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To: Jen Leasure, The Quilt

From: Jeff Mitchell

Re: Monthly Broadband Policy Update – Covering August and early September 2017

Congress

Sens. Gillibrand (D NY) and Moore Capito (R WV) have introduced the “Broadband Connections for Rural Opportunities Program Act” a.k.a., the B-CROP Act, to provide grant funding for rural broadband projects in high-need communities through the Department of Agriculture’s Rural Utilities Service (RUS), which currently provides rural broadband loan funding. The bill would provide a small but significant amount of annual grant funding potentially available to projects involving colleges and universities. According to a news release, the bill would:

- (1) permit “grants of up to 50 percent of a project’s cost, and up to 75 percent for remote, high-need areas, to be awarded in combination with the current loan funding available through USDA’s Rural Utilities Service”;
- (2) help “enhance the economic feasibility of projects serving rural and tribal areas”;
- (3) give “highest priority to projects in areas that are currently unserved by high-speed broadband”;
- (4) require coordination “with the FCC’s Universal Service High-Cost Support programs to complement those federal investments, responsibly spending taxpayer money”;
- (5) increase “the authorized funding for RUS’s Broadband programs to \$50 million per fiscal year”;
- (6) provide “adequate resources to private sector providers, including corporations, LLCs, cooperatives or mutual organizations, state or local governments, and Indian tribes or tribal organizations, to expand broadband access to unserved rural areas”; and
- (7) give “partnership projects special attention, including initiatives that leverage matching funds and that work with anchor institutions like health centers, libraries, colleges, universities, and other educational entities.”

Previously Senator Capito and Representative Doug Collins (R GA) introduced the Gigabit Opportunity Act, which included many proposals previously put forth by Commissioner Pai such as creating favorable tax incentives in certain geographic areas to promote broadband deployment. In a speech this week Pai indicated he hoped Congress would consider this legislation as part of an eventual infrastructure spending bill.

The President

President Trump signed an executive order intended to reduce to two years the governmental environmental review processes for large infrastructure projects. A recent federal Government Accountability Office report noted that complex highway projects take seven years on average to complete this process. While the review process often includes state, local and tribal agencies, the order places the onus on federal agencies to streamline their internal and interagency processes to work with other governmental units.

The President also announced he was abandoning a recently-announced Presidential Advisory Council on Infrastructure. The President's announcement occurred in the wake of the tragic events in Charlottesville after many CEOs publicly renounced the President's comments and withdrew their support from several advisory councils. The infrastructure council was to be comprised of members of the public with experience or expertise in areas including communications and technology, and was to make national infrastructure recommendations including for broadband. The Commerce Department was to provide administrative support and submit questions for the council to consider.

NTIA Update

President Trump's nominee to lead NTIA, David J. Redl, has still not been confirmed.

September NTIA events:

- September 19, 2017; Charleston, WV (in person event); Broadband Technical Assistance Workshop. Space will be limited – more information, including a link to register is available [here](#).
- September 20, 2017; [webinar](#); Digital Training and Workforce Development Discussion; [registration link](#).

NTIA's September Broadband newsletter was posted August 31 and is available [here](#).

Federal Communications Commission

Section 706 Inquiry

The FCC on August 8, 2017 released a [Notice of Inquiry](#) (NOI) on "whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion." This is the proceeding in which the Commission previously defined fixed broadband as 25 Mbps download and 3 Mbps upload ("25/3") for purposes of determining availability.

Although proposing to keep this definition in place, the Commission seeks comment on “other potential benchmarks” for fixed broadband. [As SHLB has noted](#), this proceeding is a good opportunity for schools and other anchor institutions to go on record regarding their minimum bandwidth requirements:

This provides the SHLB Coalition and others a chance to support establishing or improving the benchmarks for anchor institutions. The 706 NOI discusses the broadband situation for schools (as is statutorily required) but does not discuss the broadband needs of or benchmarks for other anchor institutions. As the saying goes, you can’t improve what you don’t measure. The FCC established some benchmarks for schools and libraries in the E-rate program. But there are no similar benchmarks for other anchor institutions, such as health clinics, community colleges, etc.

Establishing benchmarks for anchor institutions, even if preliminary, could help to draw attention to the needs of all anchor institutions for better broadband. Anchor institutions are the “third leg of the stool” for a healthy broadband ecosystem (in addition to business and residential), and ensuring that health providers, community colleges, public media, public housing and other anchors can obtain adequate broadband is important to ensuring that broadband is “being deployed to all Americans.” If the FCC uses this proceeding to broaden its metrics to measure anchor institution broadband, the result could be significantly better broadband for all.

Initial comments were due September 7 but can be filed through September 22 which is the deadline for reply comments.

Note, an important backstory on this proceeding is concern the Commission is considering, for the first time, concluding that mobile broadband is a substitute service for fixed broadband access to the Internet. The concern is that such a finding would show greater availability of broadband and thereby undermine the case for FCC regulation. Stay tuned.

Broadband Deployment Advisory Committee (BDAC)

The work of the FCC’s BDAC and four of its working groups ([Competitive Access to Broadband Infrastructure, Removing State and Local Regulatory Barriers](#) (Mark Johnson member), [Model Code for Municipalities, and Model Code for States](#)) is underway. The first meeting was April 21. The second July 20 meeting with accompanying presentations can be viewed [here](#).

[Below is the BDAC timeline](#) which was announced in April:

- July-Oct/Nov: WGs continue to develop and finalize their recommendations.
- Oct/Nov (Date TBD): End-of-year BDAC meeting
 - WGs present recommendations to the full BDAC.

