Before the
Federal Communications Commission
Washington, D.C. 20554

Universal Service	)	
Contribution Methodology	)	WC Docket No. 06-122

COMMENTS
OF
GVNW CONSULTING, INC.

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I. INTRODUCTION

GVNW Consulting, Inc. ("GVNW") submits these comments to address the Federal Communications Commission ("FCC") request for comments relating to establishing an overall cap on the Universal Service Fund ("USF" or "Fund") and other proposed changes as set forth in a Notice of Proposed Rulemaking in the above-captioned docket.[1]

GVNW believes that the establishment of an overall cap of the USF Fund would be contrary to Congress' intent and the Act, and that a cap would not make for a prudent public policy because it could stifle the very broadband deployment that the Commission seeks to promote and advance throughout the country. Further, an overall cap on the USF Fund could cause competition amongst the four USF programs for funding and, if so, some or all of the programs will not have sufficient funding to promote and advance its particular and specific area of need. Moreover, the job of deploying broadband using these USF mechanisms has just begun and there is still a great deal of broadband deployment left for carriers to do before the goal is accomplished.

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

II. DISCUSSION

A. An Overall USF Cap Is Not Necessary Or A Prudent Public Policy Approach.

Section 254 of the Telecommunications Act of 1996 states that "there should be specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service."[2] Establishing an overall cap on the USF would be contrary to the Act and would set in place a mechanism that would ultimately cause the Fund to be unpredictable and insufficient to preserve and advance universal service. This would be the case when the cap is either arbitrarily set too low or set at a level that does not accurately predict the actual distribution needs of the mechanisms.

1. An Overall Cap Is Not Necessary.

An overall cap is not necessary to ensure that the USF mechanisms are predictable and sufficient so that they preserve and advance universal service. Rather than establishing an overall cap on the USF, the Commission should set a budget from one to five years for each mechanism. The Commission could set these budgets by instructing the Universal Service Administrative Company ("USAC") to determine the amount that each mechanism will distribute for the period, and then the Commission could set the contribution percentage at a level that would allow for sufficient distribution of USF funds based on USAC's projections with some additional funds in reserve.

By determining the distribution needs of each mechanism and setting the contribution level accordingly, there would be no need for any type of inflation adjustment if the budget were set on an annual basis. However, if the Commission decides to set the budget for more than one year and up to five years at a time, then the Commission should add a CPI inflation adjustment to the

[2] 47 U.S.C. § 254. See 254. *See* 254(b) (3), (5), and (6).

calculated distribution amounts for years two through five. Further, if USAC determines at some point during the year a miscalculation occurred or that disbursements from a mechanism will exceed the budget for that mechanism and there are not sufficient reserve funds available in the budget, the Commission could adjust the contribution percentage to ensure sufficient availability of USF funds for the period. Similarly, if the Commission later decides to add other USF programs, USAC could recalculate the distributions needs for a budget that includes the new program or programs, and the Commission could adjust the contribution percentage to ensure sufficient funds are available for all programs. In short, the Commission can use a similar process that is in effect today to calculate the contribution percentage to set an overall budget for all the USF programs for one to five years in advance.

While setting budgets for the individual USF programs, the Commission should be mindful of the contribution percentage and the impact that the surcharge has on consumers. However, rather than the Commission trying to limit the contribution percentage for consumers which could have an impact on the USF having sufficient funds to promote and advance universal service, the Commission should look at other ways to increase the overall contribution amount using alternative contribution methods. An alternative method could be developed that would increase the overall contribution amount for the USF Fund but at the same time reduce the impact of the contribution surcharge for USF on individual consumers. For example, the Commission could revisit a set connection-based charge per access line on landline, wireless, and voice over internet connections at an equal rate instead of using a contribution percentage.

Lastly, with a budget set from one to five years in advance, the Commission should make the information available to the public so that the public will know how much USF funds the Commission is distributing for each program to preserve and advance universal service throughout

the country. The public availability of this information will provide transparency so that the public will know that the Commission is using their contribution payments to deploy broadband services throughout the country and to provide needed USF funding for high-cost rural areas, low-income consumers, schools and libraries, and healthcare providers.

2. An Overall Cap Would Not Be A Prudent Public Policy.

A cap on the USF would not be a prudent public policy because it would put in place a mechanism that would limit the availability of USF funds to promote and advance universal service whenever it was determined that the cap would be exceeded during a calendar year. Congress has stated its intention that USF funds should promote and advance universal service for high-cost areas, low-income consumers, schools and libraries, and health care providers. Therefore, any policy that restricts or limits the USF funding that Congress set forth in Section 254 of the Act is contrary to the stated public policy.

