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## United States Senate

COMMITTEE ON COMMERCE, SCIENCE,  
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

WEBSITE: <http://commerce.senate.gov>

# 594

July 17, 2017

The Honorable Ajit V. Pai  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street Southwest  
Washington, D.C. 20554

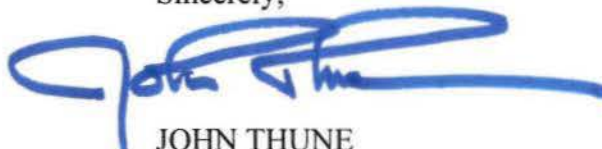
Dear Chairman Pai:

The Federal Communications Commission's Universal Service Fund (USF), which collects almost \$10 billion annually, is under increasing fiscal pressure, and two programs supported by the fund, the High Cost program and the Rural Health Care program, are facing particular funding constraints. In order to help the Committee better understand the nature and extent of the challenges facing USF, I am writing to request the following information regarding USF collections and disbursements:

1. For each year since 2010, please provide annual USF collections;
2. For each year since 2010, for each USF program, please provide:
  - a. disbursements of USF; and
  - b. the cumulative total of undisbursed funds at the end of each year;
3. For the most current annual period for which figures are available, for each USF program, please provide the total amount of undisbursed funds expected to be on-hand for each of the five years following that period;
4. For any program for which the Commission has allocated any undisbursed funds by Commission action, please provide the amount and frequency of the allocation and a citation to the relevant order(s) making such allocation(s); and
5. Finally, please provide a description of any regulations limiting allocation of undisbursed USF funds to a particular program or use.

If you have any questions, please have your staff contact David Quinalty of the Majority staff at (202) 224-1251. Thank you in advance for your prompt attention to this matter.

Sincerely,



JOHN THUNE  
Chairman



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

September 5, 2017

The Honorable John Thune  
Chairman  
Committee on Commerce, Science, and Transportation  
United States Senate  
254 Russell Senate Office Building  
Washington, D.C. 20510

Dear Chairman Thune:

Thank you for your letter regarding the Universal Service Fund (USF) and your questions about USF collections and disbursements. Proper fiscal management of the USF is essential for the accountability and success of USF programs. As recently as this spring, the Commission provided guidance to the Universal Service Administrative Company (USAC) to further ensure that there is consistency and transparency in how USAC manages certain program funds.

Attached are responses to your specific questions. Please note that although the Rural Health Care and the Schools and Libraries programs are operated on a funding year basis (July 1 – June 30), the tables included present the requested information for all programs on a fiscal year basis.

I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in blue ink, reading "Ajit V. Pai".

Ajit V. Pai

## ATTACHMENT

### 1. For each year since 2010, please provide annual USF collections;

Universal Services Fund – Fiscal Year Collections (In Millions)								
	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017*	Total
High Cost	4,516.16	4,571.82	4,589.47	4,531.14	4,522.04	4,543.24	4,546.06	31,819.93
Lifeline	1,468.99	2,277.82	1,952.24	1,690.27	1,548.81	1,499.31	1,400.77	11,838.21
Schools and Libraries	2,220.90	2,358.61	2,374.40	2,395.63	2,435.13	2,493.88	1,814.75	16,093.30
Rural Health Care	85.78	118.12	145.14	241.69	255.97	294.41	439.30	1,580.41
Total	8,291.83	9,326.37	9,061.25	8,858.73	8,761.95	8,830.84	8,200.88	61,331.85

\* Fiscal Year 2017 includes projections for Q4.

### 2. For each year since 2010, for each USF program, please provide: a. disbursements of USF;

Universal Services Fund – Fiscal Year Disbursements (In Millions)								
	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017*	Total
High Cost	4,084.31	4,113.66	4,046.15	4,116.08	4,269.20	4,590.48	4,600.55	29,820.43
Lifeline	1,601.83	2,088.14	1,992.53	1,683.32	1,582.80	1,554.81	1,452.38	11,955.81
Schools and Libraries	2,400.21	2,293.70	2,208.71	2,380.79	2,163.59	2,584.67	2,875.91	16,907.58
Rural Health Care	133.23	173.56	163.20	195.00	260.90	303.55	351.64	1,581.08
Total	8,219.58	8,669.06	8,410.59	8,375.19	8,276.49	9,033.51	9,280.48	60,264.90

\* Fiscal Year 2017 includes projections for Q4.

