NTCA THE RURAL BROADBAND ASSOCIATION

August 25, 2023

The Honorable Ben Ray Luján
United States Senate
498 Russell Senate Office Building
Washington, DC 20510

The Honorable John Thune
United States Senate
511 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Amy Klobuchar
United States Senate
425 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Shelley Moore Capito
United States Senate
170 Russell Senate Office Building
Washington, DC 20510

The Honorable Gary Peters
United States Senate
724 Hart Senate Office Building
Washington, DC 20510

The Honorable Jerry Moran
United States Senate
521 Dirksen Senate Office Building
Washington, DC 20510

Dear Senators Luján, Thune, Klobuchar, Capito, Peters, and Moran:

On behalf of over 850 small community-based providers of broadband in 45 states, NTCA–The Rural Broadband Association ("NTCA") offers herein responses to your questions regarding the future of universal service. For decades, NTCA members have delivered high-quality communications services in rural America leveraging a mix of entrepreneurial spirit, community commitment, private capital, and essential programs like the high-cost Universal Service Fund ("USF") and Rural Utilities Service ("RUS") loans. In the most rural parts of your states and in other deeply rural areas, as described further herein, NTCA members have led the charge in deploying cutting-edge broadband networks and delivering services that are as robust and reliable as those available in urban markets. These rural providers stand ready to help close the digital divide in areas beyond those they serve today, and to work with the leaders in this group to ensure the effectiveness and sustainability of such efforts.

Your inquiry and request for input come at a critical time. With new grant programs beginning to address challenges where broadband has remained unavailable, as the Affordable Connectivity Program ("ACP") seeks to help consumers adopt and retain broadband even while facing the potential exhaustion of funds, and while court cases are pending that pose serious threats to the good and ongoing work toward fulfillment of the mandates of Congress for universal service, thoughtful consideration of how to promote and sustain universal service is more timely and needed than ever.

<u>1) How should Congress and the Commission evaluate the effectiveness of the existing USF programs in achieving universal service goals for broadband?</u>

Pursuant to the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the "Act"), the USF is composed of four "umbrella" programs that play essential and complementary roles by distributing funds to promote the availability and affordability of advanced communications services for every American, regardless of where they live or their economic status, along with ensuring access to such services for schools, libraries, and rural health care facilities. The high-cost USF support mechanism has been a significant driver of the modern state of connectivity in the areas served by NTCA members and community-based providers like them, as it has helped enabled the business case to undertake deployment and offer cutting-edge connectivity in these deeply rural areas that would otherwise lack service – in most cases without the benefit of more recent grant funding programs.

Stepping back, it is important to note that the four "umbrellas" USF distribution programs – the High-Cost Fund, the Schools and Libraries (or "E-rate") program, the Low-Income (or "Lifeline") program and the Rural Health Care program – may be separate and distinct mechanisms, but they are intended to work in concert to achieve an overarching statutory mission of universal service.[1] The Act specifies the ways in which each program is to go about this mission and the goals that each program should strive for in furtherance of it. As one example, the High-Cost Fund aims specifically by law to provide:

> access to telecommunications and information services . . . that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.[2]

Rather than inventing new goals from whole cloth or calling upon the Federal Communications Commission ("FCC") to do the same, Congress should evaluate the effectiveness of each program by reference to that program's specific objectives as articulated in the Act. As noted above, for example, the statutory mandate is for rural consumers to have access to services that are "reasonably comparable" in quality and price to those found in urban areas. A few straightforward questions could be reviewed to assess the extent to which discrete subparts of the High-Cost Fund are in fact advancing, achieving, and sustaining this mission:

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[1] These four "umbrella" programs also have subparts in some cases that are tailored for specific areas or discrete problems to solve. For example, the High-Cost Fund includes the Alternative Connect America Cost Model ("ACAM"), the Rural Digital Opportunity Fund ("RDOF"), the Alaska Plan, and Connect America Fund-Broadband Loop Support ("CAF-BLS"), while the FCC has also previously adopted a Connected Care pilot program under the auspices of the Rural Health Care program.

[2] 47 U.S.C. § 254(b)(3).

- Are the rates paid by rural consumers for voice and broadband services reasonably comparable to those paid by urban consumers for the same levels of service as measured by the FCC's rate survey and long-standing calculations? [3]

- Are the voice and broadband services available to rural consumers reasonably comparable in terms of service quality, performance, and reliability to those available in urban areas, as measured by reference to the FCC's Broadband Data Collection ("BDC") and other metrics and data sources?

It should be noted that the questions above do not suppose a "static state" – that is, the mere one-time act of constructing a network would not and does not satisfy the statutory mandate for universal service in high-cost areas. As discussed further herein, over the past decade the High-Cost Fund has focused so much upon construction at times – the question of initial network availability – that it has become confused with grants and at times neglected the enduring question of *sustainability*, which is at the core of a statutory mission that seeks to ensure that networks are built *and* services are available and affordable thereafter. In this regard, those who argue simplistically that the High-Cost Fund is redundant with grant programs miss the mark, failing to understand the quite different and far more comprehensive role that USF plays in getting *and* keeping rural Americans connected.

With respect to the other USF distribution programs, NTCA likewise recommends guiding evaluations of their effectiveness by reference to their respective statutory missions. For example:

- For the Lifeline program, do low-income consumers have access to voice and broadband services at affordable rates, as measured by adoption and retention of such services?[4]

- For the E-Rate and the Rural Health Care programs, do elementary and secondary schools and classrooms, health care providers, and libraries have affordable access to advanced telecommunications services as necessary to fulfill their respective missions?[5]

Of course, it cannot be forgotten that these four umbrella "distribution" mechanisms sit atop the financial foundation of a contribution mechanism carefully designed by Congress nearly 30 years ago, and here too NTCA would urge evaluation of the effectiveness of the current contribution mechanism by reference to its statutory charge. Specifically, Section 254 requires that support be

[3] It is important to note in making such an evaluation that, for more than two decades, the FCC has defined "reasonable comparability" for rural rates as falling within a certain range above an urban benchmark rate identified annually by the FCC through a survey process. By definition, this means that the High-Cost Fund aims to ensure only that rural consumers pay a rate for broadband that can be $20 or more higher than urban counterparts. *See, e.g., Wireline Competition Bureau and Office of Economics and Analytics Announce Results of 2023 Urban Rate Survey for Fixed Voice and Broadband Services, Posting of Survey Data and Explanatory Notes, and Required Minimum Usage Allowance for Eligible Telecommunications Carriers*, WC Docket No. 10-90 (rel. Dec. 16, 2022) (identifying the urban benchmark rate and reasonably comparable rural rates for 2023).

