

**STATEMENT OF
COMMISSIONER NATHAN SIMINGTON**

Re: *Affordable Connectivity Program*, WC Docket No. 21-450, Sixth Report and Order (Aug. 3, 2023).

I am happy to approve this implementation of Congress's order to establish an ACP high-cost program. The point of the program is simple, to help tip the scales in favor of deploying and maintaining service in high-cost areas. But the devil is in the details. A poor implementation of this program could lead to substantial government waste and, paradoxically, undermine the incentives for providers to invest in high-cost areas.

Here is how. Imagine that you are a provider who runs a lean, efficient operation and turns a reasonable profit despite operating in an expensive and difficult-to-serve area. Because eligibility for this program is specific to each provider, not just for all providers in the high-cost area, a poor implementation would allow an inefficient, otherwise unprofitable, competitor to undercut you by qualifying for this benefit, a benefit that you cannot qualify for because you run your business so well. Surely, punishing you for running your business well, and rewarding your competitor for running his so poorly, is not what Congress intended.

Thankfully, the language in the statute is clear: a provider needs to have a particularized economic hardship, such that the provider may not be able to maintain the operation of part or all of its broadband network without the enhanced benefit, to qualify for the program. And as this order says, that means that the provider must show that it would not be *possible* for it to profitably serve the high-cost area without being eligible for this higher ACP benefit. The only reasonable interpretation of this language is that you cannot be suffering a genuine economic hardship if you have failed to do everything you *possibly* can to become more profitable. If you want this benefit, you first need to cut unnecessary costs, consider alternative technologies, reevaluate your prices, and make any other possible efficiencies. The statutory and regulatory language is clear. It is now up to the Wireline Competition Bureau and USAC to faithfully enforce the law.