

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

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| In the Matter of |) | |
| |) | |
| A National Broadband Plan for Our Future |) | GN Docket No. 09-51 |

**COMMENTS OF THE
BENTON FOUNDATION
CENTER FOR RURAL STRATEGIES,
THE RURAL POLICY RESEARCH INSTITUTE, AND THE
TELECOMMUNICATIONS AND INFORMATION POLICY INSTITUTE
AT THE UNIVERSITY OF TEXAS AT AUSTIN**

The Benton Foundation (Benton), The Center for Rural Strategies (CRS), The Rural Policy Research Institute (RUPRI), and the Telecommunications and Information Policy Institute at the University of Texas at Austin (TIPI) (collectively “Benton, *et al* or Commentors”) file these comments in the above captioned proceeding. These comments focus exclusively on the Universal Service Fund (USF). *See A National Broadband Plan For Our Future, Notice of Inquiry*, ¶¶39-41 (“*NBP NOI*”). Benton, *et al.*, recommend modification of existing USF programs, guided by the principles set forth below, to provide funds for building and maintaining a national broadband system that provides meaningful access to *all* Americans, particularly rural populations where provision of broadband would otherwise prove too expensive and where residents otherwise have few opportunities to received the necessary equipment and training to provide meaningful broadband access.

SUMMARY

Universal service programs, such as the high cost program and E-rate, have been essential in maintaining important services in those parts of the country. However, our current systems of separate rules and regulations by type of telecommunications service

are outmoded and dysfunctional. With services migrating to digital platforms that render distinctions between voice, data and video meaningless, it is prudent to rationalize USF in two ways.

Reform USF to mandate that all services use a broadband platform. We propose not to eliminate services, but to gradually move all funds into a single fund that leverages the ability of broadband to provide existing service. Achieving this will require creation of a new broadband fund, followed by a “phase out” of existing funds. Money from the new fund would go to support the same services, such as voice service, but only if provided over a broadband platform. This will keep the focus of the fund where it belongs – on providing service rather than subsidizing carriers – while expanding the capabilities available to recipients of USF-funded services to include access to broadband.

Expand USF to include equipment and training to make broadband access meaningful. As Congress recently recognized in the broadband section of the American Recovery and Reinvestment Act (ARRA), sustainable broadband policy must include more than laying lines and counting the number of residential connections. Our national broadband policy must provide access to people in a way that includes the necessary equipment and training that makes access meaningful. We therefore propose expansion of the new Universal Service Fund to include not merely build out and provision of service, but also any necessary customer premise equipment (CPE) and training needed so that all Americans can benefit from access to broadband.

Most importantly, the fund should not distinguish between recipients or create artificial barriers to the provision of services. For example, at present, funds such as E-

Rate contain regulations that prevent schools and libraries from “competing with the private sector.” These regulations include structuring the fund to provide a subsidy to existing carriers rather than paying for equipment or capital expenditures so that schools could operate their own networks, and prohibiting institutions from sharing their connectivity with residents to help solve the problem of “last mile” connectivity. The Commission should eliminate these artificial restrictions, whose sole purpose is to protect incumbents, as needless restraints that limit the capabilities of funded entities while increasing the cost of broadband in communities.

The New USF must reinforce the critical principles of our national broadband plan. The initial concept of the Universal Service Fund flowed from and reinforced the values for our national communications network as envisioned at the time Congress passed the Communications Act of 1934 and as set forth in Section 1 of the Act: “to make available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex, a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges.” In updating the fund for the 21st Century, the Commission should ensure that the fund rests on key principles that serve the public interest, as derived from the Communications Act, the First Amendment, and Commission precedent.

The principles that should undergird our national policy include:

- transparency: information about available network connection speed, pricing and availability should be transparent to any potential user;
- open networks: Open interconnection will contribute to innovation and best practices;

- technology neutrality: various technologies are capable of connecting people across the varied terrains and lands of the country, and policies should seek to maintain neutrality in terms of which technologies are appropriate, realizing that specific circumstances and purposes and costs should drive technology decisions;
- broad provider groups: non-profits and municipalities and other governmental units should be able to plan, manage and provide appropriate broadband networks in their regions.
- interrelated elements: to maximize effectiveness the needs, demands, networks, equipment, skills, capacity, and price are all interrelated in what might be seen as an “information ecology.”

