

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Report on the Future of the Universal) XX Docket No. 21-476
Service Fund)
)

COMMENTS OF PUBLIC KNOWLEDGE

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February 17, 2022

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I. INTRODUCTION AND SUMMARY

Universal service has been a bedrock mission of the Commission’s mission since its formation in 1934. In fact, it is the first line of its enabling statute.¹ While recent Congressional funding is at a level that is once-in-a-generation, broadband requires ongoing investment, maintenance, and oversight, not just periodic infusions of cash, however welcome those may be. The good and hard work of the USF programs to ensure that all Americans have access to robust, affordable broadband services must continue.

Public Knowledge fully supports efforts to expand access for school children and library patrons to expand the opportunities for community use of E-Rate funded networks and building on the gains made through the Emergency Connectivity Fund. We also support Congressional or Commission actions to expand the opportunities in the Rural Healthcare Program like those funded by Congress in the COVID-19 Telehealth Program. Together these programs have

¹ 47 U.S.C. 151.

provided opportunities to assist people living in rural areas to utilize telehealth and telemedicine to the greatest extent possible to improve their health.²

In these comments, however, we focus on the important need for the Commission to coordinate with other federal partners in crafting their programs with a plan towards future reforms of the USF programs. In particular, as explained in these comments, we think there will be opportunities to further complement Congressional efforts through reforms to the high-cost program that recognize the need for providers to upgrade and maintain their networks, but also seek to promote greater network resiliency.

Similarly, we believe it is critical for the Commission to build on the bipartisan acknowledgment that too many families simply cannot afford what is an essential service – broadband, and the Commission should use its statutory authority to ensure that the Lifeline program is reformed such that it becomes the successor to the Affordable Connectivity Program, which has a defined amount of funding that will eventually lapse.

Moreover, we propose that the Commission integrate digital equity and inclusion into these programs to ensure that it meets its statutory obligation to make available “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” communications.³ That means putting in place structures to formalize consultation with minority communities, like those engagements pursued by the Office of Native Affairs and Policy. It also means ensuring that low income consumers that the Commission address other barriers to broadband adoption, specifically providing funding for devices.

² We intend to file reply comments in which we will provide our thoughts on the E-Rate and Rural Health programs.

³ 47 U.S.C. 151.

Of course, the one-time and temporary nature of the IJJA supported programs should not be taken as another opportunity by the Commission to delay reform of the contribution system that supports universal service funding. In these comments, we will also address the important need to reform the contribution mechanism, something that has long been delayed, but whose time has come. The Commission has authority to act now and it must.⁴

Because of the flexibility afforded to the Commission in implementing the policy objectives outlined by Congress in the universal service provisions of the statute, Public Knowledge offers only a few surgical suggestions that the Commission should consider requesting from Congress. Instead of seeking more prescriptive authority from a Congress that is not likely to revisit authority it has already conferred, we instead urge the Commission to move forward with modifications to the existing universal service programs in light of the funding Congress has made available to advance the cause of closing the digital divide.

The mission of USF and the Commission's role in advancing universal service is far from over. It is critical that the Commission see this once-in-a-generation funding more as an opportunity to take important steps it has not been able to (or willing to) in the recent past so that the goal of universal service can be fulfilled.

II. COORDINATION IS KEY TO MEETING THE GOALS OF UNIVERSAL SERVICE NOW AND IN THE FUTURE

As the Commission explains in the *Notice*, the report sought by Congress as outlined in the IJJA, calls for the Commission to provide Congress the "options of the Commission for improving its effectiveness in achieving the universal service goals for broadband in light of [the

⁴ 47 U.S.C 254(d).

