

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of:

**Report on the Future of
the Universal Service Fund**

)
)
)
)
)

WC Docket No. 21-476

To: The Commission

**COMMENTS OF
THE NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION**

**Brian M. O'Hara
Senior Director Regulatory Issues
National Rural Electric Cooperative
Association
4301 Wilson Blvd.
Arlington, VA 22203
703-907-5798
brian.ohara@nreca.coop**

**Of Counsel:
Thomas B. Magee
Keller and Heckman LLP
1001 G Street NW, Suite 500 West
Washington, DC 20001
202-434-4128
magee@khlaw.com**

Filed: February 17, 2022

SUMMARY OF ARGUMENT

Because rural electric cooperatives serve 327 (92%) of the nation's 353 "persistent poverty counties," and because NRECA and its members are deeply committed to promoting the deployment of advanced telecommunications capabilities within the rural communities they serve, NRECA applauds the Commission's timely release of the Notice seeking comments on the future of the Universal Service Fund to enable the Commission and Congress to achieve the goals of universal deployment, affordability, adoption, availability, and equitable access to broadband throughout the United States.

The success of electric cooperative broadband deployments to very high-cost areas proves that cutting edge broadband service is achievable in rural America, and that rural America need not be "second-class" broadband citizens. The 25/3 Mbps broadband standard established in 2015 was outdated by 2018 and is now even further behind. Considering the historic levels of federal and state funding for broadband networks, and considering the success of many electric cooperatives and others in providing minimum 100/100 Mbps broadband speeds to their rural communities, it is reasonable to use 100/100 Mbps broadband speeds as the benchmark for universal service. Because of wireless limitations, the Commission should consider fixed terrestrial wireline broadband networks, rather than wireless broadband service, to be the measure of whether broadband service is universally available.

The Universal Service Fund is the single most comprehensive ongoing federal program to address the digital divide, but the current contribution factor hovering near 30% is five times the figure just over 20 years ago and is unsustainable. To ensure the long-term viability of this critical USF funding, NRECA agrees with hundreds of other organizations that the contribution

base used to fund USF programs should be broadened to include revenues from broadband services.

Given today's historic levels of funding, the broadband landscape across the United States is about to be transformed. To ensure the viability of many new networks, the Commission should consider establishing a program to provide ongoing operations and maintenance support to rural and high-cost areas. The allocation of such operations and maintenance support should use a points system to direct funds to the High-Cost areas that need them most and to avoid the gamesmanship that the RDOF reverse auction process enabled.

There may remain a need for additional capital funding in High-Cost areas, and NRECA urges the Commission to keep the door open for future capital funding, but the reverse auction format should be abandoned. As for the effect of the BEAD Program on mobile broadband, the support of wireline/fiber backbone providing robust access to fixed wired broadband to every home and business already facilitates the expansion of mobile wireless networks.

Finally, because a permanent program is needed to address broadband affordability, NRECA respectfully proposes that the Commission immediately begin efforts to revise the current Lifeline program or replace it with a permanent program more in line with the Affordable Connectivity Program. Critical voice services should continue to be supported through collaboration with states.

TABLE OF CONTENTS

SUMMARY OF ARGUMENT.....	i
I. INTRODUCTION.....	1
A. Background on NRECA.....	1
B. Electric Cooperatives Are Deeply Committed to Promoting Broadband	2
II. COMMENTS.....	3
A. The Commission’s Universal Service Goals for Broadband Must Achieve Adequate Levels of Bandwidth and Capabilities for All Americans	3
1. The existing 25/3 Mbps standard is hopelessly outdated and insufficient to meet existing needs identified by either the Commission or the Treasury Department.....	5
2. The 100/100 Mbps broadband speeds now required by households should be the benchmark used to determine how far “broadband” service is universally available, and this benchmark should evolve over time.....	6
3. Fixed terrestrial wireline broadband networks, rather than wireless broadband service, should be the measure of whether broadband service is universally available.	7
B. The Contributions Methodology Must Be Revised to Ensure the Long- term Sustainability of the Universal Service Fund	10
C. NRECA’s Comments Regarding the High-Cost Program.....	13
1. Operations and maintenance support will be needed for many High-Cost broadband systems once they are constructed.....	13
2. Operations and maintenance support should be allocated in a manner that avoids gamesmanship and which ensures the funds will support the High- Cost areas that need them most.....	14
3. There will continue to be a need for additional capital funding in High-Cost areas	17
4. Funding and promoting fixed wired broadband will facilitate the expansion of mobile broadband services	18
D. NRECA’s Comments Regarding the Low-income (Lifeline) Program	18

1.	The Lifeline program should be updated to resemble the Affordable Connectivity Program	18
2.	Congress should ensure that the Lifeline program continues to support voice services	20
III.	CONCLUSION	21

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

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

To: The Commission

**COMMENTS OF
THE NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION**

The National Rural Electric Cooperative Association (“NRECA”) hereby submits these Comments in response to the December 15, 2021, Notice of Inquiry (“Notice”) requesting comment on issues related to the future of the Universal Service Fund (“USF” or “Fund”).¹

I. INTRODUCTION

A. Background on NRECA

NRECA is the national service organization for more than 900 not-for-profit rural electric cooperatives that provide electric power to 56% of the nation’s landmass, approximately 42 million people in 48 states, or approximately 12 percent of electric customers. Rural electric cooperatives serve 88% of the counties of the United States, including 327 of the nation’s 353 “persistent poverty counties,” which is 92% of these persistent poverty counties.

