

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

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
High Cost Universal Service Support)	WC Docket No. 05-337
)	
)	
Lifeline and Link-Up)	WC Docket No. 03-109

COMMENTS OF

The Center for Social Inclusion

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To: The Commission

**Comments of
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The following represents the formal comments of the Center for Social Inclusion in response to the Notice of Proposed Rule Making for the dockets listed above.

The Center for Social Inclusion works to unite public policy research and grassroots advocacy to transform structural inequity and exclusion into structural fairness and inclusion. We work with community groups and national organizations to develop policy ideas, foster effective leadership, and develop communications tools for an opportunity-rich world in which we all will thrive.

Respectfully submitted,

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Table of Contents

Summary.....4

I. Introduction.....5

II. The Opportunity in Reforming the USF.....7

III. Recommendations.....8

A. Affirm the FCC’s Legal Authority to Support Broadband.....8

B. Broaden Definition of Eligible Telecommunications Carriers [ETCs] to Enable Support for Community-Scale Broadband Developers, Incl. Non-Profits and Municipalities.....9

C. Clarify and Strengthen Public Interest Obligations of Fund Recipients.....10

D. Improve Standards to More Effectively Identify Unserved Areas Eligible for Support.....12

E. Conduct Targeted Outreach to Ensure the Inclusion of Communities of Color in the Selection Process.....12

Summary

The current initiative over how best to reform the Universal Service Fund offers a new opportunity to re-center issues of access, ubiquitous adoption. We support and urge the Commission to move forward with reforms to the Universal Service Fund. The reforms should; 1.) recognize the increasing centrality of broadband internet to everyday life, making internet more than a luxury but a necessity for participation in modern society; 2.) ensure that the reforms are inclusive by making community, non-profit and municipal owned systems eligible for funding opportunities under the Connect America Fund and High-Cost service programs to support the deployment of infrastructure and 3.) consider and establish some method of community planning and participation in the deployment of broadband networks, particularly in rural areas where the eventual options for services are so restricted.

The Commission should take these reforms mindful of its own obligations to act in the “interest of the public”, following through with reforms based in those standards confident, based on Section 254(b) of the 1996 Telecom Act that it has the authority to do so.

I. Introduction

In 2010, the FCC, Congress and the Obama Administration showed tremendous leadership by first releasing the country's first National Broadband Plan and making a total of \$7.2 billion in support available under the American Recovery and Reinvestment Act ("Recovery Act") to stimulate broadband deployment. However given the tremendous scale of the need, that investment barely scratched the surface of alleviating the persisting divide in adoption of broadband internet services.

As broadband has become increasingly integrated into virtually every aspect of our lives, it has become essential to supporting a healthy, successful society. Broadband is a means to connect people across distances, cultures and languages in ways never before possible or even imagined by previous information telecommunications systems. Yet, the Federal Communications Commission's own data estimates that broadband service is completely unavailable to at least 14 million and as many as 24 million Americans. It found that unserved areas are disproportionately rural or low-income. An additional 80 million people do not subscribe to broadband at home, and 50 million do not use the Internet at all.

Low-income households and people of color are still far less likely than others to have regular Internet access at home and in their communities. According to a 2010 report from the Joint Center for Political and Economic Studies, about 56% of adults with family incomes of less than \$20,000 use the Internet, compared to 94% of those earning more than \$50,000. A 2010 Pew Center study found that while 66% of all adults now have broadband at home, just 56% of black people, 66% of Latinos and 45% of those making less than \$30,000 a year do. Though there are some signs of progress—broadband adoption among African-Americans has risen over 20% between 2009 and 2010 (largely fueled by mobile broadband adoption)—total broadband adoption has slowed dramatically. Similarly the digital divide hits rural areas particularly hard. The 2010 study by the Pew Internet & American Life Project

shows that while the national penetration rate is 66 percent, only half of rural residents have broadband in the home. While NTIA's National Broadband Map shows that despite the broadband adoption increase to 68 percent, only 60 percent of rural households accessed broadband Internet service in 2010.

Further, the 2010 study by the Pew Internet & American Life Project shows that while the national penetration rate is 66 percent, only half of rural residents have broadband in the home. While NTIA's National Broadband Map shows that despite the broadband adoption increase to 68 percent, only 60 percent of rural households accessed broadband Internet service in 2010. The rates for rural farmers in particular are similarly astounding. While about 50% of White farms report having internet access, roughly 35% have high speed. The rates for Farmers of Color offer even greater evidence of disparity; only 33% of Black farms report having internet access and less than 25% have high speed; whereas 48% of Hispanic/Latino farms report having internet access and roughly 33% have high speed; and 50% of Native American Indian farms report having internet access only 28% have high speed.