IIJA].”⁵ The term “universal service goals” is defined as “the statutorily mandated goals of universal service for advanced telecommunications capability under section 706 of the Telecommunications Act of 1996 (47 U.S.C. 1302), which the Commission proposes to mean “universal deployment, affordability, adoption, availability, and equitable access to broadband throughout the United States.”⁶

Congress through various efforts since the beginning of the COVID pandemic has sought to provide funding to ensure rural and Tribal areas have access to broadband, rural residents have access to telehealth services, schoolchildren have access to broadband at home, low-income families are able to afford broadband service and devices, and anyone that needs it has access to digital literacy training.⁷ Congress rightly determined that these programs were needed because broadband is an essential service.⁸ These funding programs also validate the Commission’s determination that these are the appropriate universal broadband service goals.⁹

The funds provided by Congress, however, are temporary and not a substitute for USF; instead, they provide a real opportunity to further enhance the abilities of the USF programs to achieve the universal service goals. It remains to be seen how effective the newer Congressional programs administered by the Department of Treasury (Treasury), the United States Department of Agriculture (USDA) and the National Telecommunications and Information Administration (NTIA) will be since they are just starting the process of funding broadband projects. Early decisions from Treasury and USDA indicate a real opportunity to help close the digital divide

⁵ *Report on the Future of the Universal Service Fund*, WC Docket No. 21-476, Notice of Inquiry, FCC 21-127 at para. 4 (Dec. 15, 2021) (*Notice*); Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429 (2021) (*Infrastructure Act*).

⁶ *Id.* (citing *Infrastructure Act* at 60104(b)). [Notice at para. 4.]

⁷ *Notice* at paras. 5-15.

⁸ CARES Act

⁹ *Notice* at para. 19.

and in a meaningful way by focusing on funding future-proof networks and by promoting affordability and competition that will benefit consumers.

The Treasury and USDA programs took major steps in preferencing future-proof networks by encouraging applicants to center their projects on symmetric 100/100 Mbps speeds.¹⁰ They are also striving to create competition. For example, the USDA program offers a preference for communities seeking to deploy open access networks, an arrangement in which the network owner offers independent service providers an opportunity to use its network (often at wholesale rates) to offer broadband and other services direct to consumers, which can lead to competitive pricing and offerings as well as entry by alternative providers such as local governments, non-profits and cooperatives.¹¹ In addition, USDA offers a preference for proposals that address affordability based on the community the project would serve.¹²

The Commission should consider these programs as it considers reforms it could make to USF in the coming years. As NTIA stands up its program, many of the same issues and challenges faced by Treasury and USDA are under consideration. And as the Commission rightly notes, it is not intended to be an observer in these efforts, rather it has been asked by Congress to provide its expertise, through coordination.¹³ That expertise should focus the Commission on not only the immediate task of assisting NTIA, but should be an opportunity for the FCC to consider and identify modifications that may be needed to update the USF programs to meet the opportunity presented by funding in these other programs.

¹⁰ [Treasury Capital Projects Fund, USDA ReConnect Program](#).

¹¹ See [ReConnect Program - Evaluation Criteria](#).

¹² *Id.*

¹³ *Infrastructure Act*, 60102(m) (“It is the sense of Congress that Federal agencies responsible for supporting broadband deployment, including the Commission, the Department of Commerce, and the Department of Agriculture, to the extent possible, should align the goals, application and reporting processes, and project requirements with respect to broadband deployment supported by those agencies.”).

Pursuing such a purpose-driven coordination process will not only promote efficiency in the management of these critical resources but will ensure that the Commission's universal service programs are ready to be aligned with the universal service goals Congress is seeking to advance.¹⁴

Another area for coordination is the completion of the broadband map. Having a baseline understanding of where broadband is not available is not only critical to ensuring deployment funds are targeted to meet the needs of both unserved and underserved communities, but can assist these other agencies as they overlay additional demographic data to better understand how best to address the multi-faceted challenge that is broadband access. Congress set as a gating criterion the completion of the FCC's broadband map before release of funds provided to NTIA to states for meeting their approved plans.¹⁵ There has been much speculation about the timing of the map's release, which was why Public Knowledge advocated for permitting state-level mapping instead. But because Congress chose the FCC's broadband map, it is critical that the FCC do everything it can to get the map done. It is certainly our hope that the map will be completed before this report is due to Congress, but if it is not, then the Commission should consider making a part of this report a request to Congress to reconsider attaching funding disbursements to the FCC's broadband map and instead allow states to use maps they generate as part of the pre-planning process or that they have developed over the years.

