FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF THE CHAIRWOMAN

January 12, 2024

The Honorable Ben Ray Luján
United States Senate
413 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Luján:

Thank you for your letter requesting input from the Federal Communications Commission on proposals to modify the contribution base for the Universal Service Fund (USF). The USF provides support so people across the country stay connected to the communications services they need to participate in modern life. Since Congress last directed the Commission to establish the current contribution framework in 1996, there have been revolutionary changes in how we communicate, with the need for a broadband connection eclipsing the home telephone as need-to-have service. In light of this evolution, I agree that any reform to the contribution system must result in a sustainable funding model and also fully consider the current telecommunications marketplace and the potential cost burdens on consumers.

Under the Communications Act, the current system requires telecommunications services providers and certain other providers of telecommunications to contribute to the USF and charges the Commission with establishing a specific, predictable, and sufficient mechanism to support universal service. The Commission does this by setting a contribution factor and applying it to certain types of providers' revenues. That factor is calculated each quarter based on the amount the Commission expects to spend on all USF programs required under the law and the expected interstate telecommunications revenues of these providers. Providers are allowed to pass through to their customers their USF contributions. Over the past decade, USF disbursements have remained relatively stable, so that increases in the contribution factor are generally due to declining interstate telecommunications revenues.[1]

This decline is noteworthy because the current contribution system reflects only a small portion of the modern communications landscape. However, it was a larger part of the landscape when the system was created in 1996 and the explicit charges the system introduced were designed to replace the implicit fees associated with the transfer of traffic between networks that historically helped sustain nationwide communications. Now, more than ever before, consumers and other end-users including schools, libraries, hospitals, and businesses are relying upon new internet-based services for messaging, streaming video, cloud computing, and gaming, and other purposes. Additionally, current contributors that provide a mix of these different types of services must apportion their revenues between telecommunications and non-

[1] The Commission has exempted providers whose contributions would be *de minimis* and also declined to exercise permissive authority over various types of interstate telecommunications providers that generally do not compete directly with common carriers.

telecommunications sources for purposes of contribution assessment. Over time, we see providers reporting a declining share of telecommunications revenues and an increasing share of non-assessable non-telecommunications revenues, which has led, and continues to lead, to a smaller and smaller contribution base.

There are a number of potential options for reforming the USF contribution system, each with advantages and disadvantages, and, critically, different cost burdens on consumers. On August 15, 2022, the Commission adopted a report detailing different options to reform the contribution system (the *Future of USF Report*).[2] Many of these reforms require legislative action and are not wholly within the authority of the Commission. Many also rely on assessing revenues from additional services or providers that currently are not direct USF contributors. Such entities include providers of broadband, digital advertising, various other edge services, or some combination of such entities. Currently, approximately 82 percent of USF contributors pass through their contribution costs to their end-users, which are reflected in consumer bills. Thus, any reforms that increase the contribution base from services directly provided to consumers will likely be passed through and have a direct effect on consumers through charges on their monthly bills.

Impacts of Options to Reform the Contribution System

You requested that we provide information about potential impacts of three mechanisms to reform the contribution system: (1) expanding the contribution base to assess broadband revenues; (2) expanding the contribution base to include edge providers; and (3) expanding the contribution base to include digital advertising. Using publicly available data,[3] Commission staff have been able to estimate the potential impact each option may have on consumers. As noted above, it is essential to consider the cost burden on consumers of any reform. So it is useful at the outset to acknowledge that the third option is likely to have the smallest impact on consumer bills. Nonetheless, any reform efforts would benefit from further inquiry, such as a rulemaking or data collection, to fully appreciate the potential burdens on consumers and any other unforeseen, negative downstream effects.

First, based on publicly available data, the Commission anticipates that expanding the type of revenues used to fund USF to include revenues from mass market broadband providers, in addition to the revenues from the current telecommunications contributors, is estimated to expand the contributions base to $250 billion, an increase of an additional $220 billion in revenue above the current base of approximately $33 billion. As a result, the Commission estimates the contribution factor would drop substantially, to approximately 3.3 percent, assuming the current size of all USF programs. For reference, the contribution factor in the first quarter of 2024 is 34.6 percent.

This change, however, would actually lead to an *increase* in the monthly broadband bills paid by the average household. In fact, it would double the typical payment from an average

---

[2] *Report on the Future of the Universal Service Fund*, WC Docket No. 21-476, Report, 37 FCC Rcd 10041, 10087, para. 92 (2022) (*Future of the USF Report*).

[3] To prepare revenue estimates and subsequent estimated impacts to the contribution factor and consumers, staff relied upon Census 2022 data, market reports, and staff's own contribution factor analysis based on FCC Form 499 data and other collected USF-related data.

