

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Universal Service Contribution Methodology) WC Docket No. 06-122
)

COMMENTS OF GILA RIVER TELECOMMUNICATIONS, INC.

Gila River Telecommunications, Inc. (“GRTI”), by its attorneys, hereby submits these comments in the above-referenced proceeding in which the Federal Communications Commission (“FCC” or “Commission”) seeks comment on establishment of an overall cap on the universal service fund (“USF”) and ways it could enable the Commission to evaluate the financial aspects of the four USF programs in a more holistic way.¹ While there are numerous ways in which the Commission can achieve this goal, GRTI is steadfastly opposed to the establishment of an overall cap on the universal service fund. This proposed reform would ultimately pit interests from across the various funds against one another in an effort to preserve much-needed funding streams. The statutory structure of universal service funding makes it clear that while each of the four mechanisms are part of a “holistic” approach to achieving universal service for varying interests, they are distinct programs that leverage unique mechanisms requiring tailored budgets in order to ensure they achieve their mission. It is unclear what is to be gained by imposing an overall cap on the universal service fund when other tools, including many the Commission has already adopted, can be used to “strike the appropriate

¹ *Universal Service Contribution Methodology*, WC Docket No. 06-122 Notice of Proposed Rulemaking, FCC 19-46 (2019) (“*NPRM*”).

balance between ensuring adequate funding...while minimizing the financial burden on ratepayers.”²

For reasons detailed below, GRTI is opposed to the adoption of an overall cap on USF and is thus opposed to the apportionment mechanisms proposed by the Commission. Instead, GRTI urges the Commission to leverage other tools to determine whether the USF programs are achieving the statutory goal of ensuring all Americans have access to broadband and other communications services.

Further, recognizing that the Commission is undertaking this proceeding as part of the 2006 Contribution Methodology docket, GRTI appreciates the opportunity to reexamine the record in that proceeding and urges the Commission to consider reforms to the USF contribution mechanism in order to provide much-needed reform. The current program is funded through a contributions mechanism that relies on a dwindling funding stream – one generated largely through contributions from elderly and low-income Americans that still utilize telecommunications services. The Commission should instead solicit public comment on changes that will more evenly spread USF costs across all users of communications services.

I. AN OVERALL CAP ON THE UNIVERSAL SERVICE FUND IS UNNECESSARY AND DOES NOT ADVANCE THE IMPORTANT STATUTORY MISSION OF ACHIEVING UNIVERSAL SERVICE

In the NPRM, the Commission seeks comment on the establishment of “an annual combined USF cap,”³ how such a cap should be implemented,⁴ and how reductions in support would be made should the cap be exceeded.⁵

² *Id.* at para. 9.

³ *Id.* at paras.9-11.

⁴ *Id.* at paras. 12-16.

⁵ *Id.* at paras. 17-20.

Establishment of an Annual Combined Cap. One of the rationales provided in the NPRM is that adoption of an overall cap would “allow the Commission to take a more holistic view when considering future changes to the USF programs and their impact on the overall cap.”⁶ The NPRM, however, does not explain why the current data on which the Commission relies – including quarterly and annual contribution reports provided by the Universal Service Administrative Company (USAC) based on projected demand for each of the four USF programs and estimated contribution revenues – are inadequate for providing the Commission with a holistic view of future changes and their impact on USF funding.⁷ The Contribution Factor reports paired with this underlying data have provided the Commission with sufficient information for determining future program demands in the past and it would seem they remain sufficient to inform future modifications to existing mechanisms. Moreover, as the NPRM itself demonstrates, the Commission is capable of using other existing tools to project future demand for the four programs to inform its decision-making.⁸

Additionally, the Commission claims in the NPRM that an overall cap would improve “predictability” for program participants.⁹ In a separate section of the NPRM, concerning “reduction mechanisms,” however, the NPRM states that, despite this claim of improved predictability, the establishment of an overall cap could result in a need to ration support amongst program participants, thus generating greater uncertainty and unpredictability into the mechanisms. Specifically, the Commission seeks comment on “prioritizing the funding among the four universal service programs,” using such factors as “cost-effectiveness” and “types of

⁶ *Id.* at para. 9.

⁷ Universal Service Administrative Company, *Contribution Factors*, available at <https://www.usac.org/cont/tools/contribution-factors.aspx>.

⁸ NPRM at para. 11.

