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RE: Comments on the Current and Future State of the Universal Service Fund

Senator Luján, Senator Thune, and Working Group Members:

Next Century Cities ("NCC")[1] submits these comments in response to the Senate's Universal Service Fund Working Group's request for comment on the current and future state of the Universal Service Fund ("USF").[2] Municipal leaders are on the front lines of the digital divide, responding to the needs and concerns of the communities they serve. As cities, counties, towns, and villages continue to innovate, local leaders are continually searching for ways to connect residents who are locked out of economic, wellness, educational, civic engagement, and other opportunities that are now exclusively online.

Currently, at least 42 million Americans have no access to broadband.[3] These Americans are disproportionately low-income and minority households.[4] The USF helps fill in the gap by providing funding for a myriad of programs addressing some of the largest variables that prolong digital disadvantages for disconnected residents. Without these important funding programs, the burden on local officials working to bring broadband within reach for every household in their communities will only increase.

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[1] Next Century Cities is a nonprofit nonpartisan 501(c)(3) coalition of over 200 member municipalities that works collaboratively with local leaders to ensure reliable and affordable broadband access for every community, while helping others realize the economic, social, and public health importance of high-speed connectivity.

[2] Universal Service Fund (USF) Working Group Request for Comment, https://www.lujan.senate.gov/usf/.

[3] *See* Natalie Campisi & Korrena Bailie, Millions Of Americans Are Still Missing Out On Broadband Access And Leaving Money On The Table—Here's Why (May 26, 2023), https://www.forbes.com/advisor/personal-finance/millions-lack-broadband-access/.

[4] *See* Computer and Internet Access in the United States: 2016, United States Census Bureau (Aug. 2018), https://www.census.gov/content/dam/Census/library/publications/2018/acs/ACS-39.pdf.

Lifeline:

The Lifeline program ("Lifeline") was established as a low-income assistance program in 1985. Originally, Lifeline only included voice service but was expanded to include wireless services in 2016.[5] Since the program's inception, Lifeline has been overhauled and improved to increase program integrity and expand broadband service across the nation.

Lifeline is structured to give consumers the choice between voice-only, broadband-only, or a bundled service that includes both voice and data from an approved wireline or wireless service provider. Lifeline service providers must meet certain minimum standards that have been the subject of scrutiny and necessary improvements over time. They must also receive an Eligible Telecommunications Carrier ("ETC") designation from a State Public Utility Commission or the Federal Communications Commission ("FCC" or "Commission") to participate in Lifeline.

Throughout the evolution of Lifeline, administrative changes have bolstered program integrity. For instance, the National Lifeline Accountability Database and National Verifier centralized eligibility determinations. These processes provide identity verification, address verification, and checks for prior enrollment. The National Verifier maintains connections with the Department of Housing and Urban Development's Federal Public Housing Assistance Program and the Center for Medicare and Medicaid Services' Medicaid participation in all states. It also connects automatically to state SNAP databases in 21 states.[6] Still, Lifeline enrollment has been on a steady decline since 2016.[7] Additional updates to the enrollment process would make it easier for low-income households to subscribe and ensure that households in need can participate in – and contribute to – a digital society.

Barriers to broadband adoption are most prevalent in low-income households nationwide.[8] Local officials are painfully aware of the many reasons why universal service is not just a priority during times of national emergency. Broadband goals are a central priority in economically resilient communities. Universal service means connectivity every day, regardless of events gripping the nation.

Lifeline helps to provide that type of certainty for low-income populations. As the Congressional Working Group explores ways to improve the USF, there are several areas that can make Lifeline more transparent and accessible.

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[5] Press Release, FCC, FCC Modernizes Lifeline Program for the Digital Age (March 31, 2016), https://docs.fcc.gov/public/attachments/DOC-338676A1.pdf.

[6] Universal Admin. Serv. Co., Database Connections, https://www.usac.org/about/affordable-connectivity-program/acp-processes/check-consumer-eligibility/database-connections/ (last accessed Aug. 23, 2023).

[7] Universal Admin. Serv. Co., 2018 Annual Report at 6, https://www.usac.org/wp-content/uploads/about/documents/annual-reports/2018/USAC-2018-Annual-Report.pdf.

[8] Monica Anderson & Madhumitha Kumar. Digital divide persists even as lower-income Americans make gains in tech adoption, FactTank (May 7, 2019), https://www.pewresearch.org/fact-tank/2019/05/07/digital-divide-persists-even-as-lower-income-americans-make-gains-in-tech-adoption/.

First, more data transparency is needed. Currently, the Universal Service Administrative Company ("USAC") only limits public information to Lifeline participation rates, total support disbursed to providers, and percentages of subscribers who qualify through each eligibility criterion.[9] Statistics such as breakdowns of funding by provider, funding uses, and enrollment data by provider would provide auditors and the public more insight into how money is spent.

Second, Lifeline only allows providers registered as ETCs to participate in the Lifeline program,[10] which is a significant regulatory burden for small and municipal providers that serve populations in the greatest need. The Affordable Connectivity Program ("ACP") has shown that additional regulatory hurdles can hamper overall program success. Accordingly, eliminating the ETC designation requirement for Lifeline would allow providers that would otherwise be unable or ineligible to participate.

