# INDEPENDENT TELECOM REPORT

For America's Independent Telecommunications Networks

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NEWS AND ANALYSIS


# AS DIVISIVE ELECTION LOOMS, RURAL TELECOM FACES UNCERTAIN FUTURE

## HIGHLIGHTS IN THIS ISSUE





## *Unprecedented Dysfunction In U.S. Congress Affecting Even Telecom Policy As USF, BEAD, ACP, Rip And Replace Are Threatened*

### *Analysis By Thomas M. Smith, Editor-In-Chief*

After 22 years, this marks the final issue of the ***Independent Telecom Report (ITR)***. Over the last 22 years, the ***ITR*** has reported on activities and trends in both Congress and the FCC, and their impact on the independent and rural telecommunications industry. In this final issue, the ***ITR*** will focus on policy issues and political trends that are likely to have a significant impact on the future of the industry.

The current political climate and the policy trends in the U.S. Congress should ring emergency alarm bells within the independent and rural telecommunications industry. The independent and rural telecommunications industry has not experienced the range of threats to their businesses like those that are surfacing now. Many of these threats are outlined in this issue of ***Independent Telecom Report***.

These threats include an unprecedented review by lawmakers of the USF program that covers not only how it operates, but whether the foundations on which it was established – the commitment to universal service and the commitment to USF support that is sufficient and predictable – are accepted in today's political climate.

Ongoing disputes about overall federal government funding levels that are fueled by deeply rigid ideological views –


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# AS DIVISIVE ELECTION LOOMS, RURAL TELECOM FACES UNCERTAIN FUTURE

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stronger than even partisan Democratic-Republican labels – may be leading the Congress to retrench on support for newly-adopted federal broadband support programs.

These include even the $42.5 billion broadband infrastructure grant program (BEAD); broadband affordability programs, like the highly successful Affordable Connectivity Program (ACP); and the rip and replace program intended to reimburse carriers for removing Chinese-manufactured equipment and technology from companies' networks – equipment and technology that was purchased by carriers because of its lower cost at a time when USF support was reduced and redistributed from smaller companies to larger carriers under the guise of USF reform.

**The industry has faced its shares of ups and downs over the last 22 years; but the industry always has been buttressed by broad bipartisan support among lawmakers in Congress – the majority of whom represent rural and suburban constituents. As the *Independent Telecom Report* publishes its last issue, the independent and rural telecommunications industry faces an uncertain future stemming from an unprecedented level of dysfunction in Congress that is eroding an already crumbling foundation of the reliable support enjoyed by the industry over many years. Today, even critical telecommunications policy issues that once were immune from the partisan bickering that is now fueling the nation's politics, stand at a critical crossroads.**

Since Fall 2023 (if not before), it has been apparent that today's lawmakers are prepared to use every policy tool at their disposal – including telecommunications issues – to pursue a political agenda unrelated to how it may impact the people they were elected to serve. The dysfunction in our political system – that is reflected in Congress' inability to complete even the most routine policy tasks – has been created largely by a small band of rigid ideologues in both houses of Congress – most of whom represent rural and suburban communities.

**In working to advance their own ideological agenda, these lawmakers are undermining telecommunications policies long advocated by industry groups, including those that represent independent and rural telecommunications companies.**

Many of these lawmakers rail at the federal government's domestic spending programs; yet, they ignore that federal domestic spending is not just targeted to seniors, veterans, and economically marginalized groups. Federal domestic spending provides financial support for many industries. For example, large oil companies benefit from nearly $20 billion annually in federal funds. Boeing and automakers enjoy billions annually in federal subsidies. The U.S. Department of Agriculture (USDA) operates more than 150 programs to provide direct subsidies to rural businesses, including telecommunications companies. These programs also target support for farmers, especially for precision agriculture, that help boost the bottom line for rural telecommunications businesses.

This federal support helps these companies keep American homes heated (and cooled); ensure food is available for American consumers; produce the planes, trains, and automobiles that allow goods – and people – to make their way across this country; and support the nation's infrastructure, including broadband.