By adopting this framework for reform in the National Broadband Plan, the Commission can use the universal service fund to drive rural connectivity, spur competition, and embed our most critical values in our national broadband network.

NATURE OF COMMENTORS

The parties filing these comments have expertise and a great deal of background in research and programs pertaining to rural regions in the United States as well as universal service policies.

- ***The Benton Foundation*** The mission of the Benton Foundation (“Benton”) is to articulate a public interest vision for the digital age and to demonstrate the value of communications for solving social problems. Benton is a longtime supporter of research on universal service and the potential of high-speed Internet connections for improving Americans’ lives.
- ***The Telecommunications and Information Policy Institute at the University of Texas*** has undertaken several research projects examining the impact of telecommunications on economic development in rural regions. It has worked with the Appalachian Regional Commission on determining the nature of the relationship between ICTs and growth in computer and Internet penetration as well as economic improvement; with the State of Texas on broadband deployment to schools, libraries, and communities; and with the Consumer Federation on gauging competition in Internet connectivity. It also has worked with the State of Texas in a statewide Broadband Task Force that assessed the status of broadband in the region, and conducted surveys for the Public Utility Commission and the Department of Information Resources in order to understand the dynamics of Internet connectivity around the state.

- ***The Rural Policy Research Institute*** (RUPRI) is a national, independent, and nonpartisan organization, based at the University of Missouri. It was established to provide unbiased analysis and information on the challenges, needs, and opportunities facing rural America, and to spur public dialogue and help policymakers understand the impacts of public policies and programs on rural people and places. It is part-funded by U.S. Congressional appropriation. RUPRI's core research, policy analysis, and outreach activities focus on rural health and human services, rural entrepreneurship, and rural and regional innovation, and through its Rural Telecommunications Panel has previously commented on rural Internet and broadband issues.
- ***The Center for Rural Strategies*** is a 501(c)(3) nonprofit that uses communications and organizing tools to help build support for positive change in rural policy. The Center for Rural Strategies conducts public information campaigns on rural issues and policy, helps develop communication infrastructure on behalf of rural communities and their allies, and assists rural organizations in planning and executing effective communications in support of their organizational goals. The Center for Rural Strategies is also the coordinating organization and fiscal agent for the National Rural Assembly, a network of approximately 500 organizations in 44 states working to create more effective policy for rural America.

ARGUMENT

These comments address the role and need for broadband policy in light of universal service considerations and the needs of rural US regions. As the Commission's recent report on rural broadband makes clear, much of rural America remains on the wrong side of the digital divide. *See Bringing Broadband To Rural America: Report On A Rural Broadband Strategy*, Released May 22, 2009 ("*Rural Broadband Report*"). The USF fund annually accumulates more money than the recent broadband stimulus package's allocation for rural build out. This makes USF an excellent tool for continuing the work begun the broadband stimulus – the work of developing sustainable universal broadband access for all Americans.

The work begins with recognition that USF service requires significant reform. The existing four funds share a common goal rooted in Section 1 of the Communications Act. Through the years, the goals of these funds have become fractured. Multiple bureaucracies increase administrative cost, while a hedge of regulations locks each fund into a set of narrow interests that seem at times more directed at serving incumbents than intended beneficiaries. And, while Congress and the Commission have recognized the importance of broadband to the fund through such innovations as the E-Rate Program, neither Congress nor the Commission has fully appreciated how convergence has made the artificial stovepipes in which the fund money is trapped increasingly unnecessary.

First, Commentors set forth five key principles on which USF reform should rest going forward. Next, we propose a mechanism for reforming the fund while preserving the important services provided by the current USF programs. Finally, we make suggestions as to possible transition mechanisms and funding mechanisms to make the proposal for a 21st Century Universal Service a Reality.

I. USF REFORM MUST REST ON FIVE KEY PRINCIPLES.

A successful reform of the existing USF programs will rest on five key principles: (1) A recognition that broadband services must be available to all Americans; (2) Achieving this will require expanding the scope of the program beyond the traditional orientation toward voice service and encourage voice carriers to include a wider universe of covered services and institutions eligible for funding – with a focus on rooting programs in local community “anchor” institutions; (3) This expanded focus must explicitly address issues related to adoption such as access to equipment and training, not merely focus on access to the “physical layer” of lines or towers; (4) Information pertaining to the programming

must be transparent and available to everyone; (5) The definitions of “unserved” and “underserved,” created for the first time in the broadband stimulus portions of the ARRA, must be carefully scrutinized in the context of USF to ensure ongoing support for rural and urban poor.

