August 25, 2023

Dear Senators Luján, Thune, Klobuchar, Capito, Peters, and Moran:

Thank you for the opportunity to provide thoughts on the future of the Universal Service Fund (USF). WTA – Advocates for Rural Broadband represents more than 370 small communications providers serving rural communities across the country, commonly referred to as Rural Local Exchange Carriers (RLECs). Most of WTA's member companies have been in the communications business since the time when telephone service first reached their communities. Today, they provide broadband, voice, and other services to rural residents, businesses, and anchor institutions primarily through wireline connections.

The construction, operation, maintenance, and upgrade of rural communications networks requires a predictable and sufficient Universal Service Fund. By the end of the 20th Century, USF enabled RLECs to provide universal telephone service to 99% of the areas they serve and as we moved into the 21st Century, USF has allowed these companies to modernize that telephone-based network to offer, and expand, broadband access further into their service territories. Without the principle of universal service, which dates back to the 1930s, and the USF High Cost Program (HCP), which was codified in the Telecommunications Act of 1996 (Telecom Act), the communications services provided to Americans living in areas supported by the HCP would not be available.

All WTA member companies are recipients of HCP support. While they also participate in the Lifeline Program, and the newly appropriated Affordable Connectivity Program (ACP), these comments will focus primarily, with a few exceptions, on the questions' relevance to the HCP.

1) How should Congress and the Commission evaluate the effectiveness of the existing USF programs in achieving universal service goals for broadband?

The universal service principles contained in the Telecom Act - that all American should have access to quality voice and broadband services at just, reasonable, and affordable rates and that people living in rural areas should have access to comparable communications services at reasonably comparable rates to those in urban areas, with predictable and sufficient support mechanisms designed to achieve these goals – are just as relevant today as they were in 1996. Whether these goals are being achieved should be the metric by which Congress and the Federal Communications Commission (FCC) evaluate the effectiveness of the USF programs.

Reasonable Rates
When it comes to high-cost rural areas, all recipients of HCP support, including those receiving Alternative Connect America Model (ACAM)[1] support, Connect America Fund-Broadband Loop Support (CAF-BLS), and Rural Digital Opportunity Fund (RDOF) support, are required to annually certify that the prices charged for their voice service are within two standard deviations of the urban average. These same providers must also certify that the rates charged for their broadband service are at or below a reasonable comparability benchmark. Both the voice and broadband benchmarks are set by the FCC's annual urban rate survey and ensure that the goal of reasonably comparable rates between urban and rural areas is met.

Comparable Services
Regarding the goal of reasonable comparable services, the FCC collects deployment data, which includes minimum broadband speeds, from HCP recipients through the Universal Service Administrative Company's (USAC) High Cost Universal Broadband (HUBB) portal. The HUBB portal data is used to ensure that deployment milestones and speed requirements are being met. While this tool is adequate to the task of recording deployment progress and broadband speeds, the speed standards used by some of the HCP support systems are not keeping pace with urban broadband speeds (see more on this below).

Predictability and Sufficiency
Evaluating the predictability and sufficiency of the USF support mechanism is best done by looking at how ambitious the FCC is when it comes to setting high, future-looking deployment standards for the HCP in rural areas (and the level of subsidies in the Lifeline, E-Rate, and Rural Health Care programs.)

The buildout speed standards for the HCP have evolved over time from 4/1 Mbps to 25/3 Mbps. In July 2023, the FCC approved an Order that increases buildout speed standards to 100/20 Mbps for RLECs that opt into the Enhanced ACAM program. WTA has consistently encouraged the FCC to look to what consumers' future broadband needs might be, but the antiquated USF funding mechanism has limited how aggressively the FCC can push for higher speeds to more rural areas. This speaks to the inadequacy of the current HCP budget and the need to modernize the USF contribution methodology.

2) To what extent have the existing USF programs been effective in carrying out section 254 of the Communications Act of 1994?

Using the metrics discussed above in evaluating the success of the HCP, the effectiveness is mixed depending on which rural areas are under consideration. Historically, in rural areas served by RLECs, the HCP has enabled voice and basic broadband service to be extended further and further out to the point where nearly everyone has access to telephone service and basic broadband. While some RLECs have been able to bring high-speed broadband (100/20 Mbps or higher) to many locations, the HCP has not provided enough funding to all RLECs to

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[1] In the interest of brevity, this includes ACAM I, ACAM II, and Revised ACAM.

reach all rural locations with higher speeds. To build on past success, the FCC must continue to increase speed goals and provide the funding to get to them so that rural areas stay on par with urban areas.

