

# PUBLIC NOTICE

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## WIRELINE COMPETITION BUREAU ANNOUNCES THE FINAL MONTH OF THE AFFORDABLE CONNECTIVITY PROGRAM

### WC Docket No. 21-450

In this Public Notice, due to the lack of additional funding for the Affordable Connectivity Program (ACP), the Wireline Competition Bureau (WCB) of the Federal Communications Commission (Commission) announces that the last fully funded month for the ACP benefit is April 2024.<sup>1</sup> Absent additional funding from Congress, the ACP can only provide a partial reimbursement for May 2024, and ACP providers have the option to claim and pass on that partial reimbursement amount to enrolled households. After May 2024, the ACP will no longer support any benefits to enrolled households. This Public Notice also (1) provides guidance on the May 2024 partial reimbursement month; (2) reminds participating providers of the notices they must send to ACP households; and (3) provides guidance on the consumer protections for ACP households during wind-down and after the ACP ends. The instructions and guidance in this Public Notice further the goal set forth in the *ACP Wind-Down Order* of keeping as many households as possible connected to broadband service after the end of the ACP.<sup>2</sup>

### Partial Reimbursement in May 2024

The *ACP Wind-Down Order* stated that if reimbursement claims were to exceed the amount of remaining funds, reimbursements for benefits passed through to households will be paid out to providers on a reduced pro-rata basis for one month after the last announced fully funded month.<sup>3</sup> This Public Notice confirms that April 2024 is the last fully funded service month where providers will receive reimbursement for passing on the full ACP benefit to enrolled ACP households eligible to receive the benefit. Based on our current forecast, funds are insufficient to pay all provider claims in full through the May 2024 service month.<sup>4</sup> Therefore, providers that choose to provide a benefit in May should plan to pass through only a reduced benefit to households that have opted-in to continue to receive broadband service after the end of the full ACP benefit. May 2024 will be the last month for which providers will be able to seek reimbursement for ACP benefits passed through to subscribers.<sup>5</sup> Reimbursements to

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<sup>1</sup> *Affordable Connectivity Program*, WC Docket No. 21-450, Order, DA 24-23 (WCB Jan. 11, 2024) (*ACP Wind-Down Order*).

<sup>2</sup> *ACP Wind-Down Order* at 1, para. 1.

<sup>3</sup> *ACP Wind-Down Order* at 11-12, para. 30; *see also Affordable Connectivity Program*, WC Docket No. 21-450, Report and Order and Further Notice of Proposed Rulemaking, 37 FCC Rcd 484, at 592, para. 233 (2022) (*ACP Order*).

<sup>4</sup> *ACP Wind-Down Order* at 4, para. 7 (explaining the forecast of the depletion of funding).

<sup>5</sup> As stated in the *ACP Wind-Down Order*, providers will have two months from the relevant snapshot to submit claims for benefits passed through to eligible ACP households. May 2024 is the last data month for which providers

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providers for May 2024 will be on a reduced pro-rata basis.

For the partial May 2024 reimbursement, providers will not be able to claim more than the discount that was passed through to the subscriber.<sup>6</sup> We understand that ACP participating providers are likely to be considering the discounts they intend to apply to broadband bills in May. To help providers determine the amount they will be able to seek reimbursement for service provided in May 2024, we intend to release in March 2024 more information regarding the reimbursement rate available to providers for service provided in May 2024. The Bureau will also provide additional information to providers at that time about notifying USAC of their intention to seek reimbursement for May 2024 discounts.

### **Required Provider Notices to ACP Households**

The Bureau's *ACP Wind-Down Order* set out procedures for the efficient wind-down of the ACP and for notifying the over 23 million households enrolled in the ACP about the end of the program and impact on their bill.<sup>7</sup> By January 25, 2024, providers were required to have sent an initial notice to their ACP subscribers advising them of the possibility of the program ending.<sup>8</sup> As previewed in the *ACP Wind-Down Order*, USAC is also sending notices to enrolled households,<sup>9</sup> and the Commission and USAC have revised the ACP websites to provide up-to-date information to consumers about the status of the ACP.