USF line item of around $2.00 on consumer telephone bills to a combined total of approximately $4.00 on monthly broadband and telephone bills. The monthly household payment would increase, even though the contribution factor would decrease, because the contribution factor would be applied for the first time to consumer broadband bills (in addition to telephone bills) which are generally higher than telephone bills. If the Affordable Connectivity Program were rolled into the USF, it would significantly increase the size of the USF, resulting in an approximately $9.00 USF increase on monthly broadband and telephone bills. This expected increase on household bills is broadly consistent with the record in the *Future of USF Report*, which reflected that assessing broadband would increase consumer broadband bills by $5.28-$17.96 per month.

It is important to understand that with a new broadband assessment consumers would bear a larger burden of total USF fees than under the present contribution system, due to the proportion of broadband revenue that comes from residential customers. Currently, residential customers pay approximately 40 percent of USF contributions, with the balance paid by business customers. However, residential customers make up approximately 75 to 85 percent of mass market broadband customers. That means that residential customers will both see an increase in their broadband bills and also be responsible for a greater percentage of USF contributions with the addition of broadband into the contributions base.

All of this means that expanding the USF contribution base by assessing broadband would result in an increase in the financial burden on consumers. The Commission expects, as is presently the case, that broadband providers will pass on the entirety of their USF contribution assessments to their end-users, the majority of which are consumers. Thus, consumers would see their monthly broadband bills increase at a time when these connections are vital for modern life. Making this service more expensive could harm those who may already be struggling to get and stay connected.

Second, you asked for information about a broader expansion of the USF contribution revenue base, in particular expanding the contribution base to include revenues from edge providers. This approach would require congressional action authorizing the Commission to assess edge providers for USF purposes. Edge providers, as a whole, generate significant revenues from their online services with certain providers generating the overwhelming majority of such revenue. If such revenue was assessed for universal service purposes, it could significantly increase the base and reduce the contribution factor.

For the purposes of estimating how assessing edge providers would impact the contribution system and consumers, we used publicly available information and considered edge providers to include streaming video and music providers, social media companies, cloud computing services companies, online gaming providers, e-commerce companies, digital search companies, and over-the-top messaging providers. The majority, if not all, of these providers also earn substantial digital advertising revenues. The Commission estimates expanding the current contribution base to include edge providers would increase the contribution base by approximately $2.3 trillion on top of the current base of approximately $33 billion. This would reduce the contribution factor to approximately 0.4 percent—resulting in a decrease in the overall amount of USF fee per household on telecommunications bills—as households would pay a total monthly household USF support fee of less than $0.03 (3 cents) on their phone bills.

However, to be clear, under any approach that assesses edge provider services, consumers could potentially face rising costs for certain edge services, particularly those that directly bill consumers. For example, if streaming video and music providers pass through contributions to households, it could increase consumer bills. We currently lack sufficient information to determine how significant the effect would be on overall consumer bills. If the Affordable Connectivity Program were rolled into the USF, it would substantially increase the size of the USF, and would potentially further increase consumer costs for these edge services. The Commission estimates that assessing edge provider services along with the current telecommunications base and also adding the Affordable Connectivity Program into the USF would reduce the contribution factor to around 0.8 percent. This would lead to a decrease in the overall amount of USF fee impact per household to less than approximately $0.07 (7 cents) on phone bills. But again, if edge providers pass on increased contributions to consumers, consumer bills could increase, and the Commission currently lacks sufficient data to determine how significant the impact would be on consumers.

In addition, there are important legal and consumer cost concerns with adding categories of edge providers to the contribution base. The Commission lacks authority to include these entities under current law, and if given the authority to assess edge providers, the Commission would need to develop a rulemaking proceeding and data collection to fully understand how to define edge providers, determine those subject to assessment, and identify what impact assessment might have on consumers. The agency may also wish to consider downstream effects associated with this reform mechanism because it could result in increased costs for other subscription-based services, which could be passed through to consumers.

Third, you also asked us to consider expanding the contribution base to include a subset of edge providers, in this example by projecting for digital advertising revenue alone. This approach would also require congressional action authorizing the Commission to assess edge providers for USF purposes. As noted above, based on publicly available information and the record in the *Future of USF Report*, adding digital advertising revenue would likely have the smallest financial impact on consumer bills compared to other options.