III. SPECIFIC PROGRAMMATIC UPDATES TO UNIVERSAL SERVICE PROGRAMS TO MEET NEW CHALLENGES

In the following sections, we explain some key areas in which the Commission should report to Congress on changes it will consider to the USF programs it oversees.

¹⁴ Notice at para. 23.

¹⁵ *Infrastructure Act*, 60102(c), (e)(2).

A. ACP is Temporary, Lifeline Must be Modified Now to Become the Successor

In the *Notice*, the Commission seeks comment on a number of questions regarding Lifeline in light of the differences between it and the Affordable Connectivity Program established by Congress and administered by the Commission.¹⁶ We urge the Commission to consider the bipartisan Congressional actions to establish the ACP as a roadmap to the reforms it should undertake to transition Lifeline from its current state, in which the support provided is insufficient to cover the prevailing market price of fixed broadband, to a meaningful benefit that will help connect low-income families.

The Communications Act provides the Commission with great flexibility in developing the Lifeline program. Section 254(h) provides that “[n]othing in this section shall affect the collection, distribution, or administration of the Lifeline Assistance Program provided for by the Commission under regulations set forth in section 69.117 of title 47, Code of Federal Regulations, and other related sections of such title.” This was a recognition by Congress in 1996 that the Commission’s program, which it had begun in the 1980s under its use of statutory authority (and not at the specific direction of Congress), was a program it supported.¹⁷

The adoption of the ACP lays out before the Commission a more specific model for how Congress envisions low-income support should be calibrated. It provides for expanded eligibility, including a higher 200 percent or below federal poverty guideline and a broader list of other eligible assistance programs than allowed under the existing Lifeline program. It provides a level of support that more closely resembles the current market price of service, though the reduction means there is a broader gap between the average price of broadband (\$61.07) and

¹⁶ *Notice* at paras. 33-36.

¹⁷ Telecommunications Act of 1996, Conference Report, 104th Cong, 2nd Sess., S. Rept. 104-230 at 134.

what low-income consumers receive.¹⁸ It also expands opportunities for eligible providers that are not designated as eligible telecommunications carriers, so low-income consumers may have more choices in markets where there are options. Low income consumers are taking note and signing up. In fact, the week of February 14 marked the 10 millionth enrollment in ACP.¹⁹ While many more are eligible, this data suggests what we have known for years, price is a major barrier to broadband adoption and once given the support they need, low-income families will subscribe.

As the Commission considers what the ACP means for the future of Lifeline, it should consider starting a proceeding focused on modifications to the Lifeline programs to more closely match the ACP since it provides a more robust benefits to a greater percentage of low-income families.²⁰ While Lifeline will need to continue to support telephone service, modifications the Commission should consider would include expanding eligibility so more families can continue to subscribe to and receive the ACP equivalent benefit once the ACP funding is depleted. It should also look at the eligibility criteria Congress adopted and consider expanding Lifeline eligibility to match the low-income criteria that ACP captures.

Additionally, the Commission should continue to work to ensure that the enrollment process is as streamlined as possible. As the GAO found, nearly 68% of consumers required to go through the manual process of verification abandon that process.²¹ In the *Infrastructure Act*, Congress acknowledged the need for data matching to occur and included provisions that direct certain federal agencies to enter into memoranda of understanding with the Universal Service

¹⁸ [How Do US Costs Compare to the Rest of the World.](#)

¹⁹ [Fact Sheet: Biden-Harris Administration Announces 10 Million Households Enroll in Broadband Affordability Program, Thanks to Bipartisan Infrastructure Law.](#)

²⁰ Notice at para. 36.

²¹ Public Knowledge, Common Cause Comments, *Affordable Connectivity Program*, WC Docket No. 21-450

Administration to facilitate the sharing of data through the National Verifier.²² By initiating this process now, the Commission can ensure that the logistics needed to ensure consumer awareness and ease enrollment have time to work before the ACP funding is expended.