(1) Broadband or advanced telecommunications services need to be available to all Americans.

The principle of universality is key. If rural America is to play its full part nationally and globally, then access to broadband or advanced telecommunications is an essential prerequisite. Availability is a function of many factors such as deployment, ease of access, skills and capabilities, and affordability to the consumer. But while the Commission and Congress have traditionally focused on deployment, they have not – until recently – paid much attention to the issues of affordability, ease of access, or developing the needed skills and capabilities.

The issue of affordability is paramount. Few studies have tested the price sensitivity of broadband, and this idea is important to defining the “underserved.” Are people not subscribing to broadband, even when it is available locally, because it is too expensive? Because they simply do not want it? Many surveys (the Pew Internet and American Life Project has produced several) have found that a reliable percentage of people (often older) simply state that they have no need for broadband and Internet services. However, many people testify to cost issues preventing their use of broadband. When it comes to rural regions, where incomes typically are lower, this issue is especially important. We need to conduct economic studies that can model the price-subscribership relationship.

For example, we note that a recent survey conducted by the independent organization Connect Arkansas found in that state 29% of the population has never used the Internet, but in particular that over 50% of households with an income of less than \$30,000 had never used the Internet. This reaffirms the phenomenon many scholars have documented: as household income increases there is a significant increase in the use of the Internet.

Beyond this, however, there are few benchmarks regarding the appropriate cost of service, and few studies that rigorously examine the relationship between alternative service architectures and affordability. For example, some people have observed that the approximate cost of broadband subscriptions has been relatively invariant over the past five years. One might have expected the price to go down as a result of Moore's law operating on hardware (and software) factors; the realization of some economies of scale might also bring prices down as basic subscribership rose. However, this has not been the case. What are the legitimate costs for providing services? Are national subsidies such as universal service programs somehow contributing to price inflation? Are there rigorous price tests that can be ascertained? Would universal service funds be better spent on reducing middle mile transport costs that would create certain economies for rural phone companies providing DSL, or by activating additional "points of presence" in rural regions along the miles of fiber that cross the United States? In other words, are there some technological architectures that would better serve rural regions more cost-effectively, which in turn would mean lower prices for subscribers.

Beyond cost, the Commission must also ensure that access is meaningful. Do residents in rural areas have access to the necessary training to ensure that rural residents

can take advantage of broadband? Where can rural residents go to learn the necessary skills? Can USF recipients such as schools and libraries become hubs of training? How can other community organizations, such as community colleges or non-profit adult education programs, become centers of skills training?

Finally, how can rural residents acquire the needed customer premises equipment to take advantage of broadband? Should the government offer coupons, as it did in the digital conversion? Or should equipment purchase be tied to training, as has been the case in some successful urban programs? For example, the People's Emergency Center (PEC) in Philadelphia reported considerable success in a program that combined wireless access with training and gave students the opportunity to purchase the laptop they used in training at a discount, but only after completing the training.¹

Answering these questions is, of course, a critical element of the formulation of the plan. The new USF must be data driven in this regard, and the fund must have the authority to address all factors that impact affordability and access. Whereas the current fund limits expenditures to targeted technologies and narrowly defined recipients within the existing stovepipes, the newly structured fund should more closely resemble programs such as RUS and BTOP in that they focus on the goals sustainable broadband deployment and use, but leave greater flexibility to the respective agencies to determine how to meet these goals.

(2) Investments in technology-neutral and open infrastructure, a broader set of network managers and anchor tenants in rural regions, and transparency and accountability in public funding are required.

¹ See Matt Stone, "Wireless Broadband, A 'Silver Bullet for Poverty' (2004). Available at <http://www.muniwireless.com/reports/docs/CivitiumPEC.pdf>.

Many people agree that universal service requires reform. In terms of practical matters such as the amount of the fund, its sources of support, and its goals, there is widespread agreement that change is needed even if there is no broad consensus on precisely how to resolve these matters.

However, it is worth pointing out that the E-rate program and the Rural Health Care Program, two of the four major components of universal service, are exceptions to a universal service code that is framed historically in terms of *telephone* service. They are the two programs that explicitly invoke broadband services. We assert that universal service must embrace language that affirms that people in all regions of the country have access to affordable, quality *broadband* services.