[4] *See* 47 U.S.C. § 254(b)(1) and (3).

[5] *See id*. at § 254(b)(6) and (h).

"specific, predictable, and sufficient" and based upon the collection of "equitable and nondiscriminatory" contributions.[6] Thus, evaluation of the effectiveness of the contribution mechanism should start by identifying those that use and/or benefit from voice and broadband services, with the ultimate question being whether those entities are contributing equitably based upon the use and benefit they derive from the availability and affordability of supported services.

<u>2) To what extent have the existing USF programs been effective in carrying out section 254 of the Act?</u>

Even as systems and processes benefit from continuous evaluation and consideration of improvements, the existing USF programs have largely been effective in carrying out the goals of the Act. To be clear, there have been examples in the past where individual USF mechanisms have failed by aiming too low in promoting "reasonable comparability," declining to vet providers promising to deliver universal service, and/or lacking in accountability for failures to perform as promised. This is particularly true in areas served by larger providers that lacked connection to the communities they serve. The FCC has acted, however, over the past decade to address such concerns as they arise through enforcement and reform of its programs.

At the same time, data reflected in FCC reports, NTCA member surveys, and other sources help to underscore the effectiveness of certain USF programs overall in advancing the mission of universal service in many deeply rural areas. For example:

<u>High-Cost Fund Effectiveness</u> –

All of NTCA's members are "incumbent local exchange carriers" that, dating back to the telephony era and more recently in a broadband world, receive high-cost USF support to help deliver on the continuing mission of universal service.[7] To identify how they are performing in these efforts, NTCA has for more than two decades surveyed its members with respect to deployment of networks and delivery of services in the areas where such support is directed.

A sample of NTCA's annual Broadband/Internet Availability Surveys over the past dozen years demonstrates a dramatic increase in both the availability and adoption of higher broadband speeds in those areas where the High-Cost Fund enables investment and sustains operations.[8] For example, as described in more detail below, NTCA members offered just 6 Mbps or greater speeds to 45% of their customers on average in 2010, but by 2022 approximately 80% of customers on average enjoyed access to speeds of 100 Mbps or higher. FCC reports on broadband deployment and performance over the years show steady improvements in broadband access as well – even as gaps persist and challenges remain.[9]

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[6] *Id*. at § 254(b)(5) and (d).

[7] NTCA members historically have received USF support through the CAF-BLS, ACAM, Alaska Plan, and High-Cost Loop Support mechanisms under the High-Cost Fund or predecessors thereto.

[8] Prior survey reports can be found at: https://www.ntca.org/ruraliscool/survey-reports.

[9] *See, e.g.*, https://www.fcc.gov/reports-research/reports/broadband-progress-reports and https://www.fcc.gov/reports-research/reports/measuring-broadband-america/measuring-fixed-broadband-twelfth-report.

To be sure, the work of NTCA members as described further below has involved the community commitment and private capital of these providers – and it far outpaces the work done by other providers in other rural areas. But the improvements in access over this period in some of the most sparsely populated and deeply rural areas of the country underscore the remarkable effectiveness and essential nature of specific components of the High-Cost Fund in delivering on the mission of universal service.[10] More specifically in NTCA members' traditional serving areas:

2010: The <u>overall broadband adoption rate was 55%</u>, with the following speeds <u>available</u> to customers:

- 79% had access to 200 kbps to 768 kbps
- 77% had access to 768 kbps to 1.5 Mbps
- 75% had access to 1.5 Mbps to 3 Mbps
- 61% had access to 3 Mbps to 6 Mbps
- 45% had access to greater than 6 Mbps

2015: The <u>overall broadband adoption rate was 73%</u>, with the following speeds <u>available</u> to customers:

- 0.3% had access to 768 kbps to 1 Mbps
- 0.4% had access to 1 to 1.5 Mbps
- 1.6% had access to 1.5 to 3 Mbps
- 3.4% had access to 3 to 4.0 Mbps
- 2.3% had access to 4 to 6 Mbps
- 7% had access to 6 to 10 Mbps
- 13.7% had access to 10 to 25 Mbps
- 71.3% had access to greater than 25 Mbps service[11]

2020: The following maximum downstream speeds were <u>available</u> to customers on average:

- 2.3% had access to 200 kbps to 4 Mbps
- 5.3% had access to 4 Mbps to 10 Mbps
- 12.1% had access to 10 Mbps to 25 Mbps
- 12.6% had access to 25 Mbps to 100 Mbps
- 22.7% had access to 100 Mbps to 1 Gig
- 45.1% had access to greater than 1 Gig

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[10] It is important as well to reiterate that most of this progress occurred in the period *before* massive amounts of grant funding were made available to enable broadband deployment in rural areas – underscoring the effectiveness of USF specifically in facilitating the availability and affordability of broadband service in rural America.

[11] From 2010 to 2015, the survey methodology shifted from capturing the cumulative percentage of customers that could access certain speed thresholds to measuring the maximum speeds available to each given customer (*i.e.*, showing what percentage of the total customer base had access to certain defined speed tiers).

Moreover, in 2020, NTCA members' customers on average subscribed to the following maximum downstream speeds:

- 4.3% subscribed to 200 kbps to 4 Mbps
- 10.5% subscribed to 4 Mbps but to 10 Mbps
- 21.3% subscribed to 10 Mbps to 25 Mbps
- 35.8% subscribed to 25 Mbps to 100 Mbps
- 20.2% subscribed to 100 Mbps to 1 Gig
- 0.9% subscribed to speeds equal to or greater than 1 Gig

2022: The following maximum downstream speeds were available to customers on average:

- 2.4% had access to less than 10 Mbps
- 6.4% had access to 10 Mbps to 25 Mbps
- 9.3% had access to 25 Mbps to 100 Mbps
- 21% had access to 100 Mbps to 1 Gig
- 60.9% had access to greater than 1 Gig

Moreover, in 2022, NTCA members' customers on average subscribed to the following maximum downstream speeds:

- 7.0% subscribed to less than 10 Mbps
- 13.1% subscribed to greater than/equal to 10 Mbps but less than 25 Mbps
- 31.1% subscribed to greater than/equal to 25 Mbps but less than 100 Mbps
- 36.7% subscribed to greater than/equal to 100 Mbps but less than 1 Gig
- 12.2% subscribed to greater than/equal to 1 Gig

Lifeline Effectiveness –

The FCC collects substantial amounts of data on the performance of its USF programs and publishes this information each year in a USF Monitoring Report.[12] These reports show positive movement in Internet subscriptions since at least 2015 by lower-income households.

