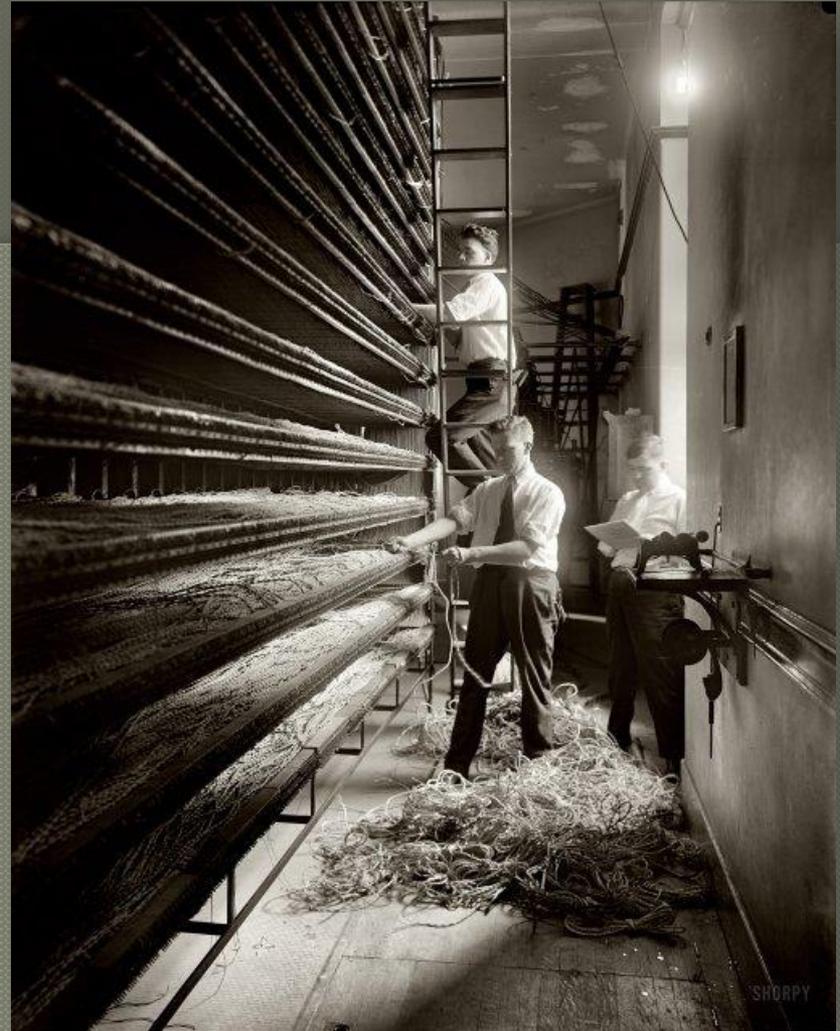


2017: What to Expect from DC

Jeff Mitchell
*Lukas LaFuria Gutierrez &
Sachs, LLP*

- Telecommunications Attorney (17 years)
- Former Assistant General Counsel and Director of Outsourced Audit Operations at USAC



Agenda

- DC Updates
- Universal Service Fund (USF) Overview
- E-rate Update
- Rural Health Care Update
- Pai's Proposed Digital Empowerment Agenda: "Gigabit Cities"



Washington Updates



- Broadband infrastructure spending
 - Bi-partisan letters to Trump:
 - “\$5 billion invested in broadband infrastructure, 250,000 jobs are created and with every percentage point increase in new broadband distribution, employment expands by 300,000”
 - Telcos want to distribute through FCC (Connect America Fund)
- NTIA lead not announced yet
- “2 for 1” Trump Executive Order – does not apply to FCC

Washington Update

● Chairman Ajit Pai to lead FCC

- Commissioner since 2012
- Indian American from Parsons, Kansas; physician father
- Fiscally conservative
- Opposed Open Internet order
- FCC Process Reform
- Digital Divide