In an IP environment, it makes no sense to carve out special regulations or policies for telephone service. We need to migrate the POTS model to a “broadband everywhere” model that aims for ubiquity and mobility. The goals of ubiquity and mobility should be embodied in a new FCC policy for broadband.

What does this mean for the four primary component programs that comprise universal service? First, the largest program in terms of funding (\$4.4 billion in 2008), the High-Cost Program, has traditionally supported telecommunications carriers serving high cost regions (mostly rural areas). Although upgrading lines, the core target of this fund, benefits the possible provision of broadband, that goal is insufficient alone to guarantee better broadband availability. Additionally, there has been extremely limited accountability regarding the expenditure of these funds to date. Since this program invests in actually building components of the overall network, the FCC’s broadband policy must acknowledge this taxpayer investment and seek to establish some

benchmarks for its operations. If broadband provision is to be technology neutral, funding in high cost regions must be available to other kinds of providers and planners, and it must specifically target certain service (speed and availability) levels. Appropriate services may incorporate wireless and fiber based technologies or broadband over powerline— in essence, the means of providing connectivity should be technology neutral. We note, for example, that in certain rural communities, data-enabled phone service constitutes meaningful access to the Internet. It may be that such services should fall under the “broadband umbrella” for our purposes. All such services should be eligible for some support, and all should be regulated equivalently. DSL and cable modem services have been an excellent start in broadband connectivity, but they need to compete with other methods of providing Internet access.

Additionally, as federal funding goes toward actually building networks, those networks should be open networks, i.e., they should offer nonproprietary access to other service providers. Further, our broadband policy must explicitly permit self-provisioning and permit public networks, municipalities and NGOs to be eligible for funding. The types of organizations offering broadband services should be broad. Conventional telecommunications companies have much to offer, but other organizations and teams of non-profits, municipalities, and other “anchor tenant” organizations may represent excellent service provider options in underserved or unserved regions, regions that conventional vendors have ignored. The advantages of government users as “anchor tenants” in low density regions seem clear. Using taxpayer dollars to shore up existing monopoly services makes neither economic nor pragmatic sense to anyone other than the monopoly. While we are mindful of arguments against government-subsidized

competition to existing provider companies, there are practical mechanisms that could be devised to address those objections.

In addition to furthering the goals of openness and enhanced competition embodied in the broadened eligibilities for public funding, we believe that any entities receiving universal service funding must share accurate information to efforts engaged in mapping broadband services, addressed in our fourth point below.

When it comes to rural areas, significant costs for smaller companies and providers occur in the “middle miles” fees. Universal service funds should be capable of underwriting "middle mile" capacity for certain carriers/providers. In essence, a broadband policy must focus on the entire infrastructure rather than simply the “end user” connections. We believe an integrated framework for monitoring and regulating the fees charged for transmission and interconnection of Internet services would benefit the overall goals of more equitable, affordable broadband.

Turning to the second largest universal service program, E-rate (in 2008 it received \$1.7 billion), we observe that the impact of the universal service program on schools and libraries has been the subject of at least some academic investigation as well as empirical investigation by the American Library Association. It is clearly much appreciated and used by students and teachers (schools), as well as by citizens (libraries). There appears to be widespread agreement that the E-rate program has proved its worth; indeed, many communities would be hard pressed to maintain either school- or library-based Internet services without it. However, supporting its continued expansion presents financial difficulties for the current universal service support scheme. Various reports by the Pew Internet and American Life project as well as others document the importance of

the library for Internet access: the library remains the only reliable “third place” where many people without home or work access to the Internet can find and use network resources. Our broadband policy should signal the importance of connectivity at these sites and seek to maintain or expand these institutions’ roles for broadband access in rural regions, where frequently there are no alternatives for publicly available broadband facilities.

There is much less evidence regarding the Rural Health Care and Low Income programs. Recently the FCC launched a Rural Health Care Pilot Program committing \$420 million over 3 years to fund 69 pilot projects in 42 states. The program required a 15% funding match, which has delayed starting many of the awarded projects. Perhaps NTIA/RUS funding under the Broadband Stimulus Program could qualify as matching funds. A pilot project applying broadband to the low income programs of Lifeline and Link Up has also been proposed. For both of these pilot projects financing for rigorous research and evaluation needs to be allocated from the core funding of the program. With the results of an evaluation in hand, the FCC can begin to establish reasonable goals for Internet connectivity in health services and possibly for broadband subsidy programs for lower income households.