As set out in the *ACP Wind-Down Order*, by March 19, 2024 providers must send their ACP households a written notice that advises that the program is ending and states the impact on the households' broadband service and bills.<sup>10</sup> Providers must also send another notice to ACP households that coincides with the last bill or billing cycle in which the full ACP benefit is applied.<sup>11</sup> We remind providers that, while we do not prescribe a specific format or wording for these consumer notices, certain key pieces of information must be included in the notices to ensure the notices meaningfully inform consumers about the impact of the end of the ACP on their broadband bills.<sup>12</sup> Specifically, these next required consumer notices must indicate that the ACP is ending and include (1) the date of the last bill on which the full ACP benefit will be applied and (2) the amount that the household will be billed for the service once the full ACP benefit is no longer available or that the household will be subject to the

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will be able to seek reimbursement for benefits passed through to eligible ACP households. *See also Affordable Connectivity Program*, WC Docket No. 21-450, Report and Order and Further Notice of Proposed Rulemaking, 37 FCC Rcd 484, at 592, para. 232 (2022).

<sup>6</sup> 47 CFR § 54.1803(a).

<sup>7</sup> USAC, *ACP Enrollment and Claims Tracker*, <https://www.usac.org/about/affordable-connectivity-program/acp-enrollment-and-claims-tracker/> (last visited Mar. 4, 2024).

<sup>8</sup> *ACP Wind-Down Order* at 5, para. 12.

<sup>9</sup> *See also* USAC, *ACP Newsletter - January 2024 (Jan 30, 2024)*, <https://www.usac.org/wp-content/uploads/about/documents/acp/bulletins/ACP-Newsletter-January-2024.pdf>.

<sup>10</sup> *See ACP Wind-Down Order* at 5, para. 12 (indicating that the second required provider notice to ACP households shall be sent as soon as practicable, but no later than 15 days after the last fully funded month of the ACP is announced). March 19, 2024 is 15 days after the release of this Public Notice announcing the last fully funded month of the ACP.

<sup>11</sup> *ACP Wind-Down Order* at 5-6, para. 12. Providers must ensure that households that transfer their benefit after the notice deadlines set out in the *ACP Wind-Down Order* receive notices from the provider regarding the end of the program and the impact of the end of the benefit on the household's broadband bill and service, consistent with the requirements in *ACP Wind-Down Order*.

<sup>12</sup> *ACP Wind-Down Order* at 5, para. 11.

provider's undiscounted rates and general terms and conditions after the end of the ACP.<sup>13</sup> These consumer notices must also remind ACP households of their right to change their service or opt out of continuing their service at the end of the ACP.<sup>14</sup>

In this Public Notice, we also establish requirements for notifying consumers about any partial ACP benefit that is applied for service provided for May 2024. Providers that intend to claim and pass through a partial benefit to ACP households for May 2024, where the household has opted in to continue to receive and pay for broadband service after the full ACP benefit is no longer applied, must provide written notice to those households that the benefit amount applied to the May bill may be less than the full ACP benefit the household has been receiving. Such written notices must also state that the household will be subject to the provider's fully undiscounted rates and general terms and conditions after the last bill that any partial benefit is applied. This information may be included in the other required notices or sent separately.

We strongly encourage providers to include in these required consumer notices information about their lower cost offerings and low-income programs, or a phone number or link to a website where ACP households may obtain such information.<sup>15</sup> Providing this information will further the Commission's goal of keeping as many households as possible connected to internet service after the end of the ACP benefit, as set out in the *ACP Wind-Down Order*.<sup>16</sup> Providers are also not limited in the number of notices they may send to their ACP households and we encourage providers to correspond more frequently with their ACP households should the provider believe that such additional outreach is necessary or beneficial.<sup>17</sup> We also remind providers that these notices must be sent to ACP households in writing and in a manner that is accessible to persons with disabilities.<sup>18</sup> Providers are encouraged to send the required consumer notices in a format and language that is consistent with any consumer-expressed preferences.<sup>19</sup>

### **Consumer Protections**

We emphasize that ACP providers remain subject to the consumer protection requirements in the ACP rules<sup>20</sup> during wind-down, except for those related to new ACP enrollments,<sup>21</sup> and that some requirements will remain applicable after subscribers cease receiving the ACP benefit. The ACP was not intended to place additional financial burdens on eligible households and these consumer protection requirements are among the core components that protect consumers from financial harm.<sup>22</sup> Providers can also mitigate additional financial burdens on consumers after the end of the ACP by offering to move consumers to low-cost internet service plans that they already offer or that they newly adopt as an offering to low-income consumers.

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<sup>13</sup> *ACP Wind-Down Order* at 5-6, para. 12.

<sup>14</sup> *ACP Wind-Down Order* at 5-6, para. 12.

