

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Universal Service Contribution Methodology) WC Docket No. 06-122
)

**Comments of
Communications Workers of America**

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The Communications Workers of America (CWA) submits these comments in response to the Federal Communications Commission’s *Notice of Proposed Rulemaking* seeking to establish a financial cap on the Universal Service Fund (USF).¹ CWA represents 700,000 workers in communications, media, airlines, manufacturing, and public service. CWA has long advocated for protecting, strengthening, and expanding USF programs, including the Connect America Fund,² the E-Rate program,³ and the Lifeline program⁴ to achieve universal affordable access to high-speed Internet across the country. CWA supports the Commission’s stated goal of evaluating the USF programs to “better achieve the overarching universal service principles Congress directed the Commission to preserve and advance.”⁵ However, the Commission’s proposals undermine those stated goals, and in fact would dramatically weaken the USF programs and harm the wide range of stakeholders and beneficiaries who rely on them.

The Federal Communications Commission’s congressional mandate is to ensure that “[c]onsumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services.”⁶ Furthermore, the mandate requires that “[a]ll telecommunications carriers serving a geographic area shall [...] provide such services to elementary schools, secondary schools, and libraries for educational purposes at rates less than the amounts charged for similar services to

¹ Federal Communications Commission, *In the Matter of Universal Service Contribution Methodology*, Notice of Proposed Rulemaking, WC Docket No. 06-122 (rel. May 31, 2019). (“NPRM”)

² See Comments of Communications Workers of America, WC Docket Nos. 10-90, 05-337, GN Docket No. 09-51 (July 12, 2010); Comments of Communications Workers of America, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51 (Aug. 24, 2011).

³ See Reply Comments of Communications Workers of America, CC Docket No. 02-6, GN Docket No. 09-51 (June 26, 2010); Comments of Communications Workers of America, WC Docket No. 13-184 (Sept. 16, 2013); Reply Comments of Communications Workers of America, WC Docket No. 13-184 (Nov. 8, 2013).

⁴ See Comments of Communications Workers of America and the American Federation of Labor-Congress of Industrial Organizations, WC Docket Nos. 11-42, 09-197, 10-90 (Aug. 31, 2015); Reply Comments of Communications Workers of America and the American Federation of Labor-Congress of Industrial Organizations, WC Docket Nos. 11-42, 09-197, 10-90, (Sept. 30, 2015); Comments of Communications Workers of America, WC Docket Nos. 17-287, 11-42, 09-197 (Feb. 21, 2018).

⁵ NPRM, 1.

⁶ 47 U.S.C. § 254(b).

other parties.”⁷ The Universal Service Fund plays an important role in achieving the congressional mandate. It supports four important programs – the High-Cost program including the Connect America Fund programs, the Schools and Libraries program or E-Rate, the Lifeline program for low-income households, and the Rural Health Care program – designed to provide universal quality access to advanced telecommunications and information services at just, reasonable, and affordable rates.⁸ Each USF program addresses an important but different component of universal service as described by 47 U.S.C. § 254.

The Commission proposes to cap the Universal Service Fund at \$11.42 billion, claiming the goal of the cap is to “better achieve the overarching universal service principles Congress directed the Commission to preserve and advance.”⁹ In fact, the Commission’s proposal to cap the USF would do just the opposite. As the Commission notes, all four USF programs are currently capped or operating under a targeted budget. Current USF program caps and budgets are too low to address the significant lack of broadband access that remains across the country. For example, the Commission notes that the Lifeline program’s 2018 budget is \$2.28 billion while its disbursements are \$1.14 billion.¹⁰ In other words, the Lifeline program’s disbursements are 50 percent of its budget – even as the current Lifeline participation rate is just 33 percent of eligible households.¹¹ At the current budget level, greater participation in the Lifeline program or an economic downturn could cause the Commission to turn away eligible customers. Capping the entire USF would exacerbate this problem and force its constituent programs to compete with one another for funding. The Commission acknowledges in the NPRM that its intent is to

⁷ 47 U.S.C. § 254(h).

⁸ 47 U.S.C. § 254(b).

⁹ NPRM, p. 4, 1.

¹⁰ *Ibid.*, p. 5.

¹¹ USAC, Eligible Lifeline Population Statistics. Available at: <http://www.usac.org/li/about/process-overview/program-stats.aspx>

“consider the consequences and tradeoffs of spending decisions for the overall fund.”¹² As 14 members of Congress wrote to the Commission in a July 9 letter: “The USF programs were not intended to compete against each other for funding and pitting them against each other for funding does nothing to advance the goal of achieving universal service.”¹³ The proposal is not only unnecessary, it will actively harm the programs that rely on the fund and the millions of people who rely on those programs.

