Federal Regulatory Update

Brian Ford • February 21, 2024
OTA Critical Issues Forum

DC Landscape

Congress

- **Senate – 51D-49R (3 I's caucusing)**

- **House – 220R-213D (2 vacancies)**

- **What's Happening in Communications?**
  - Senate – nominations finally cleared; just a few hearings
    - USF in May; Robocalling in October
  - House – mix of oversight and messaging
    - e.g., "Biden's Broadband Takeover"

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Legislative Priorities

- **USF Contributions –** S.975; S.852; S.3321

- **SOX Relief –** S.3242; H.R.4360

- **Farm Bill –** S.1642/H.R.4227

- **Tax Bills –** S.341/H.R. 889; S.1117/H.R. 2406; S.1232/H.R.2788

- **Rip and Replace Funding –** S.1245; H.R.3565

- **ACP Extension Act –** S.3565/H.R. 6929

The Agencies

Leadership

Jessica Rosenworcel
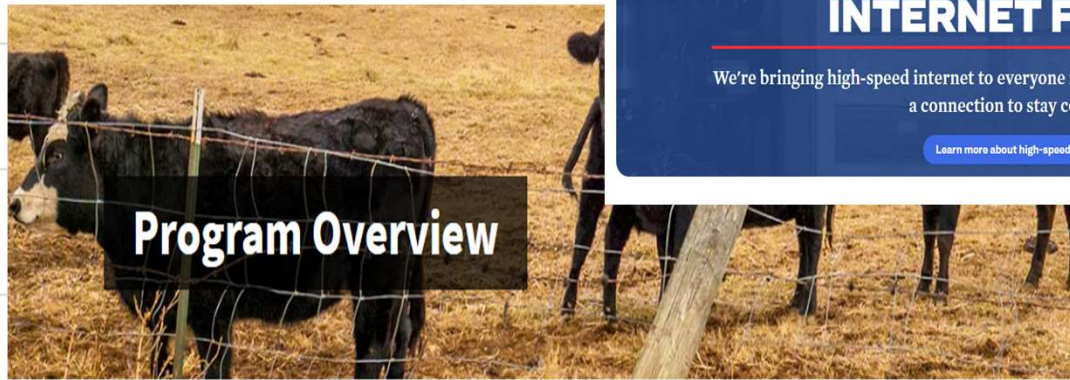Chairwoman

Brendan Carr
Commissioner

Geoffrey Starks
Commissioner

Nathan Simington
Commissioner

Anna M. Gomez
Commissioner

Program Overview

Animals

Biotechnology

Broadband

ReConnect Loan and Grant Program

Program Overview

About

The ReConnect Program offers loans, grants, and loan-grant combinations to facilitate broadband deployment in areas of rural America that currently do not have sufficient access to broadband. In facilitating the expansion of broadband services and infrastructure, the program will fuel long-term rural economic development and opportunities in rural America.

To learn more see the press release.

INTERNET FOR ALL | Why Internet Matters | Programs | Newsroom | Funding by State/Territory

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Universal Service
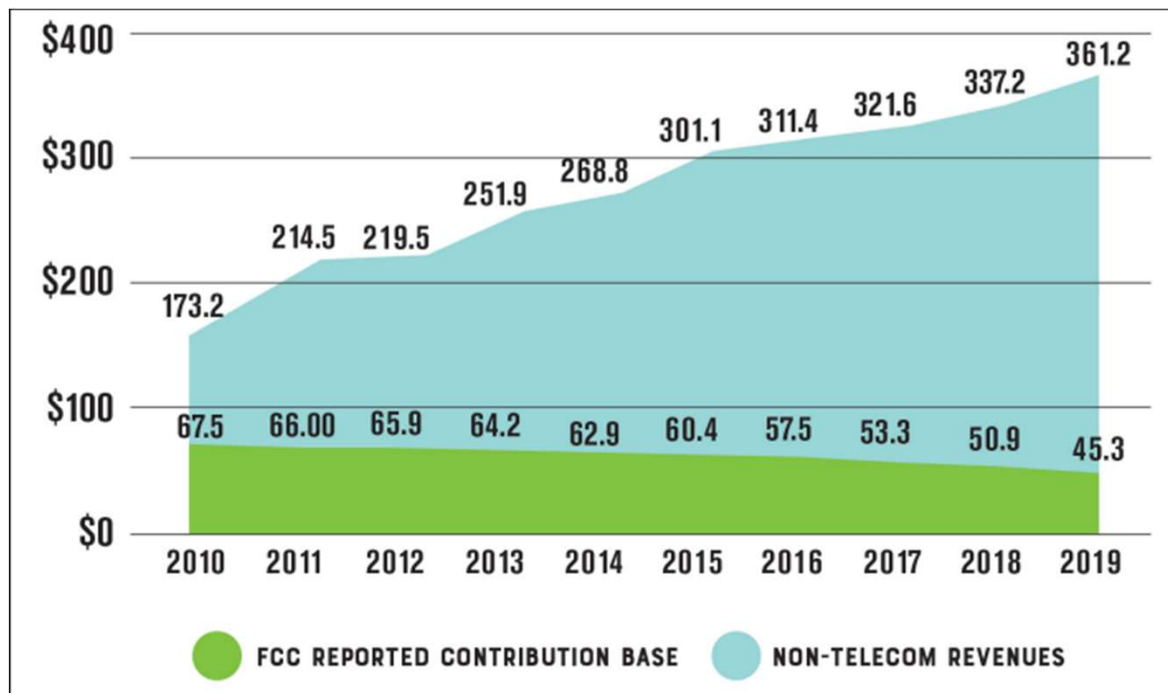
RLEC USF

