



2022 OTA Accounting Conference

Washington D.C. Update

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2022 Election Implications

Senate

- Democrats will have at least 50 seats
 - GA Senate seat winner won't be determined until December 6
- Implications for Committee Chairs
 - **Senate Commerce Committee**
 - Chair: Sen. Maria Cantwell (D-WA)
 - Ranking Member: Sen. Ted Cruz (R-TX)
 - **Communications Subcommittee**
 - Chair: Sen. Ben Ray Lujan (D-NM)
 - Ranking Member: Sen. John Thune (R-SD)

2022 Election Implications

House

- Republicans likely to be majority party
 - As of 11/14, Republicans have 212 confirmed seats with 19 races unofficially called
- Likely Implications for Committee Chairs
 - **House Energy and Commerce Committee**
 - Chair: Cathy McMorris Rodgers (R-WA)
 - Ranking Member: Frank Pallone (D-NJ)
 - **Communications Subcommittee**
 - Chair: Rep. Bob Latta (R-OH)
 - Ranking Member: ???

2022 Election Implications

FCC

- Still a 2-2 Commission with a vacant seat
- Nomination of Gigi Sohn stalled in Senate for now, lacking 50 votes
- Vote is more likely now that election is over...
- Nomination would have to restart in 118th Congress

The Future of USF

Congressional Inquiry: How does USF fit into multiple new broadband funding programs in IIJA?

- Notice of Inquiry – released Dec. 15, 2021
- Report on the Future of USF – released by FCC on Aug. 15, 2022

WTA Comments

- Ongoing High Cost Program support will needed despite investments from other programs
- Fiber-to-the-Home should be the preferred technology
- FCC should consider new middle-mile and second-mile costs
- Modernization of USF contributions system is needed

The Future of USF

ACAM Broadband Coalition – filed Petition for Rulemaking on October 30, 2020

- Proposal to deploy at least 100/20 Mbps service to 90% of locations, as determined by the Fabric, in eligible census blocks, and at least 25/3 Mbps service to the remaining 10%.
- Buildout timeline would be extended eight years and funded by a 35% increase in support.

FCC Notice of Proposed Rulemaking – adopted May 19, 2022

- How should Enhanced ACAM be structured in light of Fabric mapping, BEAD Program, new census data?
- Affordability and Tribal Factor issues
- Is \$300/line/month the right cap? Should less money be offered to areas where fiber is already deployed? Is ongoing support needed in areas that already have 100/20 Mbps?
- Offer to CAF-BLS carriers?

The Future of USF

USF Contributions

- FCC report released August 12th - “we [FCC] recommend Congress provide the Commission with the legislative tools needed to make changes to the contributions methodology...in order to reduce the financial burden on consumers, to provide additional certainty for entities that will be required to make contributions, and to sustain the Fund and its programs over the long term.”
- S. 2427/H.R. 8575 - FAIR Contributions Act
 - S. 2427 approved by Senate Commerce Committee
- S. 3236/H.R. 6314 - Reforming Broadband Connectivity Act of 2021

Broadband Equity, Access, and Deployment (BEAD) Program

Timeline

- Notice of Funding Opportunity (NOFO) – Released May 13
- Eligible Entity (EE) Letters of Intent – Due June 18
 - Request for Initial Planning Funds (\$5 million/state) due August 15
- EE Five Year Action Plan – Due 270 days after receipt of initial planning funds
- Release of Broadband DATA Maps - ??????
- Notice of Available Amounts

Broadband Equity, Access, and Deployment (BEAD) Program

Timeline, continued

- EE Initial Proposals – Due 180 days after EE is notified of total allocation
 - If approved, EE receives 20% of its total allocation
- EE Final Proposal – Due 12 months after approval of Initial Proposal (not required)
 - If approved, EE receives remainder of total allocation

Broadband Equity, Access, and Deployment (BEAD) Program

Key Points to Watch:

- Preference for Fiber – Priority Broadband Projects
- Extremely High Cost Per Location Threshold
- Low Cost Service Option
- States can draw service territories or let applicants do it
- Matching requirement can be waived for small providers
- Preference for municipals, co-ops, non-profits

ReConnect Program

Round III

- 100 Projects Funded (78% RLECs and affiliates)

Round IV

- Application window closed Nov. 2
- Networks must provide 100 Mbps symmetrical
- Eligible area: Only 50% of locations in PFSA must lack 100/20 Mbps
- Fifth category of award: areas where 90% lack 100/20 Mbps require no matching
- Available funding in each of five categories is modified

Taxation of Broadband Grants

Federal Grants and IRC Section 118

- Internal Revenue Code Section 118 (enacted in 1954) says that “contributions to capital” are not subject to taxation.
- In 2010, IRS ruled that BTOP and BIP grants would be considered contributions to capital and not taxable.
- The 2017 Tax Cuts and Jobs Act (TCJA) amended Section 118 to say that “any contribution by any governmental entity or civic group” was excluded from contributions to capital.
- Legislative vs. regulatory fix?

Looking to 2023

Congressional Agenda

- Oversight, oversight, oversight
- Farm Bill Reauthorization
- USF Modernization
- Broadband Grant Taxation

Questions

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