Rural electric cooperatives were formed to provide safe, reliable electric service to their member-owners at the lowest reasonable cost. They are dedicated to improving the communities

¹ *Report on the Future of the Universal Service Fund*, Notice of Inquiry, WC Docket No. 21-476 (Dec. 15, 2021) (“Notice”). On January 4, 2022, the Commission extended the filing Comments in this proceeding to February 17, 2022. *Report on the Future of the Universal Service Fund*, Order Granting Extension of Time, WC Docket No. 21-476 (Jan. 4, 2022).

in which they serve, and the management and staff of rural electric cooperatives are active in rural economic development efforts. Electric cooperatives are private, not-for-profit entities that are owned and governed by the members to whom they deliver electricity. Electric cooperatives are democratically governed and operate according to the seven Cooperative Principles.²

B. Electric Cooperatives Are Deeply Committed to Promoting Broadband

NRECA and its members are deeply committed to promoting the deployment of advanced telecommunications capabilities within the rural communities and areas in which electric cooperatives provide electric service. About 200 NRECA members provide fixed broadband service today, deploying fiber-based, fixed wireless or combined fiber and fixed wireless technologies. Thirty-two (32) rural electric cooperatives won bids in the Connect America Phase II auction, securing \$254,720,764.50 over ten years in 15 states to bring broadband to 86,716 locations. Around one hundred and fifteen (115) electric cooperatives won RDOF bids securing more than \$1.1 billion dollars over ten years to deploy broadband to over 616,000 locations in 27 states. In the first two rounds of the USDA Rural eConnectivity Program (the “ReConnect Program”), twenty-seven (27) cooperatives won more than \$270 million in 21 states. NRECA estimates that another 100 or so are currently exploring the feasibility of providing broadband, either on their own or through partnerships. Many more are exploring ways they can assist other providers in deploying vital broadband service to their unserved and underserved communities.

² The seven Cooperative Principles are: Voluntary and Open Membership, Democratic Member Control, Members’ Economic Participation, Autonomy and Independence, Education, Training, and Information, Cooperation Among Cooperatives, and Concern for Community.

Prior to adoption of the Infrastructure Act,³ and prior to the Consolidated Appropriations Act, 2021,⁴ which established the Emergency Broadband Benefit Program (“EBB Program”), NRECA members took meaningful steps to support rural area households to remain connected to the internet during the first wave of the COVID-19 pandemic. NRECA members providing broadband services maintained broadband service to customers despite lack of payment, waived late fees because of economic distress, and opened Wi-Fi hotspots to those in need. NRECA member broadband providers went a step further to increase their customers’ internet speeds without charge.⁵

For these and other important reasons, NRECA applauds the Commission’s timely release of the Notice seeking comments on the future of the Universal Service Fund and ways in which the Commission and Congress can achieve the goals of universal deployment, affordability, adoption, availability, and equitable access to broadband throughout the United States. NRECA is hopeful for its electric cooperative members and the rural communities they serve that guidance from the Commission can enable rural portions of the country to receive affordable broadband connections that are so necessary in our increasingly digital economy.

II. COMMENTS

A. The Commission’s Universal Service Goals for Broadband Must Achieve Adequate Levels of Bandwidth and Capabilities for All Americans

The Notice proposes to define the Commission’s universal service goals to be “universal deployment, affordability, adoption, availability, and equitable access to broadband throughout

³ Infrastructure Investment and Jobs Act, H.R. 3684, 117th Congress, *available at* <https://www.govinfo.gov/content/pkg/BILLS-117hr3684enr/pdf/BILLS-117hr3684enr.pdf> (“Infrastructure Act”).

⁴ Consolidated Appropriations Act, 2021, H.R. 133, div. N, tit. IX, § 904(b)(1) (2020).

⁵ See Cathy Cash, *Co-op Broadband Providers Pledge to Sustain Low-Income Service as Pandemic Hardships Increase*, NRECA, <https://www.electric.coop/co-op-broadband-providers-pledge-to-sustain-low-income-service-coronavirus-pandemic-hardships-increase/> (Mar. 25, 2020).

the United States.”⁶ The Notice asks how to measure its progress toward those goals,⁷ and seeks comment on whether these goals for broadband should evolve over time.⁸

NRECA supports these goals for universal service, and its electric cooperative members are taking the lead in achieving them by providing essential broadband services to their unserved and underserved communities today, just as they took the lead in the 1930s to provide essential electricity service to their rural communities where no one else would go. Electric cooperatives have already been successful, and will continue to be successful, in providing broadband services to their rural members. And the quality of that broadband service is cutting edge, as many coops now provide symmetrical gigabit service, and often the lowest speed they offer is 100/100 Mbps.