**b. the cumulative total of undisbursed funds at the end of each year;**

Universal Services Fund - Undisbursed Funds – Fiscal Year Cash Balance (In Millions)							
	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017*
High Cost	565.59	1,025.88	1,569.20	1,984.27	2,237.11	2,189.87	2,135.30
Lifeline	8.69	197.65	157.34	164.30	130.32	74.82	23.20
Schools and Libraries	4,915.60	4,980.82	5,146.51	5,161.35	5,432.89	5,342.11	4,281.00
Rural Health Care	408.44	351.28	333.22	379.92	374.99	365.84	453.50
Total	5,898.32	6,555.63	7,206.27	7,689.84	8,175.31	7,972.64	6,893.00

*\* Fiscal Year 2017 includes projections for Q4. Cash balances for programs include any of the reserves that are prescribed by FCC rules, decisions, and other procedures including the E-rate and high cost reserves that are described below in the answers to questions 4 and 5.*

**3. For the most current annual period for which figures are available, for each USF program, please provide the total amount of undisbursed funds expected to be on-hand for each of the five years following that period;**

Universal Services Fund - Estimated Undisbursed Funds – Fiscal Year Cash Balance (In Millions)					
	FY 2017*	FY 2018	FY 2019	FY 2020	FY 2021
High Cost	2,135.30	1,993.99	1,617.17	1,421.38	1,371.25
Lifeline	23.20	23.20	23.20	23.20	23.20
Schools and Libraries	4,281.00	3,300.96	3,041.92	2,915.51	2,663.51
Rural Health Care	453.50	477.72	438.20	433.30	433.31
Total	6,893.00	5,795.87	5,120.49	4,793.39	4,491.27

*\* Cash balances for programs include any of the reserves that are prescribed by FCC rules, decisions, and other procedures including the E-rate and high cost reserves that are described below in the answers to questions 4 and 5.*

**4. For any program for which the Commission has allocated any undisbursed funds by Commission action, please provide the amount and frequency of the allocation and a citation to the relevant order(s) making such allocation(s);**

The general default rule for treatment of undisbursed funds is 47 CFR § 54.709(b), which requires that when contributions received by the Administrator in a quarter exceed the amount of

universal service support payments and administrative costs for that quarter, the excess payments will be carried forward to the following quarter to reduce the contributions needed to fund that quarter. *See Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service*, CC Docket No. 97-21, CC Docket No. 96-45, Report and Order and Second Order on Reconsideration, 12 FCC Rcd 18400, 12 FCC Rcd 22493, 18427-28, para. 50 (1997).

Consistent with this rule, the OMD has directed the Universal Service Administrative Company (USAC) to apply all funds that had been de-obligated in the Rural Health Care Pilot Program to reduce collections in Q3 2017. *See* Letter from Charles Salvator, Chief Financial Officer and Vice President of Finance, USAC, to Marlene H. Dortch, Office of the Secretary, FCC (dated June 9, 2017). Since April 2013, USAC had been following the directions provided in a Wireline Competition Bureau (Bureau) Public Notice which said that “. . . if actual collections exceed demand for any RHC Programs in a particular quarter, pursuant to section 54.709(b) of the Commission’s rules, we instruct USAC not to take those excess collections into consideration when projecting demand for the following quarter.” However, this direction was to be in place “until the Bureau or OMD instructs USAC otherwise.” *See Wireline Competition Bureau and Office of the Managing Director Provider Collection Instructions to USAC for the Healthcare Connect Fund*, WC Docket No. 02-60, Public Notice, 28 FCC Rcd 5697, 5699 (2013).

An exception from the general default rule, however, is that undisbursed funds in the E-rate program are governed by the E-rate carry-forward rules. In 2003, the Commission amended its rules to make unused funds available annually in the second quarter of each calendar year for use in the next full funding year of the Schools and Libraries mechanism. *See Schools and Libraries*, Third Report and Order, 18 FCC Rcd 26912, 26933-35, paras. 52-58 (2003). The Commission described “unused funds” as “the difference between the amount of funds collected, or made available for that particular funding year, and the amount of funds disbursed or to be disbursed.” Based on the estimates provided by USAC, the Wireline Competition Bureau announces a specific amount of unused funds from prior funding years to be carried forward in accordance with the public interest to increase Schools and Libraries mechanism funds for the next full funding year in excess of the annual funding cap. *See also* 47 CFR § 54.507(a)(6).

The FCC also has provided guidance to help USAC manage E-rate funds and understand which funds can be carried forward, by instructing USAC on how to reserve for potential disbursements. Recently, the Commission’s Office of Managing Director (OMD) provided guidance directing USAC to reserve 100 percent of the funds it would need to cover three categories of potential disbursements: (1) pending applications; (2) funding that has been committed but not yet disbursed; and (3) appeals pending with USAC and the Commission. It also reminded USAC of the relationship between reserving funds for potential disbursements for each funding year and the carry forward procedures, the importance of accurately representing unused funds on a quarterly basis, and that USAC should include any de-obligated and unused

funds for each funding year in its proposed carry forward amount. *See* Letter from Mark Stephens, Office of the Managing Director, FCC, to Chris Henderson, USAC, DA 17-367 (April 19, 2017); *see also* Amendment of Part 54 of the Commission's Rules, Order, 21 FCC Rcd 7422, 7423 (2006); 47 CFR § 0.11(a)(8).

In the *2011 USF/ICC Transformation Order*, the Commission adopted an annual high-cost budget of \$4.5 billion. It directed USAC to forecast total high-cost universal service demand as no less than \$1.125 billion per quarter for years 2012-2017, regardless of quarterly demand, in order to avoid "dramatic shifts" in the contribution factor while the Connect America Fund was implemented. USAC was to place the excess in a reserve account. *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, paras. 125-126, 559-62 (2011), *aff'd* In re: FCC 11-161, 753 F.3d 1015 (10th Cir. 2014).

