



March 27, 2020

The Honorable Ajit Pai  
The Honorable Michael O’Rielly  
The Honorable Brendan Carr  
The Honorable Jessica Rosenworcel  
The Honorable Geoffrey Starks  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**Re: COVID-19 Relief; WC Docket Nos. 01-92, 02-60, 07-135, 09-197, 10-90, 11-42, 13-184, 14-58, 17-310, 18-89, 19-126, 19-195**

Dear Chairman Pai and Commissioners O’Rielly, Carr, Rosenworcel and Starks:

As we confront the challenges of the coronavirus and in particular the need for physical distancing, access to voice and broadband networks has never been more important. While the effects of this virus are taking a heavy toll on individuals and businesses in every community, daily life is able to continue for most as a result of broadband connectivity. At the same time, there is no doubt that our communications infrastructure is being put to the test with increased daily usage while millions of Americans work, learn, access healthcare and entertain themselves over the Internet throughout the day. The effects from the inability to access or afford broadband access are particularly acute during this national health crisis. Therefore, it is essential that industry and government work together in partnership to do everything we can to make sure every American has access to broadband. The Commission’s long history and expertise in serving healthcare providers, schools and libraries, and low-income Americans, in addition to fueling the deployment of broadband infrastructure, can serve as a substantial tool in addressing the COVID-19 pandemic.

USTelecom and its members have led the charge in meeting and exceeding the commitments set forth in the Keep Americans Connected Pledge and we will continue to do so.<sup>1</sup> Our members have been laser focused on maintaining the health of our networks as an essential tool to ensure the health of our population and economy. USTelecom appreciates the many steps the Commission has already taken to assist consumers, community anchor institutions and broadband providers in response to the pandemic, and the many additional actions under

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<sup>1</sup> USTelecom CEO: Our Commitment To Connectivity During COVID-19 (March 19, 2020), <https://www.ustelecom.org/ustelecom-ceo-our-commitment-to-connectivity-during-covid-19>; Letter from Jonathan Spalter, USTelecom, to Members of Congress (March 13, 2020), <https://www.ustelecom.org/our-commitment> (listing numerous examples of USTelecom member actions in response to COVID-19 to keep all Americans connected).

consideration. In addition to your leadership, we want to acknowledge the critical efforts of Commission staff in your offices and across the Bureaus who have been very receptive to the issues we have raised with them, acting with purpose when issues are presented and working collaboratively with us and our members – all while continuing to answer the bell as the Commission continues to conduct its regular business.

In that spirit of cooperation, USTelecom has identified several proposals for the Commission’s consideration to assist consumers and businesses, schools and students, healthcare providers and patients, and of course the broadband companies who serve each of these constituencies. The recommendations, focused on the Commission’s four universal service fund (USF) programs, range from simple waivers of upcoming filing deadlines, to the suspension of rules, to one-time modifications to existing programs and even the potential creation of new stand-alone programs. Each of the proposals are aimed at directly improving connectivity during the pendency of the COVID-19 pandemic and/or allowing employees at broadband companies to focus their energies on their core priority of maintaining and operating networks.

We acknowledge that some recommendations may require substantial new spending. For any of the recommendations that would require significant new funding, our intention is to work with Congress to encourage an appropriation of federal funding, rather than an increase in consumer USF contributions. Congress should provide additional funding to enhance the FCC’s existing budget while providing the Commission with the flexibility to use your expertise to meet basic connectivity objectives (*through existing USF programs or other new mechanisms as you deem appropriate*). We appreciate the support that Congress is providing the Commission via the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and we are hopeful that Congress will provide additional funding as necessary.

## **Healthcare**

Healthcare providers are at the front line of our response to this crisis, and they require access to modern telecommunications services to coordinate patient care, enhance existing and deploy new telehealth services, and coordinate with state, federal and local officials. In order to provide further support to healthcare providers, the Commission should, in addition to adopting final rules for the proposed Connected Care Pilot Program, consider the following actions during the emergency:

- Temporarily increase the annual undiscounted cost of eligible expenses Healthcare Connect Fund Program applicants may apply for and remain exempt from the competitive bidding requirements to up to \$100,000.<sup>2</sup> Consider allowing Telecommunications Program applicants to also benefit from this exemption.
- Open a new application filing window for Funding Year (FY) 2019 funding requests and waive competitive bidding requirements as well as the FY 2019 rural health care support mechanism funding cap to allow HCPs to immediately access more bandwidth and

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<sup>2</sup> See 47 CFR § 54.622(i)(5) competitive bidding exemption.

associated support for the remaining months of Funding Year 2019. Because healthcare providers may experience increases in demand of several times their normal patient contacts during the COVID-19 pandemic, allow eligible healthcare providers who seek only to increase bandwidth capacity or add eligible locations under an existing telecommunications service contract to extend the term of their contract and increase the amount of their funding requests for eligible services as needed for doing so, without re-soliciting bids or re-applying to USAC for approval of a separate funding request.

