

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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| In the Matter Of |) | |
| |) | |
| Report on the Future of the Universal |) | WC Docket No. 21-476 |
| Service Fund |) | |
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**COMMENTS OF THE
SCHOOLS, HEALTH & LIBRARIES BROADBAND (SHLB) COALITION**

The Schools, Health & Libraries Broadband (SHLB) Coalition¹ appreciates this opportunity to submit comments in response to the Commission’s Notice of Inquiry on the future of the Universal Service Fund (USF).² The SHLB Coalition’s mission is to promote open, affordable, high-quality broadband for anchor institutions and their communities, and the continuation of a robust and well-functioning federal USF is essential to achieving these goals.

INTRODUCTION

Universal service funding is vitally important to the country. Consumers of all types need affordable, high-quality broadband connections to perform basic tasks, including distance learning, remote work, virtual doctor’s appointments, and access to online government resources. This has been particularly highlighted during the pandemic but will continue to remain the case after it eventually ends. Ensuring that all people are connected to each other creates a fabric of interdependence that makes the country stronger and more effective. Enhancing broadband connectivity improves the quality of our lives and should remain an important national goal well into the future.

¹ The SHLB Coalition is a broad-based public interest coalition of organizations that share the goal of promoting open, affordable, high-quality broadband for anchor institutions and their communities. SHLB Coalition members include representatives of schools, libraries, health care providers and networks, state broadband offices, private sector companies, state and national research and education networks, and consumer organizations. See <http://shlb.org/about/coalition-members> for a current list of SHLB Coalition members.

² *Report on the Future of the Universal Service Fund*, WC Docket No. 21-476, Notice of Inquiry, FCC 21-127 (Dec. 15, 2021) (*NOI*).

The communications marketplace has changed dramatically over the 26 years since passage of the Telecommunications Act of 1996, which created the USF. In the Infrastructure Investment and Jobs Act, Congress wisely directed the Commission to re-evaluate our universal service system and promulgate a report discussing ways to improve the Commission's effectiveness in achieving universal service for broadband.³ In this report, the Commission may make recommendations to Congress on actions the Commission and Congress could take to achieve these goals.⁴ The Commission is also to examine ways in which the Infrastructure Act will affect the achievement of universal broadband.⁵

The Infrastructure Act's \$65 billion in broadband funding will be highly beneficial in improving everyone's access to quality high-speed broadband services. This funding, however, is not the end of the story in achieving nationwide connectivity. Broadband connectivity is an evolving and ongoing need. The programs of the federal USF remain necessary and must be updated to achieve goals the Commission correctly identifies as "universal deployment, affordability, adoption, availability, and equitable access to broadband throughout the United States."⁶ In particular, the recent influx of appropriated funding is intended to cover a large portion of the costs to initially deploy broadband networks in rural and hard-to-reach areas, with a focus on residential consumers.⁷ Given this, the USF should focus on funding build-out costs for anchor institutions, ongoing network expenses and other digital inclusion needs that are not

³ Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429, div. F, tit. I, § 60104(c) (2021) (Infrastructure Act).

⁴ *Id.*

⁵ *Id.* § 60104(b).

⁶ *NOI*, FCC 21-127, ¶ 18.

⁷ Anchor institutions are given third priority in the Broadband Equity, Access and Deployment (BEAD) program, which makes it even more important that the FCC address the needs of anchor institutions through the USF.

addressed by the federal build-out programs to ensure that broadband is available, affordable, and accessible to everyone.

To ensure that the USF continues to achieve these goals into the future, the Commission should take some specific actions to improve the effectiveness of its programs. Specifically, the Commission should:

- Immediately act to fix the broken USF contribution system;
- Revise the E-rate program's cost allocation rules to enable community use of E-rate funded networks and increase applicants' ability to secure these networks by making cybersecurity expenses eligible for support;
- Increase funding for and transparency into the Rural Health Care programs by raising the funding cap, disclosing funding information publicly and establishing deadlines for action on applications; and
- Ensure that all anchor institutions are included in both mapping and funding efforts.

The Commission should also recommend that Congress take the following actions to achieve the nation's broadband goals:

- Require the inclusion of anchor institutions in any federally-developed broadband maps and establish a separate program within the USF to provide broadband support for all anchor institutions;
- Make permanent and ensure sufficient funding for the Emergency Connectivity Fund (ECF) and the COVID-19 Telehealth programs; and
- Provide additional funding for the Rural Healthcare Program and mandate changes to enhance its functionality.

