



**Testimony of Greg Guice
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**Before the
U.S. Senate Committee on Commerce, Science, and Transportation
Subcommittee on Communications, Media and Broadband**

The State of Universal Service

May 11, 2023

Chairman Lujan, Ranking Member Thune: Thank you for inviting me to testify on the future of universal service. My name is Greg Guice and I am the Director of Government Affairs for Public Knowledge, an organization that is dedicated to promoting freedom of expression, an open internet, and access to affordable communications tools and creative works. Over the course of my 24 years of working on telecommunications and technology issues, the unique challenge of preserving and advancing universal service has always been a part of that work and a real passion. Whether it has been helping get broadband to our rural and tribal communities, figuring out ways to provide telehealth services to families and veterans living in areas that lack clinics, helping low-income families get and stay connected or helping ensure kids and adults have access to educational resources in their schools and libraries, I can say that it is a wonderful career to wake up each day knowing that the work you are striving to achieve is trying to make people's lives a little better by ensuring they can fully participate in our digital society.

I want to take this opportunity to thank the members of this Committee that over the last few years really came together on a bipartisan basis to advance our Nation's commitment to ensuring all Americans have access to broadband. Congress rightly determined that funding to ensure not only broadband access to promote deployment in rural and tribal communities was important, but also broadband affordability was critical because broadband is an essential service.¹ Congress also included one-time support for digital equity, which are designed to ensure that individuals and communities have the digital skills to fully participate in the digital economy.² It was historic but there is more to do. I am optimistic that working together, we can help the universal service mission evolve, as Congress acknowledged it must, to meet the new challenges we face.³

As we move to the next phase in which broadband funding provided by Congress is in the implementation phase, now is the right time to think about the current state of the universal service program, the interplay between the Congressional funding and USF, and what that might mean for potential reforms to ensure that USF adapts to the new changes. Public Knowledge believes that there is an important role for Congress to play and there is critical work for the FCC to undertake as the expert agency charged by Congress with ensuring we achieve the objectives of universal service. Today my testimony will focus on three areas, but acknowledge that the

¹ Public Law 116 - 136 - Coronavirus Aid, Relief, and Economic Security Act" or the "CARES Act." (2020).

² These programs are not supported as part of the universal service fund.

³ 47 U.S.C. § 254(c).

important work of USF in promoting access for schools and libraries as well as rural health care remains vital and know other panelists intend to address those programs. We will focus on:

1) Affordability: The Affordable Connectivity Program has demonstrated how a well crafted program focused on assisting low income families get connected can help meaningfully close the affordability divide. With 17 million families enrolled, it is a huge success. The USF equivalent program, Lifeline, does not come close to that level of adoption. The FCC should consider structural changes to the Lifeline program to ensure that it is better serving low-income families, as the ACP is.

2) Deployment: The historic investment and support Congress made in broadband deployment through the IIJA, the ReConnect program, and the Capital Projects Fund will help promote the deployment of robust broadband across the country. The USF equivalent program, the High-Cost program, provides support for costs associated with initial deployment (cap expenditures or capex) and the ongoing costs of maintaining and upgrading networks (operating expenses or opex). The capex support provided by Congress, will, therefore, have an impact on the High-Cost program, but the capex support will not make the High-Cost program irrelevant as it should be available to provide ongoing opex support will still be needed, and the FCC and Congress will need to determine if and where additional capex support that will still be needed. Savings from the reduction in capex could be used to support funding for hardening networks to make them more resilient against ever-increasing natural disasters.

3) Funding reform: Of course all of this depends on stability in the funding base for USF. Appropriations can play an important role, but given their temporary nature, they are not a good fit for the long term investments that are needed to advance universal connectivity. Instead, a structure like the one established by Congress for ongoing support that is “predictable and sufficient,” is what is needed. That is why it is also important that the USF funding mechanism, which is in dire need of reform, needs to be addressed. At a time when people are more connected than they have ever been, our universal service program is seeing a decline in the communications revenues it relies on to advance this critical mission. That fact alone should be enough to demonstrate the contribution mechanism is broken. If we do not fix the contribution mechanism, “preserving and advancing universal service” as Congress has directed is an infinitely harder task.