The economic and social costs of network exclusion are enormous in any modern society, and grow higher as more essential services for citizenship, economic transactions and quality of life migrate from the traditional world of personal interactions and direct services to the online universe. Initially, many online services were largely voluntary, providing easier and cheaper options but still serving as a non-essential alternative to other services. For example, applications, such as online shopping, still remain in the realm of the non-essential.

However, as Internet and other networks have expanded, these first wave discretionary services are being joined by more essential applications, such as access to medical or employment information, banking and financial services. Increasingly, such services are extending beyond information to encompass actual services that are essential for effective citizenship, education and economic competitiveness, such as searching and applying for jobs, colleges and other training

opportunities. Eventually, fewer services will be available conventionally, and in time, rather than current estimates of only 10% of essential services being exclusively online. It is likely that in future some of these services will only be available online. But even when available in both environments, a fee for off-line services such as utilizing human tellers at a bank for deposits and withdraws or airlines experimenting with charges for services with a ticketing agent; will continue to increase the financial cost of network exclusion. As technology advances, more robust networks mean that the well-networked and digitally savvy and their families get easier, faster, and fuller access to necessary knowledge and services. At the same time, the costs of exclusion for those who are not connected continue to rise.

While the cost of exclusion continue to rise for those neglected by earlier waves of network deployment, the cost for building new infrastructure has also increased dramatically. For instance, studies show that increasing the nation's broadband penetration level by about 1 percent, or 300,000 connections, would cost roughly \$300 million—a potentially low estimate. Further, according to the National Exchange Carrier Association (NECA), an association of local telephone companies, the cost of upgrading 5.9 million rural telephone access lines to a speed capable of delivering voice, video, and data to rural customers would be \$11.9 billion. It is clear that what is needed is a continuous and dedicated source of funding to support the deployment of new infrastructure and the upgrading of existing infrastructure to meet the social and economic development needs of the future.

II. The Opportunity in Reforming the Universal Service Fund

The current initiative over how best to reform the Universal Service Fund offers a new opportunity to re-center issues of access and ubiquitous adoption. However, it is also important that the reforms are considered in the context of strengthening local capacities and deepening opportunities for democratic engagement, civic participation and local innovation.

CSI's comments are predicated on research, policy analysis, and the experiences of real people in excluded communities. To move the country headlong into the twenty first century, the nation needs rules, regulations and other policies that:

1. Broadband Internet is not a luxury, but represents a new form of digital literacy and mission critical infrastructure for participation and progress in a 21st century society.
2. Ensures equity in broadband infrastructure build out by recognizing the unique needs and challenges for access and adoption in diverse communities, moving beyond simplistic and misleading definitions of universal service to a focus on ubiquity and access as a digital right of all people.
3. To be effective, Broadband infrastructure strategies must consider needs beyond those that label people and communities as "consumers" of an Internet service.
4. Public investments in Broadband infrastructure must recognize the value and opportunity of diverse ownership models as a means of reaching full ubiquity in infrastructure and service penetration.

III. Recommendations

A. Affirm the FCC's Legal Authority to Support Broadband

The Center for Social Inclusion fully supports the FCC's authority to allocate public funding to incentivize broadband deployment. However, we recognize that the decision not to go forward with reclassification of broadband as a telecommunications service creates an opening for opponents of the FCC to challenge its authority to collect and utilize USF dollars for broadband deployment. We recommend the FCC revisit the issue of reclassification and move broadband

unequivocally under FCC authority as a Title II Telecommunications infrastructure. Despite these challenges, CSI advises that the Commission as recommended by the Joint Board does have the authority to fund the deployment of broadband networks, even without full reclassification.

Mandates in Section 214 and Section 254 of the 1996 Telecommunications Act broaden the USF provisions and explicitly state it is the duty of the FCC to ensure universal service access to both telecommunications and *information* services, thereby encompassing broadband even under its current classification. Further, while section 706 provides the FCC the authority to deploy telecommunications services only, when coupled with sections 214 and 254 and their emphasis on *information services*, these sections provide full authority of the FCC support broadband deployment.