The success of electric cooperative broadband deployments to very high-cost areas proves that cutting edge broadband service is achievable in rural America. Achieving the goal of universal access to broadband throughout the United States does not mean that rural America must somehow resign themselves to becoming “second-class” broadband citizens, with significantly lower broadband speeds and capabilities than the rest of the country. Instead, the measure of progress toward universal deployment of broadband should be measured by whether the higher level of broadband service considered adequate for household needs is widely available throughout the country, including the more remote rural parts of the country. This measure of progress toward universal broadband deployment should evolve over time to reflect what is now adequate, and what will in the future be deemed adequate.

⁶ Notice at ¶ 18.

⁷ Notice at ¶ 18.

⁸ Notice at ¶ 19.

1. The existing 25/3 Mbps standard is hopelessly outdated and insufficient to meet existing needs identified by either the Commission or the Treasury Department

The Notice observes that the benchmark for broadband has been increasing over the years from 200 kbps/200 kbps in 1997, to 4/1 Mbps in 2010, and to 25/3 Mbps in 2015.⁹ Undeniably, however, this 2015 standard of 25/3 Mbps itself has rapidly become outdated. As the Commission itself explained, this standard was eclipsed only three years later in 2018 for 85% of the U.S. population: “The vast majority of Americans, surpassing 85% of the population in 2018, now have access to fixed terrestrial broadband service at 250/25 Mbps.”¹⁰

The 25/3 Mbps broadband standard established in 2015 was outdated by 2018, and it is now even further behind. The COVID-19 pandemic has put the spotlight on the absolute and outright necessity for ubiquitous high-performing broadband for all Americans, and has shone a light on the inadequacies of the current 25/3 Mbps benchmark. The Commission’s “Broadband Speed Guide” estimates that a household with two telecommuters and two students working remotely today need 100 Mbps download speed to work simultaneously.¹¹ And the U.S. Treasury Department’s final rule implementing the Coronavirus State and Local Fiscal Recovery Funds established under the American Rescue Plan Act establishes a standard of reliable 100/100 Mbps service for the broadband projects it funds:

In the final rule, Treasury also requires that broadband projects must meet a standard of reliably delivering at least 100 Mbps download speeds and upload speeds, or in cases where it is not

⁹ Notice at ¶ 19, citing *Lifeline and Link Up Reform and Modernization et al.*, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656 at 6662-3, ¶ 12 (2012) (“2012 Lifeline Order”); *Lifeline and Link Up Reform and Modernization*, Third Report and Order, Further Report and Order, Order on Reconsideration, 31 FCC Rcd 3962, 3964, ¶ 5 (2016) (“2016 Lifeline Order”).

¹⁰ *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, GN Docket No. 19-285, 2020 Broadband Deployment Report, FCC 20-50, ¶ 3 (2020) (“2020 Broadband Deployment Report”)

¹¹ See Federal Communications Commission, Broadband Speed Guide, available at <https://www.fcc.gov/consumers/guides/broadband-speed-guide> (last visited February 1, 2022).

practicable to do so, reliably delivering at least 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed while being scalable to 100 Mbps upload and download speeds. Treasury expects that this threshold will yield long-term benefits and allow networks to meet both pandemic-related and future needs. The Federal Communications Commission (FCC) estimates that currently a household with two to three remote learners using the internet simultaneously needs a connection supporting 100 Mbps download speeds. While a lower threshold may have resulted in lower near-term costs to build, it would have potentially constrained future utility from the infrastructure by producing infrastructure that would more quickly – potentially in the near-term – become obsolete and no longer meet household needs, potentially requiring sooner replacement and generally decreasing the return on investment. As such, projects meeting a lower threshold could not be considered “necessary” investments in broadband infrastructure, so Treasury has retained the threshold from the interim final rule.¹²

As Treasury elaborated in its Interim Rule:

In setting these standards, Treasury identified speeds necessary to ensure that broadband infrastructure is sufficient to enable users to generally meet household needs, including the ability to support the simultaneous use of work, education, and health applications, and also sufficiently robust to meet increasing household demands for bandwidth.¹³

NRECA agrees with these FCC and Treasury Department analyses.

2. The 100/100 Mbps broadband speeds now required by households should be the benchmark used to determine how far “broadband” service is universally available, and this benchmark should evolve over time

With the historic level of federal and state funding currently available to support the build out of broadband networks, and considering the success of many electric cooperatives and others

¹² U.S. Department of the Treasury, Coronavirus State and Local Fiscal Recovery Funds, Final Rule, RIN 1505-AC77, at p. 296 (rel. Jan. 6, 2022), available at: [SLFRF-Final-Rule.pdf \(treasury.gov\)](#) (“Treasury encourages recipients to prioritize projects that are designed to provide service to locations not currently served by a wireline connection that reliably delivers at least 100 Mbps of download speed and 20 Mbps of upload speed.”)