Moreover, the Commission should consider taking interim steps to ensure that low income consumers can afford the broadband services offered through ACP. Specifically, the Commission should consider reforming Lifeline so that consumers who are unable to subscribe to broadband because of the lowering of the support amount under the Emergency Broadband Benefit or simply cannot afford to pay the difference between the support amount and the price of service could use Lifeline as a supplement to their ACP support to ensure they can get connected. The Commission could use the \$9.25 support currently available under Lifeline during the initial phase and increase that amount over time as funding for ACP is expended.

Unfortunately, affordability is likely to remain a persistent challenge for low-income consumers. As such, the time to consider the future of Lifeline is now while the ACP provides much needed substantial, but temporary assistance.

B. Infrastructure Funding Takes Some Pressure off the High-Cost Program, But Maintenance, Upgrades and Other Operating Expenses Will Need to Be the Future Focus

In the *Notice*, the Commission seeks comment on changes it should consider in light of the funding provided through the *Infrastructure Act*.²³ The Commission notes that funding for operating expenses as well as capital expenses will remain even after the infusion of funding from NTIA's Broadband Equity, Access, and Deployment (BEAD) program and the Commission's own deployment funding efforts.²⁴ Funding provided through the Infrastructure

²² *Infrastructure Act* § 60502(e).

²³ *Notice* at para. 31.

²⁴ *Id.* at para. 30.

Act and past efforts by the Commission do not mean that the need for the high-cost program has ended. There will likely be gaps where deployment funding will be needed and those will need to be completed. As those areas reduce, however, the Commission should transition the high-cost program to address current needs, upgrading and maintaining networks and expanding the funding to include hardening networks to make them more resilient against the ever-increasing natural disasters. Moreover, the Commission seeks comment on whether it should consider increasing its speed requirement to more closely match the 100/20 Mbps under the BEAD program. The answer to that question is of course a yes to increasing speed requirements, but the Commission should consider the work at Treasury and USDA as well in setting its benchmark.

Networks do not run themselves; they require people, equipment, maintenance, and upgrades. These are the operating expenses a provider will incur in delivering service to their community. The Commission rightly recognizes that these expenses will still play a critical role in ensuring rural and Tribal communities remain served. The Commission must take these substantial expenses into account as it seeks modification to the Commission's rules so that any changes do not result in a shock to the system as the quantile regression and other reforms of the past decade did. Discipline and accountability are critical elements of a sustainable program, but not at the expense of extracting the marrow out of the bones of our communications networks.²⁵

The capital expenditures for many providers may indeed decline as a result of the funding provided through the Infrastructure Act and as with the Lifeline program reforms recommended above, the Commission should take this infusion of capital to achieve another public interest good that it has been constrained from seeking – ensuring that providers networks are hardened

²⁵ [*FCC Corrects Missteps and Pushes Forward on Reforms*](#) (Apr. 2014).

against disaster and that consumers have backup power sufficient to get them through power outages often associated with disasters.

As we noted in the *Resilient Networks* proceeding, the decentralized, low-cost, and competitive IP infrastructure that comprise our networks means that hundreds of millions of Americans no longer have access to communication services that can operate when their provider experiences an outage or the power grid goes dark. When a consumer's provider loses service or access to power today, communications—and their life-saving messages—cease. The Infrastructure Act provides for some opportunity to build resiliency, but the Commission's high-cost program could be the type of long-term funding source needed to address this need. The Commission, therefore, should initiate a proceeding in the coming months to determine how best to account for upgrading our communications networks through USF high-cost reforms to meet the requirements the Commission will likely adopt as part of the *Resilient Networks* proceeding.

