

**WRITTEN TESTIMONY OF JONATHAN SPALTER
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BEFORE THE HOUSE ENERGY & COMMERCE SUBCOMMITTEE
ON COMMUNICATIONS & TECHNOLOGY
HEARING: “CONNECTING EVERY AMERICAN:
THE FUTURE OF RURAL BROADBAND FUNDING”
SEPTEMBER 21, 2023**

USTelecom – The Broadband Association thanks the subcommittee for its leadership in convening this important conversation. We are the national trade association representing network providers, innovators, suppliers, and manufacturers connecting the world through the power of broadband. Our membership ranges from local and regional companies and cooperatives that have roots in their community going back a century or more to leading publicly traded companies, some of the largest investors and job creators in our country.

We are united by our shared commitment to connect every community to opportunity, to a better quality of life, and to each other via technology. Broadband providers are squarely focused on making this vision a reality. Indeed, our organization earlier this month released its annual tally of capital investment in the nation’s communications infrastructure. In 2022, that figure reached \$102.4 billion – adding up to nearly \$2.1 trillion in private capital that broadband providers have invested into making our nation the undisputed global leader of the information age and unlocking all the possibilities broadband brings into our lives.

Nowhere is the transformative power of broadband more apparent than in the most remote corners of our vast nation – bringing health care to sparsely populated areas where the nearest

specialist may be 100 miles or more away and expanding educational and job opportunities so people are not required to choose between providing for their families and residing in the communities they love. Because of their remote nature and sparse populations, these areas are often uneconomic for the private sector alone to deliver and maintain broadband infrastructure. So, to advance our nation's commitment to universal connectivity, the federal government is an indispensable partner to the broadband providers that are dedicated to doing this work and bringing affordable, reliable internet to every community.

The Path Forward

There are several steps that Congress can take to ensure our current efforts toward universal connectivity are achieved. Those include providing stop-gap funding for the Affordable Connectivity Program (ACP) until a long-term solution is in place so low-income Americans across the country can continue to access broadband; modernizing the Universal Service Fund (USF) contributions system to bring it into the current internet age; and, ensuring that the BEAD program is implemented efficiently and effectively.

Securing the Affordable Connectivity Program

The ACP, enacted by a bipartisan Congress in the IIJA, has proven to be a vital program. It is helping 21 million low-income households purchase high-speed internet. In other words, the ACP is enabling 21 million low-income families to realize the power and promise of broadband and fully participate in our digital economy. Yet the shot clock is now running dangerously low – with existing funds likely to be depleted early next year. Action is needed in this Congress to keep this program alive. Until a permanent solution to funding the ACP can be put in place by

expanding the USF contributions base to include Big Tech, Congress should appropriate stop-gap funding to allow the program to continue its important work uninterrupted.

Congress should also move quickly to grant the FCC the authority it needs to expand the USF contributions base to include the dominant Big Tech companies that benefit financially from the connectivity that USF makes possible. This would lay the groundwork for the FCC to advance urgently needed reforms to stabilize the USF for its modern purpose – building and maintaining rural broadband networks in high-cost areas, connecting schools, libraries, and hospitals, as well as ensuring broadband access for low-income families – all at a more reasonable contributions factor spread more evenly and sustainably across the broadband ecosystem.

Preparing for the Future of Universal Service

The future of rural broadband funding requires charting a sustainable future for universal service, and that begins with reforming the contributions system. There is no question that the current system – based largely on dwindling telecommunications revenues, including landline telephone service disproportionately relied on by senior citizens and others living on a fixed income – is regressive and outdated. This shrinking contributions base means an ever-rising contributions factor – 34.5% proposed for the fourth quarter of 2023. This is unsustainable and the clock is ticking on reform.

Therefore, Congress should, as the FCC recommended in the *Future of USF Report*, enact legislation that provides the Commission with clear authority to assess the revenues of a more diverse array of companies. To fairly allocate the burden, Congress need not sweep in the

entirety of the internet economy, but instead should focus on those companies that benefit the most from broadband connectivity and are the largest in terms of revenues and/or market capitalization. Indeed, six companies account for half of all internet traffic worldwide and have a combined market cap of \$9.2 trillion. It's a far cry from their garage start-up days, and without question, they are tremendous American success stories. But nearly three decades since the passage of the 1996 Telecommunications Act, we must ask the question: Does it still make sense that the government and broadband providers alone fund this critical infrastructure? Is there no shared obligation from the primary financial beneficiaries of these networks – the world's most powerful internet companies?