With these steps, the USF will become an even more effective tool to make broadband available, affordable, and equitable for all.

I. COMMISSION ACTIONS THAT WOULD IMPROVE THE UNIVERSAL SERVICE FUND PROGRAMS

As discussed above, there are steps the Commission could take that would improve the ability of the USF to deliver broadband successfully throughout the nation.

A. Fix the Broken Universal Service Fund Contribution System

The Commission should take immediate action to reform and stabilize the funding mechanism that supports the USF. The base of telecommunications revenues on which contributions to the fund are assessed has been shrinking precipitously for many years. As a result, the contribution factor assessed on these revenues has increased precipitously as well. This existing funding regime results in discriminatory and unfair treatment to different types of consumers, including low-income consumers who still use voice telephone service and pay into the fund when others using similar services do not.

Currently, all of the USF programs distribute funding for broadband, yet broadband services do not contribute into the fund. The Commission should address this disparity by expanding the list of services that pay into the fund to include broadband internet access services. According to a report commissioned jointly by SHLB, INCOMPAS and NTCA—the Rural Broadband Association, taking this step could reduce the contribution factor from its current double-digit levels to less than 4 percent.⁸ This action would be straightforward to administer and would better reflect the evolving use of services, while also eliminating the discriminatory treatment of residential and business consumers under the current contribution system.

B. Enhance the Reach and Security of E-rate-Supported Services

In the E-rate program, the Commission should revise the cost allocation rule to enable expanded community use of E-rate-funded networks. This would allow existing facilities and services funded by the E-rate program to be used for educational purposes to serve students, teachers, and library patrons off-campus and outside of the school day. Currently, a school district or library that enables extensions from its network for remote learning for its students off

⁸ See USForward, Matthey Consulting, LLC, [https://www.shlb.org/uploads/Policy/Policy%20Research/SHLB%20Research/FINAL%20USForward%20Report%202021%20for%20Release%20\(1\).pdf](https://www.shlb.org/uploads/Policy/Policy%20Research/SHLB%20Research/FINAL%20USForward%20Report%202021%20for%20Release%20(1).pdf), 16 (Sept. 2021).

the school or library grounds has to allocate its costs between the E-rate supported services or the non-E-rate services, resulting in a decline in E-rate support for the school or library. This discourages schools and libraries from maximizing use of their networks to support connectivity to the surrounding community.

The Commission should also enable schools and libraries to use E-rate funds for cybersecurity expenses. Cybersecurity has become an increasingly critical safeguard to protect the integrity of E-rate funded networks. Both schools and libraries have been subjected to an increasing number of cyberattacks over the last several years. The FBI issued a joint advisory in December 2020 based on an increase in ransomware attacks against K-12 educational institutions.⁹ A report examining cyberattacks found an 18 percent increase in the number of such attacks on K-12 educational institutions in 2020.¹⁰ At a minimum, the Commission could include cybersecurity expenses as a Category 2 service on the E-rate eligible services list without changing the size of the Category 2 budget, allowing schools and libraries flexibility to use Category 2 E-rate support for cybersecurity or other expenses. Ideally, however, the Commission should increase the Category 2 budget for applicants to account for the cost of cybersecurity services.

C. Increase Funding, Transparency and Timeliness of Decisions in the Rural Health Care Program

To improve the Rural Health Care programs, more funding is going to be needed to ensure that healthcare providers have sufficient broadband capacity to meet the telemedicine needs of the future. The COVID pandemic has changed the healthcare marketplace forever;

⁹ Joint Cybersecurity Advisory: Cyber Actors Target K-12 Distance Learning Education to Cause Disruptions and Steal Data, Federal Bureau of Investigation, Cybersecurity and Infrastructure Security Agency, and Multi-State Information Sharing and Analysis Center, https://www.cisa.gov/uscert/sites/default/files/publications/AA20-345A_Joint_Cybersecurity_Advisory_Distance_Learning_S508C.pdf, (Dec. 10, 2020).

¹⁰ The State of K-12 Cybersecurity: 2020 Year in Review, K-12 Cybersecurity Resource Center and the K12 Security Information Exchange, <https://k12cybersecure.com/wp-content/uploads/2021/03/StateofK12Cybersecurity-2020.pdf>, at 3 (Mar. 10, 2021).

patients, medical staff and insurance companies now recognize that telemedicine is becoming the norm. While the Commission has been able to handle the increase in demand for funds by rolling over unused funding from previous years, this is not likely to be the case in the future. The demand for RHC funding has been artificially constrained because of processing delays and uncertainties over the rules. Now that the Commission and USAC are improving the program's operations, more healthcare providers are likely to seek funding in the future.