¹³ U.S. Department of the Treasury, Coronavirus State and Local Fiscal Recovery Funds, Interim Final Rule, RIN 1505-AC77, 86 Fed. Reg. 26786 (May 17, 2021), at 71.

in providing minimum 100/100 Mbps broadband speeds to their rural communities, it is reasonable to use 100/100 Mbps broadband speeds as the current benchmark for universal service. The question whether broadband is universally available in the United States should be answered by measuring how much of the country is receiving the level of broadband service that is necessary to meet today's broadband needs. Those needs are identified in the Commission's "Broadband Speed Guide" and Treasury Department rules as sufficient bandwidth to allow households with telecommuters and students to work remotely, which is reliable 100/100 Mbps service.

Rural parts of the country historically have been relegated to substandard broadband service compared to their urban counterparts, in large part because the Commission's 25/3 Mbps standard allowed the bar to be set so low. The 1996 Telecommunications Act calls on the Commission to ensure that comparable communications services are available at comparable rates in rural communities just as they are available to those living in urban and suburban areas. Accordingly, the measure of universal broadband service should consider the speeds that are currently needed and achievable, in order to support concurrent and future use of multiple devices within a household. Those speeds are being achieved currently using fixed terrestrial broadband networks having a minimum performance tier of 100/100 Mbps.¹⁴

3. Fixed terrestrial wireline broadband networks, rather than wireless broadband service, should be the measure of whether broadband service is universally available.

The Commission should continue to assess fixed broadband service and mobile broadband service separately in determining whether advanced telecommunications capabilities

¹⁴ NRECA also notes that wireless broadband service is not robust enough to support these existing household needs, much less future needs.

such as 100/100 Mbps broadband service are being deployed to all Americans in a reasonable and timely fashion. When determining the extent to which broadband service is universally available, the Commission should measure the extent to which fixed wireline terrestrial broadband service is available, not the extent to which wireless broadband service is available.

NRECA agrees with the Commission's *2020 Broadband Report's* determination that wireless broadband service and fixed broadband service are not equivalent: "[W]hile subscribers of both mobile and fixed broadband service may substitute between the two when accessing certain uses, programs, and applications, the two services are not yet functional substitutes for all uses and customer groups."¹⁵ Compared with fixed wireline terrestrial networks, wireless broadband service is simply incapable of supporting existing multiple household needs for distance learning and remote work, much less future needs.

Fixed and mobile technologies may be substituted for accessing certain uses, programs and applications, but mobile broadband service is limited by monthly usage limits. While mobile broadband service plans with "unlimited" data have been advertised by the three major wireless carriers since 2017,¹⁶ these service plan data offerings are not actually "unlimited." Under these plans, as monthly usage approaches certain levels (typically between 20 and 50GB), download speeds are throttled.¹⁷ This is rarely the case for high capacity fixed wireline broadband services.

¹⁵ 2020 Broadband Deployment Report at ¶ 12.

¹⁶ Mike Dano, *'Alarming' Unlimited Data Usage: 31.4 GB Per Month and Rising*, FierceWireless (Jan. 3, 2018) <https://www.fiercewireless.com/wireless/alarming-unlimited-data-usage-31-4-gb-per-month-and-rising> (last visited Feb. 16, 2022).

¹⁷ Mike Dano, *Editors Corner – 5G is Operators' Chance to Correct Their 'Unlimited' Mistake*, FierceWireless (Aug. 28, 2018) <https://www.fiercewireless.com/5g/editor-s-corner-5g-operators-chance-to-correct-their-unlimited-mistake> (last visited Feb. 16, 2022). One of the most significant and egregious cases of throttling was widely reported just last month, when the Santa Clara County Central Fire Protection District suffered from heavy throttling until the department paid Verizon more, despite its subscription to an unlimited data plan. The County Fire Chief stated that during deployment to the Mendocino Complex Fire, the largest in California's history, an incident response unit used to coordinate all local government resources had its data rates reduced to 1/200 or less than previous speeds. Jon Brodtkin, *Verizon Throttled Fire Department's "Unlimited" Data During Calif. Wildfire*, ARS

The Commission itself is very aware of this and included limitations on how low fixed wireless and wireline providers could set monthly usage caps to qualify for its RDOF auction. For the RDOF Phase I Auction “Minimum” and “Baseline” performance tiers, the Commission determined that monthly usage caps can be no lower than (i) equal to or greater than 250 GB, or (ii) the U.S. median speed, whichever is higher.¹⁸ For the “Above Baseline” and “Gigabit” tiers, the Commission established that the monthly cap could be no lower than 2 TBs.¹⁹

Fixed wireline broadband services can easily meet today’s broadband needs, as reflected by these monthly usage benchmarks. Wireless services, both fixed wireless services and even more mobile wireless services, struggle to meet such needs if they can be met at all. For a rural family, the difference is substantial, and can have a significant impact on their internet experience and ability to fully participate in the digital economy.

