obtaining such information from*
 14 *the Commission; and*

15 (B) *only request such information from*
 16 *commercial and public providers of broadband*
 17 *service capability if such information cannot be*
 18 *obtained in a timely fashion from such eligible*
 19 *entities or the Commission.*

20 (3) *COMPATIBLE FORMAT.*—*Such entities or such*
 21 *providers may elect to provide the NTIA with the in-*
 22 *formation necessary for displaying a statewide map,*
 23 *provided that such map meets, at a minimum, the re-*
 24 *quirements of subsection (b) for that State and such*
 25 *information is in a format that NTIA is able to in-*

1 *corporate into the broadband inventory map required*
2 *under this section. Nothing in this paragraph pre-*
3 *cludes such providers or any such entity, with agree-*
4 *ment of the providers concerned, from providing to*
5 *the NTIA, or using for its own purposes, more geo-*
6 *graphically-specific information than required by*
7 *subsection (b).*

8 *(4) ADDITIONAL INFORMATION, INCLUDING WIFI*
9 *HOTSPOTS.—The NTIA shall also try to obtain accu-*
10 *rate information from reliable publicly available*
11 *sources about broadband service capability that is of-*
12 *fered to the public but that is not provided by either*
13 *a commercial provider or a public provider directly*
14 *to the public.*

15 *(5) OPT-OUT BY PROVIDERS.—Notwithstanding*
16 *subsection (b)(1)(B), if a provider of broadband serv-*
17 *ice capability requests that the map developed and*
18 *maintained pursuant to this section shall not depict*
19 *the information in clause (i) or (ii), or both, of such*
20 *subsection for a particular area or areas, the NTIA*
21 *shall comply with such request.*

22 *(g) PROTECTION OF INFORMATION.—Except for the in-*
23 *formation provided to the public by the NTIA in subsection*
24 *(d), nothing in this section shall reduce or remove any obli-*
25 *gation the NTIA has to protect proprietary information,*

1 *nor shall this section be construed to compel the NTIA to*
 2 *make publicly available any proprietary information. Not-*
 3 *withstanding any other provision of this section, any infor-*
 4 *mation obtained by NTIA pursuant to subsection (f) that*
 5 *reveals competitively sensitive information of an individual*
 6 *provider of broadband service capability shall not be dis-*
 7 *closed by NTIA.*

8 **SEC. 4. GRANTS TO STATES FOR BROADBAND MAP DEVEL-**
 9 **OPMENT.**

10 (a) *IN GENERAL.*—*The NTIA may, to the extent*
 11 *amounts are made available pursuant to section 10(b) for*
 12 *use under this section, make grants to an eligible entity to*
 13 *assist in providing the NTIA with information to facilitate*
 14 *the development of the broadband inventory map required*
 15 *under section 3.*

16 (b) *STATE ENTITY APPLICATION AND DESIGNATION.*—
 17 *An eligible entity in any State that seeks to obtain a grant*
 18 *under this section shall submit an application to the NTIA*
 19 *at such time, in such form, and containing such informa-*
 20 *tion and assurances as the NTIA may require.*

21 (c) *USE.*—*Amounts from a grant under this section*
 22 *may be used only for costs involved in developing and ob-*
 23 *taining information for the broadband inventory map re-*
 24 *quired under section 3.*

25 (d) *CONDITIONS.*—

1 (1) *INFORMATION SHARING.*—As a condition of
2 receipt of a grant under this section, the eligible enti-
3 ty shall agree to provide to the NTIA the information
4 developed or obtained using such grant amounts and
5 necessary for the broadband inventory map required
6 under section 3.

7 (2) *MATCHING REQUIREMENT.*—An eligible enti-
8 ty may not obtain a grant under this section to carry
9 out the activities under this section unless such entity
10 agrees to provide, from non-Federal funds, an amount
11 equal to not less than 20 percent of the amount of the
12 grant toward the costs of carrying out such activities.