Regarding the service requirements for future high-cost support, the Commission must update its definition of broadband and should in its Report to Congress commit to doing so. As noted in the *Notice*, the BEAD program administered by NTIA will set a minimum speed requirement of 100/20 Mbps.²⁶ However, other programs like those at Treasury and USDA have focused on encouraging the deployment of networks capable of symmetric 100/100 Mbps speeds. In assessing what service requirements the Commission should insist upon, it is important to coordinate with those agencies and to hear from the public about what makes sense. Holding back the opportunity for the USF high-cost program to help in closing the digital divide means updating the speed. Half measures and incremental steps should not be where we settle. It

²⁶ *Notice* at para. 32.

is worth noting that the average download speed in the United States is 143 Mbps.²⁷ Thus, it would seem that a majority of consumers have subscribed to these higher speeds.

The high-cost program should be viewed as the means by which the Commission delivers the robust, reliable networks needed. The statute does not present barriers to making these adjustments, so the Commission should commit to Congress that this is the path it intends to pursue.

C. The Statute Says All Americans – The FCC Needs a Real Digital Equity and Inclusion Effort

The Commission seeks comment on “how its proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well the scope of the Commission’s relevant legal authority.” In order to ensure that digital equity concerns are addressed as part of meeting the Commission’s universal service goals, it is essential that this become a deliberate step in evaluating the impact of proposed changes. The Commission’s existing Office of Communications Business Opportunities (OCBO) should be given an expanded mission to perform more like the Office of Native Affairs and Policy (ONAP), which engages early in the process of Commission items to ensure that the views of Native Americans are taken into consideration as the Commission develops policies. Moreover, like ONAP, the Commission should use OCBO to perform outreach to minority communities to hear firsthand about the varying needs of these communities, bring that insight back to the Commission to help inform policies and then follow up with these communities to inform them of the work the Commission is undertaking to address their needs. This change could ensure that the Commission and the policies it adopts better addresses the needs of these communities.

²⁷ *Supra* n.19.

D. The FCC Needs a Device Voucher Program

Devices are necessary for connecting, but many people don't have them – leaving our nation with a “device divide” every bit as problematic as the larger digital divide. Across the country, 11% of households don't have a computer.²⁸ That number skyrockets to 40% of low-income households.²⁹ In addition, many more households don't have enough devices for everyone – forcing families to make difficult choices about which family member must forgo their online activity. For many low-income consumers, devices are simply too expensive. While there are government programs intended to help low-income consumers access devices – none of these programs will fully close the device divide. Thus, the FCC should step in to make sure that the inability to afford a device is no longer a barrier to connectivity by creating a device voucher program within the universal service fund.

1. Closing the Device Divide is Within the Goals of the Universal Service Fund

The Universal Service Fund is intended to grant access to advanced telecommunications and information services across the country.³⁰ As a part of this work, the Commission has recognized the critical nature of device access for connectivity. In the Commission's discussion about Lifeline, it determined that “it is essential that all consumers, including low-income consumers, have access to broadband-capable devices that provide the ability to send and receive critical information, as well as broadband service with sufficient capacity, security, and

²⁸ *The Issue*, Digitunity, <https://digitunity.org/the-issue/> (last accessed Feb 4, 2022) (estimating that 14 million households lack a computer).

²⁹ Emily A. Vogels, *Digital Divide Persists Even As Americans With Lower Incomes Make Gains in Tech*, Pew Research Center (June 22, 2021), available at <https://www.pewresearch.org/fact-tank/2021/06/22/digital-divide-persists-even-as-americans-with-lower-incomes-make-gains-in-tech-adoption/>.

³⁰ 47 U.S.C 254(b)(2).

reliability to be dependable in times of need.”³¹ However, many low-income consumers cannot afford a device without help. Thus, the Commission must support the affordability of devices, just as it supports the affordability of connections, if it wants universal service.

2. Other Government Programs Are Not Sufficient To Close the Device Divide

The government’s existing connected device programs all have shortfalls that will prevent them from closing the device divide, even when working in tandem. Some programs offer limited eligibility, others will be implemented unevenly across the country, and others are relatively ineffective due to Congressional restrictions. In addition, devices do not last forever, and there will need to be a sustainable source of funding to replace outdated or broken devices.