- 2015: 47.6% of low-income households were enrolled in "some Internet subscription" and 46.8% subscribed to a "high-speed Internet" connection (defined as all Internet service other than dial up).[13]

- 2021: 64.2% of low-income households subscribed to high-speed Internet service.[14]

- 2022: 73.6% of low-income households subscribed to high-speed Internet service.[15]

Contributions –

As explained in more detail in response to Question 7 below, some of the largest users and beneficiaries are not contributing to USF. Instead, consumers of basic voice and data services are bearing the brunt – leading to an increase in the contribution factor as these "legacy" services decline even as the overall size of the USF has not grown materially over the past decade plus (despite inflation during that time). In this regard, even as it continues to function in supporting the effective USF distribution mechanisms as noted above, the contribution mechanism itself is not performing as effectively as it could in spreading the obligation in an equitable and nondiscriminatory matter. Thus, despite the fundamental mandate from Congress with respect to collection of contributions remaining sound, execution is lacking and the contribution mechanism needs updating.

a) Has the Commission adequately evaluated the effectiveness of each program against concrete goals and metrics?

The FCC has generally measured performance adequately against the goals of the USF programs, particularly in more recent years as reforms and new reporting structures have taken effect. As discussed above and further below, the USF Monitoring Report as well as various accountability mechanisms that require High-Cost USF support recipients to meet certain buildout and performance testing obligations and comply with additional reporting obligations allow the FCC to

[12] Universal Service Monitoring Report, (Data Received Through September 2022), Prepared by Federal and State Staff for the Federal-State Joint Board on Universal Service, available at https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf.

[13] 2015 USF Monitoring Report, Table 6.9, p. 53, available at https://docs.fcc.gov/public/attachments/DOC-337019A1.pdf (Subscription data is from 2014.).

[14] 2021 USF Monitoring Report, Table 6.9, p. 64, available at https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf (Subscription data is from 2019.).

[15] 2022 USF Monitoring Report, Table 6.9, p. 65, available at https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf (Subscription data is from 2021.).

measure and verify the effectiveness of its various distribution programs – and to identify shortcomings in need of remedy or aspects of the programs that could be modernized or reformed to remain effective.

On the other hand, despite several inquiries into potential reforms of the contribution mechanism over many years,[16] the FCC has unfortunately been unwilling to act or even examine contribution issues in significant detail. As discussed further below in response to Question 7, however, all indications are that the statutory objective of ensuring that contributions are equitable and nondiscriminatory is not being achieved currently.

3) Is the FCC's administration of the USF and its four programs sufficiently transparent and accountable? If not, what reforms are necessary and appropriate within the four existing USF programs to improve transparency, accountability, and cost-effectiveness, and does the Commission have the authority to make such reforms?

The FCC offers policymakers and other stakeholders several ways to view and assess whether USF programs and support recipients are performing as required. Among other things, as mentioned earlier, the USF Monitoring Report compiles and publishes voluminous data on all four USF distribution programs "to observe the impacts of universal service support mechanisms and the method used to finance them."[17] As an example, this report includes data on Lifeline beneficiary counts as well as program disbursements by State and on an annual basis.

In addition, contributions to the USF and all four distribution programs are subject to robust – and, at times, overly burdensome – audits conducted by the Universal Service Administrative Company ("USAC") as the FCC's contracted agent that examine program disbursements and ensure they are compliant with the FCC's rules and orders.[18] Indeed, as part of such efforts, in 2022, the FCC announced a new "Rural Broadband Accountability Plan" that included increased auditing and verification "to ensure that [High-Cost Fund] dollars are properly invested and produce new broadband services in these areas."[19] Moreover, the eligible telecommunications carrier ("ETC") designation process – as discussed further below in response to Question 6 – serves the important functions of promoting accountability and providing a State role in overseeing the effective delivery of universal service consistent with the Act's call for a shared federal and State role in doing so.

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[16] *See, e.g.*, *Report on the Future of the Universal Service Fund*, WC Docket No. 21-476, Report, FCC 22-67 (rel. Aug. 15, 2022); *Universal Service Contribution Methodology*, WC Docket No. 06-122, *et al.*, Further Notice of Proposed Rulemaking, FCC 12-46 (rel. Apr. 30, 2012).

[17] 2022 USF Monitoring Report, p. 1.

[18] *See, e.g.*, USAC, High-Cost Program Appeals & Audits, available at: https://www.usac.org/high-cost/resources/appeals-audits/ and USAC, Schools and Libraries Appeals & Audits, available at https://www.usac.org/e-rate/resources/appeals-audits/.

[19] *See* Rural Broadband Accountability Plan, https://www.fcc.gov/rbap.

Beyond these threshold measures of accountability and oversight, the FCC has implemented several means of tracking whether providers are fulfilling their commitments under the High-Cost Fund specifically – learning from prior failures to demand performance by some of the largest recipients of support who nonetheless left their rural serving areas wanting for reliable broadband access. Today, recipients of High-Cost USF support are subject to strict obligations that require the deployment of networks and delivery of services meeting specific performance characteristics to a defined set of locations by dates certain.[20] Compliance with these obligations is enforced and documented in two important ways. First, recipients must submit annual filings to the High Cost Universal Broadband database documenting the specific locations to which service meeting performance metrics has been made available – and this information is publicly available once filed.[21] Second, the FCC has implemented a performance testing regime that requires recipients of High-Cost Fund support to test the quality of supported connections to ensure that service levels provided (such as speed and latency) meet programmatic standards.[22] NTCA is unaware of other programs that provide such geocoded granularity in identifying where funding is being directed along with proactive testing of the delivery of services over the deployed networks; it is hard to envision how greater transparency and accountability could be reasonably assured in a broadband funding program. And, of course, this is all backstopped by the fact that High-Cost Fund support recipients failing to meet their buildout obligations or deliver services meeting the required performance metrics are subject to strict financial penalties.[23]

Moreover, all of this occurs against a general backdrop of improving broadband mapping capability and awareness. Even if still imperfect in many ways – particularly in capturing actual performance like that demanded of high-cost ETCs – the requirements of the Broadband Data Act[24] have been implemented through the creation of a National Broadband Map ("NBM") that attempts to gather broadband coverage data from internet service providers of all kinds. Through the broadband serviceable location "fabric," and the BDC reporting against that dataset of locations, policymakers can track availability across the nation and obtain a better (if not perfect) sense of where connectivity is lacking for purposes of directing funding. Relatedly, the Broadband Funding Map, ("BFM") established by Congress in the Infrastructure Investment and Jobs Act ("IIJA")[25] allows

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[20] *Connect America Fund*, WC Docket No. 10-90, *et al*., Report and Order, Order and Order on Reconsideration and Further Notice of Proposed Rulemaking, (rel. Mar. 30, 2016), ¶¶ 29-35, 156-180.