Low Income Families Need A Program that Provides Assistance with Obtaining Broadband

The Affordable Connectivity Program established by Congress and administered by the Commission is a huge success, serving 40 million individuals representing 17 million families.⁴ In fact, the states represented on this Committee account for almost 50 percent of enrollments with an almost even split amongst the two parties – Republican represented states having slightly more families enrolled with 4.5 million families than Democratic represented states, which have 3.9 million families enrolled. ACP is a program that enjoys broad public support in rural, suburban and urban areas across the country. We also know from data that ACP is having a meaningful impact on those families, increasing employment rates and creating economic

⁴ Enrollment data available at [Universal Service Administrative Company](#).

benefits of \$2,200 annually and helping lower the cost of healthcare by as much as \$141 per visit, which should help save federal dollars for health care provided through Medicaid.⁵ Unfortunately, the ACP was funded with limited resources and recent projections have the program running out of funding by this time next year.⁶

This is why reforming the Lifeline program is so important. The Communications Act provides the Commission with great flexibility in developing the Lifeline program and the ACP provides clear lessons for the reforms to the program that Public Knowledge and others support. 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.”⁷

The adoption of the ACP lays out for the Commission a renewed model for how low-income support could be recalibrated. 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 is equivalent to about half of the current market price of service (\$61.07) and provides flexibility for recipients to determine the level of broadband connectivity that suits their needs.⁸ 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. What ACP has demonstrated is something we have all known, price is a major barrier to broadband adoption and once given the support they need, low-income families will subscribe.⁹

As we consider the future of Lifeline, the Commission should consider initiating a proceeding focused on modifications to the Lifeline programs to more closely match the ACP. The Commission should consider expanding Lifeline’s eligibility so low-income families that are eligible under ACP but not Lifeline can continue to subscribe to and receive support for broadband service at the level provided under the ACP. 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.¹⁰ In the IJJA, 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 Administration to facilitate the sharing of data through the National Verifier.¹¹ That work is underway by the Commission and it should help the Commission effectuate the transition from ACP.

⁵ [Washington May Be About to Take a Giant Step Backwards in Closing the Digital Divide](#), Blair Levin, Brookings Institute (Mar. 13, 2023).

⁶ The Institute for Local Self Reliance maintains an [ACP Dashboard](#) that updates estimated exhaustion of funding for ACP based on enrollment data.

⁷ 47 U.S.C § 254(h). See *Telecommunications Act of 1996*, Conference Report, 104th Cong, 2nd Sess., S. Rept. 104-230 at 134.

⁸ [How Do US Costs Compare to the Rest of the World](#).

⁹ [Mobile Technology and Home Broadband 2021](#), Andrew Perrin, Pew Research Center (2021) (finding that 20% cite cost as the primary reason for not having broadband and 45% citing it as a reason for not having broadband).

¹⁰ Public Knowledge, Common Cause Comments, *Affordable Connectivity Program*, WC Docket No. 21-450

¹¹ *Infrastructure Act* § 60502(e).

Public Knowledge acknowledges that this would be a substantial increase to the current Lifeline budget and the Universal Service fund as a whole, but we firmly believe that given the broader economic benefits connectivity promotes for lower-income families, this is a step the Commission should consider taking to ensure the strides made through ACP remain as such and we do not backslide on getting more people connected. Affordability will remain a persistent challenge for low-income consumers and our universal service programs must address affordability.

Infrastructure Funding Takes Some Pressure off the High-Cost Program, But Maintenance, Upgrades and Other Operating Expenses and Other Potential Opportunities Should be the Future Focus

The work Congress did in the IJA and in other bills last Congress represents a substantial step forward in addressing the access challenges that have plagued our country for decades. Congress allocated \$42.5 billion in the IJA, \$1.9 billion for ReConnect, and a portion of the \$10 billion allocated for broadband as part of the Treasury Department's Capital Projects Fund. Funding provided through these 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 ever-increasing natural disasters.

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. These expenses will still play a critical role in ensuring rural and Tribal communities remain served. As the Commission looks at reforming the High-Cost fund, it should take these substantial expenses into account. The capital expenditures for many providers may indeed decline as a result of the funding provided through the IJA and as with the Lifeline program reforms recommended above, the Commission should consider using savings from that capital infusion to achieve other public interest objectives.

As Public Knowledge has urged at the Commission and before this Subcommittee, the decentralized, low-cost, and competitive broadband infrastructure using internet protocol 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 IJA 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 ensure that providers' networks are hardened against disaster and that consumers have backup power sufficient to get them through power outages often associated with disasters. The FCC has dispersed USF funds on an *ad hoc* basis to help communities particularly ravaged by natural disasters, such as Hurricane Maria.¹² The Commission should consider initiating a proceeding to determine how best to account for

¹² See Press Release, "FCC Advances Up to \$76.9 Million to Restore Communications Networks in Puerto Rico and U.S. Virgin Islands Devastated By Maria," released October 4, 2017. Available at: <https://docs.fcc.gov/public/attachments/DOC-347069A1.pdf>

upgrading our communications networks through USF high-cost reforms to promote more resilient networks.