Finally, the Lifeline program is a critical institution in and of itself. Since the 1980s, the program has run uninterrupted. Stability is necessary for consumers relying on Lifeline to stay connected to both data and voice services. As Congress explores reforms to the USF, it must keep the program separate from the ACP. While they may seem similar, their goals, eligibility criteria, and methodologies are different and incompatible.

One program provides a telephone and broadband option, whereas the other focuses on making broadband Internet service more affordable. Merging the two will confuse consumers as they will be forced to find a new provider and adopt a new service. Consumers are better served when Lifeline and the ACP remain as separate, complimentary programs.

E-Rate:

The E-Rate program provides schools and libraries with critical resources to reduce the costs of Internet services, infrastructure, and devices.[11] An institution is eligible for the E-Rate program when it meets the statutory definition of a school or library. A school must be a non-profit institutional day or residential school, which may include a public charter school. They must provide either elementary or secondary education as determined by state law. Public libraries include public elementary or secondary school libraries, academic libraries, research libraries, and private libraries. If an institution meets any of these definitions, it is considered eligible for the E-Rate program.[12]

However, the pandemic forced classrooms and libraries to extend far beyond their physical walls. Households on the wrong side of the digital divide became even more reliant on the digital resources that schools and libraries provide. The working group should explore avenues to make

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[9] Universal Admin. Serv. Co., Program Data, https://www.usac.org/lifeline/resources/program-data/#Lifeline-Subscribership-by-County-by-Service-Type (last visited Aug. 17, 2023).

[10] Universal Admin. Serv. Co., Join Lifeline as an ETC, https://www.usac.org/lifeline/get-started/join-lifeline-as-an-etc/#:~:text=Eligible%20telecommunications%20carriers%20(ETCs%2C%20or,the%20federal%20universal%20service%20fund (last visited Aug. 17, 2023).

[11] Federal Communications Commission, E-Rate: Universal Service Program for Schools and Libraries, https://www.fcc.gov/consumers/guides/universal-service-program-schools-and-libraries-e-rate (last visited Aug. 18, 2023).

[12] *Id*.

E-Rate funding usable for schools and libraries outside of their buildings. Expanding funding in this way would support distance learning for students in need and provide libraries with new ways to serve their communities.

E-Rate has consistently allowed schools and libraries to cover the essential costs of connectivity through services or devices. In the wake of COVID-19, educational institutions and libraries have stretched funding and creative problem-solving to their absolute limits. Working to make E-Rate funding usable for the new challenges that schools and libraries face is essential for modernization efforts.

High-Cost:
The High-Cost program provides necessary funds to help ensure that modern communications technologies reach rural and other remote areas. This program also helps to stabilize costs so that hard-to-reach consumers are not forced to pay exorbitant subscription fees for service.[13] Because this program affects both deployment and adoption of broadband service, its continuation is crucial for the success of the Broadband Equity, Access, and Deployment program ("BEAD").

BEAD-funded projects are required to prioritize connecting unserved and underserved communities. Many of the first projects will target rural and remote areas. Considering there is no designated component of BEAD that targets service affordability, a known barrier to adoption, the High-Cost program will have an important role to play in ensuring that the services offered in rural and remote regions of the United States remain viable and affordable long after the BEAD program has ended.

This is particularly true as the High-Cost program has been primarily responsible for accelerating the build-out and maintenance of infrastructure capable of providing speeds of 10/1 Mbps. Without a system in place to address future operational expenses and affordability concerns related to rural, BEAD-funded networks, providers may abandon operation in uneconomical markets.[14] Also, the assumption that the BEAD program will make the High-Cost program obsolete is misguided, particularly when circumstances could see more reliance than ever on the High-Cost program's existence.

Conclusion:
The USF continues to play a significant role in getting and keeping Americans connected. Without USF-funded programs, people most likely to be impacted by digital inequality – low-income populations, people in rural areas, those impacted by natural disasters, and others – will face unnecessary disadvantages. It will also be more expensive to provide them with access to critical government services. Efforts to modernize the USF should include the following actions.

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[13] Federal Communications Commission, Universal Service for High Cost Areas - Connect America Fund, https://www.fcc.gov/general/universal-service-high-cost-areas-connect-america-fund (last visited Aug. 18, 2023).

[14] Government Accountability Office, Broadband: National Strategy Needed to Guide Federal Efforts to Reduce Digital Divide (2022), https://www.gao.gov/products/gao-22-104611 (The GAO recommends that the Executive Office adopt a national strategy to align broadband programs and improve interagency coordination. Absent a national strategy, fragmentation could exclude disconnected communities from funding opportunities.).

1. Eliminate the ETC designation, making funds available to more providers that want to serve their communities.
2. Increase data transparency and allow public audits of USF funding.
3. Change the definition of classrooms. Congress should update the E-Rate rules to reflect new developments in distance learning.
4. Recognize that BEAD will not eliminate the need for the High-Cost Program.
5. Note that the ACP is not designed to be and cannot be a replacement for the Lifeline program.

Even though states and municipalities are gearing up for the largest amount of broadband funding ever to be administered, once new deployment projects and affordability programs come to an end, only the USF will remain as a continuing source of funding. Next Century Cities urges Congress to see the importance of this program. The Senate can start by increasing USF's robustness and flexibility rather than removing critical funding sources.

Respectfully Submitted,

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