13 (e) *GRANT CRITERIA.*—The NTIA shall select an eligi-
14 ble entity to receive a grant under this section based upon
15 criteria that shall include—

16 (1) *whether such entity requesting a grant is or-*
17 *ganized on a statewide basis and prepared to develop*
18 *information for use by NTIA on a timely basis;*

19 (2) *the need of such entity for financial support,*
20 *taking into account the financial support from State*
21 *or other sources, to fulfill the objectives of this Act;*
22 *and*

23 (3) *whether the denial of such entity's grant re-*
24 *quest would—*

1 (A) result in the inability of such entity to
2 develop information on a timely or comprehen-
3 sive basis; and

4 (B) result in a gap in the information for
5 that State or otherwise thwart the objectives of
6 this Act.

7 (f) *REGULATIONS.*—The NTIA shall issue such regula-
8 tions as may be necessary to carry out the functions as-
9 signed under this section.

10 (g) *ELIGIBLE ENTITY.*—For the purposes of this sec-
11 tion, the term “eligible entity” for any State means—

12 (1) an entity that is either—

13 (A) an agency or instrumentality of that
14 State, or a municipality or other subdivision (or
15 agency or instrumentality of a municipality or
16 other subdivision) of that State; or

17 (B) a nonprofit organization that is de-
18 scribed in section 501(c)(3) of the Internal Rev-
19 enue Code of 1986 and that is exempt from tax-
20 ation under section 501(a) of such Code; and

21 (2) the entity is the single eligible entity in such
22 State that has been designated by the State to receive
23 a grant under this section.

1 **SEC. 5. GRANTS FOR DEMAND-SIDE BROADBAND SERVICE**
2 **IDENTIFICATION AND ASSESSMENTS.**

3 (a) *GRANT AUTHORITY.*—From the amounts appro-
4 priated under section 10(c), the NTIA shall establish a
5 grant program to create and facilitate the work of local
6 technology planning entities that represent a broad cross-
7 section of their community, including representatives of
8 business, telecommunications labor organizations, consumer
9 organizations, elementary and secondary education, health
10 care providers, libraries, higher education, community-
11 based organizations, tribal organizations, and local govern-
12 ment.

13 (b) *STATE ENTITY APPLICATION AND DESIGNATION.*—
14 Each eligible planning entity in any State that seeks to
15 obtain a grant under this section shall submit an applica-
16 tion to the NTIA at such time, in such form, and containing
17 such information and assurances as the NTIA may require.
18 Such application shall contain a demonstration that—

19 (1) the entity is an eligible planning entity; and

20 (2) the eligible planning entity—

21 (A) is the single eligible planning entity in
22 such State that has been designated by the State
23 for an exclusive geographic area within the State
24 to receive a grant under this section; or

25 (B) is the single eligible planning entity
26 that is designated by the governing body of an

1 *Indian tribe to receive a grant under this sec-*
2 *tion.*

3 (c) *USE OF FUNDS.*—*Amounts from a grant under this*
4 *section shall be used to assist an eligible planning entity*
5 *to—*

6 (1) *assess the current use of broadband service*
7 *capability across relevant community sectors;*

8 (2) *set goals for improving or maximizing such*
9 *use within each sector;*

10 (3) *develop a plan for achieving the eligible*
11 *planning entity's goals, with specific recommenda-*
12 *tions for identifying and spurring demand for such*
13 *capability;*

14 (4) *collaborate with providers of broadband serv-*
15 *ice capability and other high technology companies to*
16 *encourage the deployment and use of broadband serv-*
17 *ice capability in unserved and underserved areas;*

18 (5) *identify local demand for broadband service*
19 *capability and aggregate such demand;*

20 (6) *establish programs, but not acquire equip-*
21 *ment or facilities, to improve computer ownership*
22 *and Internet access for unserved and underserved*
23 *populations; and*

1 (7) *facilitate the exchange of information regard-*
2 *ing the use and demand for broadband service capa-*
3 *bility between the public and private sectors.*

4 (d) *PROHIBITION.—Funds made available by a grant*
5 *under this section shall not be used for the provision of*
6 *broadband service capability or the acquisition of equip-*
7 *ment or facilities for such capability, except that this prohi-*
8 *bition shall not prohibit an eligible planning entity’s use*
9 *of such funds to acquire broadband service capability or*
10 *equipment or facilities for such capability for use by such*
11 *entity in its own conduct of planning activities.*