The High-Cost program should be viewed as the means by which the Commission delivers the robust, reliable networks needed in those high cost communities across the country. It will remain an ongoing and vital component to achieving our universal service objectives.

Contribution Reform is Essential to Achieving Universal Service

Of course any expansion like the ones outlined above, and those that should be part of updating the Schools and Libraries program and Rural Health Care program, are contingent on a USF contribution mechanism that provides policymakers the sufficiency to make those determinations. Unfortunately, that is not the case today. The USF contribution mechanism still relies on revenue from the same base of telephone and related telecommunications services that it relied on for the past 17 years. That source of revenues has declined by almost 50% since 2011, according to revenue data submitted to the FCC. Think about that, during the “information revolution” and surge in our “connected economy,” the USF has been supported by the one segment of that revolution that is declining, while communications service revenues overall have been increasing. The impact of that reverberates throughout the programs USF supports. With a current contribution factor exceeding 30 percent, making any modifications to update the various disbursement programs to better reflect today’s challenges to achieving universal service are unthinkable if it would require any increase in funding.

As outlined above, today’s efforts of USF are focused on providing access to affordable, ubiquitous broadband, the essential communications service of our time. Many programs intended to promote broadband deployment and adoption could be sustainably funded through USF, if that fund expanded its base and decreased the contribution factor. For example, if the Commission expanded the base of assessable revenues to include broadband revenues, it could reduce the contribution factor from the more than 30% level it is at today to under 4 percent. Such an expansion is supported by a broad array of stakeholders as demonstrated in the letter Public Knowledge, INCOMPAS, NTCA and over 332 organizations filed with the FCC last year.¹³

The Commission could also take a look at services that are substitutes for traditional telecommunications services to see if they should be assessed to ensure competitive neutrality. As the Commission explained in the Order back in 2006 that expanded the base to include interconnected VoIP services in the USF contribution base, “competitive neutrality means that universal service support mechanisms and rules neither unfairly advantage nor disadvantage one provider over another, and neither unfairly favor nor disfavor one technology over another.”¹⁴ Where a service is a substitute to a traditional telecommunications service and it nonetheless is not considered assessable under the existing contribution mechanism, the Commission should conduct a proceeding to consider including those revenues in the base. Such a step can reduce distortions in the offering of services, particularly a number of business services where these distortions can reflect significant reductions in revenue to the fund.

¹³ Repairing the FCC’s Universal Service Contribution Mechanism: A Call to Action, WC Docket No. 21-476, 06-122, filed Feb. 14, 2022. The letter along with the economic study are [available here](#).

¹⁴ *Universal Service Contribution Methodology*, Report and Order and Notice of Proposed Rulemaking, 21 FCC Rcd 7518, 7538-43, paras. 38-49 (2006).

Under Section 254(d), Congress has provided the FCC with sufficient authority to take these steps and charged the Commission with establishing the mechanism for contribution.¹⁵ As both the Fifth and Sixth Circuit have now concluded, Congress appropriately delegated authority to the FCC to establish the USF and the mechanism for contributions to the programs.¹⁶ Public Knowledge knows this is an issue that members of this Committee are aware of and we appreciate efforts like those in the last Congress that sought to have the FCC move under existing authority while Congress considers other potential changes. Public Knowledge would very much like to continue working with the Committee to ensure that sufficient and predictable funding is available to meet our national commitment to ensuring all Americans have access to affordable, reliable communications technology.

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 referenced above 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 to undertake this reform.

CONCLUSION

The Commission, as noted above, has since its inception had a universal service mandate from Congress. Before the Telecommunications Act of 1996, that system was an accounting mechanism within the monopoly Bell system. Funding needed to pay for the cost was made through access charges paid by long distance companies to local companies for originating and terminating calls on the local provider's network. In its effort to promote competition while also advancing universal service, Congress rightly concluded that the system for advancing universal service must be one based on explicit support mechanisms instead of implicit support mechanisms. From that directive came the modern USF programs. A codification of the mission and principles the FCC is to follow in advancing universal service, as well as a means by which the Commission, as the expert agency and as it had always done, would go about funding and achieving that mission.

As the Commission assured Congress in its USF report, the Commission's duty for the future of the USF is "maintaining new and existing networks, promoting equitable access in underserved communities and populations, and ensuring sufficient support for the ever-expanding broadband needs of schools, libraries, and health care providers." Closing the digital divide is not a one-and-done effort; it takes ongoing work and that work is the work of the USF.

Thank you. I am pleased to answer any questions you may have.

¹⁵ 47 U.S.C. § 254(d).

¹⁶ Consumers' Research, et al. v. FCC & USA, No. 22-60008 (Fifth Cir.); Consumers' Research v. FCC, No. 21-3886 (Sixth Cir.).