<sup>15</sup> *ACP Wind-Down Order* at 5-6, para. 12.

<sup>16</sup> See *ACP Wind-Down Order* at 1, 5, 8, paras. 1, 12, 20.

<sup>17</sup> *ACP Wind-Down Order* at 5-6, para. 12.

<sup>18</sup> *ACP Wind-Down Order* at 6, para. 13.

<sup>19</sup> *ACP Wind-Down Order* at 6, para. 13.

<sup>20</sup> 47 CFR § 54.1810.

<sup>21</sup> E.g., 47 CFR § 54.1810(a); 47 CFR § 54.1810(c)(1)(i); 47 CFR § 54.1810(e)(2)(i); 47 CFR § 54.1810(i)(2)(iv).

<sup>22</sup> *ACP Order*, 37 FCC Rcd at 559, paras. 158-59 (noting that consumer protection requirements are among the core components of the ACP and their immediate implementation was required to protect low-income consumers from harm).

Providers are reminded that during the wind-down period they remain subject to most consumer protection requirements in section 54.1810 of the Commission's rules. For instance, because eligible households may continue to transfer their ACP benefits during wind-down, participating providers transferring households must comply with transfer-related consumer protection provisions.<sup>23</sup> The only consumer protection requirements that would not apply are those relating specifically to newly enrolling eligible households in the ACP.<sup>24</sup> New enrollment-related consumer protections were rendered moot when the Commission instituted the ACP enrollment freeze on February 8, 2024.<sup>25</sup> The remaining consumer protection requirements<sup>26</sup> will continue to apply for as long as a subscriber receives any ACP benefit for the ACP-supported service, and in some instances beyond that, after which time the provider's relevant general terms and conditions would apply, to the extent those terms and conditions are not inconsistent with applicable Commission rules and statutory requirements.<sup>27</sup>

We note particularly that, under ACP rules, a participating provider may not terminate an eligible household's ACP-supported service on the grounds that the household has failed to pay the charges set forth on a bill for such service until 90 days have passed since the bill payment due date.<sup>28</sup> This rule remains in effect as long as a household continues to receive ACP-supported service. We remind providers that should a household enter a delinquent status after the bill due date, a provider is permitted to mitigate the financial harm to the household by switching the household to a lower-cost plan, with advance notice to the household.<sup>29</sup>

Moreover, the prohibition on charging early termination fees to eligible households who purchase and apply the ACP benefit to service plans subject to extended service contracts continues to apply after the end of the ACP.<sup>30</sup> If a household entered into a service plan with an extended service contract and applied their ACP benefit to that service plan, the provider cannot charge the household an early

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<sup>23</sup> See 47 CFR § 54.1810(b); *ACP Wind-Down Order* at 8-9, para. 22.

<sup>24</sup> See, e.g., 47 CFR § 54.1810(a) (requirements governing disclosures and consents for enrollment); 47 CFR § 54.1810(c)(1)(i) (prohibiting participating providers from considering the results of a credit check as a condition of ACP enrollment); 47 CFR § 54.1810(e)(2)(i) (prohibiting participating providers from conditioning ACP application or enrollment on a household selecting a new service, bundled plan, or equipment); 47 CFR § 54.1810(i)(2)(iv) (prohibiting as an "unjust and unreasonable" practice "[f]ailing to enroll an eligible household as soon as practicable once the provider receives the household's affirmative consent to enroll with that provider").

<sup>25</sup> Cf. *ACP Wind-Down Order* at 10, para. 26 (waiving requirement in 47 CFR § 54.1804(b) that providers publicize the availability of the ACP due to enrollment freeze). Enrollment-related consumer protections are moot as long as enrollments are frozen. .

<sup>26</sup> Consumer protection requirements applicable until the ACP ends include 47 CFR § 54.1810(b) (transfers); 47 CFR § 54.1810(c)(1)(ii), (iii) (credit check prohibitions not related to enrollment); 47 CFR § 54.1810(d)(2) (90-day non-payment provision); 47 CFR § 54.1810(e)(1), (2)(ii) (prohibitions on inappropriate upselling and downselling); 47 CFR § 54.1810(f)(3) (prohibition on early termination fees); 47 CFR § 54.1810(g) (prohibitions on restrictions on switching service offerings); 47 CFR 54.1810(h) (prohibitions on restrictions on switching providers); 47 CFR § 54.1810(i)(1), (2)(ii), (iii), (v), (vi), (vii) (certain unjust and unreasonable practices).