In addition to placing caps on monthly usage, mobile wireless pricing is device-specific, while fixed broadband service pricing is not. After fixed broadband service is delivered to a premises, Wi-Fi routers or Ethernet cables at that location can connect multiple devices, including laptops, tablets, and even smartphones, and each of them can be used simultaneously to perform all of the functions of telecommuting, remote schooling, video conferencing, telehealth, and the other activities the Commission identified in its “Broadband Speed Guide” and elsewhere. A home relying solely on mobile wireless service, on the other hand, may need multiple mobile connections in order to achieve the same capabilities because of wireless broadband speed and bandwidth constraints. This potentially means paying for multiple

Technica <https://arstechnica.com/tech-policy/2018/08/verizon-throttled-fire-departments-unlimited-data-during-calif-wildfire/> (last visited Feb. 16, 2022).

¹⁸ Rural Digital Opportunity Fund Phase I Auction Scheduled for October 29, 2020, “Notice and Filing Requirements and Other Procedures for Auction 904,” FCC 20-77, at ¶ 159 (rel. June 11, 2020).

¹⁹ *Id.*

connections, all with data caps, which is simply unworkable for many U.S. homes, particularly in rural America, and even more so given the increase in household internet usage due to the pandemic.²⁰

NRECA member cooperatives are keenly aware of such affordability issues, since they collectively serve 92% of the persistent poverty counties identified by the U.S. Census Bureau. NRECA therefore respectfully adds that a determination whether broadband service is affordable should be including in deciding the extent to which broadband service is universally available.

B. The Contributions Methodology Must Be Revised to Ensure the Long-term Sustainability of the Universal Service Fund

The Commission notes that the fourth quarter of 2021 USF contribution factor paid by telecommunications companies was 29.1 percent (29.1%), compared to a contribution factor of six percent (6.0%) in 2001.²¹ The Notice requests comments which address how to sustain the Universal Service Program, including how to improve the stability of the quarterly factor.²² The Notice also asks whether it is appropriate to change the law regarding universal service contributions.²³

The long-term sustainability of the Universal Service Fund is critical, as USF is the single most comprehensive ongoing federal program to address the digital divide. But the current contribution factor hovering near 30% is five times the figure just over 20 years ago, and provides stark evidence that the contribution mechanism has failed to keep up with changes in

²⁰ NRECA is aware of the Commission's \$9 billion program to assist with the 5G wireless broadband rollout to rural America. *See* [5G Fund | Federal Communications Commission \(fcc.gov\)](https://www.fcc.gov/5g-fund). But even if mobile wireless service were capable of meeting today's broadband needs, which they cannot now do, those services are unlikely to reach the great majority of rural parts of the country even with such funding, and the small portions of rural America that ever do receive such service will be slow to receive it.

²¹ Notice at ¶ 44.

²² Notice at ¶ 44.

²³ Notice at ¶ 51.

the communications services Americans receive. The current 30% contribution factor, already egregious, could reach 40% in the years ahead. Even without any increase, the existing 30% level imposes on certain consumers of communications services an enormous cost that other communications service consumers entirely avoid, thus distorting the market.

The changes in the communications market since the USF program funding mechanism was adopted 25 years ago have been dramatic and unanticipated. And while this rapid change explains why the contribution factor has increased five-fold and is likely to increase even more, the harsh reality today is that this critical program which funds High-Cost, E-Rate, Rural Health Care and Lifeline programs is in danger of collapse at a time when the need for broadband has never been greater.

The need for USF contribution reform is shared by many. Recently, a bipartisan group including Senators Amy Klobuchar (D-MN), John Thune (R-SD), John Hickenlooper (D-CO), and Jerry Moran (R-KS) introduced the *Reforming Broadband Connectivity Act of 2021* (S. 3236),²⁴ which would direct the Commission to complete a rulemaking proceeding within one year of the bill's enactment to reform the USF contribution system. Soon after, a coalition of 332 organizations issued a "Call to Action,"²⁵ urging broadband policymakers to reform the contribution methodology by expanding the list of services that pay into the USF to include broadband internet access services (BIAS) as soon as possible.

²⁴ [Text - S.3236 - 117th Congress \(2021-2022\): Reforming Broadband Connectivity Act of 2021 | Congress.gov | Library of Congress](#) (last visited Feb. 14, 2022).

²⁵ See Letter from Carol Matthey, Matthey Consulting, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 21-476, *et al.* (Feb. 14, 2022), available at: [21422matthey.pdf | \(neca.org\)](#).

NRECA fully supports action to reform this outdated regime in order to stabilize the funding mechanism and to make contribution obligations more equitable. We commend the Senators for their leadership on this issue, and agree that the time for action is overdue.