[21] Connect America Fund Broadband Map, USAC, available at: https://www.usac.org/high-cost/resources/tools/.

[22] *Connect America Fund*, WC Docket No. 10-90, Order on Reconsideration, FCC 19-104 (rel. Oct. 31, 2019).

[23] *See* 47 C.F.R. § 54.320 (describing penalties assessed and reporting obligations for failure to meet build-out milestones).

[24] Broadband Deployment Accuracy and Technology Availability Act, Pub. L. No. 116-130, 134 Stat. 228 (2020) (codified at 47 U.S.C. §§ 641-646) (Broadband DATA Act). NTCA continues to be concerned about significant overstatement of coverage claims by certain providers due to ambiguities in the Broadband Data Act and the rules implementing it; thus, even as the maps today may be better than those previously utilized, limitations in their construction hinder their effectiveness in discerning where service is and is not available – which can and does hinder the effectiveness of the USF programs in turn in determining where support is needed to enable improved service.

[25] Build.gov (2023). Bipartisan Infrastructure Law (BIL) Maps Dashboard. Retrieved from https://d2d.gsa.gov/report/bipartisan-infrastructure-law-bil-maps-dashboard.

"users to identify, search, and filter federal funding programs by the Internet Service Provider receiving funding, the duration timeline, the number of locations included in the project, and the download and upload speeds."[26] This provides insight into what different agencies are doing to promote broadband availability, to coordinate efforts effectively, and to distribute funding more efficiently and in a complementary fashion.

4) What reforms are necessary to address inefficiencies and waste, fraud, and abuse in each of the four programs and duplication with other government programs?

Programmatic reforms and new reporting and compliance measures implemented in recent years have enabled the FCC to better police the use and effectiveness of its USF programs and to identify potential areas of duplication with other programs. Certainly, as discussed in response to the preceding question in the context of the High-Cost Fund specifically, the combination of targeted support, mandatory filings, location-based reporting, location-level performance testing, periodic audits, and strict penalties for compliance failures all add up to a comprehensive means of isolating and addressing potential waste, fraud, abuse, or duplication.

As with any set of complex mechanisms, however, there is always need for re-evaluation and continuous improvement. NTCA recommends here three measures that could further help to ensure USF funds are distributed where needed: (1) improved coordination between E-Rate and other USF programs; (2) addressing of widespread school lunch eligibility in rural areas under the Affordable Connectivity Program; and (3) better vetting of providers prior to declaring them to be the recipients of universal service support.

First, the E-Rate program is critical and fills a unique and vital need, making it possible for our nation's schools and libraries to access and leverage the most modern technologies in furtherance of their respective missions. The Commission's current E-Rate competitive bidding rules and systems, however, could be producing unintended consequences that warrant change through more effective coordination among programs. In particular, even if a school or library is connected by High-Cost USF-supported fiber, the E-Rate program can in certain circumstances permit overbuilding of the facilities supported by the High-Cost program to "reconnect" that school or library. Thus, absent attention to proper program coordination – such as showing on a more granular basis which schools are part of a proposed E-Rate project and discerning whether other USF programs already deliver connections to them – there is risk of an inefficient use of resources in the form of funding of redundant networks.[27]

Similarly, while not part of USF, the ACP provides a good example of how rules governing eligibility for certain subsidies or support can result in the use of funds to support more than those intended or in need of the support. Specifically, any household with a student enrolled in a school that participates either in the Community Eligibility Provision ("CEP") or the administrative

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[26] *FCC Releases Broadband Funding Map*, WC Docket No. 11-10, WC Docket No. 19-195, Public Notice, DA 23-410 (rel. May 15, 2023), https://docs.fcc.gov/public/attachments/DA-23-410A1.pdf.

[27] Reply Comments of NTCA, WC Docket Nos. 13-184 et al. (Jul. 16, 2019).

provision of the National School Lunch Act can qualify for ACP assistance, opening the program to households that do not have a financial need for the discount.[28] For instance, in West Virginia, every county except one currently participates in the CEP.[29] By comparison, according to 2019 census data, only 12.3% of West Virginia residents' income were at the poverty level.[30] Similarly, the West Virginia Department of Education reported only 50% of enrolled students in the 2021-2022 school year were classified as low socioeconomic status.[31] As a result, in all but one county in West Virginia, it would appear that even the wealthiest household with a student enrolled in public school qualifies for ACP assistance. Better targeting support to the intended beneficiaries would allow program support to go further in serving those truly in need for a longer period.

Finally, while as discussed below, there should not be a "RDOF Phase 2" program (at least in any form such as that contemplated several years ago), important lessons can be drawn from the conduct of that program. The first is that reverse auctions are a poor means of distributing ongoing support; at this point, at best, their success remains theoretical and aspirational, and it is particularly unclear that they are effective at promoting *sustainability* as compared simply to the one-time act of *construction*. A second lesson to be taken from the RDOF proceeding is that vetting of participants in such programs *prior to* declaring them "winners" is critical; a reverse auction where little is known about the bidder in advance other than the price it bids risks placing federal funds with unqualified applicants and leaving consumers stranded when providers fail to perform as promised. Doing a better job of screening the managerial, financial, technical, and operational experience of those that seek to receive USF support *before* they get it and discerning that they have a credible plan and reliable technology by which to deliver service should be a priority.

5) What additional policies beyond existing programs are necessary for the preservation and advancement of universal service?

NTCA welcomes this question, as its members understand from experience that serving deeply rural areas requires a focus *both* on "getting broadband out there" *and* "keeping it out there." "Preservation and advancement"[32] of universal service is itself an explicit statutory goal, and this necessarily requires a focus on sustainability. This in turn requires thinking beyond the initial deployment of a network connection and considering what USF support may be needed even after networks are deployed to ensure that services remain affordable and can be upgraded as required to meet consumers' evolving needs.

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[28] *See* Affordable Connectivity Program, https://www.fcc.gov/acp (listing ACP eligibility criteria including a household with a student enrolled in a school that participates in the Free and Reduced-Price School Lunch Program or School Breakfast Program, including at USDA CEP schools).