B. Broaden Definition of Eligible Telecommunications Carriers [ETCs] to Enable Support for Community-Scale Broadband Developers, Incl. Non-Profits and Municipalities

Section 706 empowers the FCC “to encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans. . . by utilizing . . . methods that remove barriers to infrastructure investment.” However, limited interpretations of section 214, which identifies which carriers are eligible for support from the USF, have hindered the FCC’s ability to fulfill this important mandate. Limiting the scope of ETCs to incumbent telecom providers restricts the options available to low income rural and urban communities seeking to deploy broadband infrastructure makes these communities beholden to major telecoms and consigns them to a status of “last mile” recipients of broadband infrastructure. Instead, the FCC should broaden its definition of ETCs and dedicate Fund support to non-profit community groups and municipalities to invest in the deployment of broadband infrastructure. This would enable the use of Federal funding to support the development of community-scale networks and to reposition underserved

communities as sites of “**first mile**” build-out that would eventually connect to larger regional networks.

We believe the Commission also has the authority to forbear from imposing this requirement should address the scope of the Commission’s authority under section 10 and in particular should address whether the Commission could forbear from applying section 254(e) to entities that are not telecommunications carriers to allow their receipt of universal service support to serve rural, insular and high-cost areas under the Act.

C. Clarify and Strengthen Public Interest Obligations of Fund Recipients

The Center for Social Inclusion believes that the USF reform discussion provides an important opportunity for the FCC to ensuring that public interest obligations are included and made yet more robust. In particular, we recommend that the FCC:

1. **Encourage third party ownership of broadband infrastructure that gives all service providers “rights of use.”** We support proposed rules that would obligate the sharing of infrastructure rather than duplicating costly build-out. However, to accomplish this without inviting bitter and drawn out legal battles over inter-carrier competition, CSI recommends that the FCC encourage third party ownership of broadband infrastructure, when and where appropriate, and grant all service providers equal “rights of use.” This can be done most effectively by enabling non-profit community groups and municipalities to invest in the deployment of broadband infrastructure with all available Fund support.
2. **Create requirements for community participation and engagement to ensure that projects are in “the public interest.”** At present, the proposed rules related to Public Interest Obligations make no mention of community participation and engagement, leaving wide open the question of how (indeed, if) recipients will determine what is actually in the “public interest.” CSI believes that community participation is a key resource in determining

the type of infrastructure and services required by a given community, and that ETCs that provide for and encourage such participation should be given priority for receiving Fund support. Engaging communities in the design and planning of broadband deployment is the most effective way to ensure increased adoption by expanding digital literacy and comprehension of potential uses of broadband technology.

There is precedent for requiring public input in the allocation of Federal financing, in the Department of Housing and Urban Development's Community Development Block Grant Program.

Community participation in planning the deployment of broadband infrastructure is particularly important given the FCC's proposed rule of limiting the fund to "no more than one auction winner per unserved area." This rule is likely to weaken (already non-existent) service competition especially in rural areas, making community participation in the selection of the type of infrastructure and quality of services they receive all the more crucial. Participation requirements also help reposition communities from passive recipients of broadband deployment to active planners engaged in the process of building out the infrastructure.

D. Improve Standards to More Effectively Identify Unserved Areas Eligible for Support

The existing proposal to utilize the National Broadband Map to determine what areas are unserved is inadequate. The Map uses the presence of a single broadband connection within an area to label an entire zip code or census tract as "covered" by broadband access, a standard that may greatly overstate the amount of coverage and render the ongoing needs of marginalized households invisible. In the same way, the census-block scale on which the National Broadband Map relies is too broad. An assessment of coverage should instead be conducted at street level to ensure accuracy and equity in deployment. This also lends to the argument of why community participation in determining need and service requirements can be an

important resource in allocating Fund support. The determination of unserved areas can best be made by communities themselves working with the support of Federal and local agencies.

E. Conduct Targeted Outreach to Ensure the Inclusion of Communities of Color in the Selection Process

Despite the considerable inequalities between whites and people of color in broadband adoption, the proposed rules make no mention of the particular need to support the deployment of broadband infrastructure and services to communities of color in rural and urban underserved areas. These communities often lack the capacity to submit Fund applications, and as a result often remain isolated from support opportunities. Committed efforts to locate communities, support capacity building and community planning on broadband infrastructure deployment should be included in the proposed rule changes. Collaboration with external agencies such as the USDA RUS and non-governmental organizations can help to facilitate these processes to ensure equity in the allocation of Fund support to reach communities of color who often need it most.