● First actions:

- Broadband Advisory Committee
 - To address regulatory barriers to broadband deployment in urban and rural areas.
 - Nominations due 02/15
- Items pulled/rescinded
 - BDS order
 - E-rate Modernization Progress Report
 - Zero rating Report
 - Lifeline for broadband ETC designations
- Action unlikely on Boulder and Microsoft E-rate waiver requests (homework gap)



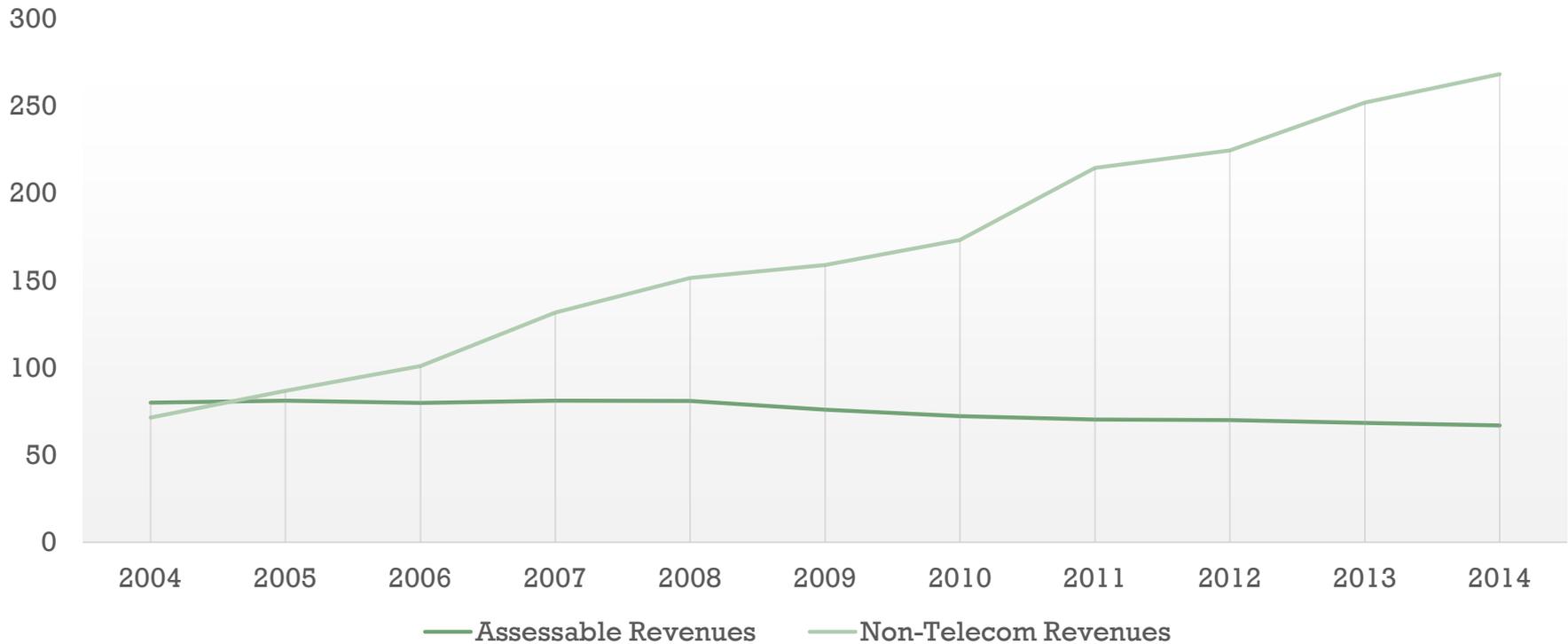
Federal Universal Service Fund

“Universal service” is a principle that has been recognized for over 100 years: all Americans should have access to communications services.