- Waive or significantly increase the rural health care support mechanism funding cap for FY 2020 if necessary to accommodate increased demand.<sup>3</sup>
- Postpone the implementation schedule for the new rules adopted in the *RHC Promoting Telehealth Report and Order* by one year to allow healthcare providers (HCPs) to obtain services and apply for support with a minimum of disruption and uncertainty.<sup>4</sup> Given the significant additional effort required by USAC to implement new rules and the immediate need for additional support for HCPs, now is not an optimal time to implement major changes to the RHC Program.
- To the extent not already addressed by the Wireline Competition Bureau,<sup>5</sup> suspend or postpone audit fieldwork and deadlines for responding to document or information requests from USAC auditors, in order to allow healthcare providers and service providers to devote all available resources to the demands of the COVID-19 pandemic.<sup>6</sup>
- Make a separate allocation of funds available for “Category 2” Internal connections, basic maintenance and managed internal broadband services for eligible healthcare providers (consistent with support for such services in the E-rate program) during the COVID-19 pandemic.<sup>7</sup>

## Lifeline

The Lifeline program plays an important role in ensuring that low-income Americans have access to affordable communications services, which in turn enables them to access telehealth, telework, and continue their education from home. In order to help consumers meet

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<sup>3</sup> The Commission may also need to open a new application window from November 2020 to February 2021 to allow rural healthcare providers to increase or decrease bandwidth as circumstances arising from the COVID-19 pandemic cause demand to increase or decrease this fall.

<sup>4</sup> See *Promoting Telehealth in Rural America*, WC Docket No. 17-310, Report and Order, 34 FCC Rcd 7335 (2019) (*RHC Promoting Telehealth Report and Order*); *Wireline Competition Bureau Provides Guidance on the Implementation Schedule for Reforms Adopted by the Rural Health Care Program Promoting Telehealth Report and Order*, Public Notice, WC Docket No. 17-310, 34 FCC Rcd 11983 (WCB 2019).

<sup>5</sup> *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Order, DA 20-345 (rel. Mar. 26, 2020), at ¶ 9 (extending time to respond to “information requests from USAC.”).

<sup>6</sup> See, e.g., 47 CFR §§ 54.621; 54.626; 54.627; 54.631.

<sup>7</sup> See 54.502(a)(2).

their urgent communications needs during this unprecedented emergency, the Commission should consider the following actions during the COVID-19 pandemic and for a reasonable period thereafter as unemployed and low-income Americans get back on their feet:

- Suspend the prohibition on duplicative support to ensure that all students and adults in a household have access to the broadband connections they need to while limiting interactions outside the home.<sup>8</sup> At a minimum, act to allow the program to support one fixed and one mobile broadband connection per household.
- Modeled after its response to Hurricane Katrina, the FCC should establish a temporary emergency Lifeline program separate from the existing Lifeline program. The emergency Lifeline program could support a discount of up to \$25 per connection per month up to the total monthly service charge per connection (up to 180 days). A participating carrier could opt to make any fixed or mobile communications service(s) or service package(s) that include voice and/or internet, available for discounts. To participate in the emergency Lifeline program, a carrier would be required to be designated as an Emergency Lifeline ETC subject to expedited procedures and temporary duration.
  - To be eligible, a consumer would need to be unemployed, a gig worker no longer deriving an income, or any person otherwise no longer receiving a paycheck as a result of the COVID-19 emergency. The FCC would determine the documentation sufficient to demonstrate satisfaction of these criteria or eligibility under the existing Lifeline program.

## **E-rate**

Ensuring access to broadband for students is more important than ever, given that many schools and libraries have closed or are expected to close and transition to remote learning. Many schools and libraries may not currently have broadband connections capable of fully supporting the increased demands of remote learning. Further, many students and teachers do not have sufficient access to broadband to allow them to continue the educational process from home.<sup>9</sup> In order to ensure that the E-rate program fully benefits schools, libraries, teachers and students, and that all students are fully equipped to learn from home during this emergency, the Commission should consider the following emergency actions, whether as modification to the existing E-rate program or through stand-alone emergency remote learning measures:

- Open an emergency funding request window (or expand the current window for FY2020) to provide additional E-rate support during this emergency – including for the current

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<sup>8</sup> 47 CFR §§ 54.404; 54.405(e)(2); 54.409(c).