The USF programs are working, and the Commission’s proposal risks undermining their success. As discussed in more detail below, the recent Connect America Fund Phase II has subsidized broadband buildout to an expected 7.3 million rural consumers in 45 states. More than 8.7 million households subscribe to the Lifeline program. The E-Rate program, which provides discounts to schools and libraries to ensure affordable access to high-speed broadband and telecommunications services necessary for digital learning, has connected 98 percent of classrooms in the country with a bandwidth target of 100 Mbps/1000 students. Furthermore, 19 million households – six percent of Americans – still lack access to broadband.¹⁴ By capping the USF and forcing programs to compete for resources, the Commission risks undermining the USF programs, negatively impacting a wide range of stakeholders and beneficiaries including low-income people, schools, libraries, children, rural health care facilities and patients, Native tribes, as well as those who live in rural and remote areas across the United States. Moreover, since the value of the network depends on the “each to all” principle, capping the USF and thereby reducing the subsidies it provides would not only reduce the number of households that can afford Internet connections, it would impact everyone.

¹² NPRM, p. 2.

¹³ US Rep. Mark Pocan et al., Letter to Federal Communications Commission (July 9, 2019): p. 2.

¹⁴ Federal Communications Commission, *2019 Broadband Deployment Report*, GN Docket No. 18-238 (rel. May 29, 2018).

High-Cost. The federal universal service High-Cost program, or the Connect America Fund (CAF), ensures that consumers in rural and other high-cost areas have access to modern communications networks capable of providing voice and broadband service at rates that are comparable to those in urban areas. The program fulfills this universal service goal by subsidizing the cost for eligible carriers to expand 10/1 Mbps broadband service to high-cost, largely rural areas.

The Connect America Fund has allocated over \$35 billion to be spent through 2029 to close the digital divide. In Aug. 2015, the Commission announced that ten companies accepted \$1.5 billion in annual funding (for a total of \$9 billion over six years) through CAF-Phase II to deploy broadband to 7.3 million rural locations in 45 states.¹⁵ CenturyLink received the largest CAF-II support: \$506 million annually – or a total of \$3 billion over six years – to serve 1.2 million locations in 33 states. AT&T accepted \$428 million per year (\$ 2.6 billion over six years) to serve 1.1 million locations. Frontier and Windstream accepted \$283 million and \$174 million annually (\$1.7 billion and \$1 billion over six years), respectively. In Aug. 2018, the Commission announced that it allocated through auction \$1.5 billion in support over the next decade to further expand rural broadband service in unserved areas in 45 states.¹⁶ In March 2016, the Commission reformed its universal service support for small rural carriers, providing approximately \$20 billion in support until 2026 for these rate-of-return carriers to meet the demand for stand-alone broadband. Roughly 20 percent of homes in rate-of-return areas lack access to fixed broadband. However, as the Commission wrote, “[e]fficient, effective universal service support is critical to the expansion of affordable broadband in high-cost rate-of-return areas that currently lack

¹⁵ FCC Press Release, “Carriers Accept Over \$1.5 Billion in Annual Support from Connect America Fund to Expand and Support Broadband for Nearly 7.3 Million Rural Consumers in 45 States and One Territory,” (rel. Aug. 2015).

¹⁶ FCC Press Release, “Connect America Fund Auction to Expand Broadband to Over 700,000 Rural Homes and Businesses,” (rel. Aug. 28, 2018).

service.”¹⁷ In addition, the Commission’s Mobility Fund Phase II will provide up to \$4.53 billion in support available over 10 years to primarily rural areas that lack unsubsidized 4G Long Term Evolution (LTE) service.¹⁸ This program supports mobile voice and broadband coverage, incentivizing the deployment of mobile wireless service, and ensuring that 4G LTE service is preserved and advanced in those areas of the country that lack unsubsidized service.

Lifeline. When the Commission first expanded the Lifeline program in 1985, it explained that “access to telephone service has become crucial to full participation in our society and economy which are increasingly dependent upon the rapid exchange of information. In many cases, particularly for the elderly, poor, and disabled, the telephone is truly a lifeline to the outside world.”¹⁹ While access to voice service remains vital, access to broadband service is now essential for full participation in our society and economy. The Commission acknowledged this reality in 2016 when it modernized the Lifeline program to include broadband service.²⁰ At the same time, the Commission also adopted rigorous program integrity measures to improve program efficiency, accountability, and transparency without disrupting the administration of Lifeline for participants.

The Lifeline program has never received full participation rates by eligible populations – the current national participation rate is 33 percent of national eligible households.²¹ Yet there remains a significant need. For households earning \$20,000 a year or less, 40 percent do not have a wired broadband connection and 18 percent of households earning between \$20,000 and

¹⁷ FCC Press Release, “FCC Moves to Expand Rural Broadband Deployment by Modernizing and Reforming Universal Service Support for Small Carriers,” (rel. Mar. 2016).

¹⁸ FCC Press Release, “FCC Advances Seamless Nationwide Access to Mobile Voice and Broadband Service through Mobility Fund II,” (rel. Feb. 2017).

¹⁹ See *MTS and WATS Market Structure, and Amendment of Part 67 & 69 of the Commission's Rules and Establishment of a Joint Board*, Report and Order, 50 Fed. Reg. 939 (Jan. 8, 1985).