[29] *See* West Virginia Dept. of Education School Lunch Program, available at https://wvde.us/wv-pebt/national-school-lunch-program/.

[30] *See* U.S. Census Bureau Small Area Income and Poverty Estimates, available at https://www.census.gov/data-tools/demo/saipe/#/?map_geoSelector=aa_c&s_state=54&s_year=2019.

[31] *See* West Virginia Dept. of Education Enrollment Trend, Enrollment by Socioeconomic Status, available at https://zoomwv.k12.wv.us/Dashboard/dashboard/2056.

[32] 47 U.S.C. § 254(b).

Taking a step back, the mission of universal service at its essence contemplates four goals – promoting availability, affordability, sustainability, and capability. Broadband networks once available are of little use to consumers if they are not affordable, nor will these networks remain sustainable and in place for consumers if the services available atop them are not affordable for consumers. Capability is a key concept for universal service as well; cheaper networks that provide initial coverage but struggle to keep pace with evolving consumer demand and soon fall far behind the capabilities of more robust networks runs counter to the concept of "preserving" universal service.

NTCA submits that the High-Cost USF is unique among "broadband funding" programs in that, if provided sufficient and predictable funding levels, it is the only initiative designed to tackle all four aspects of the comprehensive mission of universal service. It tackles availability in the first instance by making the business case possible in rural areas; while not a grant program itself that provides upfront capital for construction, providers can seek and use investment capital with reasonable assurance thereafter of recovery of capital costs and the ability to recover ongoing costs without needing to charge rates that consumers would find utterly unaffordable. And while this aspect is far too often overlooked, the High-Cost USF is also an affordability program, helping to cover some (but not all) of the difference in costs between serving rural and urban communities. It further keeps these networks and services sustainable by covering the ongoing costs of maintaining and upgrading networks in deeply rural areas, meaning that customers in these areas can be both connected in the first instance and remain connected as the services and rates available over these networks remain "reasonably comparable." If sufficiently funded, this program can meet consumers' capability needs over the long-term, by investing in networks that remain robust over the long-term instead of those that are obsolete in short order.

Unfortunately, the focus on the full extent of these important universal service concepts within the High-Cost Fund has been somewhat lost in recent years by an understandable but overly narrow focus on availability. As grant programs have rolled out, and even though the USF itself is *not* a grant program, the focus on "getting customers connected" even within the USF has come at the cost of considering fully how to "keep customers connected" consistent with the broader mission of universal service. Fortunately, recent FCC action on the high-cost program[33] indicates a renewed focus on all four pillars of universal service mentioned above and recognition that this program is not a mere grant program. A recent FCC order recognizes the need for faster speeds and more robust networks,[34] while also expressly acknowledging that networks already deployed can still require ongoing support to keep them sustainable over their useful lives.[35] Moreover, in a further notice attached to the order, the FCC seeks comment on sustainability, recognizing that grant programs such as BEAD and others will do much to get Americans connected but that the mission of universal service continues thereafter.[36] While NTCA and its members continue to evaluate the

[33] *Connect America Fund*, WC Docket No. 10-90, et al., Report and Order, Notice of Proposed Rulemaking, and Notice of Inquiry (rel. July 24, 2023) ("*E- ACAM Order & Notices*").

[34] *Id.*, ¶ 2.

[35] *Id.*, ¶ 74.

[36] *Id.*, ¶ 159.

effectiveness of this recent order as a technical matter, the explicit recognition of the importance of availability, affordability, sustainability, and capacity is in itself a welcome development and promising reorientation in focus. NTCA encourages Congress to support the FCC in its renewed focus upon sustainability – and to support efforts as well to shore up the contribution mechanism that is critical to sustainability of this mission as described in response to Question 7 below.

6) Should Congress eliminate the requirement that a provider must be an "Eligible Telecommunications Carrier" to receive USF subsidies?

If it is seriously concerned about preventing waste, fraud, and abuse, Congress should not eliminate the requirement that a high-cost support recipient obtain ETC designation. Requiring providers to be an ETC as a condition to receiving USF support represents an important safeguard for USF funds. Notably, in first creating this requirement in section 214(e) of the Act, Congress required a provider to offer "the services that are supported by [USF] under section 254(e)"[37] throughout the area for which the provider has sought and received ETC designation. This is a critical consumer protection that advances *universal* service, requiring those choosing to pursue public funding to serve every consumer in need of supported services rather than picking and choosing spots selectively.

In addition, ETCs must satisfy various service obligations consistent with the public interest. A party petitioning for designation as an ETC must: (1) certify that it will comply with the service requirements applicable to the support that it receives; (2) submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network throughout its proposed service area, with an estimate of the area and population that will be served as a result of the improvements; (3) demonstrate how it will remain functional in emergency situations; and (4) demonstrate that it will satisfy consumer protection and service quality standards.[38] Each of these is critical to ensuring that consumers receive the service promised by the support recipient.

NTCA understands some parties contend that ETC designation is somehow a substantial "barrier" that is inefficient and unnecessary to ensure accountability in use of USF support. When it comes to perceived or purported "burden," however, Congress should note that hundreds of entities of all sizes, from large national providers to small local businesses (including NTCA members with an average of fewer than 30 employees), have successfully obtained ETC designation. Such widespread participation in the USF programs and the fact that these providers somehow overcame this alleged barrier belie claims that this process is insurmountable or an overly burdensome gating factor. Providers of all kinds, including traditional telephone companies, electric cooperatives, cable operators, and wireless internet service providers, have managed their way through the gauntlet of ETC designation fine and well enough.

More importantly, the ETC designation process is critical in promoting greater accountability in the use of scarce ratepayer resources. In fact, it was primarily through the ETC designation process that States (including those represented by the Senate USF Working Group members) identified financial, managerial, technical, and operational shortcomings of several operators not properly

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[37] 47 U.S.C. § 214(e).

[38] 47 C.F.R. § 54.202(a).

vetted via the FCC's own review in the RDOF auction.[39] Thus, not only is this process hardly the burden it is often alleged to be, but the ETC designation process has proven its value in protecting consumers and preventing waste, fraud, and abuse in the High-Cost Fund.