<sup>27</sup> See, e.g., 47 CFR § 54.1810(a)(1)(v) (requiring providers to disclose to consumers prior to enrollment that a "household will be subject to the provider's undiscounted rates and general terms and conditions if the Affordable Connectivity Program ends").

<sup>28</sup> 47 CFR § 54.1810(d)(2). This provision implements 47 U.S.C. § 1752(b)(7)(B), which provides that "[n]othing in subparagraph (A) shall prevent a participating provider from terminating the provision of broadband internet access service to a subscriber after 90 days of nonpayment."

<sup>29</sup> *ACP Order*, 37 FCC Rcd at 554, para. 145 ("We find that providers may downgrade a household to a lower-priced service plan once the consumer enters a delinquent status after the bill due date to mitigate the non-payment amount upon advance notice to the household of the change in service.").

<sup>30</sup> See 47 U.S.C. § 1752(b)(6)(A)(i); 47 CFR § 54.1810(f)(3).

termination fee for terminating that service contract early, even after the household stops receiving the ACP benefit. A household's statutory right not to pay an early termination fee for ending an extended service contract early (e.g., because the household wanted to change service or opt out of continuing service) remains in place after the ACP benefit stops being applied to the service.<sup>31</sup> Providers are also reminded that they may not engage in unjust and unreasonable acts or practices that would undermine the purpose, intent, or integrity of the ACP and this would continue to be the case after households no longer receive the ACP benefit due to the wind-down of the program.<sup>32</sup> For example, even after, the ACP benefit is no longer being applied to broadband bills, it would undermine the purpose, intent, and integrity of the ACP, and FCC programs more generally, for a provider to hold itself out as an ACP participating provider, engage in false or misleading advertising of the ACP, or violate any remaining applicable program rules.<sup>33</sup>

Finally, we acknowledge that the *Broadband Label Order* requires providers to display, at the point of sale, labels that indicate, among other things, whether they participate in the ACP.<sup>34</sup> With the upcoming end of the ACP, providers will not be required to include information on the ACP in their labels.<sup>35</sup> This guidance is subject to change should the funding status of the ACP change.

### **Compliance and Further Program Updates**

As a reminder, providers must continue to de-enroll subscribers when de-enrollment is required under the Commission's rules.<sup>36</sup> Moreover, providers cannot claim subscribers that are not eligible to be claimed and cannot claim reimbursement for more than the amount passed through to eligible households.<sup>37</sup> The Commission is committed to ensuring the integrity of the ACP, including during the wind-down period, and non-compliance will be addressed using all available tools and investigatory procedures. Consumers who have concerns about provider compliance with ACP rules and wind-down requirements may file a complaint with the Commission by visiting [ConsumerComplaints.fcc.gov](https://www.fcc.gov/consumer-complaints).

Providers and consumers are encouraged to visit [AffordableConnectivity.gov](https://www.AffordableConnectivity.gov) and [fcc.gov/acp](https://www.fcc.gov/acp) for more information and further updates regarding the ACP. Providers seeking further assistance regarding ACP wind-down requirements should contact USAC via their support email address for providers. Providers are also encouraged to visit [USAC.org](https://www.USAC.org) to sign up for the ACP bulletin and future webinars and to view past webinars and information sessions. Households with questions may contact the ACP Support Center at (877) 384-2575 or [acpinfo@fcc.gov](mailto:acpinfo@fcc.gov). Consumers who are Deaf or Hard of Hearing may use the ASL Hotline at (844) 432-2275.

For further information about this Public Notice, contact Benjamin Nashed, Telecommunications Access Policy Division, Wireline Competition Bureau at [Benjamin.Nashed@fcc.gov](mailto:Benjamin.Nashed@fcc.gov).

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<sup>31</sup> See 47 U.S.C. § 1752(b)(6)(A)(i).

<sup>32</sup> See 47 CFR § 54.1810(i)(1).

<sup>33</sup> See 47 CFR § 54.1810(i)(2), (i), (ii), (vii).

<sup>34</sup> *Empowering Broadband Consumers Through Transparency*, CG Docket No. 22-2, Report and Order and Further Notice of Proposed Rulemaking, 7 FCC Rcd 13686 (2022) (*Broadband Label Order*). This Order was required by the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429, § 60504(a) (2021).

<sup>35</sup> *Broadband Label Order* at 13704, para. 55.

<sup>36</sup> 47 CFR § 54.1809.

<sup>37</sup> 47 CFR § 54.1803.