While it is important for the Commission to have a long-term view of the sustainability of the USF, potentially limiting USF funding with a cap on USF distributions does not work hand-in-hand with a public policy of advancing the deployment of broadband throughout the country which still has far to go to be considered a goal that has been accomplished. In addition, a cap would not be a prudent public policy as it could limit USF funding for the current four USF programs that have specific needs that the Commission should be tailoring with specific USF funding to address the needs for each individual type of program.

B. It Is Inappropriate To Combine Separate And Distinct Universal Service Programs From What Congress Intended in the Act.

Section 254 of the Telecommunications Act of 1996 sets forth the need for specific USF mechanisms for high-cost areas, low-income consumers, schools and libraries, and health care

providers.[3] Each area has needs that the Commission should specifically tailor USF toward to ensure that the individual programs preserve and advance universal service in their particular area of need. It would be inappropriate and contrary to what Congress intended to combine these separate and distinct USF programs into one overall program.

Combining these individual programs into one overall program with an overall cap on the USF would cause the individual programs to compete against each other for funds when it is determined that the distributions from the USF will exceed the cap. In addition, if some type of priority in funding is established along with a cap, some programs will consequently have less funding available to preserve and advance universal service, which would be contrary to Congress' intentions and the Act which requires the USF funding to be specific, predictable, and sufficient to preserve and advance universal service. Likewise, combining the E-Rate program ("Schools and Libraries") with the Rural Healthcare Program is not necessary and each program should continue to use separate and distinct budgets for their USF funding.

C. The Job Of Deploying Broadband Is Not Complete.

1. The Commission has made significant strides during the past few years toward putting into place mechanisms like A-CAM support and CAF-BLS Legacy support, along with the CAF Auctions which may demonstrate potential benefits once the results are reviewable, with each type of mechanism having set location obligations attached to funding, that should advance the deployment of broadband services throughout the country. Further, the Commission more recently has taken steps to reverse funding limitations issues and has reset high cost funding at higher levels, which will greatly help in the deployment of broadband services. However, as the Commission concluded in its Section 706 report for 2018, "advanced telecommunications capability is being

[3] *Id*.

deployed to all Americans in a reasonable and timely fashion" but this only means "that we are back on the right track when it comes to deployment."[4] The Commission had previously found that 2016 deployment was not reasonable or timely, which triggered Section 706's mandate to the Commission to "take immediate action to accelerate deployment of such capability by removing barriers to infrastructure investment and by promoting competition in the telecommunications market."[5] The findings regarding the 2016 deployment efforts, in part, caused the Commission to make needed changes to the support mechanisms to improve deployment of broadband throughout the country.

In addition, the Commission's 2018 report recognized that despite its positive findings, its work to close the digital divide is not complete, noting that several Commission "proceedings remain open with more work to be done to continue to close the digital divide."[6] Moreover, the Commission stated in the 2018 report that the "further deployment of advanced telecommunications capability will remain a top priority as we continue our efforts to help deliver the benefits of broadband to all Americans."[7]

While the country is back on the right track, the job of deploying broadband using these mechanisms has just begun and there is still a great deal of broadband deployment left for carriers to do before the goal is accomplished. There are still areas in the country, especially rural areas, which lack adequate and affordable broadband services.

Establishing an overall cap on USF funds could potentially slow down the deployment of broadband services if the Commission reduces funding to these mechanisms due to distributions from the USF Fund exceeding the overall cap. In addition, an overall cap on the USF Fund could

[4] 2018 Broadband Deployment Report, GN Docket No. 17-199 (released February 2, 2018), para. 94, pp. 48-49.
[5] *Id.*, para. 79, p. 44.
[6] *Id.*, para. 98, p. 49.
[7] *Id.*

cause each of the USF programs to compete for funding which would cause all or some of the programs funding to be insufficient to promote and advance universal service.

III. CONCLUSION

For the reasons set forth herein, GVNW believes that the establishment of an overall cap of the USF Fund would be contrary to Congress' intent and the Act, and that a cap would not make for a prudent public policy because it could stifle the very broadband deployment that the Commission seeks to have done in the country. Further, an overall cap on the USF Fund could cause competition amongst the four USF programs for funding and some or all of the programs will not have sufficient funding to promote and advance universal service throughout the country.

Instead, GVNW suggests that the Commission should set a budget for the USF Fund based on the amount that each mechanism will distribute, and then the Commission could set the contribution percentage at a level that would allow for sufficient distribution of USF funds with some additional funds in reserve each year. In addition, the Commission could revisit alternative contribution mechanisms like a connection-based mechanism in the future if it believes that it needs to meet the needs of funding the USF Fund while trying to lessen the impact of the contribution surcharge on individual consumers.

Respectfully submitted,
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