The Commission has drawn from either the Connect America reserve account or excess high-cost cash in three instances:

- Phase II Transition Support: Prior to making the Phase II offer of model-based support to price cap carriers, the Commission adopted a three-year transition for price cap carriers that chose to accept model-based support that is less than their Connect America Phase I frozen support. *See April 2014 Connect America Order*, FCC 14-54, paras. 49-52; 47 CFR § 54.310(f). The Bureau authorized several price caps that elected to receive Phase II model-based support less than Phase I frozen support, with the transition support amounts coming from the Connect America reserve account. *See* DA 15-707 (rel. June 16, 2015); DA 15-888 (rel. Aug 5, 2015); DA 15-931 (rel. Aug. 19, 2015); DA 15-968 (rel. Aug 28, 2015); DA 16-390 (rel. Apr 11, 2016). Transition payments run through July 31, 2018.
- Rural Broadband Experiments: In the *Rural Broadband Experiments Order*, the Commission adopted a \$100 million budget to provide broadband to serve fixed locations in a one-time bidding process, which was drawn from the Connect America reserve account. *See* FCC 14-98, para. 11. Subsequently, the Commission authorized over \$41 million in support to winning bids on a rolling basis as bidders completed the post-selection review process. *See* DA 15-897 (rel. Aug. 7, 2015); DA 15-1003 (rel. Sept. 11, 2015); DA 15-1306 (rel. Nov. 12, 2015); DA 15-1416 (rel. Dec. 11, 2015); DA 16-30 (rel. Jan. 12, 2016); DA 16-151 (rel. Feb. 9, 2016); DA 16-489 (rel. May 4, 2016); DA 16-1026 (rel. Sept. 12, 2016); DA 16-1375 (rel. Dec. 12, 2016). In June 2016, the Bureau directed USAC to de-commit all rural broadband experiment funding not associated with pending or authorized bids and return the funds to the high cost account. *See* DA 16-621 n.1 (rel. June 3, 2016).

- **Alternative Connect America Cost Model (A-CAM):** In the *Rate-of-Return Reform Order*, in order to facilitate the voluntary path to model-based support, the Commission decided it would add up to \$150 million annually to the model, or up to \$1.5 billion over the 10-year term. *See* FCC 16-33, para. 60. The Commission stated that if that was not sufficient to meet demand for the model, it may consider whether circumstances warrant allocation of an additional \$50 million per year, or other measures. *Id.* at para. 62 & n.136. The Commission also directed USAC to eliminate the Connect America reserve account and instead maintain the excess funds in the high-cost cash account. *Id.* at n.130.

Subsequently, in the *A-CAM Report and Order and Further Notice of Proposed Rulemaking*, the Commission allocated an additional \$50 million annually to the budget for model-based support. *See* FCC 16-178, para. 6. The Bureau authorized A-CAM recipients in two PNs: DA 16-1422 (rel. Dec. 20, 2016) and DA 17-99 (rel. Jan. 24, 2017). In the *A-CAM Authorization PN* (DA 17-99), the Bureau directed USAC to retain in the high-cost account sufficient cash to cover the net increase in support associated with A-CAM for 2018-2026 and not treat it as excess contributions for purposes of section 54.709(b) of the Commission's rules. *Wireline Competition Bureau Authorizes 182 Rate of Return Companies to Receive \$454 Million Annually in Alternative Connect America Cost Model Support to Expand Rural Broadband*, WC Docket No. 10-90, DA 17-99, Public Notice, 32 FCC Rcd 842, 843-844, n. 12 (rel. Jan. 24, 2017).

**5. Finally, please provide a description of any regulations limiting allocation of undisbursed USF funds to a particular program or use.**

In addition to the general requirements referenced above, there are a few decisions that limit the allocation of undisbursed funds to certain uses or programs. When the Commission adopted a voluntary path to model-based support for rate-of-return carriers, it decided to allocate over the 10-year support term an additional \$2 billion from existing undisbursed funds. *Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, FCC 16-178 (rel. Dec. 20, 2016). As mentioned above, in the *A-CAM Authorization PN* (DA 17-99), the Bureau directed USAC to retain in the high-cost account sufficient cash to cover the net increase in support associated with A-CAM for 2018-2026 and not treat it as excess contributions for purposes of section 54.709(b) of the Commission's rules. It directed USAC to retain \$1,768,212,010 in the high-cost account at the end of 2017 to cover the net increase in support associated with A-CAM for 2018-2026.

Additionally, the *E-rate Modernization Order* added a nuance to the general carry forward rules for the E-rate program described above. In the E-rate program, there is Category One support for providing broadband services to schools and Category Two support to provide broadband services within school (e.g., Wi-Fi). If there are any unused E-rate funds that are to be carried forward into the next funding year, the Chief of the Wireline Competition Bureau is delegated authority to determine the proportion of these unused funds that should be used to

meet category one demand and to direct USAC to use any remaining Schools and Libraries mechanism funds to provide Category Two support. *See E-rate Modernization Order*, 29 FCC Rcd 8870, 8900, para. 81 (2015); 47 C.F.R. § 54.507(a)(5).