NRECA agrees with these organizations that the contribution base used to fund USF programs should be broadened to include revenues from broadband services to stabilize the USF program. By one estimate, this would reduce the existing 30% contribution factor to less than 4%.²⁶ Although imposing a new surcharge on broadband services will increase the cost for those services, a recent economic report concluded the effect on broadband use would be relatively small: “The estimated percentage reduction in demand for broadband services is approximately 0.08% for every 1% increase in total service fees.”²⁷ Of course, not even this slight reduction in broadband demand is welcome, but NRECA believes the Commission’s other programs, including USF programs, can and will address the difficulties that our vulnerable households and communities have with broadband adoption and continuing broadband affordability.

NRECA believes this broadening of the USF contribution base to include broadband is already within the Commission’s existing authority, and supports a rulemaking to address this matter as soon as possible. Other potential actions, such as requiring edge providers like Google, Amazon and Netflix to contribute, will take Congressional action. NRECA and its members stand willing to work with Congress, the Commission, industry stakeholders, and other interested parties to find a path forward to a sustainable funding mechanism that will ensure the long-term

²⁶ USForward, “Universal Service Fund, FCC Must Reform USF Contributions Now: An Analysis of the Options” (Sept., 2021), by USF expert Carol Matthey, Matthey Consulting LLC, at p.16, available at: [179aad_d610eca6ebd54082829f245229ec8c0e.pdf \(filesusr.com\)](https://www.filesusr.com/attachment_data/file/179aad_d610eca6ebd54082829f245229ec8c0e.pdf) (last visited Feb. 16, 2022).

²⁷ NTCA-USF Study, Expert Report of Michael A. Williams, Ph.D. and Wei Zhao, Ph.D. (May 7, 2020), at p.5 [Microsoft Word - 2020-05-07 - Williams-Zhao report - signed and updated.docx \(fcc.gov\)](#) (last visited Feb. 16, 2022).

stability of our universal service system and spread the contribution obligation in an equitable manner.

The ongoing COVID-19 pandemic has made clear that broadband connectivity is no longer a luxury but is an absolute necessity. And because the USF program plays a key role in connecting so many families, small businesses, and communities in need with critical communications services, NRECA urges action to address this issue as soon as possible.

C. NRECA's Comments Regarding the High-Cost Program

1. Operations and maintenance support will be needed for many High-Cost broadband systems once they are constructed

The Notice explains that the Commission and the BEAD program will provide billions of dollars to support the construction of fixed broadband networks in unserved and underserved areas,²⁸ and asks whether the High-Cost program should be modified to support ongoing operating and maintenance costs after these facilities are constructed to ensure that rates in these difficult to serve areas remain comparable to urban areas.²⁹ The Notice seeks comment on ways to allocate High-Cost funding in the future, including possibly reverse auctions or some other distribution methodology.³⁰

NRECA believes the Commission should consider establishing a program to provide ongoing operations and maintenance support to rural and high-cost areas. Given the historic levels of funding for broadband deployment in the multiple stimulus bills and the infrastructure package alone, the broadband landscape across the United States is about to be transformed.

²⁸ Notice at ¶ 30.

²⁹ Notice at ¶ 32.

³⁰ Notice at ¶ 32.

Now that new construction of broadband facilities is becoming a reality for so many rural and other high-cost areas of the country, the Commission's role should evolve to help ensure these newly-constructed facilities remain viable. While a large percentage of these new systems may easily be self-sufficient, others may require more attention. For those high-cost areas, just as it makes no sense to build a transit system that is not well-maintained and which some Americans will struggle to afford, the Commission should consider implementing a program to ensure that these new broadband systems in rural and high-cost areas are also well-maintained and affordable.

2. Operations and maintenance support should be allocated in a manner that avoids gamesmanship and which ensures the funds will support the High-Cost areas that need them most

Such a program to maintain newly-constructed system and ensure they remain affordable should be implemented in a way that allows such funding to go where it is needed most. Because NRECA's electric cooperatives serve 327 of the nation's 353 "persistent poverty counties," NRECA understands very well the needs of these communities and the value of ongoing support. But any methodology for funding ongoing operations and maintenance expenses should not be subject to gamesmanship, as many electric cooperatives experienced with the RDOF reverse auction process. In many areas eligible for RDOF funding, electric cooperatives created estimates of the cost to deploy broadband facilities in their rural, high-cost areas based on their longstanding personal understanding of the communities where they operate, and based on realistic assumptions about the costs to deploy. The RDOF reverse auction process, however, allowed these NRECA member cooperatives to be outbid in many areas by entities with limited or no local ties, who bid well below any realistic cost to construct. Such underbidding not only denied many communities the opportunity to receive local broadband service from a well-trusted local provider with strong ties to the community, it also resulted in

new, unfounded arguments by the cable industry at the Commission, in Congress, and in state legislatures around the country asking for nearly-free pole replacements, contrary to decades of widespread, well-established pole replacement practices to the contrary.³¹

NRECA respectfully proposes that the Commission begin a rulemaking proceeding to establish a similar system to allocate funds for ongoing broadband operations and maintenance, which would grant priorities to ongoing projects designed to meet these challenges in high-cost areas. To avoid such gamesmanship, and to help ensure that scarce funds go to the right places, the Commission should consider establishing a points system for awarding any available funds for ongoing operations and maintenance, with a strong focus on affordability. Such a rulemaking proceeding might consider the points system established by USDA for its ReConnect Round Three funding as a model for establishing priorities for any operations and maintenance funding.