- Full BDAC deliberates and votes on final recommendations

The National Association of [State] Regulatory Utility Commissioners (NARUC) in a [letter](#) filed on August 21 requested the FCC include more state and local government representatives on the BDAC and its working groups to equitably balance representation by broadband Internet access providers (BIAS). The letter also attached a resolution from the most recent NARUC meeting urging the FCC to “rekindle its partnership with the States . . . to develop federal-State cooperative solutions that promote broadband infrastructure deployment and public access to BIAS across the nation.”

E-rate

E-rate consultant Funds for Learning recently reported that USAC for FY 2017 denied 55% of special construction funding requests, as compared to a 4% overall denial rate for Category One requests. Their analysis is available [here](#). John Windhausen from SHLB in July released a [blog post](#) critical of USAC’s apparent (but unannounced) change in evaluation criteria for approving special construction funding requests.

USAC in late August announced new FCC Form 470 functionality in the E-rate Productivity Center (EPC) portal. Among other things, these new drop downs create specific options for “Leased Dark Fiber and Least Lit Fiber” and “Self-Provisioned Networks and Services Provided Over Third-Party Networks”. USAC guidance on these new drop downs is available [here](#) with further guidance [here](#).

USAC held its annual service provider training on July 27 in Dallas, Texas. The full set of materials has been posted on the USAC website [here](#). Although it breaks no news, one of the presentations specifically addresses [special construction and fiber deployment](#). The annual E-rate fall training schedule for applicants has yet to be announced.

Rural Health Care Program

SHLB will be working this fall to get a letter from key Senate Republicans to the FCC supporting an RHC cap increase. In the meantime, many expect USAC to soon announce RHC funding demand for the 2017 funding year (July 1, 2017 through June 30, 2018), with the expectation that available funding (\$400 million) will again be less than requested funding. If that occurs, USAC will divide available funding by requested funding to determine a pro-rata share to be applied to all applications. It is likely that that funding demand will be higher than last year which means the pro-rata reduction would be greater than last year’s 7.5%.

FCC Connect2Health Task Force

In late July the Connect2Health Task Force announced it was reopening and extending to September 29 the deadline for commenting on its recent public notice ([FCC Seeks Comment and Data on Actions to Accelerate Adoption and Accessibility of Broadband-Enabled Health Care Solutions and Advanced Technologies](#)). In addition, the Task Force announced a series of “listening sessions” based on the following tentative schedule:

- **Week of Aug. 7: Health Care Provider Forum:** *e.g.*, Health system administrators and CIOs, clinicians and other health care providers (including allied health professionals); community health officials and clinicians; small medical practices; public safety and EMS professionals; and researchers ([archived session and more info here](#)).
- **Week of Sept. 11: Rural and Consumer Issues Forum:** *e.g.*, Associations and advocacy groups representing rural interests, Tribal lands, people with disabilities, veterans, and older Americans
- **Week of Sept. 18: Technology and Broadband Services Forum:** *e.g.*, Telecommunications carriers, broadband services providers, manufacturers, innovators, and entrepreneurs
- **Week of Sept. 25: Policymakers Forum:** *e.g.*, Federal policymakers; state and local health officials (or their representatives) and other policymakers; associations representing state, county, and city health officials and policymakers; state and local officials involved in developing technology and broadband policies and strategies.

If you are interested in participating or listening to these sessions, please contact the Task Force as soon as possible by sending an e-mail to connect2health@fcc.gov, and inserting “Virtual Listening Session” in the subject line.

Educational Broadband Service (EBS)

One *ex parte* notice was filed in the [EBS docket in August](#) by a school district in rural Nacogdoches County in East Texas.

EBS Background: Many school systems across the country hold spectrum licenses for EBS. Historically, this spectrum had been used for “wireless cable TV” but was later reconfigured for wireless broadband. School systems that hold such licenses in many cases lease spectrum to commercial providers in exchange for last-mile broadband Internet access and a revenue stream. Industry – Sprint in particular – uses the spectrum (in the 2.5 GHz range) to provide services. Unfortunately, the Commission stopped accepting new applications for EBS licenses in

the mid-1990s. Apparently, where the FCC has issued licenses more recently, it did so on the condition that excess capacity spectrum *could not* be leased to commercial entities.

According to a [recent letter to the Chairman filed by the WCA](#), approximately 4,000 mostly rural counties across the U.S. have at least one EBS channel available across the entire county. WCA is seeking issuance of a rulemaking that would implement a compromise reached in 2014 between industry and educational interests to make existing unused EBS spectrum available to educators with leasing once again to be allowed to commercial providers. Sprint has been recently active in the docket seeking the same.

Net Neutrality/Title II

The Commission's Notice of Proposed Rulemaking (NPRM) to reverse Title II regulation of broadband internet access services ("Restoring Internet Freedom") is available [here](#). Initial comments were due July 17, 2017 with replies due August 30. A selected listed of reply comments is available [here](#) (with hot links). Reply comments from higher education and library associations are available [here](#), while separate Association of Research Libraries reply comments are available [here](#).

The Quilt Member in the News

Mark Johnson authored an article about the August 7-8 National Research Platform (NRP) Workshop in Bozeman, Montana, sponsored by National Science Foundation through the Pacific Research Platform, Montana State University, and CENIC. The article, "What does it take to build a national big data superhighway?", is linked [here](#).