The Emergency Connectivity Fund enables schools and libraries to use funding to give students and patrons devices. However, the bulk of this benefit is used for K-12 students, leaving postsecondary students, parents, senior citizens, and anyone else who needs a device largely out of luck. Moreover, many schools take back the devices when school is not in session, leaving students unable to connect for large portions of the year.

Additionally, although states can use Digital Equity, Broadband Equity, Access, and deployment (BEAD), or Capital Projects Fund money for connected devices, this is just one of many allowable uses. Even in the extremely unlikely event that states use most of this funding for devices – it likely would not be enough to get a connected device to all people in need.

³¹ 2015 Lifeline Order, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, WC-Docket Nos. 11-42, 09-197, 10-90, para. 29, (June 22, 2015).

Moreover, there is no guarantee that states will use these funds for devices. Differing uses of funds could mean that some states close their device divide while others do not.

Furthermore, the Affordable Connectivity program's \$100 device discount program faces major barriers that will prevent it from closing the device divide. First, Congress mandated that consumers pay a co-pay of \$10-50 for this device – a price many ACP recipients cannot afford.³² Second, Congress required consumers to get the device through their ACP provider, but many providers do not participate in this component of the ACP.³³ Third, the ACP device discount is limited to just one device per household, making it impossible for families to connect simultaneously without additional assistance.³⁴

Finally, because all of these programs are funded through one-time Congressional allocations, states may not have the funding to replace broken or outdated devices. Typical devices last 5-8 years before breaking or becoming severely outdated.³⁵ Low-income consumers should be afforded the same opportunity to own a high-quality, functioning device as others who can afford to replace their computers when they are no longer suitable. However, absent an additional, sustainable funding source for connected devices, many consumers will go back to being on the wrong side of the device divide after just a few years.

³² Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, div. N, tit. IX, § 904 (b)(5)(C).

³³ *Id.* at § 904 (b)(5); *Emergency Broadband Benefit Providers*, Federal Communications Commission (Dec. 2, 2021), <https://www.fcc.gov/emergency-broadband-benefit-providers>.

³⁴ Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, div. N, tit. IX, § 904 (b)(5).

³⁵ Derek Walter, *How Long Do Computers Last? 10 Signs You Need a New One*, Business News Daily (Dec. 17, 2021), available at <https://www.businessnewsdaily.com/65-when-to-replace-the-company-computers.html#:~:text=For%20most%20desktop%20PCs%2C%20you,very%20problematic%20for%20PC%20components>.

3. The Commission Must Create a Device Voucher Program Within the Universal Service Fund

The Commission can overcome these barriers and ensure that people across the entire country have the devices they need to connect by creating a connected devices voucher program. The FCC could model this grant program off of the Device Access for Every American Act.³⁶ That legislation would provide low-income families with up to two \$400 vouchers that they can use to purchase a device directly from a retailer or refurbisher. Ideally, the FCC should raise this household limit and offer one device per eligible person to enable multiple members of a household to connect simultaneously. To ensure that low-income consumers always have a high-quality and functioning device, the Commission could provide households with more vouchers every five years, or sooner with proof that the connected devices have stopped working through no fault of the consumer. Moreover, the Commission can set evolving minimum standards for devices, so that households can meaningfully engage online.

Absent a device voucher program, the device divide will continue to jeopardize universal connectivity. The Commission can stop this by acting on its recognition that “all consumers, including low-income consumers, [should] have access to broadband-capable devices,” and create a device voucher program within the USF.³⁷

³⁶ *See generally*, Device Access for Every American Act, S. 2729, 117th Cong. (2021).

³⁷ 2015 Lifeline Order, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, WC-Docket Nos. 11-42, 09-197, 10-90, para. 29, (June 22, 2015).