In the ReConnect Program, the Department of Agriculture established a priority for rural economic recovery, especially for disadvantaged communities. To achieve that priority, USDA granted additional points for applications covering many of the factors the Notice suggests are important, as follows:

- **Rurality (25 points)** – Awarded for serving least dense rural areas as measured by the population per square mile of the proposed service area or if the proposed service area is

³¹ After failing to convince the Commission to grant them “nearly-free” pole replacements, Cable interests have pushed for states to grant them recovery of some percentage of pole replacement costs. Such legislation was enacted in Texas ([Texas Legislature Online - 87\(R\) Text for HB 1505](#)) and North Carolina ([S105v7.pdf \(ncleg.gov\)](#)) – see pp. 508-512), and has been introduced in Florida ([HB 1543 \(2022\) - Broadband Infrastructure | Florida House of Representatives \(myfloridahouse.gov\)](#)), Missouri ([SB990 - Creates provisions relating to pole replacements for certain broadband facilities \(mo.gov\)](#)), and West Virginia ([HB4001 INTR.pdf \(wvlegislature.gov\)](#)). What is critical in all of this legislation is that pole owners remain reimbursed 100% when poles are replaced to provide broadband, and that the newly-attaching broadband provider is the one required to seek reimbursement after paying pole owners upfront for the replacement. In addition, a cooperative that is deploying broadband should have equal access to any pole replacement funds. But in large part these cable industry efforts are designed to make up for their artificially low bids. Pole replacement costs are not new, and have been around as long as there has been poles and wires attached to them. Such long-standing and well understood costs should have been calculated into any RDOF bid.

located at least one hundred miles from a city or town that has a population of greater than 50k and population density of 6 or less. If multiple service areas are proposed, the density calculation will be made on the combined areas as if they were a single area.

- **Economic Need (20 points)** – Based on county poverty level based on the United States Census Small Area Income and Poverty Estimates (SAIPE) Program. If 75% of the proposed service area includes communities with a SAIPE score of 20% or higher, 20 points is awarded. A GIS layer identifying SAIPE areas can be found in the RUS mapping tool located at <https://reconnect.usda.gov>.
- **Affordability (20 points)** – Applications can receive 20 points based on their affordability measures. Applicants should demonstrate that the broadband prices they will offer are affordable to their target markets, provide information about the pricing and speed tiers they intend to offer, and include at least one low-cost option offered at speeds that are sufficient for a household with multiple users to simultaneously telework and engage in remote learning. Applicants must also commit to provide Lifeline, Emergency Broadband Benefit (EBB) & successor programs.
- **Local governments, non-profits and cooperatives (15 points)** - Applications submitted by local governments, non-profits or cooperatives (including for projects involving public-private partnerships where the local government, non-profit, or cooperative is the applicant) are awarded 15 points.
- **Socially Vulnerable Communities (15 points)** – For applications where at least 75 percent of the proposed service area serves Socially Vulnerable Communities, 15 points will be awarded. A Socially Vulnerable Community is a community or area identified in the Center for Disease Control’s Social Vulnerability Index with a score of .75 or higher.

A GIS layer identifying the Socially Vulnerable Communities can be found at <https://www.usda.gov/reconnect>.³²

Allocating ongoing operations and maintenance funding based on such a points system would help to ensure that these funds be allocated to areas that deserve them most, consistent not only with the Commission’s universal service goal of “universal deployment, affordability, adoption, availability, and equitable access to broadband throughout the United States,”³³ but also with the intent of the Commission’s recent Rural Broadband Accountability Plan, which is designed to improve accountability for allocations granted in the RDOF and Connect America Fund programs.³⁴

3. There will continue to be a need for additional capital funding in High-Cost areas

The Notice asks, “In light of the BEAD Program, how should the Commission approach next steps for the RDOF program or any successor program?”³⁵

NRECA believes that the broadband gap in this country is likely to be larger than current estimates predict, and that it is too soon to judge the extent to which current funding will enable broadband at sufficient speeds to become universally available. Accordingly, despite the existing level of federal and state funding available for broadband deployments, there likely will continue to be some areas of the United States that will need capital funding for build outs.

NRECA therefore respectfully requests that the Commission not close the door on the RDOF

³² Department of Agriculture, Funding Opportunity Announcement for ReConnect Program Round Three (Oct. 25, 2021): [2021-23128.pdf \(federalregister.gov\)](#).

³³ Notice at ¶ 18.

³⁴ See FACT SHEET: Rural Broadband Accountability Plan, “*Improving Accountability for the Rural Digital Opportunity Fund and the Connect America Fund*,” available at: [FCC Creates Rural Broadband Accountability Plan | Federal Communications Commission](#).