This being said, NTCA acknowledges that there may be good reason to find that ETC designation is unnecessary in the context of the Lifeline program specifically. Unlike the High-Cost Fund, which directs support to entities that are the only providers of voice and broadband services – a status that warrants greater ETC oversight by federal and State regulators – the Lifeline program typically operates in a more competitive marketplace and does not contemplate distribution of support only to one entity as an effective "provider of last resort" in any given area. Given this dynamic, it would appear to make sense for Congress and the FCC to consider whether and to what degree there is in fact a continuing need for ETC designation specifically as related to the Lifeline program and provide tailored relief accordingly.

7) Currently, telecommunications companies must pay a contribution factor to the Universal Service Fund proportional to interstate end-user revenues. What reforms are necessary to ensure that the contribution factor is sufficient to preserve and advance universal service?

The practical sustainability of the contribution mechanism is in doubt. As an expert whitepaper on this topic found, the contribution factor has "spiraled from about 7% to around 30% over the last two decades and could exceed 40% in the near future."[40] Importantly, this paper also found that the reason "[w]hy this is happening is no mystery: contributions are derived from wireline and certain VoIP telephone subscriptions, which have declined dramatically and recent years and continue to decline. As a result, the revenues used to calculate contributions fell from $79.9 billion in 2001 to $29.6 billion in 2021 – a 63% decrease."[41] Unfortunately, despite examining the contribution factor on several occasions over the course of more than a decade,[42] the FCC has yet to act.

In addition to the lack of sustainability, the uneven and discriminatory nature of the current contribution mechanism should be troubling to Congress. Some services that do not contribute are in some respects functionally equivalent to, and adopted as substitutes by users for, others that do. Moreover, it is clear that some users and beneficiaries of broadband access place far greater burdens on networks than users of "legacy" telecommunications services – and there is significant irony and inequity in the fact that the USF distribution programs being funded through contributions seek to

[39] *See Rural Digital Opportunity Fund Auction (Auction 904)*, AU Docket No. 20-34, *et al*. Order, DA 21-908 (rel. Jul. 26, 2021) (denying LTD Broadband's request for waiver to demonstrate ETC designation in California, Iowa, Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, and Texas by the established deadline for RDOF winners). *See also Wavelength LLC's Rural Digital Opportunity Fund Bids in Default; LTD Broadband's Petition for Waiver of the June 7, 2021 ETC Documentation Deadline Missed,* Public Notice, AU Docket No. 20-34, *et al*., DA 23-616 (rel. Jul. 18, 2023).

[40] *See Ex Parte* Letter from Carol Mattey, Mattey Consulting, to Marlene H. Dortch, Secretary, Commission, WC Docket Nos. 21-476 and 06-122, (Feb. 14, 2022), at Att. 1 ("Call to Action").

[41] USForward, FCC Must Reform USF Contributions Now: An Analysis of the Options, Mattey Consulting, Inc. (Sep. 2021) ("USForward Report") (available at: https://www.ntca.org/sites/default/files/documents/2021-09/FINAL%20USForward%20Report%202021%20for%20Release.pdf).

[42] *See, e.g.*, *supra* n. 16.

promote broadband even as broadband users and beneficiaries contribute nothing to those programs. In addition to being unbalanced in terms of burden, this fosters confusion in compliance and even promotes gaming, as parties "self-classify" services in ways that work to the detriment of the essential USF programs by reducing contributions.

Adding broadband Internet access services to the contribution base in some manner (*e.g.*, by assessing providers of broadband access on retail revenues or connections) would help both to address the sustainability of the mechanism *and* ensure more equitable sharing of the obligation to contribute across users and beneficiaries of these networks and services. There is broad consensus for such reform. A 2022 "Call to Action" issued by over 330 stakeholders representing public interest groups, communications companies, anchor institutions, and consumers highlighted widespread support for including fixed and mobile broadband Internet access revenues within the contribution base.[43] Such reform is in the public interest and well within the FCC's existing legal authority. Section 254(d) allows the FCC to expand the requirement so that "[a]ny other provider of interstate telecommunications may be required to contribute to the preservation and advancement of universal service if the public interest so requires."[44] The FCC has used this authority several times in the past to expand the USF contribution base. With respect to assessing broadband revenues specifically, the FCC could, as it did in assessing VoIP services more than 15 years ago, find that broadband "provides" transmission that is jurisdictionally mixed and that it is in the public interest to exercise Section 254(d) permissive authority to include the service in the USF contribution base. The FCC could and should act now, even as Congress considers other measures that would be necessary and appropriate to ensure an even more equitable and nondiscriminatory base of contributors.

In addition to encouraging the FCC to undertake updates to the contribution mechanism already within its jurisdiction as described above, Congress should supplement the contribution mechanism by providing for assessments as well upon larger Internet-based businesses (often referred to as "edge providers") to ensure contributions will be equitable and nondiscriminatory among all users and beneficiaries of broadband networks and services. Indeed, stakeholders of all kinds support the notion that Internet-based businesses that benefit from widespread availability and affordability of broadband should contribute to that objective.[45] Measures have already been introduced in

[43] *Call to Action, supra.* n. 40.

[44] 47 U.S.C. § 254(d).

[45] *See, e.g.*, *Ending Big Tech's Free Ride*, Newsweek, OPINION, Brendan Carr, FCC Commissioner (May 24, 2021) (proposed "requiring Big Tech to pay its fair share."); Coalition of Rural Wireless Carriers, *Ex Parte* Letter, WC Docket No. 21-476 (Jul. 13, 2022) (Congress should "enact urgently needed revisions to the universal service contribution mechanism" and "is best positioned to … address[] the issue of whether edge providers should contribute to universal service"); Reply Comments of NARUC, WC Docket No. 21-476 (March 17, 2021); Comments of the Communications Workers of America, WC Docket No. 21-476 (Feb. 17, 2022) ("To ensure the longer term viability of the USF, Congress should explore legislation that requires the Commission, or provides it with authority, to assess the revenues of any services whose business model substantially depends on consumer or business access to broadband."); Comments of the California PUC, WC Docket No. 21-476 (Feb. 17. 2022) ("broadband services should be subject to the USF surcharge to resolve [] inequities and provide a more sustainable source of funding for the universal service programs.")

Congress toward this goal, and NTCA and many others have expressed support for them.[46] Action on such legislation, paired with the other steps described above, would put the contribution mechanism on far more sustainable and sound footing for many years to come.