Independent and rural telecommunications companies also benefit from programs that are inextricably linked to federal government funding. This includes the Universal Service Fund (USF); the Affordable Connectivity Program (ACP); various federal grant and loan programs; the Farm Bill; spectrum management and auctions; and the Supply Train Reimbursement Program.

## Independent And Rural Telecom Companies Have Benefitted From Federal COVID Pandemic Investment Initiatives

The independent and rural telecommunications industry has been one of the many industries that has benefitted from additional federal investment made in response to the COVID-19 pandemic. Federal spending during this period, including through the American Rescue Plan Act (ARPA), has funneled millions of dollars to rural communities and telecommunications carriers for new broadband deployments. At the same time, these funding measures helped establish affordability programs, like the Affordable Connectivity Program (ACP), that have helped to boost companies' subscriber revenue.

The largest program – the $42.5 billion BEAD grant program – has distributed some money to the industry, but the bulk of it is likely to be awarded later this year and into early 2025.

These funding initiatives were intended to protect the American economy from a collapse during the pandemic. Although the U.S. and American consumers had to deal, consequently, with a dose of inflation – far lower than most other industrial countries – the American economy has proven to be healthy and has rebounded quickly, effectively, and remarkably – even in the views of typically cynical financial analysts – with low unemployment and continued economic growth.

**In fact, future prospects for the telecommunications industry are bright, especially given the new money that will be entering the marketplace as a consequence of the measures approved by Congress during the pandemic. Only politics could interfere with future business opportunities and the nation's lawmakers are doing their part to do just that!**

These same investments – heralded during the pandemic – are now at issue and are even being villainized by lawmakers seeking to roll back the spending – on principle – without concern for the economic or business consequences. This is fueling a new debate that could roll back many of the programs that are economically advantageous for the rural and independent telecommunications industry; and the debates may even prompt Congress to reexamine other longer standing programs, like USF, that are critical to rural companies' business models.

## U.S. Economy Is At Risk Because Of Congress' Failure To Approve a Federal Budget

When Congress fails to reach agreement on a federal budget, all of this government support – which drives our national economy and provides jobs for the American workforce – is at risk. Unlike in a socialist state, the U.S. government's financial support is not the only source of revenue for American business; but, it is a critical component that, if not available, would have significant consequences for the goods and services available to the American people that help preserve our standard of living.

Approving a federal budget is the most basic of congressional responsibilities. Under the U.S. Constitution, all funding measures must originate in the U.S. House of Representatives. So, when the House is unable to take action on a measure to fund the federal government, as has been the case since September 2023, Congress sends a seismic shock throughout the national economy creating economic uncertainty that puts jobs at risk, profit margins at risk, and even the viability of some businesses at risk.

**This last issue of the *Independent Telecom Report* was timed originally to coincide with the anticipated final approval of a federal budget for FY 2024 by the U.S. Congress. That was to happen by early February 2024. After missing multiple deadlines, Congress set a mid-January and early February timeline for approving a new budget. As of this date, Congress still has not taken action to approve a budget for FY 2024. In fact, Congress is now not expected to take action on a budget until early March – if then. In other words, Congress hopes to approve a FY 24 budget at the same time that Biden is expected to propose a new budget for FY 2025, as required by law.**

Congress was required to approve the FY 24 federal budget by October 1, 2023. Without a budget approved by Congress, the government no longer has the authority to spend your tax dollars and is forced to shut down – not just agencies that some politicians use like a ping pong ball in their political back-and-forth – but all agencies, including those, like the FCC, which help contribute to independent and rural telecommunications companies' bottom lines.

## House Republicans Are Using The Budget Process To Paralyze The Federal Government

Over the last year, many ideologues in the U.S. House of Representatives have defended their actions to hold up agreement on a federal budget by arguing they are protecting the American taxpayer from tax cheats, frauds, immigrants, and other marginalized groups they argue benefit from the largesse of unchecked federal domestic social service spending programs. In reality, their refusal to enact a budget is hurting all Americans, but especially those industries that rely on federal government support to operate and to have an opportunity to turn a reasonable profit.