<sup>9</sup> We note that numerous federal agencies may themselves be experiencing bandwidth constraints as they implement expanding remote work policies, and urge Congress to appropriate such additional funds as are necessary to allow affected agencies to procure the bandwidth and other services they need to accomplish their missions in the face of this crisis.

FY2019 and potentially and to the extent the crisis continues beyond July 1, 2020, into FY2020.

- On a targeted, temporary basis to address this crisis, waive certain provisions of the competitive bidding process to allow schools and libraries fast access to emergency funds (i.e., waive the 28-day waiting period for Form 470 postings, increase the pre-discount amount exempt from the competitive bidding requirements).<sup>10</sup>
- If within the scope of the Commission’s legal authority, allow schools to apply for funding to purchase wired or wireless broadband connectivity on behalf of students and/or teachers that do not currently have broadband access from home during the COVID-19 pandemic.
- If within the scope of the Commission’s legal authority, support the purchase of, and distribution to students and/or teachers that do not currently have access at home, devices such as laptop computers, tablet computers, hotspots, smartphones or similar devices capable of connecting to mobile broadband internet access service, either by receiving such service directly or through the use of Wi-Fi, as well as applications that protect students from accessing inappropriate content to support e-learning outside of the school premise during the COVID-19 pandemic.

### **Connect America Fund**

First responders, government agencies, healthcare providers, educators, companies, and individual Americans all will be relying on the availability of robust and resilient networks for everything from emergency response to home schooling. The Commission can help industry meet those increased demands in a time where usage patterns are changing significantly by considering the following actions:

- Authorize a one-time infusion of funds to ensure that all service providers can rapidly augment their existing infrastructure to support non-traditional usage demands, including funds to augment backhaul to prevent congestion. Authorized expenditures would include expenses associated with rapid fiber deployment, upgraded electronics on key routes, acquisition of wholesale lit service or dark fiber capacity, and other infrastructure-related expenditures.
  - In addition to physical infrastructure costs, consider providing support for providers whose operating expenses increased as a result of payments to middle mile/transport providers significantly and unexpectedly above average as a result of traffic spikes related to the effects of the coronavirus.
- Allow Connect America Fund (CAF) and Alternative-Connect America Cost Model (A-CAM) recipients to elect to receive advance payment of the future high-cost support they are eligible to receive, and waive programmatic requirements to the extent they would

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<sup>10</sup> See 47 CFR §§ 54.503(c)(4); 54.503(e).

interfere with the immediate goal of ensuring network reliability and resiliency during this crisis. Such action is consistent with the Commission’s efforts to facilitate recovery and restoration in Puerto Rico and the United States Virgin Islands.<sup>11</sup>

- Extend the CAF and A-CAM interim and final deployment milestones by, as an initial matter, six months in recognition of the impact this event has had and will have on existing and future deployment plans.<sup>12</sup>
- Waive future CAF II performance measurement-related penalties associated with the inability to test or underperformance of testing given the impact of the COVID-19 pandemic, including the inability to install physical equipment in homes to support such testing.<sup>13</sup>
- Expedite the Digital Opportunity Data Collection by facilitating completion of the Broadband Serviceable Location Fabric (“Fabric”).<sup>14</sup> Such action will allow service providers to identify at a granular level those households and businesses that currently lack access to broadband, and allow the Commission to move quickly to RDOF Phase II to get more of them served.<sup>15</sup>
- Grant relief on letter of credit (LOC) obligations. First, quickly grant the pending petitions to align LOC obligations for CAF II Auction and Rural Broadband Experiment participants with the Rural Digital Opportunity Fund (RDOF) LOC rules. Second, consider granting additional relief to the LOC obligations across the board even beyond the rules established in the RDOF Order. With the impact of the COVID-19 pandemic on the markets and company financials, access to credit will increase the already difficult challenges for companies to obtain letters of credit.
- In addition to these programmatic suggestions, waive or postpone the following deadlines at this time:

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<sup>11</sup> See *Connect America Fund*, Order, 32 FCC Rcd 7981, 7981, para. 3 (2017) (2017 Hurricane Funding Order).

<sup>12</sup> See 47 CFR § 54.311(d) (A-CAM deployment milestones); *Connect America Fund Phase II Auction*, Order, AU Docket No. 17-182, DA 20-108 para. 9 (WCB rel. Jan. 27, 2020) (CAF II deployment milestones); *Connect America Fund*, Order, WC Docket No. 10-90, 31 FCC Rcd 12086 (2016) (Alaska Communications Systems deployment milestones).