³⁵ Notice at ¶ 51.

Phase II program. For the reasons explained above, however, such funding for RDOF Phase II should avoid the gamesmanship of the reverse-auction process used for RDOF Phase I by using a different method to allocate such scarce funds, one that uses a points system similar to the Department of Agriculture’s ReConnect Program.

4. Funding and promoting fixed wired broadband will facilitate the expansion of mobile broadband services

The Notice asks: “What impact should the BEAD Program have on the Commission’s approach to high-cost support for mobile broadband?”³⁶

NRECA respectfully responds that the BEAD Program should have no impact on the Commission’s approach to high-cost support for mobile broadband, because robust mobile service relies on an underlying fiber network to provide backhaul. Support from the BEAD Program and elsewhere for a wireline/fiber backbone providing robust access to fixed wired broadband to every home and business already has the effect of facilitating the expansion of mobile wireless networks by greatly reducing the cost of mobile wireless deployment and expanding its availability.

D. NRECA’s Comments Regarding the Low-income (Lifeline) Program

1. The Lifeline program should be updated to resemble the Affordable Connectivity Program

The Notice explains that the Lifeline program, the EBB Program and the Affordable Connectivity Program are similar in some respects, but different in others.³⁷ The Notice requests comments on how best to “coordinate the Lifeline program and the Affordable Connectivity

³⁶ Notice at ¶ 32.

³⁷ Notice at ¶ 35.

Program with the programs created by the Infrastructure Act to achieve the proposed universal service broadband goals, including ensuring affordable broadband to everyone?³⁸

Because of the close connection of its member electric cooperatives to communities located in 327 of the nation's 353 "persistent poverty counties" NRECA understands as well as anyone that there is a strong need for a permanent low-income program that truly addresses the issue of affordability.

The Infrastructure Act stated that the Affordable Connectivity Program will be a permanent program, but allocated a set appropriation of \$14.2 billion to fund it. However, no one to date has explained what will happen when this funding is exhausted. It is not difficult to envision how any reliance on annual appropriations from Congress can lead to variations in eligibility depending on funding levels. In fact, the impact of fluctuations in funding is something electric cooperatives have experience with on the electric side. For example, while funding for the Low-Income Home Energy Assistance Program (LIHEAP) has been consistent in recent years, there were other years when Congressional appropriations varied from year to year, resulting in consumers losing eligibility despite no change in their income or category of eligibility.

NRECA believes that the current Lifeline program should be revised or replaced with a permanent low-cost program more in line with the Commission's Affordable Connectivity Program, in order to provide a sustainable and long-term program to adequately address broadband affordability that is not subject to the vagaries of Congressional appropriations. NRECA thus respectfully proposes that the Commission immediately open a proceeding to update the Lifeline program to a program akin to the Affordable Connectivity Program. At this

³⁸ Notice at ¶ 36.

point, considering the information gained from experience with the Emergency Broadband Benefit program and soon with the Affordable Connectivity Program, the Commission should be amassing a considerable amount of information already regarding the proper level of support necessary to address affordability. Affordability will increasingly become important as networks are built out, particularly to rural, low income areas, where affordability will increasingly become a barrier to broadband adoption as compared to access.

2. Congress should ensure that the Lifeline program continues to support voice services

The Notice asks, “Aside from efforts meant to integrate these programs, are there actions that Congress can take to improve the Lifeline program?”³⁹

As the Commission is well aware, voice service remains vital for public safety. Winners of broadband deployment grants likely will be the only wired service provider in many of these rural areas. Many rural areas currently lack mobile service, and that is unlikely to change for the foreseeable future. For these reasons, Congress and the Commission should ensure that the Lifeline or a similar program continue to support voice service connections in some way. The Commission should partner with states to ensure that voice service is available and affordable to any American who needs it. Finally, Congress should provide the Commission with adequate funding to enable the Commission to educate Americans, including those in remote rural areas, about the availability and benefits of low-cost programs designed to make such services affordable.

³⁹ Notice at ¶ 48

III. CONCLUSION

NRECA greatly appreciates the opportunity to provide input and recommendations to the Commission regarding the future of the Universal Service Fund. NRECA is particularly sensitive to the challenges faced by rural communities lacking high speed internet access now and in the future, and to how USF funding can be used to answer those challenges. We therefore respectfully request that the Commission consider these comments in support of a better future for rural parts of the country and for all of America.

Respectfully submitted,

National Rural Electric Cooperative Association

By: _____/s/_____
Brian M. O'Hara
Senior Director Regulatory Issues
National Rural Electric Cooperative Association
4301 Wilson Blvd.
Arlington, VA 22203
703-907-5798
brian.ohara@nreca.coop

Of Counsel:
Thomas B. Magee
Keller and Heckman LLP
1001 G Street NW, Suite 500 West
Washington, DC 20001
202-434-4128
magee@khlaw.com

Dated: February 17, 2022