⁹ *Id.* at 9.

services to be funded.”¹⁰ GRTI does not agree with a policy change that would adopt a weighted value that favors, for example, broadband deployment in rural areas over low-income families or that might establish a “reduction mechanism” that prioritizes schools over libraries or rural health clinics. Such measures undermine the assertion in the NPRM that an overall cap would bring predictability to program participants and raises the very serious question left unanswered in the proposal – what does the Commission seek to achieve by adopting these measures, particularly considering that all four mechanisms currently operate under caps?¹¹ As more than 60 organizations representing a broad range of interests stated in a letter filed in this docket, “an overall USF cap, even if sized to meet current overall demand or the sum of authorized levels plus inflation, could still end up putting these essential programs against each other in the future and undermine efforts to solve the digital divide.”¹²

For the above reasons, GRTI strongly opposes the establishment of an overall cap on USF. Given the programmatic changes the Commission has adopted over the last eight years, which have placed caps and budgets on the individual mechanisms, the imposition of an overall cap is unnecessary.

II. THE COMMISSION GOAL OF GAINING A MORE HOLISTIC VIEW CAN BE BETTER SERVED BY USING EXISTING TOOLS

As noted above, the NPRM demonstrates that the holistic view the Commission seeks to glean from imposition of an overall cap can be achieved through other means. GRTI would

¹⁰ *Id.* at para. 19.

¹¹ *Id.* at paras. 5-8.

¹² Letter from John Windhausen, Schools, Health & Libraries Broadband (SHLB) Coalition, on behalf of more than 60 organizations, to Marlene H. Dortch, Universal Service Contribution Methodology, WC Docket No. 06-122, available at <https://ecfsapi.fcc.gov/file/10611771817979/Joint%20Statement%20and%20Cover%20Ltr%20Opposing%20USF%20Cap%20-%20Final.pdf>. (June 11, 2019).

encourage the Commission to continue to utilize existing data, including the *USF Monitoring Report*, a revised Form 477 collection to identify the availability of broadband at a more granular level, and other information available to the Commission to assess the viability of proposed changes to individual mechanisms and their potential impact on the overall universal service fund.

On an annual basis, the Commission issues its *USF Monitoring Report* “focused on monitoring the impact of various universal service support mechanisms and the method used to finance them.”¹³ This report, established as part of a monitoring program created by the Federal Communications Commission in 1997, is compiled based on data from several sources, including the National Exchange Carrier Association (NECA) and the Universal Service Administrative Company (USAC). USAC collects information from both contributions to, and beneficiaries of, the Universal Service Fund, including incumbent local exchange carriers (ILECs), competitive eligible telecommunications carriers (CETCs), schools, libraries and health care providers. NECA, at the direction of the Commission, provides information to USAC that is used to administer certain aspects of the high-cost program. From the report, we can see, for example, that the Tribal Lifeline program, which is of critical importance to Tribal communities, has seen a steady decline in participation since 2013 and is currently at pre-2006 levels of participation.¹⁴ Such information, which is readily available to the Commission, should inform any potential changes the Commission proposes to the Lifeline program.

¹³ *Universal Service Monitoring Report, 2018*, CC Docket No. 96-45, *et. al.*, available at <https://docs.fcc.gov/public/attachments/DOC-357769A1.pdf>. (May 31, 2019) (*USF Monitoring Report*).

¹⁴ *Id.* at 22, Table 2.1.

The Commission's Form 477 data collection is another tool the Commission should continue to use to assess the USF programs, albeit with much-needed revisions to the data collected to understand the state of broadband deployment at a more granular level. As the Commission's recent report on the state of broadband deployment to Tribal lands – which relies on the Form 477 data – demonstrates, the Commission has the ability to assess deployment over time and determine whether its programs effectively address the needs of unserved communities, such as Tribal communities.¹⁵ The report shows Tribal lands experience lower rates of both fixed and mobile broadband deployment as compared to non-Tribal areas of the United States, particularly in rural areas.¹⁶ The report draws a conclusion from the data that significant “work remains to increase deployment to the certain Tribal areas and reach our goal of closing the digital divide for all Americans.”¹⁷

In order for the data reported on Form 477 to be more useful to the Commission, the National Congress of American Indians, GRTI and others have urged the Commission to reform the Form 477 data collection process.¹⁸ GRTI again urges the Commission to improve the data collected through its Form 477 to provide sufficiently granular and more accurate data on broadband availability, adoption, and affordability on Tribal lands.

¹⁵ *Report on Broadband Deployment in Indian Country, Pursuant to the Repack Airwaves Yielding Better Access for Users of Modern Services Act of 2018*, available at <https://docs.fcc.gov/public/attachments/DOC-357269A1.pdf>. (May 2019).

¹⁶ *Id.* at 5, 8.

¹⁷ *Id.* at 1.

¹⁸ *Calling on the FCC to Comprehensively Improve its Broadband Data to Ensure Tribal Lands are Connected to Broadband*, The National Congress of American Indians, Resolution #DEN-18-048, available at http://www.ncai.org/attachments/Resolution_scEpOqOyEayWRSIxHILOzEGABptgSfLUJwNZudFbQmDLtWRdcBp_DEN-18-048%20Final.pdf (2018).