By the October 1, 2023 deadline for approving the FY 2024 federal budget, the Republican-led U.S. House of Representatives, which has the responsibility for initiating funding legislation, failed to pass any of the twelve appropriations measures required to fund the federal government. The Congress narrowly avoided a shutdown on October 1 by approving a continuing resolution to continue to fund the government at FY 2023 levels through November 17, 2023. That agreement, which passed both houses of Congress and was signed into law by President Joe Biden, cost U.S. Representative Kevin McCarthy (R-CA) his job as Speaker of the House when a small band of House Republicans rebelled against his leadership.

**After multiple failed attempts to elect a new Speaker to replace McCarthy, the GOP-led House failed to move forward with any of the 12 appropriations measures to fund the government beginning November 17, as they were required to do under the continuing resolution approved by Congress in September 2023. House Republicans were unable to agree on any of the appropriations measures and Representative Mike Johnson (R-LA), the new Speaker of the House, did not want to approve a measure with support from House Democrats. Johnson insisted on approving appropriations bills**

**that would pass the House with a majority consisting only of Republicans. That proved impossible because of the sharp divisions among House Republicans on spending issues.**

Again, Congress was forced to approve yet another continuing resolution; Johnson insisted on an unusual and unprecedented two-tier continuing resolution to fund federal agencies at FY 2023 levels.

Under the direction of the new Speaker of the House, the House approved a "laddered" continuing resolution to keep the government open after November 17. That measure funded a group of government agencies, including the U.S. Department of Agriculture (USDA) and the Veterans Administration (VA) through January 19, 2024. Other agencies, including the FCC, NTIA, and the Department of Defense would be funded through February 2, 2024.

A large percentage of House Republicans, however, opposed the measure because it did not include draconian budget cuts, and they pushed for a government shutdown. Johnson relied on a bipartisan group of House lawmakers to pass the continuing resolution proposal by a vote of 336-95 with 93 of the opponents consisting of Johnson's GOP colleagues. 209 Democrats joined with 127 Republicans to pass the measure. It was a clear signal that Democratic lawmakers were prepared to work with Johnson, so the House could meet its most basic responsibility of funding the federal government. Johnson, however, failed to use this vote to establish an ongoing bipartisan majority for moving legislation through the U.S. House.

The U.S. Senate also approved the resolution despite misgivings about the laddered approach and it was signed into law by President Biden on November 17. This would give Congress another six weeks to come up with a budget for FY 2024 or the country would face yet another shutdown threat.

**When the January 19, 2024 deadline for taking action approached, the House still had not taken action on any of the appropriations measures with the exception of approving a controversial, but long overdue, defense authorization measure. However, Johnson worked behind the scenes with Senate leadership and the White House on a new budget agreement that would fund the federal government through FY 2024 at a level of $1.66 trillion. This was consistent with an agreement reached in September 2023 between Biden and McCarthy to raise the debt ceiling and keep the government open.**

Under the new agreement advanced by Johnson, $886.3 billion would be allocated for defense spending; $772.7 billion would be allocated for domestic spending. The measure would rescind $6.1 billion in COVID spending that has gone unspent. The measure also would rescind $20 billion in IRS funding that was approved previously by the U.S. Congress.

**Some conservative hardliners in the House still strongly objected to Johnson's agreement and threatened to shut down the legislative process on the House floor. In fact, they shut down the House floor for a day to send Johnson a message. Instead of approving the new budget agreement, Congress was again forced to approve another continuing resolution to avoid a government shutdown. Like the previous "laddered" continuing resolution, the new measure set March 1 and March 8 as the new dates for the Congress to approve an FY 2024 budget or face the threat of yet another government shutdown.**

So, the federal budget three-ring circus will continue to play out in the halls of Congress at least into March like a very bad political soap opera.

**Supplemental Funding For ACP And Rip And Replace Appear Dead In U.S. House**

Right wing GOP ideologues in the U.S. House also have raised objections to supplemental funding for Israel and Ukraine and – despite their rhetoric to the contrary – to secure the southern U.S. border with Mexico and other supplemental domestic funding. None of this funding is included as part of the budget agreement between the White House and Republican lawmakers. The other supplemental domestic funding includes financial support for the FCC's Affordable Connectivity Program (ACP), which is set to expire at the end of April unless there is additional funding, and for the FCC's rip-and-replace reimbursement program, which has proven to be significantly underfunded by Congress.