In years past, the HCP was less successful is bringing affordable broadband to areas served by larger, national providers. In an attempt to remedy the rural-rural divide between areas served by small, locally-focused providers and national and regional providers, the FCC embarked on the CAF Phase II and RDOF programs. The final buildout milestones for these programs have not been reached, so it is too early to tell whether they will achieve the desired results in bringing ubiquitous voice and high-speed broadband to rural areas served by the winners of these auctions.

a) Has the Commission adequately evaluated the effectiveness of each program against concrete goals and metrics?

When it comes to the HCP, the problem is less the lack of concrete goals and metrics, but lack of funding. If there was sufficient HCP funding then the goals could keep on pace with urban networks and other federal broadband programs such as the Rural Utilities Service's ReConnect program and the National Telecommunication and Information Administration's Broadband, Equity, Access and Deployment (BEAD) program.

3) Is the FCC's administration of the USF and its four programs sufficiently transparent and accountable? If not, what reforms are necessary and appropriate within the four existing USF programs to improve transparency, accountability, and cost-effectiveness, and does the Commission have the authority to make such reforms?

The FCC and USAC have several mechanisms in place to ensure that recipients of HCP support can be held accountable for the funding they receive. USAC has three distinct methods of auditing HCP recipients – the Beneficiary and Contributor Audit Program, a Payment Quality Assurance program, and random audits conducted annually.

In addition, all recipients of HCP support must report the locations to which they build to the USAC HUBB portal. This enables the FCC to make sure recipients are meeting their buildout milestones and submit accurate data to the National Broadband Map to prevent duplicative funding to locations. All HCP support recipients are also required to submit the results of speed and latency testing of their networks on an annual basis to ensure they are providing the level of service required as a condition of receiving support.

Finally, in 2018, the FCC adopted an Order[2] implementing "reforms to ensure that high-cost universal service support provided to eligible telecommunications carriers (ETCs) is used only

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[2] *In the Matter of Connect America Fund: Report and Order, Third Order on Reconsideration, and Notice of Proposed Rulemaking*, WC Docket No. 10-90, (adopted March 14, 2018).

for the provision, maintenance, and upgrading of facilities and services for which the high-cost support is intended." These reforms still apply today.

The FCC does not need additional authority or accountability mechanisms, but it must hold HCP support recipients to account if they do not meet the goals of the program in which they participate.

4) What reforms are necessary to address inefficiencies and waste, fraud, and abuse in each of the four programs and duplication with other government programs?

One of the most serious problems facing the HCP at this point is the fact that RLECs receiving CAF-BLS support do not have enforceable commitments to serve the locations in their service territories that will prevent other broadband grant programs from overbuilding the work the FCC is in the process of funding. Locations already built out to at least 100/20 Mbps are to be entered into the HUBB portal and therefore not eligible for the BEAD, ReConnect, and other grant programs. However, RLECs in the process of building out 100/20 Mbps or higher don't have a way of taking those locations off the eligibility map unless they opt into the recently-adopted Enhanced ACAM program this fall. But for some RLECs, this isn't a viable option, as the support levels provided by the Enhanced ACAM program are not high enough to get 100/20 to all their locations. The RLECs that do not choose Enhanced ACAM need location-specific enforceable commitments.

Relatedly, the FCC has declined to act at this time on industry recommendations to provide increased buildout speed requirements to at least 100/20 Mbps for CAF-BLS recipients. This will mean that areas funded by the HCP to 25/3 Mbps could be overbuilt by other programs. It would be more efficient for the FCC to increase buildout speed requirements for current CAF-BLS providers and provide a mechanism to obtain enforceable commitments to serve those locations rather than have another agency potentially funding another provider to build a second and overlapping network in those areas. Without action by the FCC, the possibility of stranded HCP investment is likely.

When it comes to the Lifeline Program, it is clearly duplicative of the ACP in that both programs subsidize broadband access. It is inefficient from a consumer perspective, an administrator perspective, and provider perspective to maintain both programs. One solution would be to meld the Lifeline Program with ACP, but this would require a substantial increase in contributions to USF (if current ACP funding levels were maintained) and would require a modernization of the contribution methodology.

Regarding E-Rate and the RHCP, the FCC must do a better job of making sure these programs stick to their goals of subsidizing broadband access for school, libraries, and rural health care facilities. These anchor institutions should not be building their own networks using USF support and potentially competing with incumbent providers.