- **ACAM 1 and 2, and E-ACAM**
  - 2026/2028/2038 Terms
  - Issues
    - ACAM 1 and 2 – what next?
    - Enhanced ACAM –
      - Support adjustments
      - PFR issues – overlap; 20% loss; buildout timing; grant-funded builds

- **CAF-BLS and HCLS**
  - Issues
    - Buildout and overlap
    - BCM?
    - What else comes next?

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Other USF Distribution Issues

- **"RDOF 2"?? Not going to happen . . . BEAD etc.**

- **Future of USF/NOI**
  - Penalty of Building Too Well
  - Sustainability support? Replacement capital?
  - Model vs actual cost vs something else?
  - Fix likely means embracing a "POLR" concept – *but it could mean welcoming in other ETCs . . .*

- **E-Rate – buses/hotspot, and overbuilding concerns**

- **ACP wind-down – not USF, but a critical piece of the puzzle**

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How to Pay for All of this?

Source: USForward Report

How to Pay for All of this?

- **Reform Ideas**
  - Broadband Revenues – USForward Report
    - Funded by NTCA, INCOMPAS, and SHLB Coalition
    - Call to Action backed by 340+ organizations
    - Found contribution factor could be reduced from ~30% to ~3.5%
    - Stable, more equitable, fast, and transparent

  - Broadband Connections – BRG Report
    - Funded by NTCA
    - Found no material impact on adoption/retention based upon $0.80 charge

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How to Pay for All of this?

- **Reform Ideas**
  - Telephone Numbers

  - Big Tech
    - FCC Report to Congress
    - Strand Consulting Report – Funded by NTCA, USTelecom, and WTA
    - Legislative Efforts

  - Appropriations
    - ACP as the "Canary in the Coal Mine"

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How to Pay for All of this?

- **Judicial Challenges**
  - Non-delegation doctrine and "intelligible principles"
  - Arguments about special "tax" treatment and USAC role

- **Status**
  - 5th, 6th, and 11th circuit decisions
  - BUT: 5th circuit rehearing and 11th circuit concurrences
  - DC circuit oral argument last week

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Regulatory Creep

Broadband Regulation

- **Broadband "Nutrition Labels"**
  - April 10/October 10
  - Online and In-Store
  - Base price, list of non-tax fees, typical download/upload speeds & latency

- **Net Neutrality**
  - 2024 is the new 2015

- **Digital Discrimination**
  - Broad reach (discriminatory impact) and limited defenses
  - *"I'm thinking of a number"*

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And Other Regulations . . .

- **Robocalling/Call Authentication**
  - Mitigation plans
  - STIR/SHAKEN compliance
  - Non-IP networks → interconnection issues

- **NG911**
  - Interconnection issues again

- **Video Issues**
  - Early Termination Fees and blackout refunds

- **FTC too** – privacy and junk fees

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Grant Programs

Broadband Grant Programs Overview

- **13 Federal Agencies and 56 State/Territorial Jurisdictions**

- **At least $70B(?) for infrastructure grants – ReConnect, ARPA, etc.**

https://broadbandusa.ntia.doc.gov/resources/federal/federal-funding

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BEAD

- **Done? Done. (Or, at least decided and in process . . .)**
  - Bidding areas
  - Challenge processes
  - Affordability
  - Buy American waiver
  - Part 200 guidance/waiver
  - Letters of credit relief

- **Still to do**
  - Permitting
  - Extremely High-Cost Thresholds
  - Low-Cost Option/ACP

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Home / Broadband Opportunity Hub

Broadband Infrastructure PLAYBOOK
Implementing BEAD and other Broadband Deployment Programs

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Cybersecurity

Creeping Cyber Regulation

- **BEAD requirements**

- **Enhanced ACAM requirements**

- **BGP Routing**

- **NIST 2.0 Framework**

Industry Best Practices

Cybersecurity Summit

Additional Resources