- Congress in 1996 extended beyond basic telecommunications.
- Authorized the FCC to establish four programs:
 - **High Cost (aka Connect America)** – ensures telephone companies serving rural areas provide affordable services
 - **Lifeline** – ensures eligible low income Americans have access to telecommunications
 - **Schools & Libraries (E-rate)** – ensures schools and libraries have access to broadband
 - **Rural Health Care** – ensures rural health care providers have access to broadband



Assessable Revenues vs. Non-Telecommunications Revenues (2004-2014)



2015 Authorized Support

High Cost (Connect America) = \$4.50 billion

Low Income = \$1.49 billion

Schools & Libraries (E-rate) = \$2.08 billion

Rural Health Care = \$0.28 billion

TOTAL = \$8.3 billion

E-rate: USAC Special Construction Update

Fiber Request Type	Funding Committed	Number of Applications
Dark Fiber	\$6.3 million	108
Lit Fiber	\$8.8 million	64
Self-Provisioned	\$18.3 million	131
Total (as of early January)	\$33.4 million	303

- 42% of applications have been completed
- 22% of requested dollars have been reviewed
- \$39.3 million total dollars reviewed; \$9.7 million denied
- \$143 million remain in review
- Review target pace = 50 applications per week (slowed over the holidays)
- Needed FCC guidance received
- Waivers will be needed for those expected to miss “lit in funding year” requirement

FCC E-rate Progress Report

- Issued January 18, 2017; rescinded February 3, 2017
 - “will have no legal or other effect or meaning going forward”
- Wi-Fi
- Connections to schools & libraries
- Financial stability



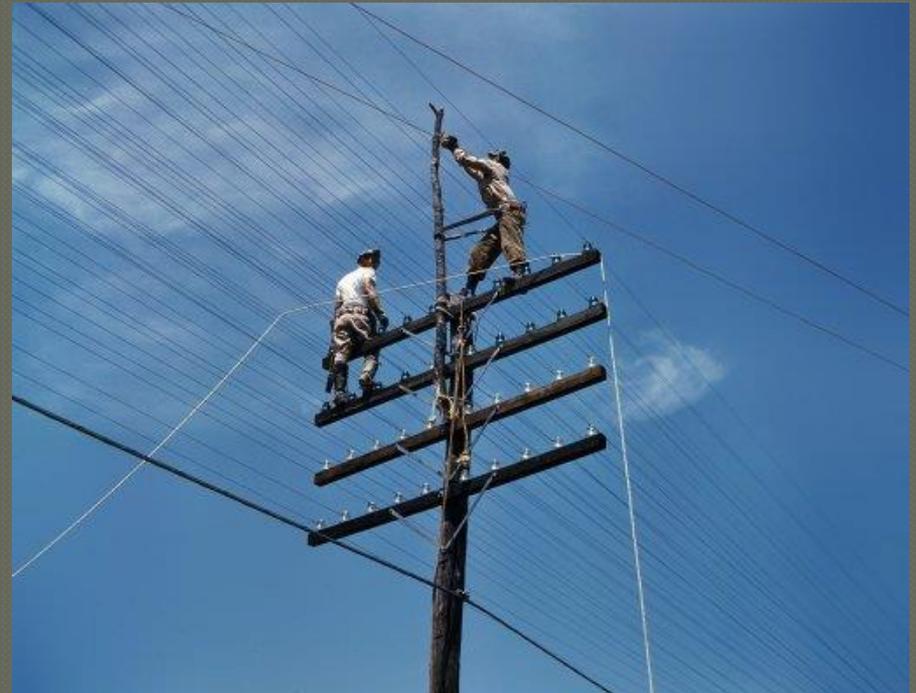
E-rate Progress: Wi-Fi



- Rapid, widespread impact
 - Zero support in 2013 and 2014
 - \$1.3 billion in 2015
 - > \$1 billion in 2016
- Stable and more equitable distribution
 - Every state and all but two territories
- FY 2019 reversion to priority system

