Utah Education and Telehealth Network

Federal Communications Commission
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Commissioner Michael O'Rielly
Commissioner Brenden Carr
Commissioner Jessica Rosenworcel
Commissioner Geoffrey Starks

Utah Education and Telehealth Network Response to

WC Docket No. 06-122

Universal Service Contribution Methodology

The Utah Education and Telehealth Network (UETN) thanks the Federal Communications Commission (FCC) for the opportunity to respond to WC Docket No. 06-122, "Universal Service Contribution Methodology." UETN, as a state network consortium of public education, health care providers and public libraries, connects Utah's school districts, public K-12, libraries and telehealth stakeholders to a robust network and quality educational and telehealth resources. The Utah State Legislature has tasked UETN with applying for all state and federal funding on behalf of public education. The network provides high quality broadband and network access in a cost-effective manner by contracting for and providing Wide Area Network, Internet, and educational services from telecommunications and Internet providers as a public-private partnership.

Today, UETN connects about 840,000 students and 73,000 educators and staff. It also connects more than 70 hospitals, clinics and health departments. As a state network consortium with significant expertise in participating in both the Schools and Libraries (E-Rate) and Rural Health Care (RHC) programs within the Universal Service Fund (USF), we have the following recommendations for the FCC to ensure that USF programs continue to provide appropriate funding to schools, libraries and health care providers who depend on critical broadband services to perform their missions. These programs are vital in providing broadband service to rural, underserved and difficult to reach areas and we wish to express our concerns that capping USF may hinder our ability to meet the needs of the individuals and organizations we serve.

**Universal Service Fund Caps Violate Statutory Principles**

The Telecommunications Act of 1996 states that there should be "specific, predictable, and sufficient Federal and State Mechanisms to preserve and advance universal service."[1] We express deep concern that the proposed rules expressed in WC Docket No. 06-122, which would both cap USF and combine funding for programs, would threaten predictability and would likely result in funding allocations that would be insufficient to meet applicants' needs.

The Notice of Proposed Rulemaking (NPRM) asks for feedback on how to correctly forecast the needs of USF applicants for extended periods or time (up to 5 years). This proposal implies that applicants will implement technology initiatives in a predictable pattern, which has never been the case. For example, if a state(s) were to implement a large-scale technology initiative, and disproportionally qualify for USF funding assistance, it could drain the fund of resources and render the model useless for determining the need for future years. It would also inhibit the FCC's ability to robustly respond to changes in demand and would require additional rulemaking procedures to make any corrections, leading to potential months or years of uncertainty for applicants. The current FCC model of using the Universal Service Administrative Company's (USAC's) filings to project needs on a quarterly basis to adjust the USF contribution factor is still the preferable model to the one proposed because it can quickly respond to changes in demand (both increases and decreases).

**An Overall Cap on USF Would Put Programs in Opposition to Each Other**

The NPRM's proposed changes would put programs in opposition to each other by asking questions such as "What criteria should be used in prioritizing reductions of one program against reductions in another?" or "Would a combined budget effectively increase the budget on whichever program is closest to their cap?" If these proposals were implemented, this practice would create additional uncertainty and unnecessary complexity for applicants of all four programs because a capped program that has reached its funding limit could access funds from the other three.

The four programs funded by USF should continue to be evaluated and funded separately, keeping in line with the principles of USF. Each of the USF programs meet a unique and specific goal in delivering services. Setting a combined cap would pit these programs against each other and as a result, there may be unintended consequences. If negative consequences do occur, such as a surge in demand in one area, it would take a lengthy rulemaking process to put into place a corrective action. There is no accurate way to definitively predict the funding needs

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[1] 47 U.S.C. § 254(b)(5)

of the USF programs collectively and we urge the FCC to continue to evaluate, fund and administer these programs separately.

The RHC Program, for example has exceeded its available funding several times, which has led to funding requests being prorated, creating more uncertainty for applicants.[2] All four USF programs are unique in their scope and application process. These issues should be addressed within their respective programs without creating additional uncertainty for the other three programs.

**Contribution Reform is Needed to Stabilize USF**

The NPRM also expresses the FCC's desire to "limit the contribution burden borne by ratepayers, provide regulatory and financial certainty, and promote efficiency, fairness, accountability, and sustainability of the USF programs."

During Quarter 3 of 2019, the FCC announced (DA 19-559) the highest contribution factor (24.4%) since 2000. However, this increase in the contribution factor should not be the only factor considered in determining or addressing the burden borne by the ratepayers. At this rate, the FCC will collect an estimated $11.4 billion in revenues for the quarter, which is the lowest projected revenue number since 2000, despite an increase in demand in all four USF programs. The continual increases in the contribution factor, combined with a decrease in revenue is the function of a decrease in consumption of telephone services and not an accurate assessment of the overall burden borne by ratepayers. Therefore, the best way to ensure FCC's statutory mandate to ensure "specific, predictable, and sufficient" Federal mechanism to preserve and advance universal service is to initiate a proceeding aimed at determining which services should qualify as telecommunications for the purpose of USF contributions, in order to stabilize revenues and contributions in the future.

**Administrative Barriers Must be Removed to Assess Demand Accurately**

The NPRM also discusses the demand for various programs including E-Rate and RHC. In our experience in applying for funding within these programs, there are still significant barriers in place that have caused delays in processing funds and have made the process for applying for funds difficult. These barriers make it very difficult to accurately assess the current need and these issues should be addressed before the FCC makes any long-term demand projections.

The E-Rate Modernization Order of 2014 attempted to address some of these issues but even those recommendations have not been fully realized. For example, the Order directed USAC to streamline the multi-year application process.

> *"Applicants that have qualifying multi-year contracts will only be required to submit a complete FCC Form 471 for the first funding year of the contract. In subsequent funding years, applicants will be permitted to use a streamlined application process. This simplified application process will be available to any applicant, beginning in funding year 2015, as long as (1) the multi-year contract is five years or less, and, (2) to the*

[2] *Universal Service Administrative Company 2018 Annual Report*, p.7. Viewed online at www.usac.org.

*extent applicable, any changes in the requested services are within the scope of the original FCC Form 470 and multi-year contract.*"

To date, the streamlining of multi-year contracts has not been implemented. Instead, applicants must endure a new program integrity assurance (PIA) review, with a new PIA reviewer, of a multi-year contract funding request for each year an application is filed. For a state education consortia filer, with five-year term contracts, this means we could have 200 funding requests on previously approved multi-year contracts, that continue with an entirely duplicative review, for each year, over the course of four more years. Doing the math for the current PIA review of multi-year contract FRNs, 200 funding requests x 5 annual reviews = 1,000 reviews. If the streamlined multi-year application process were to be implemented, we would undergo 200 funding requests x 1 review = 200 reviews, a difference of 800 reviews over the life of a five-year contract. These excessive and duplicative reviews are not only wasteful to the USF fund, but they greatly increase the administrative burden to applicants, and lead to less predictability of funding.

Additionally, the administrative complexities of USF programs create additional barriers to funding for many applicants who choose not to participate despite their need and eligibility, thus contributing to lower demand.

UETN thanks the FCC for the opportunity to respond to these issues and hopes the Commission will use these recommendations to ensure that USF continues to provide sufficient broadband access to institutions and individuals who would not have access without these critical programs.

Ray Timothy

CEO/Executive Director

Utah Education and Telehealth Network