12 (e) *REGULATIONS.—The NTIA shall issue such regula-*
13 *tions as may be necessary to carry out the functions as-*
14 *signed under this section.*

15 (f) *ELIGIBLE PLANNING ENTITY.—For the purposes of*
16 *this section, the term “eligible planning entity” for any*
17 *State means—*

18 (1) *an agency or instrumentality of that State,*
19 *a municipality or other subdivision (or agency or in-*
20 *strumentality of a municipality or other subdivision)*
21 *of that State, or an Indian tribe; or*

22 (2) *a nonprofit organization that is described in*
23 *section 501(c)(3) of the Internal Revenue Code of*
24 *1986 and that is exempt from taxation under section*
25 *501(a) of such Code.*

1 **SEC. 6. CONSUMER SURVEY OF BROADBAND SERVICE CAPA-**
2 **BILITY.**

3 (a) *AUTHORITY.*—*For the purpose of evaluating, on a*
4 *statistically significant basis, the national characteristics*
5 *of the use of broadband service capability, the Commission*
6 *shall conduct and make public periodic surveys of con-*
7 *sumers in urban, suburban, and rural areas in the large*
8 *business, small business, and residential consumer markets*
9 *to determine the following:*

10 (1) *The types of technology used to provide the*
11 *broadband service capability to which consumers sub-*
12 *scribe.*

13 (2) *The amounts consumers pay per month for*
14 *such capability.*

15 (3) *The actual data transmission speeds of such*
16 *capability.*

17 (4) *The types of applications and services con-*
18 *sumers most frequently use in conjunction with such*
19 *capability.*

20 (5) *For consumers who have declined to subscribe*
21 *to broadband service capability, the reasons given by*
22 *such consumers for declining such capability.*

23 (6) *Other sources of broadband service capability*
24 *which consumers regularly use or on which they rely.*

25 (7) *Any other information the Commission*
26 *deems appropriate for such purpose.*

1 (b) *PUBLIC AVAILABILITY.*—*The Commission shall*
 2 *make publicly available the results of surveys conducted*
 3 *under this section at least once per year.*

4 **SEC. 7. CONFIDENTIALITY OF CONSUMER INFORMATION.**

5 (a) *IN GENERAL.*—*The Commission shall, within 180*
 6 *days after the date of the enactment of this Act, promulgate*
 7 *regulations—*

8 (1) *to protect the confidentiality of personal con-*
 9 *sumer information collected for the purposes of this*
 10 *Act;*

11 (2) *to require the Commission, the NTIA, and*
 12 *each other entity that collects or controls such infor-*
 13 *mation for the purposes of this Act (including any el-*
 14 *igible entity under section 4, eligible planning entity*
 15 *designated under section 5(b)(2), and commercial and*
 16 *public provider of broadband service capability) to*
 17 *protect the confidentiality of such information; and*

18 (3) *to permit such information to be disclosed by*
 19 *such entities only to the extent consistent with the*
 20 *provisions and for the purposes of this Act, or with*
 21 *the prior express authorization of the consumer to*
 22 *whom it pertains.*

23 (b) *LIMITATION.*—*The regulations promulgated under*
 24 *subsection (a) shall not preclude the ability of any consumer*
 25 *or other person or entity to search, by individual street ad-*

1 *dress, the broadband inventory map developed and main-*
 2 *tained pursuant to section 3, or any of the individual State*
 3 *maps that may compose it.*

4 **SEC. 8. STATE OR LOCAL AUTHORITY.**

5 *Except as provided in section 7, nothing in this Act*
 6 *shall be construed to expand or limit the authority of States,*
 7 *Indian tribes, or units of local government to compel the*
 8 *collection of information.*

9 **SEC. 9. SUNSET PROVISIONS.**

10 *(a) BROADBAND DEPLOYMENT INFORMATION & CON-*
 11 *SUMER SURVEY.—Sections 2 and 6 shall cease to be effective*
 12 *after the end of the 6-year period beginning on the date*
 13 *of the enactment of this Act.*