E-rate Progress: Connectivity

- 61% decline in schools without fiber between 2015 and 2016
- Expected impact of new rules in 2017:
 - 113 special construction applications for leased lit fiber
 - 58 used new amortization and installment rules
 - 342 leased dark fiber applications
 - 99 sought special construction or electronics for dark fiber network
 - 236 self-provisioned network applications
 - 87 applicants requested extra state match funding



E-rate Progress: Finances

- Improved cost effectiveness and stabilized finances
 - Requests historically exceeded \$4 billion, peaking at \$5.3 billion in 2012
 - Requests and commitments below cap for last two years
- Decline in price per Mbps
 - 42% of districts increased bandwidth without “significant increases” to MRC
- Competition
 - Districts that switched providers (“switchers”) received 2x bandwidth increases compared to non-switchers
 - Switchers reduce average monthly costs 8 percent compared to 12 % for non-switchers



Pai's 2013 E-rate Diagnosis



- Delay
 - Commitment and appeals backlogs
- Paperwork [EPC?]
- Complexity
 - Consultants essential
 - Annual gap between disbursements and commitments as measure of complexity
- Inequitable and haphazard spending
 - Voice over Priority 2
 - South Dakota got 30% less than New Jersey
 - Lakewood NJ got \$282 per student; Newark \$82
- Program structure invites abuses
 - “The more you spend, the more you get.”
 - Lack of local transparency on what E-rate is funding (FOIA request required)

Pai's 2013 E-rate Reforms

- \$2.1 billion = \$42 per student
 - Rural and poor get double vs. non
 - *E.g.*, rural WV student = \$128 vs. \$32 for upscale NYC
 - Schools know in advance how much \$\$
 - Preserve Library share at 10%
 - *Don't increase E-rate cap without offsetting reductions in other USF programs*
- Let schools decide: Eliminate Category 1 and Category 2 distinctions
- Two one-page forms; USAC to calculate discounts based on census data
 - Eliminate consultants – more money for students
- Accountability and Transparency
 - Front end: 25% match
 - Greater incentive to spend carefully
 - Back end:
 - Certification that funds used to benefit *students*
 - Publication of what funds expended on
 - “sunlight . . . is the best of disinfectants”



Pai's E-rate Dissent



- Failure to make hard choices
- Favors urban
 - Doubles funding to libraries in urban areas and suburbs
- Higher discounts encourage wasteful spending
- Insufficient safeguards against unnecessary self construction
- Lack of notice
 - 10% match proposal (zero percent match)
 - New obligations for High Cost recipients

Rural Health Care Basics

Program	Telecommunications Program	Healthcare Connect Fund
How is support calculated?	<ul style="list-style-type: none"> Urban-rural cost differential 	<ul style="list-style-type: none"> 65% flat rate subsidy
Who is eligible for discounts?	<ul style="list-style-type: none"> Individual eligible <u>rural</u> health care providers (HCP's) only 	<ul style="list-style-type: none"> Individual rural HCPs <u>Non-rural</u> HCPs as part of a consortium that has a majority of rural members
What services are eligible for discounts?	<ul style="list-style-type: none"> Telecommunications services Customary installation charges 	<ul style="list-style-type: none"> Broadband services and equipment Customary installation charges (\$5K) Additional options for consortia <ul style="list-style-type: none"> Multi-year funding commitments Network services & equipment (NOCs) Upfront costs: IRUs, Long Term Leases, Network construction (in some situations)
Who is eligible for subsidy?	<ul style="list-style-type: none"> Telecommunications carriers only 	<ul style="list-style-type: none"> Any vendor that provides eligible services

Funding availability: \$400 million annually (of which \$150 million max available for HCF long-term support)

