



C O N S U L T I N G L L C

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July 8, 2022

Via E-Filing – Notice of Ex Parte Communications

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
45 L Street NE
Washington, D.C. 20554

**Re: Report on the Future of the Universal Service Fund, WC Docket No. 21-476;
Universal Service Contribution Methodology, WC Docket No. 06-122**

Dear Ms. Dortch:

The USForward group – consisting of the undersigned, Ad Hoc Telecom Users Committee, INCOMPAS, NTCA–The Rural Broadband Association, Public Knowledge, the Schools, Health & Libraries Broadband (“SHLB”) Coalition, and the Voice on the Net Coalition – submits this letter in response to the recent ex parte letter filed by AT&T in this proceeding.¹ AT&T’s ex parte letter claims that the *USForward Report* and its recommendation to assess broadband internet access service (“BIAS”) revenues is “based on a number of flawed assumptions.”² This letter addresses these claims.

First, AT&T criticizes the *USForward Report* for assuming that the Universal Service Fund (“USF”) budget will remain stable. However, as explained in the *USForward Report* and in a prior ex parte letter to the FCC,³ the *USForward Report* uses the Commission’s own projections for USF demand for existing USF programs to provide a consistent baseline for analysis and to

¹ Letter from Brendan Haggerty, AT&T, to Marlene Dortch, Secretary, Federal Communications Commission, WC Docket No. 21-476 (filed June 15, 2022) (“AT&T Ex Parte Letter”).

² AT&T Ex Parte Letter, at 2.

³ See Matthey Consulting, *FCC Must Reform USF Contributions Now: An Analysis of the Options* (Sept. 2021), Table 1 at 11; see also Letter from Carol Matthey, Matthey Consulting, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket Nos. 21-476 & 06-122 (filed June 15, 2022) (“Matthey Consulting Ex Parte Letter”), at 2.

avoid making any predictions about what changes the Commission might make regarding USF distribution programs at some future date. As such, using the Commission’s own projections regarding the USF budget is not a policy judgement, but rather a reasonable and well-founded modeling assumption.

The USForward group believes that the Commission should reform the USF contribution system regardless of any potential changes in the distribution programs. Whether USF demand increases or decreases, expanding the contribution base to include BIAS revenues will provide a more stable system that will be less susceptible to drastic changes in the quarterly contribution factor. And, even if AT&T’s own attempt at prediction turned out to be correct – that the USF will assume responsibility for funding any replacement for the Affordability Connectivity Program (“ACP”) program if there are no further congressional appropriations, which AT&T asserts could double the size of USF demand – this reasoning further underscores why the FCC *should* proceed with contribution reform now.

Second, AT&T criticizes the *USForward Report* for developing an assessment factor that does not exempt individuals who would receive the ACP benefit. However, with the commitment of 20 large and small service providers – covering more than 80% of the U.S. population across urban, suburban, and rural areas – to offer a \$30/month plan for eligible ACP households, most ACP households are able to subscribe to broadband at no cost.⁴ As such, there would be no end user revenues from many ACP customers to assess, as ACP providers are required to apply the ACP benefit to reduce (or eliminate) the amount charged to the ACP customer.

Third, AT&T claims that the *USForward Report* does not properly take into account that BIAS competition is increasing and as a result, BIAS prices will continue to fall, thus decreasing or flattening assessable broadband revenue. Accordingly, AT&T argues that expanding the contribution base to include BIAS revenues will not provide long-term sustainability. However, even if BIAS prices were decreasing on average due to competition (which the USForward group does not concede), that does not mean that total BIAS revenues are or will be decreasing. As a simple matter of marketplace economics, prices can decrease while revenues increase. In fact, if BIAS prices decrease, this could stimulate more consumers to adopt BIAS, which could lead to increased overall revenues for the BIAS providers. Indeed, the largest BIAS providers continue to increase the number of subscribers they serve each year.⁵ Moreover, many subscribers are now moving to higher-speed services that are more expensive than less robust service tiers, which

⁴ Fact Sheet: President Biden and Vice President Harris Reduce High-Speed Internet Costs for Millions of Americans (rel. May 9, 2022), *available at* <https://www.whitehouse.gov/briefing-room/statements-releases/2022/05/09/fact-sheet-president-biden-and-vice-president-harris-reduce-high-speed-internet-costs-for-millions-of-americans/#:~:text=NEW%20PRIVATE%20SECTOR%20COMMITMENTS,no%20more%20than%20%2430%2Fmonth>.