IV. CONTRIBUTION REFORM IS ESSENTIAL TO REFORM OF UNIVERSAL SERVICE

In the *Notice*, the Commission seeks general comment on “further actions” that could be taken “to improve the ability of the Commission to achieve the universal service goals for broadband” that are applicable to each of the USF programs or some other aspect of the Fund, alluding to USF contribution reform.³⁸ And specifically references pending specious litigation concerning the contribution factor proposed for the fourth quarter of 2021 and the first quarter of 2022.³⁹

On that point, the issues raised in that litigation were long ago addressed by reviewing courts. It is settled through earlier court decisions that USF contributions are not a “tax” and the Congress did not inappropriately delegate power to the Commission.⁴⁰ The Commission, as noted above, has since its inception had a universal service mandate from Congress and in the Telecommunications Act of 1996, Congress made explicit what had previously been an implicit system to support that mission. The Commission should move forward as it needs to achieve its universal service goals and not give credence to this ill-informed litigation.

Underpinning all of the opportunities to modify the USF to transition to the support mechanism needed to advance the Commission’s universal service broadband goals is the need to undertake reform of the contribution mechanism. The Commission has at various times sought comment on reform to the contribution mechanism and even took the step in 2017 of referring the matter to the Federal-State Joint Board. The State Members of the Joint Board submitted

³⁸ *Notice* at para. 45.

³⁹ *Id.* at n.124.

⁴⁰ *Tex. Office of Pub. Util. Counsel v. F.C.C.*, 183 F.3d 393, 426-429 (1999).

their recommended decision in 2019.⁴¹ The procedural steps, therefore, have been taken to immediately move to either refresh the record in this proceeding or to put out on Public Notice the recommendation from the State Members of the Joint Board.

The need for reform has even garnered the attention of Congress. In late 2021, a bipartisan group of lawmakers introduced legislation that directs the Commission to complete a proceeding to reform the universal service contribution mechanism within one year.⁴² Importantly, the bill directs the Commission to undertake this reform based on its existing authority.

In addition to Congress indicating its desire for the Commission to undertake reform, 332 organizations representing the public interest community, trade associations, residential and business consumer organizations, anchor institutions, broadband providers, and other organizations have called on the Commission to complete contribution reform now.⁴³ Specifically, the organizations that signed the letter call for the inclusion of broadband service revenues in the contribution base to help stabilize the base of support, which under the current mechanism has declined by over 63% in the last two decades and by 10% in just the last four quarters.⁴⁴ Importantly, as the letter states, this step can be taken under the Commission's existing authority. The groups understand there may be reforms that Congress could undertake to further broaden the base, but they came together to urge the Commission to take this step because the time for delay has passed. If Congress wants to provide the Commission with other

⁴¹ Universal Service Contribution Methodology, WC Docket No. 06-122, *Recommended Decision*, [available here](#) (Oct. 15, 2019).

⁴² Reforming Broadband Connectivity Act of 2021, S.3236 (Nov. 18, 2021). The bill include Senators Klobuchar (D-MN), Thune (R-SD), Moran (R-KS), Hickenlooper (D-CO), Bennet (D-CO), and Crapo(R-ID).

⁴³ Letter from Carol Matthey, Matthey Consulting, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket Nos. 21-476, 06-122, [available here](#) (filed Feb. 14, 2022).

⁴⁴ *Id.* at 1-2.

tools to include additional revenues, such as proposals to include “big tech”, we would urge those advocates of those positions to put forward in this record what they mean, how it would be implemented, and what the effect would be, as the 332 organizations have done in support of their position.

The mission of universal service is far too important to continue to hold its funding mechanism hostage to gamesmanship. Further delay robs the Commission of a critical tool in helping to close the digital divide. As the letter demonstrates, while there may be a handful of companies that do not want the Commission to move forward, there is a diverse and overwhelming majority of stakeholders calling for the Commission undertake this reform. The time to act is now.

V. CONCLUSION

As demonstrated in these comments, there is much the Commission can do to ensure it achieves its universal service goals. Congress has provided the Commission with the authority needed to modify its universal service programs to meet the challenges we face today. With the other federal funding, there is a real opportunity to leverage that funding and strive for reforms in USF that will bring real benefits to real people. Congress should view this report to Congress less as a request for additional authority and more as a document committing the Commission to a deliberate course of action to modernize USF.