<sup>13</sup> During this time, the Commission also should clarify that a high-cost recipient is offering broadband service to a location if it provides service to the location or could provide it within a reasonable amount of time, even if it exceeds 10 business days. See, e.g., *Rural Digital Opportunity Fund, Report and Order*, WC Docket No. 19-126, FCC 20-5 para. 54 & n.149 (rel. Feb. 7, 2020) (*RDOF Order*).

<sup>14</sup> *Establishing the Digital Opportunity Data Collection*, Report and Order and Second Further Notice of Proposed Rulemaking, WC Docket No. 19-195, 34 FCC Rcd 7505, 7548 para. 110 (2019).

<sup>15</sup> *Rural Digital Opportunity Fund*, Report and Order, WC Docket No. 19-126, FCC 20-5 para. 5 (rel. Feb. 7, 2020) (*RDOF Order*).

- March 31 deadline for revisions to 2019 Form 499-A involving downward reductions in contribution obligations<sup>16</sup>
- April 1 Form 499-A
- April 1 accessibility recordkeeping compliance certification<sup>17</sup>
- April 22 supply chain information collection<sup>18</sup>
- May 1 Form 499-Q
- June Tariff Review Plan and Access Recovery Charge data filing deadlines (deadlines not yet set)<sup>19</sup>
- June 16 CAF ICC data submission deadline<sup>20</sup>
- July 1 Form 481 Annual ETC Report<sup>21</sup>
- Urban rate survey (typically comes out in July and is due by the end of August)
- Explore options to reduce the burdens associated with the July 31 annual cost study filings for rate-of-return carriers (elements of which involve field work to produce a response)
- Extend deadlines associated with ongoing USAC audits

While some companies may not currently have a COVID-19-related conflict in preparing and submitting these filings, many others that have limited staff available during the crisis will require flexibility. Entities with regulatory staff working from home may not be impacted in the immediate future; however, since this is an evolving situation staff may become directly impacted or may have their focus redirected away from regulatory compliance toward other operational priorities making it difficult to meet these deadlines. And while some filings may be a few months out, staff of broadband service providers must start work now to produce the necessary information to prepare for the future filing date.

Finally, while USTelecom's members were pleased to support the Chairman's Keep America Connected Pledge, including a promise to not terminate customers and to waive late fees for 60 days, the reality is that such a promise comes with a loss of revenues for such companies, revenues they expected to have available. It is now apparent that this pandemic and the lasting effects of it on those who become unemployed or lose substantial income will make it impossible for some to continue to pay their broadband bill for a period that will last longer than 60 days. The impact on broadband providers will be even greater for those who serve small and medium businesses and large enterprises that are unable to pay for connections for a period of time. Broadband providers are already being asked to extend their commitments beyond 60

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<sup>16</sup> See *Federal-State Joint Board on Universal Service et al.*, CC Docket No. 96-45 et al., Order, 20 FCC Rcd 1012, 1013, para. 2 (Wireline Comp. Bur. 2004), *pet. for recon. and applications for review pending*).

<sup>17</sup> 47 U.S.C. § 618(a)(5)(B); *see also* 47 C.F.R. § 14.31(b).

<sup>18</sup> See *Wireline Competition Bureau and Office of Economics and Analytics Open Reporting Portal for Supply Chain Security Information Collection*, WC Docket No. 18-89, Public Notice, DA 20-166 (rel. Feb. 26, 2020); USTelecom supports the *Request for Extension of Time to Report Supply Chain Security Information* filed by the Rural Wireless Association on March 24, 2020, available at <https://ecfsapi.fcc.gov/file/103241353608744/RNSCsupplychainextension%20%20FINAL.pdf>.

<sup>19</sup> See 47 C.F.R. §§ 51.915, 51.917.

<sup>20</sup> See 47 C.F.R. § 54.304.

<sup>21</sup> See 47 C.F.R. §§ 54.313, 54.422.

days. For some, this may have a substantial impact on their revenues and operations. The Commission should be mindful of this fact and consider how it can provide appropriate assistance and support as outlined above.

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These actions are consistent with the Commission's authority and would allow USTelecom's members and the broader industry to better support healthcare providers, libraries, schools, government agencies, businesses, and American citizens as we work collectively to respond to this unprecedented situation.

Thank you for your steady leadership and consideration of these ideas.

Sincerely,

A handwritten signature in black ink that reads "Jonathan Spalter". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Jonathan Spalter