⁵ Leichtman Research Group, About 2,950,000 Added Broadband From Top Providers in 2021 (March 7, 2022), *available at* <https://www.leichtmanresearch.com/about-2950000-added-broadband-from-top-providers-in-2021/>.

would contribute to an industry-wide increase in BIAS revenues. Notably, both AT&T and Verizon have added surcharges to their subscription rates to cope with inflation,⁶ which will also increase their BIAS revenues.

Fourth, AT&T claims that the *USForward Report* glosses over the added cost to consumers and how the most vulnerable BIAS customers may as a result of the USF assessment cancel or downgrade their services. In making this argument, AT&T ignores altogether the most recent empirical study to examine the issue, submitted into the contributions reform docket, which concluded that assessing BIAS would have no material impact on consumer broadband adoption or retention.⁷ Moreover, as explained in prior ex parte letters from the USForward group,⁸ the Commission could prohibit the pass-through of USF assessments for ACP and Lifeline customers, as is done today for Lifeline customers of incumbent telecommunications carriers. Furthermore, assessing BIAS revenues would lower the current USF assessment on voice service, resulting in a more equitable contribution system. Finally, it is curious indeed to see AT&T raise concerns about the impact of a relatively small contribution assessment on broadband adoption or retention at the same time it is imposing new inflationary fees on broadband bills as noted above.

The USForward group has never suggested that assessing BIAS is the *only* solution to the USF crisis. Indeed, individual organizations participating in this effort may not agree on what other steps might be appropriate to ensure the long-term sustainability of the USF. Rather, the group specifically studied three potential USF reform solutions that have been debated in FCC proceedings for two decades – assessing phone numbers, voice and broadband connections, and BIAS revenues – in an effort to focus on immediate, actionable solutions that do not require congressional action, and concluded that assessing BIAS revenues is the smartest and most logical path forward for the FCC. One position upon which we all agree - the need for reform is urgent.

⁶ Scott Moritz, *Verizon Joins AT&T in Raising Wireless Prices as Inflation Bites*, Bloomberg (May 16, 2022), available at <https://www.bloomberg.com/news/articles/2022-05-16/verizon-raises-wireless-prices-for-consumers-business-customers> (explaining that in May, AT&T raised its rates on older consumer plans by \$6 on single lines and \$12 for families; this month, Verizon customers will see a \$1.35 increase in administrative charges for each voice line, and business customers will see mobile phone data plans increasing by \$2.20/month and basic service plans going up by 98 cents).

⁷ See Letter from Michael R. Romano, Senior Vice President, NTCA – The Rural Broadband Association, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 06-122 (filed May 11, 2020) (submitting a report prepared by the Berkeley Research Group, NTCA-USF Study, Expert Report of Michael A. Williams and Wei Zhao (May 7, 2020), that found a modest USF assessment on broadband service would have no material impact on broadband adoption and retention).

⁸ See, e.g. Matthey Consulting Ex Parte Letter, at 1-2.

The USForward group agrees with AT&T that “[n]ow is the time for the FCC to act using its existing authority[.]”⁹ Given we agree on the importance of immediate FCC reform and that the FCC has the authority to assess BIAS revenues now, there is no need for the FCC to wait for additional authority from Congress to start reforming USF.

Please do not hesitate to contact the undersigned if there are questions regarding this submission.

Respectfully submitted,

/s/

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⁹ AT&T Ex Parte Letter, at 3.