6) Should Congress eliminate the requirement that a provider must be an "Eligible Telecommunications Carrier" to receive USF subsidies?

Requiring a provider to receive Eligible Telecommunications Carrier (ETC) status prior to receiving USF support is an important measure of integrity and commitment to providing universal voice and broadband service to high-cost areas or participating in the Lifeline Program. ETC designation is largely a state function, and state regulatory agencies should have the best knowledge of a provider's performance history and their customers as they are closer.

7) Currently, telecommunications companies must pay a contribution factor to the Universal Service Fund proportional to interstate end-user revenues. What reforms are necessary to ensure that the contribution factor is sufficient to preserve and advance universal service?

The current USF contributions methodology of assessing long-distance voice revenues of telephone companies is antiquated and insufficient. A modernized USF funding mechanism is needed that: 1) equitably spreads the cost of universal service across all that stand to benefit from such investment; 2) greatly reduces or eliminates the charge on telephone bills; and 3) allows universal service funding to be sustainable for future decades.

a) Some have advocated for assessing USF contributions on broadband service and edge providers. What would the impact of such reforms have on ratepayers and the marketplace?

Choosing one of these two options, or a combination of the two, is the most appropriate way of moving away from voice-centered assessments and ensuring the fund has sufficient funding. The model of requiring users of the communications network to pay for its construction, upgrade, and maintenance has worked in the past and should continue to be the methodology going forward. The transportation sector provides a good analogy, in that all users of the roads are assessed when they purchase gasoline and, on some roads, are required to pay tolls. In addition, large trucks pay additional fees by weight because of the additional maintenance their use of the roads necessitates. This revenue then goes to directly support the construction, upgrade, and maintenance of the transportation network.

Ideally, by expanding the base of contributors to USF, the rate the average user pays will go down. In fact, a 2021 report found that moving to an assessment of broadband revenues would bring the contributions factor down to around 4% from today's 29%.[3] If assessments were also made on edge-providers (the big rigs of the Internet), the broadband assessment could be even lower.

Lawmakers and regulators from across the political spectrum acknowledge this is a problem that must be solved, and Congress should pass legislation providing the FCC the direction and authority needed to fix it.

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[3] Mattey, Carol, 2021, *USForward: FCC Must Reform USF Contributions Now: An Analysis of the Options*.

b) Some have advocated moving the funding for the USF to an appropriations model. What impact would that have the USF?

USF should not be dependent on the vagaries of the Congressional appropriations cycle. The Telecom Act requires *predictable* support mechanisms, and Congressional appropriations are notoriously unpredictable, both in terms of timing and funding levels. Rural broadband providers making 10-to-20-year investments need to know that USF will be there to support their networks. In addition, moving to an appropriations model would sever the traditional link between users of the network contributing (and the heaviest users contributing more than the casual users) to the construction and operations of the network.

8) What actions are necessary and appropriate to improve coordination between USF programs and other programs at the Federal Communications Commission, the National Telecommunications and Information Administration, USDA Rural Development, the Department of Treasury, and other federal agencies?

As noted above, some of the rural broadband providers the FCC is funding – those receiving traditional CAF-BLS support that don't opt into Enhanced ACAM – don't have access to a mechanism that provides an enforceable commitment for future buildouts, which could result in duplicative network funding from other broadband programs. The FCC must work with other agencies, particularly NTIA, to ensure that funding from other broadband programs doesn't get spent in USF-funded areas.

10) Is Congressional guidance needed to ensure future high-cost program rollouts, such as RDOF phase II, are improved? Would a thorough and upfront vetting process be more efficient for federal dollars and recipient ISPs?

The FCC and Congress should be very cautious about embarking on future USF auctions. The results of RDOF have yet to be shown, but WTA's member companies are skeptical that some of the less experienced winners are going to be able to make good on their commitments to provide the promised level of service with the amount of funding for which they bid. In fact, there are over 28,000 census blocks where the winning bidder has defaulted. In addition, several RDOF winners have come back to the FCC seeking additional funding because they do not think they bid high enough to meet the buildout requirements.

One of the main selling points of RDOF was the speed at which the funding would be distributed. Yet, the auction was held in the fall of 2020 and the last authorizations of support were still being made at the end of 2022. For the sake of comparison, RUS's application deadline for Round IV of ReConnect was November 2022. It has already made most of its awards this year and will likely have all awards made within a year of the deadline closing. When it came to RDOF, the FCC merely exchanged upfront vetting for post-auction vetting while eliminating providers from contention because they weren't able to bid as low as others.