(3) Broadband policy should address more than the availability of physical infrastructure. It should address the population’s ability to use the network to best effect and consider how we can stimulate demand and use in rural regions.

As noted above, in addition to affordability issues facing rural populations, capability issues likewise affect the use of Internet connectivity. Research conducted with rural populations in Appalachia and in counties in Michigan, Kentucky and Texas underscores the significance of individuals’ knowledge regarding computers as well as

the Internet in motivating people to use broadband services.² Programs to help targeted populations understand how to use the capabilities of the Internet are imperative if the technology investment in connectivity is to be justified. The *availability* of infrastructure alone simply is insufficient to guarantee the best use of it

Traditional community anchor institutions (e.g., schools, libraries, hospitals, and clinics) should be configured as centers for digital literacy and as hubs of community connectivity. Our broadband policy should provide an affordable broadband connection to every home, and sufficient training and outreach to ensure that the value of broadband is understood. This is not about reducing or eliminating service, but expanding service through new platforms. Some mechanisms that might be considered include: grants for Internet training programs for individuals in both unserved regions as well as underserved regions; training grants specifically for small businesses in rural regions to help them realize the potentials of Internet-based resources; support for related community-based Internet projects devoted to improving education and health opportunities. Revamped universal service goals should address these education and outreach efforts.

Community colleges in particular should be targeted for the expertise they can offer rural regions. They are typically the closest higher education entity serving rural populations, and they would be the likeliest to have adequate training facilities that could be made available.

Stimulating demand and wise use of broadband in rural regions is one element of what these locations require for true revitalization and parity with urban regions. A

² Oden, M. and S. Strover. (2004) 2004 Update: Links to the Future. The Appalachian Regional Commission, Washington, D.C.; LaRose, R., Gregg, J.; Strover, S.; Straubhaar, J., and Inagaki, N. (2008) Closing the Rural Broadband Gap, Final Technical Report, U.S. Department of Agriculture, available at <http://www.arc.gov/images/reports/telecomm/telecom.pdf>.

vision of broadband as a tool rather than simply an infrastructural element mandates having the educational and human capital to make the best use of this it. In that context, institutional support for rural leadership academies also should be considered. Such academies might be tasked with taking the long view of community-based needs and meshing those needs with appropriate opportunities presented by broadband opportunities. Our research has demonstrated that expertise is a rare commodity in many rural regions; therefore, having such academies dedicated to growing local expertise in technology (and other) matters may be an efficient and effective route to sustainable local development and appropriate exploitation of broadband.

(4) Network transmission connection locations, costs, speeds and other connectivity parameters should be broadly available and transparent to users as well as the provider communities. FCC Policy should support ongoing research and innovation in connectivity in order to insure hard-to-reach areas have appropriate options.

We are pleased that the FCC already has identified the mapping of broadband-related data as a high priority. Several states have initiated their own efforts to apprehend local broadband infrastructure and more importantly, where service gaps exist. In addition to the Recovery Act's direction that NTIA create an inventory of broadband service capability (connection speed) and availability, we believe cost data, though changeable, is also necessary. Because infrastructure capabilities and costs are dynamic, it is incumbent on a broad policy framework to insist on current data and to endorse mechanisms to capture its alterations.

Fundamental questions regarding why prices to subscribers have not changed, and why networks have not gotten demonstrably faster, remain. The answers to them require two things: (1) careful study of the real costs as well as (2) testbeds where alternative

service models can be evaluated. The latter should be a focus of the stimulus funds inasmuch as they can illustrate where high-cost support actually should focus. The testbeds we envision would entail community-wide platforms, preferably in underserved and unserved areas, involving different technologies and terms of service. These experiments can yield valuable information on how to orient the Commission's broader and longer term efforts to achieve broadband goals. Moreover, the conduct of such tests might become part of a broader policy espoused by the FCC to support research and innovation in connectivity.

(5) Definition of unserved, underserved, and rural created in the Recovery Act must be carefully considered to ensure that it serves rural communities and other marginalized communities going forward.

