



Oct. 20, 2011

Chairman Julius Genachowski
Commissioner Michael Copps
Commissioner Robert McDowell
Commissioner Mignon Clyburn
Federal Communications Commission
445 12th St. SW
Washington, D.C. 20554

**Re: Notice of *Ex Parte* presentation in: WC Docket No. 10-90; WC Docket 07-135;
GN Docket No. 09-51; CC Docket 01-92;
WC Docket No. 05-337; CC Docket 96-45;
WC Docket No. 03-109**

Dear Mr. Chairman and Commissioners:

The Schools, Health and Libraries Broadband Coalition (“SHLB Coalition”)¹ writes to provide additional clarification of its request that recipients of funding from the Universal Service Fund (USF) to deploy broadband networks in rural and high-cost areas be required to deploy high-capacity broadband networks to serve community anchor institutions.

Four Members of the U.S. House of Representatives recently urged the Federal Communications Commission (FCC) to “consider ways to require broadband providers that receive USF support to build-out broadband networks in rural areas to deploy high-capacity broadband to anchor institutions.”² This Congressional letter is consistent with the filings submitted by the SHLB Coalition and others in this proceeding. The record shows that there is a shortage of high-capacity broadband capacity to anchor institutions and that broadband providers are unlikely to provide anchor institutions with sufficient, high-capacity broadband unless the Commission takes steps to ensure that anchor institutions receive the high-capacity

¹ The SHLB Coalition includes a wide range of entities that share the goal of promoting affordable, open, high-capacity broadband to community anchor institutions. A full list of our members is available at www.shlbc.org.

² See, Letter from Reps. Matsui, Eshoo, Markey and Doyle, to Chairman Genachowski, issued on Oct. 17, 2011 (attached to this filing).

broadband service that they need. The SHLB Coalition respectfully offers its suggestions to accommodate those needs in section 3 below.

1. The list of “community anchor institutions” has been addressed by the FCC, by NTIA and by Congress.

The Further Notice of Proposed Rulemaking in this proceeding identified anchor institutions as follows:

Community anchor institutions are large potential customers of broadband that could reduce broadband-related costs in unserved areas by aggregating demand, and could include institutions such as K-12 schools, community colleges, colleges and universities, town halls, federal and corporate research laboratories, libraries, museums, hospitals, and clinics.³

The National Telecommunications and Information Administration (NTIA) defined anchor institutions in the Broadband Technology Opportunities Program (BTOP) as follows:

Community anchor institutions means schools, libraries, medical and healthcare providers, public safety entities, community colleges and other institutions of higher education, and other community support organizations and agencies that provide outreach, access, equipment, and support services to facilitate greater use of broadband service by vulnerable populations, including low-income, the unemployed, and the aged.⁴

Note that the letter from Representatives Matsui, Markey, Eshoo and Doyle also included “community media” in its list of anchor institutions.

2. It is not sufficient for the FCC simply to “encourage” or “expect” recipients of USF support to build high-capacity broadband to serve anchor institutions. As stated by the Members of Congress, the FCC must “require” recipients of funding to provide adequate broadband capacity to anchor institutions.

The record is replete with examples of how anchor institutions suffer a shortage of broadband capacity today, and this shortage will likely increase in severity as the broadband needs of

³See, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, FCC 11-13, released February 9, 2011 (“CAF NPRM”), note 248.

⁴ See, NTIA Notice of Funds Availability, Federal Register, Vol. 75, No. 14, January 22, 2010, p. 3797.

anchor institutions expand. History shows that broadband providers traditionally focus on business and residential consumers and sometimes overlook libraries, schools, health care providers, and other anchor institutions.

To address this broadband shortage going forward, the SHLB Coalition is not requesting a specific minimum amount of capacity, a specific dollar amount of investment, or the build-out of a specific technology. The needs of each anchor institution will vary significantly from location to location, based on their size, number of simultaneous networked devices, environment and geography, etc.

3. We suggest that the FCC’s Order on USF reform should include the following obligations on each recipient of funding:

- a. An obligation to identify and reach out to the anchor institutions in the recipient’s service territory to determine their broadband needs, today and in the future (a “needs assessment”);
- b. An obligation to engage in “best efforts ” to deploy the amount of capacity needed by each individual anchor institution;
- c. An obligation to report to the FCC every six months on its efforts to reach out to the anchors in its service territory and to deploy sufficient broadband capacity to them;
- d. An opportunity for anchor institutions to file a complaint against any broadband provider that fails to comply with the requirements of a. through c. above, with the possibility that such a broadband provider could be subject to fines or penalties.