Those who argue for expanding the contributions base to add solely consumer broadband services without including Big Tech are settling for a short-term band-aid approach. This is in part because there is already evidence that revenues from consumer broadband services are declining because pricing in the increasingly competitive broadband services marketplace shows that fixed broadband prices have been dropping. If this trend continues, even with expansion of the USF contributions base to include broadband service revenues, the Fund could quickly begin to face, yet again, an ever-rising contributions factor.

Some may also argue that contributions reform isn't needed because there will be little or no need for the USF after recent broadband funding programs such as the BEAD are implemented. This is short-sighted. To be clear, funds disbursed via the BEAD program or other programs will result in additional broadband deployment across the country, but this funding is not designed to address the ongoing operational costs of maintaining, repairing and upgrading this physical

infrastructure over time. Particularly in the most rural, least dense, highest-cost portions of the United States, USF high-cost program support will be needed to ensure that rural broadband networks are not only built – but also sustained – for the long haul.

The reality is that USF programs have played, and will continue to play, a critical role in bringing affordable and high-quality broadband to homes, businesses, and community anchor institutions across the country, including throughout rural America. The pandemic made clearer than ever that high-speed broadband is a cornerstone of American life, connecting Americans to education, healthcare, employment and virtually every other aspect of our daily lives and our nation’s economic security. Closing the digital divide is now more important than ever.

Implementing BEAD

The IJA’s historic \$42.5 billion BEAD program will be key to deploying digital infrastructure to rural and remote areas that are otherwise cost-prohibitive to serve. To maximize this opportunity, Congress should ensure efficient and effective BEAD implementation and ensure taxpayer funds are stretched as far as possible to connect as many unserved and underserved homes and businesses as possible. Additional non-funding actions can expedite and improve program efforts for rural broadband. The areas of focus should include:

- **Federal Permitting Reform:** Streamlining permitting processes is critical to reducing providers’ deployment costs and achieving universal connectivity as quickly as possible. To prepare for the influx of broadband builds enabled by BEAD and other infrastructure projects, Congress should act now to standardize and streamline permitting for fiber

deployment on federal lands. Congress should also consider providing federal agencies with funding to increase permitting staff and streamline procedures; requiring such agencies to eliminate any moratoria on construction in a right of way; and requiring expedited approvals for permits that use previously disturbed rights of way.

- **Minimizing Burdensome Requirements to Maximize Provider Participation:**

Congress should ensure that BEAD is implemented consistent with the IJA and in a manner that enables as many service providers as possible to participate. For example, Congress and NTIA should ensure that States do not engage in congressionally-prohibited rate regulation as they implement BEAD. Such regulation will deter broadband provider participation and risk the sustainability of BEAD-funded networks. Additionally, Congress should ensure that letter of credit requirements do not undermine the success of the BEAD program. Indeed, the 25% letter of credit requirement could actually *reduce* the amount of broadband deployed in the next few years using private capital. The \$10+ billion in provider capital used for letters of credit will, in effect, sit in banks and be unavailable to build fiber to homes and businesses in rural America that need it. Instead, NTIA should adopt alternatives to a letter of credit to vet the financial wherewithal of BEAD applicants, such as a parent guarantee or a bank reference letter.

- **Prioritizing Experienced Providers:** While the IJA provides that States may not exclude particular types of providers, such as government-owned networks, from participating in the BEAD program, it does *not* provide that States should prioritize such networks—and for good reason. Experience matters. Government-owned networks have

an extensive track record of failure, largely due to a lack of financial and managerial capacity and technical and operational capability to deploy, maintain, and sustain broadband networks. The few that have become sustainable are those that have partnered with experienced service providers. Favoring entities in the BEAD program that lack a profit motive but have no operational experience over providers with a demonstrated history of building and operating networks risks squandering this once-in-a-generation funding. Private sector providers can maximize the impact of federal broadband funding by contributing their own private capital for matching funds, in turn reducing the amount of public funding needed for a given project. Private sector providers can also deploy and bring service to unserved and underserved Americans more quickly than government entities and bring economies of scale that government-owned networks cannot match. For all of these reasons, Congress, NTIA, and the States should favor established and experienced providers who can successfully build and operate the networks needed to close the digital divide.

In conclusion, while there are many challenges to achieving universal connectivity, particularly in rural communities, there is a clear path forward to achieving this vitally important shared goal. USTelecom and its members stand ready to work with Congress, the FCC, NTIA, and all stakeholders to secure the future for rural broadband connectivity and address the urgently needed modernization of USF. We offer these recommendations based on our practical experience as broadband providers in a competitive marketplace and long-time participants in USF and other federal funding programs. As we move forward, it is critical for Congress to ensure that the USF is not only modernized so that all Americans are connected today, but also

so that the Fund – and the essential work it does building a truly and permanently connected nation – is sustainable in the future.