The Recovery Act has highlighted the issue of uneven deployment of broadband across rural America by introducing the terms “unserved” and “under-served” to describe geographies and populations that should receive priority for stimulus investment. Neither of these terms has been adequately defined. This is further complicated by requirements within the Act for Rural Utility Service investments to be focused largely on “rural” areas, a term that has multiple definitions across the Federal government. The National Broadband Plan will need to introduce some clarity in the use of these terms.

There is a general assumption that “unserved” refers to geographical areas that in whole or part currently lack terrestrial non-dial-up Internet access. “Unserved populations” by extension are people who live in these “unserved areas” or who, by virtue of their socio-economic status or demographic characteristics, are currently denied access to broadband services. Two divergent arguments stem from this definition. One argument is that “unserved areas and populations” will be prepared to accept a level of

broadband access that would not be tolerated elsewhere as it would represent some improvement on current services. This is a form of triage that will lead to the reinforcement of a two-tier nation as the market continues to drive faster speeds and higher levels of functionality in high value urban markets, leaving rural America further behind. The counterargument, which the authors support, is that if people and places are unserved, then that is because the market did not reach them; it is a primary justification for public investment to correct such market failures. This is given extra force, as some argue, that if communication is a fundamental human right, then access to broadband being essential to communication should also be regarded as a human right.

The definition of “underserved” areas and populations is mainly a function of two related factors. The first is speed -- specifying a level at which current terrestrial non-dial-up service is inadequate for everyday applications. The obvious challenge is that a minimum speed represents a rapidly moving target as consumer demand, product availability and technological advances push required broadband speeds, downstream and upstream, higher and higher. This is particularly true for applications such as telemedicine, telecommuting, and educational services that are increasingly important for rural America. The second factor is competition, itself an indicator of investment attractiveness in terms of population density, socio-economic composition, and growing economic activity. The more competition, the greater the likelihood of faster speeds, better service, and newer technologies. In areas with little or no competition, there is less incentive to lift areas out of “unserved” or “underserved” status.

Determining an appropriate definition of “rural” is a difficult and politically contentious issue. The 2008 Farm Bill requires the Secretary of Agriculture to make

recommendations on definitions to be used for determining the allocation of rural development investments. Until these new definitions have been considered and approved by Congress, the Rural Utilities Service propose to apply the 2002 Farm Bill definition, which targets places smaller than 20,000 people. This approach is based on Census definitions of urbanized places but allows the possibility of suburban and urban settlements to eligible for rural investments.

The Recovery Act provided \$350 million to NTIA to implement the Broadband Data Improvement Act, which required the preparation of state-level broadband data and mapping of deployment and demand, with a particular emphasis on unserved and underserved areas. To ensure that the best possible information is available to frame policy and guide investments, it will be critical that such broadband data collection and mapping meets certain tests. Data collection should be as detailed as possible including information on deployment, speed, cost, and adoption in a manner that is easily accessible in the public domain, granular, and verifiable.

II. MECHANISMS FOR TRANSITIONING THE FUND TO MATCH THE FIVE PRINCIPLES.

Commentors recognize that USF reform has been a long term goal of the Commission and Congress. The complexity of USF reform, the multiplicity of stakeholders, and the concern that “reform” does not become a mechanism for depriving the needy of necessary services have often proven impediments to real reform. To move forward, the national broadband plan must include a transition plan that will move from the current USF programs to a single fund that embodies the principles set forth above.

In doing so, the Commission and Congress must make clear that reform does not in any way shape or form diminish the need to provide lifeline service or maintain voice service in high cost areas. Rather, as noted above, a universally accessible IP-based platform can provide all the services provided under the current programs.

1. First step: Creation of the New Broadband Fund

The first step in the transition involves creation of the new fund implementing the principles outlined above. In creating this new fund, the Commission should carefully consider whether to locate the fund in the FCC, as is the case of the current fund, or in another agency, such as NTIA. While the FCC maintains general authority over communications in the United States and is tasked by the Communications Act with creating affordable access for all Americans, *See* Section 1, *See also* Telecommunications Act of 1996, Section 706, the structure of the FCC as a five member Commission has not lent itself to close supervision of existing funds. Nor does the FCC's structure allow for rapid response to new data and criticism of the fund. Rather than make a specific recommendation at this time, however, Commentors recommend exploring where to recommend to Congress to site the reformed USF as part of any proceedings undertaken under the National Broadband Plan.