**Although the ACP enjoys wide bipartisan support among lawmakers in Congress, the nation's governors and mayors, and industry groups, several key lawmakers have objected to additional funding for the ACP. These include Senator Ted Cruz (R-TX), the ranking member of the Senate Committee on Commerce; Senator John Thune (R-SD), the ranking member of the Senate Commerce Subcommittee on Communications; Representative Cathy McMorris Rodgers (R-WA), the chairman of the House Committee on Energy and Commerce; and Representative Robert Latta (R-OH), the chairman of the House Energy and Commerce Subcommittee on Communications.**

If scheduled for a vote in both houses of Congress, funding for ACP would be approved. However, House Republican leaders are unwilling to bring the issue to a vote and they are getting cover for that decision from GOP lawmakers who complain the program is wasteful, as Thune, Cruz, Rodgers, and Latta have suggested in recent correspondence to FCC Chairwoman Jessica Rosenworcel.

The supplemental funding measure is also a vehicle for Congress to renew the FCC's spectrum auction authority which lapsed nearly a year ago in March 2023. The FCC has had the authority from Congress to auction spectrum since 1993. Cruz continues to be an obstacle to renewing the Commission's spectrum auction authority. This is frustrating the wireless industry that is pushing for new spectrum to expand services and their businesses.

**These same GOP lawmakers are also now raising concerns about the funding that has already been approved for the Broadband Equity Access and Deployment (BEAD) grant program. They are claiming the program will be duplicative and riddled with waste, fraud, and abuse before the bulk of the funding has even been approved by NTIA for distribution to state governments and then to carriers for new broadband projects across the U.S. NTIA is currently in the process of reviewing state plans outlining how the funds will be distributed.**

GOP lawmakers also are now objecting to any supplemental funding because the legislation now includes money to secure the Southern border. They fear the funding will be used to actually help limit the flow of illegal immigrants and work against GOP lawmakers' objectives of using the issue in the upcoming presidential election that is likely to be a 9-month long bitterly divisive rerun of the 2020 Biden-Trump match-up.

**Why Is Congress Putting The American Economy, Including The Finances Of Independent And Rural Telecom Companies, At Risk?**

So, why are lawmakers putting the American economy, including the interests of independent and rural telecommunications companies at risk? Election year politics is more important to some lawmakers than the national interest in securing a budget agreement and a stable economic future for American business and the American people.

Congressional inaction will spell doom for the future of the ACP; the rip and replace program; numerous broadband grant programs; USDA programs that support rural telecommunications providers; and even wireless carriers' access to new spectrum opportunities – just to name a few.

At a time when USF is facing additional legal challenges which may be resolved in the coming year by the U.S. Supreme Court, these same lawmakers complain about the growth of the USF program and the increase in the USF contribution factor. Lawmakers are examining a wide range of reform proposals as reflected in correspondence from Senator Ben Ray Lujan (D-NM), the chair of the U.S. Senate Commerce Subcommittee on Communications and the co-chair of the Senate's USF Working Group, to FCC Chairwoman Jessica Rosenworcel.

**Many lawmakers view USF as another entitlement program without even a basic understanding of the history or the objectives of the USF, especially the High Cost Fund. Their solution is not to revise the program; but rather to end the program because it, like so many other social programs, is just another byproduct of the American welfare state, according to these lawmakers.**

Sadly, these GOP lawmakers – who are working against the interests of the rural and independent industry – mostly represent the communities that are served by small independent and rural telecommunications businesses.

**What About The Future?**

Nobody can predict the future any more than predicting the outcome of elections months in advance. Nevertheless, at this critical time, thinking of the present in the future as if it were the past offers a potential road map for the industry.