Rural Health Care Updates

- No movement on SHLB Petition for Further Modernization (Nov. 2015)
- \$400 million cap hit for the first time
 - Telecom Program driving demand
 - HCF growth steady
 - SHLB Emergency Request for Interim Cap Relief Filed (Dec. 2016)
- Skilled nursing facilities eligible for first time in FY 2016
- Increased Enforcement Activity



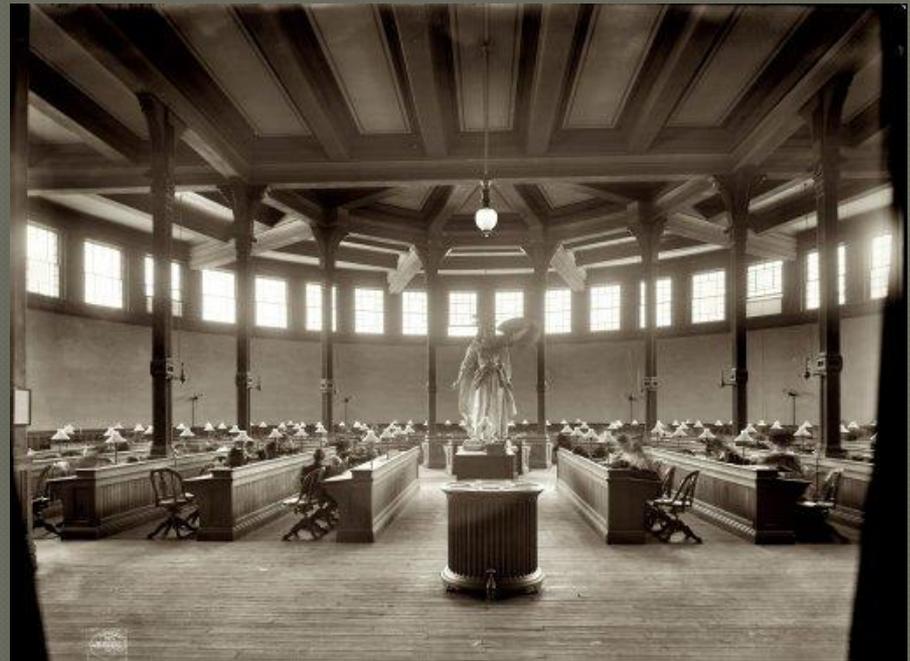
RHC Funding Demand



- **Has the Money Run Out? *No.***
 - \$400 million available every year
- **Operating “at the cap”**
 - Filing windows
 - Reduced (pro-rated) support
 - What about consortia with multi-year funding commitments?
- **Will FCC raise the funding cap?**

Pai's Digital Empowerment Agenda

- Gigabit Opportunity Zones
 - GOZs allowed where average household income < 75% of national median
 - To qualify, states and local govts must adopt certain deployment-friendly policies
 - Department of Commerce to approve and maintain list of approved GOZs
- Adopt federal policies applicable only in approved GOZs
 - Tax incentives for ISP buildout: immediate expensing; 7-year loss carryovers
 - Tax credits for qualified startups: e.g., reduced employer payroll taxes



Pai's Digital Empowerment Agenda

- More mobile broadband in rural areas



- Greater buildout obligations for 700 mhz licensees; increase from 10 to 15 years
- Reformed mobility fund
 - Technology neutral standards
 - Subsidize only areas without competition
 - Rural dividend: Set aside 10% of spectrum auction proceeds to support new infrastructure

Pai's Digital Empowerment Agenda

- Address local, state, and federal regulatory barriers to broadband deployment
 - Franchise fees
 - Rights of way (excessive delays worst on federal and tribal lands)
- FCC actions:
 - Preempt local rules that are not “fair and reasonable”
 - Establish enforceable “shot clocks”: failure to act = deemed approved
 - Further reform pole attachment rates
 - Expand FCC jurisdiction to poles owned by local/state/fed government and railroads
 - Establish model codes
- National “dig once” policy for road construction to always include conduit



Questions?

