

May 5, 2021

VIA ECFS

Ms. Marlene Dortch
Secretary
Federal Communications Commission
45 L Street, NE
Washington, DC 20554

Re: *Emergency Connectivity Fund* (WC Docket No. 21-93)

Dear Ms. Dortch:

On May 3, 2021 B. Lynn Follansbee and the undersigned, representing USTelecom – The Broadband Association, and their members Angela DeMahy with AT&T and Alan Buzacott with Verizon, spoke via teleconference with Carolyn Roddy, Chief of Staff and Senior Legal Advisor, Wireline for Commissioner Simington to discuss USTelecom’s recommendations for a fast and efficient implementation of the Emergency Connectivity Fund in the above-referenced docket. On the same day, I spoke with Greg Watson, Policy Advisor to Commissioner Carr, on the same subject. On May 5, 2021 I spoke separately with Ramesh Nagarajan, Acting Legal Advisor, Wireline for Acting Chairwoman Rosenworcel, Austin Bonner, Legal Advisor for Wireline and Public Safety to Commission Starks, and Lisa Hone, Johnnay Schrieber, and Kate Dumouchel of the Wireline Competition Bureau on the same topic.

USTelecom noted that it had reviewed the draft Order and was generally in support of the draft as released, and that we greatly appreciated the opportunity to review the draft Order before it is adopted. In particular, USTelecom indicated it supports the draft Order’s steps designed to streamline the application process and the decision to focus spending on the purchase of commercial services, not the provisioning of new networks. However, with respect to the Commission’s decision to allow the construction of new networks where an eligible entity determines that there is no commercially available service, we indicated that there are ways in which the draft could be improved.

USTelecom agrees with the Commission’s decision to limit the available support in this program to the *purchase* of eligible equipment and advanced telecommunications and information services as described in the legislation. However, we expressed some concern with the lack of detail concerning the showing necessary by an eligible entity that an area truly lacked or lacks commercially available service, thereby justifying the provisioning of a new fixed or mobile broadband network. Similarly, we noted the lack of detail in terms of the process that USAC or the Commission will undertake in reviewing applicant claims that no commercially available service was or is in place. For example, there is no indication that existing service providers will have an opportunity to be made aware of the fact that an eligible entity did already

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or seeks to build a new fixed or mobile broadband network because they have determined that commercial service is unavailable, and an opportunity to offer evidence to the contrary.

While we recognize that creating such a process that can be accomplished quickly is challenging, the Order as drafted provides no details other than that an applicant must “demonstrate that there were no commercially available service options sufficient to support remote learning from one or a combination of providers.”¹ The draft Order could be strengthened to ensure that unnecessary overbuilding is less of a risk by adding the following sentences at the end of paragraph 39:

Applicants seeking support for network construction must define the geography that was or will be served and provide an estimated number of students or patrons to be served. Schools and libraries must provide clear evidence demonstrating how they determined that an existing fixed or mobile broadband network sufficient to support remote learning was or is not available and that they requested service from existing providers already serving the area prior to constructing a new network, and that such requests were denied. Additionally, whether the Emergency Connectivity Fund support is sought for future or prior construction during the pandemic, applicants will be required to certify that they sought service from existing service providers in the relevant area and were denied service.

We urge the Commission to add this additional language so that ECF support is not wasted on the construction of new networks where there is commercially available service.

In our meetings we also expressed our continued preference to prioritize prospective reimbursement rather than the draft Order’s decision to prioritize retroactive use of ECF funds.

Please contact the undersigned with any questions.

Sincerely,

/s/ Patrick Halley/
Patrick R. Halley
Senior Vice President, Policy & Advocacy and
General Counsel

¹ *DRAFT In the Matter of Emergency Connectivity Fund to Close the Homework Gap*, Report and Order, WC Docket No. 21-93 (rel. Apr. 30, 2021) at para. 39 <https://docs.fcc.gov/public/attachments/DOC-372069A1.pdf>.