It should also be noted, however, that the very notion of a contribution mechanism itself is under attack, with a few stakeholders pursuing litigation in selected courts of appeals around the country to challenge the very authority of Congress to delegate the collection of contributions to the FCC and the FCC's use of USAC to assist in collections.[47] Members of this Senate working group and other leaders in Congress have gone on the record in opposition to this litigation,[48] and panels of judges in two courts have thus far upheld the constitutionality of the contribution mechanism.[49] The viability of the contribution mechanism remains at serious risk nonetheless as these cases continue through the judicial system, even as NTCA believes there is strong reason based upon precedent and policy to conclude as have courts to date that the mechanism stands on strong constitutional and legal grounds. Given this Senate working group's obvious interest in promoting universal service, however, it is essential that congressional leaders remain engaged in expressing support for the contribution system in these cases and otherwise – and NTCA hopes that Congress will stand ready to act quickly and decisively should an adverse ruling arise. Otherwise, access to reliable and affordable broadband services for millions of Americans in New Mexico, South Dakota, Minnesota, West Virgina, Michigan, Kansas, and across the country will be in jeopardy, with substantial risk of investments stalling, services failing, providers going out of business, and consumers who were once connected left without the ability or resources to get online again.

[46] The Funding Affordable Internet with Reliable ("FAIR") Contributions Act (S. 856), introduced in March 2023, would require the FCC to conduct a study and submit to Congress a report specifically concerning the feasibility of funding USF through contributions supplied by "edge providers," defined by the Act as providers "of online content or services, such as a search engine, a social media platform, a streaming service, an app store, a cloud computing service, or an e-commerce platform." Meanwhile, the Reforming Broadband Connectivity Act of 2023 (S. 975 and H.R. 1812), introduced in March 2023, would require the FCC to "conduct a study assessing the need to expand the contribution base" of USF to ensure the requirement to contribute "is imposed fairly and equitably." The bills would further direct the FCC to conduct a rulemaking to reform the contribution system, "including by expanding the contribution base" of USF.

[47] *See Consumers' Research v. FCC*, No. 21-13315-DD (11th Cir. 2021); *Consumers' Research v. FCC*, No. 21-3886 (6th Cir. 2021); Consumers' Research v. FCC, No. 22-60008 (5th Cir. 2023); Pet. for Review, *Consumers' Research v. FCC*, No. 22-60195 (5th Cir. 2022); *Consumers' Research v. FCC*, No. 22-60363 (5th Cir. 2022); *Consumers' Research v. FCC*, No. 23-60359 (5th Cir. 2023).

[48] Brief of Amici Curiae Members of Congress in Support of Respondents, *Consumers' Research v. FCC*, No. 22-60008 (5th Cir.), filed June 17, 2022.

[49] *Consumers' Research v. FCC*, No. 21-3886 (6th Cir. 2023); *Consumers' Research v. FCC*, No. 22-60008 (5th Cir. 2023).

a) Some have advocated for assessing USF contributions on broadband service and edge providers. What would [be] the impact of such reforms on ratepayers and the marketplace?

Notwithstanding the blanket and baseless claims of a few about adverse consumer impacts, the only detailed economic literature published on this question demonstrates that expansion of the contribution base to include broadband Internet access would not suppress consumer demand for such services. Specifically, a 2020 study by the Berkley Research Group examined the price elasticity of consumer demand with respect to retail broadband Internet access service.[50] This study confirmed that "the demand for a broadband connection has become more inelastic, i.e., less sensitive to price change changes over time."[51] It further found that adding broadband to the base would increase consumer bills by $0.80 (for broadband-only subscribers) and that, on average, "98% of survey respondents would not choose to make changes to their current communications services – voice or broadband – as a result of a monthly increase in their bills."[52] In addition, it observed that, if contribution reforms are structured carefully to protect those lower-income consumers who are likely most price-sensitive (and for whom demand is therefore more elastic), such reforms will have little to no impact on broadband adoption or retention. A 2022 follow-up study by the same group examined the economic impacts of expanding the USF contribution base on broadband adoption rates without assessing a USF contribution on any subscriber receiving Lifeline support.[53] The study took into account the predicted number of broadband connections from 2020 to 2024 and concluded that "modifying the USF contribution methodology to include both voice and broadband connections within the contribution base would not have a material impact on broadband adoption or retention."[54]

Moreover, as NTCA and others noted as early as 2012, "[a] revenues-based contributions mechanism also meets the Commission's oft-uttered commitment to technological neutrality; it best captures the value that consumers place on competing services that use underlying telecommunications networks without regard to the specific technology used to deliver the service."[55] Various categories of providers (wireline, wireless, cable, fiber, etc.) would not be placed at any disadvantage relative to the other, as each would be subject to the same revenues calculations for contributions purposes – thus promoting competitive neutrality as well.

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[50] NTCA-USF Study, Expert Report of Michael A. Williams, PH.D. and Wei Zhao, PH.D. (rel. May 7, 2020) (available at: https://www.ntca.org/sites/default/files/documents/2020- 05/2020-05-07%20-%20Williams-Zhao%20report%20Final.pdf), at 4.

[51] *Id.*, p. 5.

[52] *Id.*

[53] NTCA-USF Study, Universal Service Contribution Methodology, by Michael A. Williams, Ph.D. and Wei Zhao, Ph.D. (Dec. 13, 2022), p. 17 (available at https://www.ntca.org/sites/default/files/documents/2022-12/Williams-Zhao%20report_121322.pdf?utm_source=sendgrid&utm_medium=email&utm_campaign=Newsletters).

[54] *Id.* at p. 30.

[55] Comments of NTCA, et al., WC Docket No. 06-122 (filed July 9, 2012), p. 37.

Similarly, NTCA believes assessing edge providers would have no material impact on ratepayers or the online ecosystem. The anticipated contributions from this sector would be spread across tens of millions of users of these services – and when added to contributions from the broadband and telecom sectors, the contribution level for any individual consumer would likely be quite low and thus mitigate the burden on any individual user or beneficiary of broadband access.

b) Some have advocated the funding for the USF to an appropriations model. What impact would that have [on] the USF?

Relying upon the appropriations process to fund universal service objectives would run counter to the many goals of the USF programs and without question undermine their success. Since grant programs help with the initial deployment of networks through one-time infusions of capital for projects with definitive timelines, appropriations can provide an appropriate means of funding such efforts. By contrast, the USF programs advance enduring policy aims and ongoing objectives that are expressly mandated by law – these include promoting adoption of services by low-income consumers, ensuring reasonably comparable services at reasonably comparable rates over time for urban and rural consumers alike, and robust communications services for critical institutions such as schools, libraries, and rural health care facilities.