Furthermore, the Commission should take steps to ensure that stakeholders have as much information as possible. The Commission has recognized the importance of transparency in the program and the need for USAC to “release[e] RHC Program data in as open a manner as possible so that health care providers that receive support from the RHC Program and their associated service providers can view funding request and pricing information, track the status of their RHC applications and requests for discounts, and so that they, and the public at large, can benefit from greater program transparency and public accountability.”¹¹ Therefore, the Commission directed USAC to “publicly file in the Commission’s docket for the RHC Program a gross demand estimate for each funding year. We direct the Administrator to file this gross demand estimate 30 days prior to the start of the pertinent funding year.”¹² Consistent with this directive, the Commission should instruct USAC to make publicly available as soon as possible information on program funding demand. This information is important to know given the cap on rural health care support and the potential effect on funding if the cap is exceeded.

In addition, to provide certainty for program participants regarding their funding, the Commission should establish a deadline by which USAC must process applications. Given the growth in demand for the Rural Health Care programs, the Commission should ensure that

¹¹ *Promoting Telehealth in Rural America*, WC Docket No. 17-310, Report and Order, 34 FCC Rcd 7335, 7432, ¶ 212 (2019).

¹² *Id.* at 7416, ¶ 176 n.532.

USAC improve its efforts to resolve open issues and review pending applications more quickly. SHLB members report that their applications often take 6 to 7 months (and sometimes longer) before being approved. Some RHC applicants must prepare applications for the next year before they know whether the previous year's application was approved or not. The SHLB Coalition suggests that the Commission adopt a goal that USAC will complete its review of all applications within four months of the close of the filing window. The Commission should track and issue public reports on USAC's success in meeting this goal.

D. Include Anchor Institution Locations in the Commission's High-Cost Programs and Mapping Efforts and Focus on Upload Capacity

The Commission can improve the availability of broadband service by ensuring that community anchor institutions are included in the locations to be served by broadband providers who receive support from the universal service high-cost programs, including the Rural Digital Opportunity Fund (RDOF). Enhancing the broadband capabilities of community anchor institutions is especially beneficial for those most likely to lack broadband: those in rural areas, low-income consumers, disabled and elderly persons, students, minorities, and many other disadvantaged members of our society. When a provider is awarded funding to build a broadband network serving homes in a rural or high-cost area, it improves the economic sustainability of the network build if it also serves the anchor institutions in that community.

Similarly, the Commission should ensure that community anchor institutions are fully accounted for in the Commission's broadband mapping efforts. As the SHLB Coalition has often pointed out, community anchor institutions should be treated as an independent category, separate from both businesses and residences. By their very nature, anchor institutions typically serve dozens, hundreds or even thousands of people, expanding the reach of broadband access into unserved areas or populations. These institutions also require high-capacity bandwidth,

making it essential to know where they are located and whether or not such service is available to that specific location.

The Commission should include information about apartment buildings and housing complexes, which we submit are a type of anchor institution. The deployment of Wi-Fi infrastructure in multi-tenant environments (MTEs) is explicitly authorized as an eligible use of broadband deployment dollars as part of the Broadband Equity, Adoption & Deployment program (“BEAD”). Congress went even further and recommended that states prioritize this deployment strategy in buildings that are “substantially unserved” or are in high-poverty areas. SHLB applauds Congress for recognizing that this deployment strategy has the potential to connect millions of very low-income renters and communities of color – which represent a large percentage of the most unconnected households in America.

The FCC maps as currently envisioned will identify an MTE as a single broadband-serviceable location but will not provide states with a more granular view of the connectivity status of individual households within an MTE. For this reason, it is critical that the FCC and NTIA agree that states be allowed to supplement the FCC DATA maps to identify unserved MTE households and all other anchor institutions as well. This will allow states to accurately prioritize getting these unserved households and institutions connected as soon as the BEAD funding becomes available to states.