The Commission can leverage additional tools, such as the Mobile Wireless Competition Report¹⁹ and the Broadband Deployment Report,²⁰ as well as other public and private data to develop a more holistic view of how USF funding for a particular proposal may influence overall USF spending. GRTI cites these examples as tools the Commission has at its disposal to understand the consequences that increasing funding for one mechanism may have on the overall spending under the USF. For these reasons, GRTI again urges against adoption of the proposed overall spending cap.

III. CONTRIBUTION METHODOLOGY

Finally, the NPRM, which is opened in a docket the Commission has used to consider reforms to the contribution mechanism, GRTI would encourage the Commission to consider undertaking reforms to that mechanism.

Pursuant to the statutory direction by Congress, the Commission is directed to establish a contribution mechanism by which telecommunications carriers and other providers of interstate telecommunications “contribute, on an equitable and non-discriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service.”²¹ The contribution mechanism, adopted in 1997, was found by the Commission to be “(1) competitively neutral; (2) easy to administer; and (3) explicit.”²² The services subscribed to by businesses and consumers have changed over the last 22 years, as

¹⁹ Mobile Wireless Competition Reports, *available at* <https://www.fcc.gov/wireless/bureau-divisions/competition-infrastructure-policy-division/mobile-wireless-competition>.

²⁰ Broadband Progress Reports, *available at* <https://www.fcc.gov/reports-research/reports/broadband-progress-reports>.

²¹ 47 U.S.C. § 254(d).

²² *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, 12 FCC Rcd 8776, 9207, paras. 845-46 (1997).

evidenced by the *USF Monitoring Report*, resulting in a decline in the revenues subject to universal service contribution, while overall revenue for communications services have grown. Based on data found in the *USF Monitoring Report*, from 2007-2017, revenues subject to USF contribution have declined from \$81 billion in 2007 to \$55 billion in 2017.²³ During that same period, other end-user communications revenue (“non-telecommunications revenues”) have increased from \$131 billion to \$321 billion.²⁴ Continued reliance on the declining revenue base does nothing to affect the amount of funding in the four universal service mechanisms; rather, it only generates an inaccurate impression of the burden on ratepayers of achieving the USF goals and creates a mechanism that is no longer “competitively neutral,” assessing revenues on some services and not others.

Moreover, the mechanism now places the cost of universal service on those Americans that still utilize telecommunications services, such as older American, instead of spreading the costs across all users of communications services. As the AARP noted in comments filed in this docket in 2012, “[o]lder Americans subscribe to both wireline and wireless telephones at higher combined rates than other age groups. As a result, older Americans shoulder a disproportionate share of the contribution burden under the Commission’s current approach to funding universal service.”²⁵ The data underlying the AARP analysis holds true today. Older Americans, those 65 and up, are more likely to subscribe to both wireline and wireless services than any other group, thereby increasing their contribution burden under the existing mechanism.²⁶

²³ *USF Monitoring Report* at 14, Table 1.5.

²⁴ *Id.* at 12, Table 1.3.

²⁵ AARP Comments at 3-4, WC Docket No. 06-122, *available at* <https://ecfsapi.fcc.gov/file/7021984625.pdf> (July 10, 2012).

²⁶ National Center for Health Statistics conducts a regular survey. The results are available at <https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201906.pdf> (rel. June 26, 2019).

These and other factors demonstrate the need to reexamine how to best fund the universal service program. The Commission should consider existing statutory parameters and goals outlined by the Commission in 1997 – namely, establishing a mechanism that is competitively neutral, easy to administer, and explicit – to develop a contribution mechanism that is “equitable and non-discriminatory.” The Commission has previously considered expanding the base of revenues subject to contribution as well as establishing a connections-based contribution mechanism. The Commission should reevaluate the use of these and other approaches to address flaws in the current structure of the contribution mechanism.

IV. CONCLUSION

For the reasons set forth above, GRTI urges against adoption of an overall cap on the universal service programs. Such a cap is unnecessary to the Commission’s prudent administration of USF. Data on which to measure the effects of programmatic changes and the success of current Commission policies under each program are readily available and provide a more “holistic view” of the universal service fund. The Commission should leverage this data to inform its decision-making. Moreover, the Commission should reform the underlying USF contribution mechanism. The existing mechanism has not kept pace with evolving trends in the use of communications services, resulting in a disproportionate burden on Americans that still utilize telecommunications services. The Commission should consider soliciting public comment on potential reforms to this contribution mechanism through this docket in an effort to more evenly spread USF costs across all users of communications services.

Respectfully Submitted,
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