14 *(b) BROADBAND INVENTORY MAP.—Section 3 shall*
 15 *cease to be effective after the end of the 7-year period begin-*
 16 *ning on the date of enactment of this Act.*

17 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

18 *(a) IN GENERAL.—There is authorized to be appro-*
 19 *priated to carry out sections 3 and 4 of this Act—*

20 *(1) \$20,000,000 for fiscal year 2008;*

21 *(2) \$20,000,000 for fiscal year 2009; and*

22 *(3) \$20,000,000 for fiscal year 2010.*

23 *(b) BROADBAND MAP INFORMATION DEVELOPMENT*
 24 *GRANTS.—Of any amounts appropriated in each fiscal*

1 year pursuant to subsection (a), not less than \$15,000,000
 2 shall be available only for grants under section 4.

3 (c) *LOCAL TECHNOLOGY PLANNING GRANTS.*—In ad-
 4 dition to the amount appropriated under subsection (a),
 5 there is authorized to be appropriated to make grants under
 6 section 5—

7 (1) \$50,000,000 for fiscal year 2008;

8 (2) \$100,000,000 for fiscal year 2009; and

9 (3) \$125,000,000 for fiscal year 2010.

10 **SEC. 11. DEFINITIONS.**

11 For the purposes of this Act, the following definitions
 12 shall apply:

13 (1) *BROADBAND SERVICE CAPABILITY.*—The
 14 term “broadband service capability” means an Inter-
 15 net Protocol-based transmission service that is offered
 16 to end users to enable such end users to send and re-
 17 ceive voice, video, data, graphics, or a combination,
 18 to or from the Internet without regard to any trans-
 19 mission media or technology.

20 (2) *COMMISSION.*—The term “Commission”
 21 means the Federal Communications Commission.

22 (3) *INDIAN TRIBE.*—The term “Indian tribe” has
 23 the meaning given in section 4(e) of the Indian Self-
 24 Determination and Education Assistance Act (25
 25 U.S.C. 450b(e)).

1 (4) *NTIA*.—*The term “NTIA” means the Na-*
2 *tional Telecommunications and Information Admin-*
3 *istration of the Department of Commerce.*

4 (5) *PERSONAL CONSUMER INFORMATION*.—*The*
5 *term “personal consumer information”—*

6 (A) *means information that allows a*
7 *human being to be identified individually;*

8 (B) *includes the following information with*
9 *respect to an individual:*

10 (i) *the first and last name;*

11 (ii) *a home or physical address;*

12 (iii) *a date or place of birth;*

13 (iv) *an email address or a telephone*
14 *number;*

15 (v) *a Social Security account number,*
16 *tax identification number, birth certificate*
17 *number, passport number, driver’s license*
18 *number, or any other any government-*
19 *issued identification number; or*

20 (vi) *a credit card number or bank ac-*
21 *count or card number; and*

22 (C) *does not include any record of aggregate*
23 *information that does not permit the identifica-*
24 *tion of particular individuals.*

25 (6) *PROVIDER*.—

1 (A) *PUBLIC PROVIDER.*—The term “public”
2 when used with respect to a provider of
3 broadband service capability means a provider
4 that is an agency or instrumentality of a State,
5 or a municipality or other subdivision (or agen-
6 cy or instrumentality of a municipality or other
7 subdivision) of a State, regardless of the facilities
8 used.

9 (B) *COMMERCIAL PROVIDER.*—The term
10 “commercial” when used with respect to a pro-
11 vider of broadband service capability means a
12 provider that offers broadband service capability
13 for a fee, or on an advertising-supported basis,
14 directly to the public or to such classes of users
15 as to be effectively available to the public, re-
16 gardless of the facilities used.

17 (7) *STATE.*—The term “State” means the States
18 of the United States, the District of Columbia, the
19 Commonwealth of Puerto Rico, Guam, the Virgin Is-
20 lands, American Samoa, the Northern Mariana Is-
21 lands, and any other territory and possession of the
22 United States.

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