We believe that the above methodology is a reasonable way to try to address the needs of anchor institutions without imposing overly restrictive burdens on the recipients of funding. The recipients of funding should be given flexibility in determining how to identify and reach out to the anchors in its area, such as through letters, surveys, phone calls, individual or community meetings, establishment of a web page that allows anchors to register and request broadband capacity, etc. We also note that there are associations or state agencies (e.g., American Library Association, state utility commissions, state library and education departments, etc.) that can assist providers in identifying anchor institutions. Furthermore, some of these associations or agencies already have considerable data on the broadband needs of their constituent anchor institutions. The recipient’s “best efforts” could include incorporating anchor institutions’ needs into the design of the recipient’s broadband network build, and/or efforts to aggregate anchor institutions onto a shared, high-capacity network.

The SHLB Coalition thus respectfully suggests that the FCC consider adding the following language to its Order on USF reform:

Community anchor institutions play a critical role in serving the educational and economic needs of their communities and are often the sole source of free Internet access to public/government services for millions of people. Providing high capacity affordable connections to community anchor institutions allows these organizations to support national purposes such as education, economic development, workforce development and job readiness, health and wellness, and civic engagement. But the broadband needs of anchor institutions are sometimes overlooked, in part because of the service providers' traditional focus on residential and business consumers. The record in this proceeding demonstrates that anchor institutions often suffer from a shortage of high-capacity broadband capacity, especially in rural and high-cost areas.⁵

For these reasons, we require recipients of [Universal Service Fund/High-Cost Fund/Connect America Fund] support to take steps to address anchor institutions' needs for high-capacity broadband. In particular, we require recipients of funding to identify and reach out to the anchor institutions in their service territories to determine their current and future needs for additional broadband capacity (a "needs assessment"). We will allow the recipients some flexibility in determining these broadband needs – whether through surveys, individual or group meetings, web pages, working with community anchor organizations or state agencies, or by other means. Recipients of funding must also engage in "best efforts" to address those needs in their broadband deployment plans, such as incorporating the needs of anchor institutions in the design of their broadband networks, deploying additional capacity specifically to individual anchor institutions, or aggregating several anchor institutions onto shared, high-capacity networks.⁶ Recipients of funding will be required to file semi-annual

⁵ The National Broadband Plan found that 29% of the 3700 rural health care clinics were located in areas where mass-market broadband was not available. (Chapter 10) The National Broadband Map developed jointly by the FCC and the National Telecommunications and Information Administration (NTIA) stated that anchor institutions are "largely underserved." (NTIA Press Release, Feb. 17, 2010). (High-Speed Broadband Access for All Kids: Breaking Through the Barriers," June 2008, p. 6) The State Educational Technology Directors Association (SETDA) found that most schools have less broadband capacity than the average home. A study by the Bill & Melinda Gates Foundation found that Rural libraries had much slower connection speeds than urban or suburban libraries – 77% of rural libraries had connections less than 5 Mbps, compared to 46% of urban and 59% of suburban libraries. (Broadband Assessment Project, Sept. 17, 2009) In a November 2010 survey by the American Library Association 46% of rural libraries nationwide reported they had insufficient bandwidth to meet the needs of staff and patrons (http://www.ala.org/ala/research/initiatives/plftas/2010_2011/index.cfm. p. 31)

⁶ Because there are roughly 325 to 575 homes for every anchor institution, incorporating the needs of anchor institutions into the design of the network will take advantage of the efficiencies of shared networks and will not

reports documenting the measures that they have undertaken to comply with these requirements. Anchor institutions will be permitted to file complaints with the Commission against any broadband provider that fails to comply with these obligations. The Commission retains the authority to impose penalties on any provider that fails to comply with these requirements.⁷

The SHLB Coalition believes these measures are both reasonable and necessary. After all, the general public pays into the USF; it is thus fair that the disbursement of funds should benefit community anchor institutions whose mission is to serve the general public. The limited requirements set forth above would be a positive step toward improving the capability of health care providers, libraries, public safety, community media, schools, museums and other anchor institutions to serve their communities using high-capacity broadband services. Further, including anchor institutions in the broadband network design will leverage the limited resources of the Fund, take advantage of the efficiencies of shared broadband infrastructure, and have important economic stimulus benefits for rural communities across America.

Sincerely,

A handwritten signature in black ink that reads "John Windhausen, Jr." with a stylized flourish at the end.

John Windhausen, Jr.

Director

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impose significantly additional costs on broadband providers or require additional funding from the USF. See, SHLB Coalition filing in this proceeding on Aug. 24, 2011, p. 15.

⁷ The precise form of the reporting requirements and complaint process will be determined in a subsequent proceeding.