Fulfilling each of these goals in rural areas requires investments in long-lived infrastructure, and these investments in turn require providers (as well as lenders that extend capital to these providers) to make a business case for deployment where the returns are measured in decades. It also requires ongoing operations in high-cost areas where the rates that customers pay do not cover the costs of such operations. The annual nature of appropriations would undermine the predictability of support flows necessary to obtain and justify use of capital, to make long-term investments, and to sustain operations. In the end, policymakers must remember that the USF is not a mere grant program – it is instead a set of programs that requires a stable and predictable funding stream to promote, achieve, and sustain a more comprehensive and lasting mission of universal service. One need only consider the uncertain state of affairs with respect to the ACP program currently – which, unlike the High-Cost Fund does not support recovery of investments that rely upon multiple years of support – to realize that attempting to achieve ongoing universal service objectives through annual appropriations cycles would be a misguided and futile effort that ultimately would undermine, rather than advance, the statutory mission of universal service.

8) What actions are necessary and appropriate to improve coordination between USF programs and other programs at the Federal Communications Commission, the National Telecommunications and Information Administration, USDA Rural Development, the Department of Treasury, and other federal agencies?

Congress has already taken a key step by enacting the Broadband Interagency Coordination Act,[56] which requires the FCC, NTIA, and USDA to share information and coordinate the disbursements of the programs under their respective purviews. The programs that these agencies administer are essential components in helping to close the connectivity divide, and they will be at their most effective when they are viewed (and implemented) as complementary to each other. This coordinated approach ensures that valuable resources are targeted most effectively, and that the potential for waste and duplication is mitigated.

The establishment of two important mapping resources – the NBM and the BFM – are critical in ensuring faithful adherence to the directives of BICA. Simply put, every federal and state agency should always use the NBM without exception as a starting point for determining locations that are "served" or "unserved." (Of course, robust data-driven challenge processes can and should be utilized beyond initial reference to the NBM to update and correct availability data found therein before funding decisions are made.) Moreover, every agency should in every instance look to the BFM prior to making a funding determination to ensure that mechanisms administered by other agencies are not already being leveraged to serve the locations at issue. But these two simple steps should go a long way toward mitigating concerns of duplicative funding and waste among programs.

9) Is the USF administrator, USAC, sufficiently accountable and transparent? Is USAC's role in need of reform?

USAC performs an important role in the administration of the USF under the FCC's strict direction and oversight. From accountability through audit processes that examine compliance with FCC rules to its ministerial role in helping the FCC collect funds for the USF, USAC helps ensure the functions of universal service programs are executed. It is also important to emphasize however that, while USAC performs a number of administrative functions for the FCC, it does so only pursuant to the specific direction and under the oversight of the agency.

At the same time, even as the USAC audit process is a key component of program accountability, it has too often been a source of frustration for NTCA members, and it could be conducted more efficiently. NTCA members report auditors' frequent and repetitive requests for documents, auditors not trained in the specific accounting and record-keeping processes that these providers and program use, and audits that remain open for prolonged periods with significant gaps in communication or activity. To be clear, NTCA members understand the value of reasonable audits in promoting and demonstrating the overall integrity and effectiveness of the USF programs. These audits should not, however, turn into multi-year endeavors because of disorganization, miscommunication, or lack of training.

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[56] Broadband Interagency Coordination Act of 2020, Pub. L. No. 116-260, 134 Stat. 3214, Div. FF, tit. IX, § 904 (2020), codified at 47 U.S.C §1308 et seq. ("BICA").

To the extent it desires greater visibility into the work that USAC does to assist the FCC in administering the USF programs, Congress could direct the FCC to report periodically on the specific functions carried out by USAC under the agency's oversight. This should include, in turn, an evaluation by the FCC of USAC's performance with respect to these functions, allowing the agency statutorily responsible for the USF (and thus the expert agency on these matters) to provide Congress with a more detailed accounting of the administrator's performance.

10) Is Congressional guidance needed to ensure future high-cost program rollouts, such as RDOF phase II, are improved? Would a thorough and upfront vetting process be more efficient for federal dollars and recipient ISPs?

Through the IIJA, Congress established the BEAD program, an initiative that has often been referred to as a "once in a generation" investment in broadband availability. A number of programs enacted in response to the COVID-19 pandemic have been impactful in this area as well, responding to a need for connectivity highlighted by a public health emergency; the RUS Reconnect Program has been successful too in filling availability gaps in rural areas across the nation. These programs – and the important efforts of the federal agencies administering these programs to coordinate among them – should go a long way towards closing the availability gaps that have long existed in areas that the RDOF program otherwise might have addressed.

Given that RDOF was intended to play essentially the same purpose that these grant programs are now tackling – focusing primarily on availability and deployment – NTCA submits that it would be prudent to await the workings of these grant programs before undertaking a further phase of RDOF specifically. The RDOF auction also should call into question the use of reverse auctions in the context of universal service programs, as such approaches to distribution tend to undermine, rather than promote, sustainability of networks and the viability of the ongoing provision of services.

At the same time, even as there is good cause to defer future RDOF phases because this program focused first and foremost on availability, the FCC should not and cannot neglect otherwise its statutory mandate to achieve the more comprehensive goals of universal service – including not only availability but also affordability, capacity, and sustainability. Thus, to be clear, the FCC can and should (and even must) continue to consider ways in which its existing USF programs may require targeted updates to advance and should seek to fulfill this more comprehensive mission without delay or deferral. As part of this, the FCC should consider through its most recent notice of inquiry[57] how to ensure the ongoing mission of universal service is fulfilled in the wake of the substantial grant programs overseen by other agencies.

[57] *E- ACAM Order & Notices*, *supra* n. 33, ¶¶ 154 to 183. In this Notice of Inquiry, the FCC seeks comment on, among other things, the need for ongoing support for networks deployed using BEAD and similar grant program funding. In particular, the NOI notes that "providers in high-cost areas that already operate such fully deployed networks might not have a business case for continuing to operate those networks and provide services absent ongoing programmatic support that will augment existing revenues. Similarly, providers that receive support under programs such as BEAD that are designed to kick-start network deployment without providing support for sustained operations may face similar circumstances. Depending on the scope of this problem, lack of funding could threaten the sustainability of these full-service networks in high-cost areas." *Id.*, ¶ 159.

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We again express our gratitude for your long-standing leadership when it comes to promoting broadband access in rural America, and your interest in the most recent letter in examining how best to address persistent digital divides. We look forward to working with you in the months and years ahead to ensure that every American can get and stay connected to robust and affordable broadband.

NTCA THE RURAL BROADBAND ASSOCIATION

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