**It begins with this recognition: the independent and rural telecommunications industry needs a healthy dose of adrenaline to shock the system and boost its advocacy – beginning yesterday. Large companies learned long ago that language couched in diplomacy and political correctness no longer works with lawmakers in today's advocacy arena. The language and messages used by the industry need to be tough, blunt, and more direct – even if it might alienate those lawmakers who claim to be friends but do nothing that should earn industry support.**

Too often, advocates believe their job is to make friends with lawmakers and lawmaker' staffs thinking that this will result in a lawmaker who will look out for the advocates' interests. That was true in the "old days" when lawmakers ran for Congress because of a commitment to serve. Today, lawmakers seek political office for a lot of other reasons that have little to do with the public interest. Advocacy has changed significantly since I first began working in the halls of Congress back in 1979. Some advocates, however, have not changed and still prefer a more traditional approach to advocacy that simply does not match the challenge of today's highly polarized political arena.

In short, the industry needs more than Washington, D.C. fly-ins and Washington, D.C. talking points. The industry needs a stronger message and a better strategy.

The industry needs to engage in some tough talk with their congressional representatives, especially with those the industry has long relied on for support, yet who seem to be AWOL these days on the major funding issues that are critical to carriers' business operations. When the tough talk ends, then it is important to hold these lawmakers accountable for their actions and inactions – in all ways possible. <u>Lawmakers, themselves, need to understand that the independent and rural telecommunications industry means business.</u>

**In its advocacy, the industry needs to focus on the business issues that are critical to the business operations of carriers and put companies' business interests above the political leanings of the executives who comprise the industry leadership. What industry and company leaders do in the ballot box is their business. What they do in the halls of Congress, however, should reflect the industry's business interests. The two may not always be consistent – and, in fact, based on the realities of Congress today, they most likely are not consistent.**

As the industry fights the battles of the future, it is important for the industry to remind lawmakers that industry concerns are neither Democratic nor Republican. Different standards should not be used to evaluate lawmakers' response to industry concerns based on the lawmakers' political party affiliation or their ideological bend.

**Although it is not always fair to generalize, the hard core reality on the ground in the Congress today is that the independent and rural industry enjoys more reliable support among Democratic than Republican members of Congress. Based on their records and public statements, Republican lawmakers' support for industry interests easily fall prey to GOP political talking points and political agendas that have nothing to do with the future of the businesses that make up the industry. GOP lawmakers are good about talking the talk about supporting small business and rural America, but, especially in recent years, they have failed to walk the walk, mostly resisting to vote in support of any new proposed federal investment in rural infrastructure, including broadband.**

That is why, for example, ACP is not likely to be renewed despite enjoying – on the surface – broad bipartisan support in Congress. The same is true of additional funding for rip and replace – advocacy for which seems to be falling on deaf ears among congressional Republicans.

The same cannot be said of Democrats largely because they are so undisciplined. A meeting with Democratic lawmakers is likely to elicit a multitude of responses – some not always preferred – but few that are driven by lawmakers' adherence to a rigid party ideology despite the GOP talking points that would suggest otherwise. That presents a whole different set of advocacy challenges – but these are more easily overcome.

**<u>In short, it's time for the industry to put business ahead of politics and put aside the fears or discomfort that such an approach may lead to some strange bedfellows from time to time.</u> The politics**

**of Congress is supposed to end at the ballot box. When lawmakers actually assume office, it is time for them to go about the business of governance – not electioneering for their or others' political interests. This is the biggest change since 1979 – the politics never ends and the governance never seems to begin.**

In these unprecedented times, the future of the industry really is at stake. It's time to rise up and fight like hell and fight like there is no tomorrow for the industry. Someday soon, there just might not be.

The following pages of the ***Independent Telecommunications Report*** seek to put some meat on the bones of this analysis. Congress has shown itself to be more than helpful in this exercise through both its actions and inactions in recent months – most of which are covered in this final issue.

Finally, let me add that the ***ITR*** would not have been possible without the wise counsel and support of Steve Kraskin. This one sentence does not begin to cover the many contributions he has made to this publication – and the industry as a whole – over the years. I join with him in thanking you for taking this journey together over the last 22 years. Although the ***ITR*** may be coming to an end, however, your journey does not.