The new fund must, of course, also have a source of funding. Here again, political consideration have often created difficulties. Because we propose merging the existing funds into the new fund over time, we anticipate that existing funding mechanisms can continue as integration goes forward. Nevertheless, any proceeding under the National Broadband Plan must provide a mechanism for seeding the initial fund and providing sustainable revenue through the transition. Again, we do not endorse a particular

mechanism at this time because of the need to consult stakeholders and because this represents the beginning of the process. However, we believe two mechanisms should be considered even at this early stage.

First, the FCC should consider a recommendation for a one-time transfer of half the existing fund into the new fund, and that half the revenues derived from the existing funding mechanisms will flow into the new, unified broadband fund. This will help facilitate the transition, as funding for existing recipients (subject to the transition mechanism described below) will be available through the general fund. As funding from existing sources continues to transition to the new, broader broadband fund, an increasing number of recipients of the current fund will voluntarily transfer to the new fund.

Second, as part of the conversion from a voice-oriented fund to a broadband-oriented fund, the Commission should consider whether to fund USF from a flat fee on broadband providers, encompassing all revenue derived from the same broadband “pipe.” This would open substantial new funding, while simultaneously eliminating the current political difficulty that arises in the current debate as various stakeholders seek to implement the old Washington adage “don’t tax you, don’t tax me, tax that fellow behind the tree.” In addition, by dramatically expanding the pool paying into USF, it would be possible to lower the USF contribution of any individual contributor as a percentage of annual revenue.

In considering such a mechanism, the Commission would need to determine whether to provide relief for certain kinds of entities, such as small businesses or non-commercial providers such as community-based coops. The question of whether the Commission could modify the fund in such a way under its own authority, or whether it would require

an act of Congress, also must be explored. Finally, Commentors wish to make clear that this proposal in no way replaces traditional franchise fees paid by cable operators or others to local and state governments. These fees derive from the local management of the public right of way – a matter utterly unaffected by the need to create a universal broadband access funding mechanism.

2. Transition existing services by requiring that all providers of existing voice service deliver service over a high-speed IP platform.

As noted, the transition must require that existing services move to a broadband platform. Commentors propose a fairly straightforward mechanism: phase out funding for non-IP based services. The technology exists to provide voice service by broadband. A mandate that the USF fund will provide support for voice and other lifeline services only if delivered by broadband will require existing recipients to support the transition of USF to a universal broadband access fund. Indeed, Commentors observe that the ARRA uses precisely this mechanism to require doctors, hospitals, and other medical institutions long hostile to electronic medical records to embrace the new technology. See American Recovery and Reinvestment Act.³

In making this transition, Commentors note that the service provided by broadband should, in addition to the functionalities of broadband access, provide

³ Title XIII Health Information Technology, Subtitle A Promotion of Health Information Technology, Part 2 Application and Use of Adopted Health Information Technology Standards; Reports, Sec 13112 Application to Private Entities:
Each agency (as defined in such Executive Order issued on August 22, 2006, relating to promoting quality and efficient health care in Federal government administered or sponsored health care programs) shall require in contracts or agreements with health care providers, health plans, or health insurance issuers that as each provider, plan, or issuer implements, acquires, or upgrades health information technology systems, it shall utilize, where available, health information technology systems and products that meet standards and implementation specifications adopted under section 3004 of the Public Health Service Act, as added by section 13101.

identical functionalities as available today. This includes such things as E911 and backup power in the event of blackouts. At present, broadband providers do not generally need to provide backup power, and the mechanics of E911 for VOIP remain in transition. Commentors do not suggest these problems must be generally solved before transition. Rather, as part of the transition, a provider receiving support from the high cost fund, for example, would need to demonstrate that it is providing voice through a broadband platform, and that the VOIP service provides the same E911 capabilities as the prior voice service, and reasonable backup power in the event of an emergency.

CONCLUSION

Commentors here recognize the daunting challenge of remaking the USF for the 21st Century. The steps above provide a basic roadmap for Congress and the Commission to engage in meaningful reform. By committing to transform the USF along the five principles outlined above, creating a new broader fund, and transitioning the existing funds to fold into the broader fund, our suggested National Broadband Plan can provide a mechanism that will ensure that rural America is not left on the wrong side of the digital divide. Instead of the unfortunate debate of the last few years which has pitted broadband access *against* traditional voice service, we can transition USF to provide meaningful universal broadband access *in addition* to the current services.

Respectfully submitted,

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