²⁰ See *Third Report and Order, Further Report and Order, and Order on Reconsideration*, WC Docket Nos. 11-42, 09-197, 10-90 (rel. Apr. 27, 2016). (2016 Lifeline Order)

²¹ USAC, Eligible Lifeline Population Statistics. Available at: <http://www.usac.org/li/about/process-overview/program-stats.aspx>

\$75,000 lack broadband access. For comparison, 95 percent of households earning \$75,000 or more have a wired broadband connection.²² Lifeline provides approximately 8.7 million customers with a modest \$9.95 monthly subsidy for voice and/or broadband service. Now the Commission proposes a cap to the USF that will undermine the progress made by the 2016 Lifeline Order and, more broadly, weaken the Lifeline program moving forward. More than 8.5 million of the total 8.7 million households subscribe to a Lifeline service in which voice is included as part of a bundle or as a stand-alone service.²³ Lifeline recipients depend on these modest subsidies for the essential communications services that will help them and their families access the job search, education, and health care resources that provide economic opportunity.

E-Rate. Since the launch of CWA's Speed Matters campaign in 2007, CWA has emphasized the enormous benefits of high-speed broadband connections to improve educational opportunities in our schools, and the multiple ways in which schools and libraries serve as gateways to Internet access and digital literacy in our communities.²⁴ The USF's schools and libraries universal service support program, or E-Rate, provides discounts to schools and libraries to ensure affordable access to high-speed broadband and telecommunications services necessary for digital learning. Discounts for support depend on the level of poverty and whether the school or library is located in an urban or rural area. The discounts range from 20 percent to 90 percent of the costs of eligible services. In 2010, the Commission began indexing the E-Rate program's funding cap to inflation to ensure that the program funding keeps pace with the changing needs

²² 2017 American Community Survey, 1-Year Estimates, Types of Computers and Internet Subscriptions, see: https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_16_1YR_S2801&prodType

²³ USAC Lifeline Business Update, Lifeline Subscribership by Service Type (Broadband Uptake) for August 2017, p. 4. Available at: https://www.usac.org/_res/documents/about/pdf/bod/materials/2017-10-hcli-briefing-book.pdf

²⁴ See Speed Matters: Benefits of Broadband, especially "High-Speed Internet and K-12 Education" with National Education Association and American Federation of Teachers and "High-Speed Internet and Libraries" with American Library Association. Available at: http://files.cwa-union.org/speedmatters/CWA_Benefits_of_Broadbandr_2010.pdf?nocdn=1

of schools and libraries.²⁵ Today, the E-Rate program funding is based on demand up to an annual Commission-established cap of \$4.15 billion.

E-Rate has been enormously successful. When Congress created the E-rate program in the 1996 Telecommunications Act, only 14 percent of schools had Internet access, mostly through dial-up connections. A decade later, nearly all schools and 94 percent of classrooms had Internet access and 98 percent of libraries offered public Internet access.²⁶ According to a report by EducationSuperhighway, a nonprofit committed to upgrading the Internet access of every public school classroom in America, the percentage of classrooms meeting the bandwidth target of 100 Mbps/1000 students grew from 30 percent in 2013 – the year before the Commission modernized E-Rate – to 98 percent in 2018.²⁷ The success of the E-Rate program demonstrates how public support changed the economics of Internet expansion, allowing schools and libraries throughout our nation to purchase Internet connectivity at affordable rates.

Conclusion. The Universal Service Fund programs are working to achieve the congressional mandate to ensure that every American and every school and library has access to quality, affordable voice and broadband service. Even so, 19 million households still lack access to broadband.²⁸ The Commission should not risk the progress these programs have made in providing broadband and telecommunications services across the country by forcing these programs to compete with one another for resources, as will inevitably happen if the

²⁵ Federal Communications Commission, *In the Matter of Schools and Libraries Universal Service Support Mechanism, A National Broadband Plan for Our Future*, CC Docket No. 02-6, GN Docket No. 09-51 (rel. Sept. 28, 2010).

²⁶ US Department of Education, National Center for Education Statistics, *Internet Access in US Public Schools and Classrooms: 1994-2001* (2002); US Department of Education, Institute of Education Sciences, *Internet Access in US Public Schools and Classrooms: 1994-2005* (2006) ; Information Use Management and Policy Institute, College of Information, Florida State University, *Public Libraries and the Internet 2006: Study Results and Findings* (2006).

²⁷ EducationSuperhighway, *State of the States Report* (Oct. 2018). Available at: <https://stateofthestates.educationsuperhighway.org>

²⁸ Federal Communications Commission, *2019 Broadband Deployment Report*, GN Docket No. 18-238 (rel. May 29, 2018).

Commission imposes a USF cap. Conflict will arise when demand exceeds the proposed cap and the Commission will be forced to decide which programs merit funding. It would hamstring and pit against one another programs that are designed to provide broadband to rural schools and libraries, to rural hospitals and clinics, and to rural homes. The Commission's proposal will substantially harm the millions of people who rely on the support provided by these programs. It is the Commission's responsibility to achieve the congressional mandate to ensure that all Americans have access to quality, affordable, high-speed Internet and voice services. The Commission should not cap the Universal Service Fund, and should instead increase its efforts to close the digital divide.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Brian Thorn". The signature is fluid and cursive, with a large initial "B" and a long, sweeping tail.

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