

Comment Info: =====

General Comment:

The general objectives of the proposed rules are a positive improvement. However some of the language does not really implment the concepts and objective described in the narrative. My specific concerns are in the area that defines an Existing Service Provider.

In the narrative section discussing "Existing Broadband Service Provider" the requirements for an Incumbent Service Provider to be recognized as an existing broadband service provider is described in two very different manners and the differences are very significant:

1. In one section the requirement is that the Incumbent Service Provider must provide evidence that 10% of the households passed by their facilities are purchasing their broadband service;

2. However in another paragraph it indicates that the company offering broadband service will need to have a customer base of at least 10% of the households in a community in order to be considered an Existing Broadband Service Provider.

In the first example the service provider could satisfy the requirement if they only served a small portion of the community and had at least a 10% take rate on the small section of the community that they served. However in the second example they would need to actually provide broadband service to 10% of the community.

Unfortunately the proposed rule uses the language of the first example and this would allow an existing service provider to impede a new service provider in an area if they have only have facilities in a small portion of the community, but provide broadband service to 10% of the facilities passed.

Also while the agency is appropriately using the definition of the FCC for broadband service, the regulation should be clarified by indicating that the provision of RF television service without data service does not satisfy the requirements of the 10% threshold.