Finally, in determining speed benchmarks for broadband funding eligibility, the Commission should examine the need for additional upload capacity. Although the Commission has always established requirements for both downstream and upstream broadband speeds, the required upstream speed has always been significantly slower than the required downstream speed. For example, the speed tiers in the recent RDOF auction were 25 Mbps downstream/3 Mbps upstream, 50 Mbps downstream/5 Mbps upstream, 100 Mbps downstream/20 Mbps

upstream, and 1 Gbps downstream/500 Mbps upstream.¹³ While residential consumers historically have required greater downstream than upstream capacity on average, the need for more upstream capacity is increasing as people produce and exchange videos and other bandwidth-rich content. During the pandemic, the widespread use of video conferencing apps for at-home workers, as well as virtual learning and telemedicine appointments have increased the need for upstream bandwidth, and the use of these services will continue after the pandemic. The projected expansions of virtual reality applications also point to a need for faster upstream speeds in the not-so-distant future. The Commission should ensure that its upstream speed requirements reflect this growing demand with the goal of ensuring symmetrical speeds.

Another step the Commission should take to improve broadband availability is to ensure that high-cost support recipients are complying with requirements to submit bids in response to E-rate Form 470 requests for Category 1 services within their supported areas.¹⁴ The Commission adopted this requirement for recipients of RDOF support and should extend it to all recipients of federal high-cost support.

E. Adopt a Funding Program to Support Anchor Institutions

Due to the important role community anchor institutions play in providing broadband services to those that otherwise lack it, the Commission should consider establishing a separate funding program for anchor institutions that are not eligible to participate in the E-rate and Rural Health Care programs.

Anchor institutions, including colleges and universities, schools, libraries, museums, healthcare organizations, public housing, and other not-for-profit community organizations, are important stakeholders that can help achieve the nation's broadband goals. It is extremely

¹³ *Rural Digital Opportunity Fund; Connect America Fund*, WC Docket Nos. 19-126 and 10-90, Report and Order, 35 FCC Rcd 686, 702-03, ¶ 31 (2020).

¹⁴ 47 C.F.R. § 54.805(c).

important that all anchor institutions in the country are connected to gigabit capacity or more as soon as possible. The Commission should take steps to do this by creating a new funding program under the USF umbrella, as the Commission did in establishing the Connected Care pilot program.¹⁵

II. CONGRESSIONAL ACTIONS TO IMPROVE THE UNIVERSAL SERVICE FUND PROGRAMS

The SHLB Coalition recommends that Congress take legislative action consistent with many of the recommendations stated above. Specifically, Congress should mandate the inclusion of community anchor institutions in federally-funded mapping efforts. Additionally, Congress should direct the Commission to establish a separate universal service program to fund gigabit-speed broadband services to and digital literacy efforts by all anchor institutions.

Congress also should make permanent what are currently temporary COVID-related programs that serve to advance the nation's broadband goals. Specifically, the Emergency Connectivity Fund (ECF) program should be made available on an ongoing basis. The importance of being able to learn from home came to the forefront during the pandemic but will not disappear when the pandemic ends. Congress should therefore provide additional funding to sustain the ECF program beyond the current school year. Similarly, Congress should make permanent the COVID-19 Telehealth Program to ensure that health care providers are able to promote patients' ability to receive health services at home. In doing so, Congress should take steps to ensure that rural hospitals and health clinics, which have fewer doctors and often sparse medical infrastructures in place, are able to connect to urban specialists.

The SHLB Coalition also recommends that Congress take the following specific actions to improve the Commission's existing Rural Health Care programs:

¹⁵ The Commission could establish this program pursuant to its authority to make communications services available to all Americans at reasonable rates under sections 1 and 4(i) of the Communications Act, and, under sections 201, 205 and 254 of the Act as well. 47 U.S.C. §§ 151, 154(i), 201, 201 and 254.

- Broaden the definition of “rural” (using U.S. Census criteria) for purposes of determining healthcare provider participation and funding prioritization.
- Create multiple higher flat-rate subsidy levels for some rural healthcare providers that participate in the program, depending on rurality.
- Mandate timely funding decisions, especially in years where gross demand is below the funding cap.
- Direct the Commission to raise the RHC program’s annual funding cap to ensure the program will accommodate the massive shift to remote healthcare that will continue post-pandemic.
- Provide a one-time appropriation of \$2 billion to augment (through 2026) the universal service contributions that fund the Rural Health Care programs.
- Allow Rural Health Care Telecommunications Program participants to fund equipment (such as routers) through the Healthcare Connect Fund when that equipment is needed to make an eligible service in either program functional.

III. CONCLUSION

As discussed above, the SHLB Coalition urges the Commission to ensure that the USF continues to function as an efficient and effective source to improve broadband connectivity for everyone in America. Specifically, the Commission should act immediately to fix the universal service contribution mechanism and should improve transparency into the workings of the various universal service programs. In addition, Congress should expand the USF to provide sufficient support for all anchor institutions to achieve the national goal of broadband for all.

Respectfully submitted,



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