Digital advertising generates billions of dollars of revenue and is expected to continue to be a growth area. Based on publicly available data, the Commission estimates that assessing revenues from only digital advertising providers, in addition to the current telecommunications contributors, would expand the contribution base to approximately $250 billion. This would result in a contribution factor of approximately 3.3 percent, assuming current USF demand. Unlike the expansion focused on broadband revenues, the Commission anticipates that assessing digital advertising revenue would lead to a *decrease* in USF fees on monthly household telephone bills to approximately $0.30 (30 cents), because data indicates that an assessment on digital advertising is less likely to be passed on to consumers. If the Affordable Connectivity Program were rolled into the USF, it would substantially increase the size of the USF, but in this case we would expect consumers to see a decrease in their USF fee on their monthly telephone bill to approximately $0.70 (70 cents), which reflects both the additional contributions required due to the addition of the Affordable Connectivity Program into the USF *and* the addition of new revenue from digital advertising into the contributions base.

Our analysis of publicly available data and the record in the *Future of USF Report* suggests that assessing only digital advertising, as compared to all edge provider revenues, could have a smaller impact on consumer bills. This is because the nature of the digital advertising market makes is less likely that an assessment could be passed on to consumers, particularly in comparison to consumer-facing edge providers, such as streaming video, music, or gaming providers with subscription-based revenue models. However, our analysis would benefit from congressional authority to conduct a comprehensive study and data collection.

Potential Impacts of Business-to-Business Transactions

In your letter, you also asked about impacts to the contribution base and factor if reform efforts only leveraged business-to-business transactions. Generally, the Commission needs more information to determine the impacts that only leveraging business-to-business transactions would have on the contribution factor or impacts on consumers. In order to obtain information about business-to-business transactions, the Commission would need to initiate a data collection proceeding to identify the range of potential business-to-business transactions that could be assessed and associated revenues. This would be a significant undertaking and the Commission would require authority from Congress to require the collection of data for those business-to-business transactions conducted by companies over which the Commission does not currently have authority.

Efforts That Would Impact Predictability of the USF: Contribution Factor Targets and Congressional Appropriations

In the Communications Act, Congress charged the Commission with, among other principles, developing a USF support system that is both "predictable" and "sufficient" to "preserve and advance universal service." Reform measures that feature a capped or target contribution factor or elimination of the contribution mechanism altogether may be inconsistent with these principles. For instance, establishing a set target for the contribution factor would create a challenge for effective administration of USF programs because it could result in funding that is not sufficient under the law if USF program demand exceeds the amounts collected through the target contribution factor. Under the current system, the Commission has the ability to adjust the quarterly contribution factor to respond to changes in USF demand and ensure enough funding is collected at all times. A set target contribution factor would remove this ability to respond timely to changes in USF demand, potentially creating a budget shortfall and directly impacting the Commission's ability to collect sufficient funding necessary to administer the USF programs.

If a shortfall occurred under a capped contribution factor target approach, funding for the USF programs would need to be adjusted downward accordingly in response to the amount collected rather than like under the current system, in which the amount collected in assessments responds directly to USF program demand. This would also require the Commission to consider potential steps for addressing the shortfall, including the management of unexpected pro rata decreases in funding, which could lead to less predictable support for the USF and create challenges for program participants.

Eliminating the current contribution model and funding the USF through congressional appropriations may also negatively impact USF programs because they require certainty of funding. Although programs like the Emergency Broadband Benefit Program and the Affordable Connectivity Program were supported through appropriations, the duration of these efforts is limited by the availability of funding from Congress. In fact, the Commission recently started taking steps to wind down the Affordable Connectivity Program due to a lack of additional funding to continue providing full benefits after April 2024. The USF, on the other hand, provides ongoing, predictable support in an amount established by the Commission and the agency can adjust the amount collected to reflect changes in USF demand. The ability to count on this system has been an important part of the success of USF programs.

In the *Future of USF Report* proceeding, the Commission sought comment on the potential impacts on the USF if the fund was supported by appropriations rather than the contributions system. Some commenters suggested that funding the USF through annually appropriated funds would reduce the burden on consumers as well as provide the broadest base possible for funding the USF. Conversely, other commenters expressed concern that the annual appropriations process is unpredictable and that USF programs require stable support. Those commenters claim that assessments based on the current contribution system are much more dynamic and accurate than annual appropriations. This is the case because the contribution factor is calculated quarterly based upon the demands of the USF funded programs rather than a set annual appropriated amount. The contribution model, with an expanded base, would have greater predictability and offer stability for the USF programs, which benefit schools, libraries, health care facilities, low-income consumers, and networks requiring support in rural, high-cost, and insular areas across the country.

I hope this information is helpful. I appreciate your willingness to engage on this subject and would be happy to answer any further questions you might have. I also will keep you apprised of any changes in our universal service policies that may be of interest to you in light of this letter.

Sincerely,

Jessica Rosenworcel