## *IN USF-RELATED NEWS …*

# USF Program Under Fire In U.S. Congress And In Federal Courts

### Rosenworcel Responds To Key Lawmaker's Request For Comments On USF Contributions Reform Proposals; Cites ACP Funding Deadlock To Argue Against Funding USF Through Congressional Appropriations Process

FCC Chairwoman Jessica Rosenworcel recently responded to a request from U.S. Senator Ben Ray Lujan (D-NM), the chair of the Senate Commerce Subcommittee on Communications and the co-chair of the U.S. Senate USF Working Group, on various proposals under consideration by the Senate to modify the funding mechanism for USF. The Senate USF Working Group was established last May to consider reforming the USF program, including examining the contributions methodology.

**Two factors are driving the reform efforts in the U.S. Senate: (1) the additional broadband funding in the NTIA BEAD program approved as part of the Infrastructure, Investment, and Jobs Act (IIJA) raising questions among some in Congress as to whether USF will be needed once the BEAD projects are deployed; and (2) the rising cost of the USF contribution factor. The contribution factor for the first quarter of 2024 is 34.6 percent.**

In seeking input from the FCC, Lujan asked Rosenworcel to comment on proposals to (1) expand the contributions base to assess broadband revenues; (2) expand the contributions base to include edge providers; and (3) expand the base to include digital advertising. He also asked Rosenworcel to comment on proposals to establish a set target for the USF contribution factor or to fund USF through congressional appropriations instead of the current contribution model.

Lujan's letter demonstrated the wide range of proposals that are being considered by lawmakers in Congress and the Senate's USF Working Group. In addition to Lujan, the USF Working Group consists of Senators John Thune (R-SD), who serves with Lujan as co-chair; Amy Klobuchar (D-MN); Shelley Moore Capito (R-WV); Gary Peters (D-MI); and Jerry Moran (R-KN).

In her response to Lujan, Rosenworcel noted that USF disbursements have remained stable over the past ten years, but that increases in the contribution factor could be attributed to declining interstate telecommunications revenue. (*Editor's Note: it is critical for readers to understand that "interstate telecommunications revenue" - like traditional long-distance charges – does not include the growing broadband revenues which depend on the same basic service networks for transport and end user delivery. As consumer service use transforms to broadband, it is inevitable that "telecommunications revenues" decline while broadband revenues (not included in the USF assessed base) increase. While many talk about the issue, few of those talking understand this.)*

Rosenworcel also noted that many of the reforms referenced by Lujan would require legislative action and would fall outside the authority of the FCC to enact. She also encouraged lawmakers to consider the impact of proposals on consumers and noted that nearly 82 percent of USF contributors currently pass through their contribution costs to their end users as reflected on consumers' bills.

She warned against proposals that would set a contribution factor target or fund USF through the congressional appropriations process because they would not result in a USF support system "that is both 'predictable' and 'sufficient' to 'preserve and advance universal service,'" as required by the law.

**"Establishing a set target for the contribution factor would create a challenge for effective administration of USF programs because it could result in funding that is not sufficient under the law if USF program demand exceeds the amounts collected through the target contribution factor," she wrote. "This would also require the Commission to consider potential steps for addressing the shortfall, including the management of unexpected pro rata decreases in funding, which could lead to less predictable support for the USF and create challenges for program participants."**

Rosenworcel was even more critical of the proposal to fund USF through the congressional appropriations process. She cited the recent failure of Congress to fund the Affordable Connectivity Program (ACP) as an example of the chaos such a model would create for USF participants.

"Eliminating the current contribution model and funding the USF through congressional appropriations may also negatively impact USF programs because they require certainty of funding," Rosenworcel said. "Although programs like the Emergency Broadband Benefit (EBB) Program and the Affordable Connectivity Program (ACP) were supported through appropriations, the duration of these efforts is limited by the availability of funding from Congress. In fact, the Commission recently started taking steps to wind down the ACP due to a lack of additional funding to continue providing full benefits after April 2024.

**"The USF, on the other hand, provides ongoing, predictable support in an amount established by the Commission and the agency can adjust the amount collected to reflect changes in USF demand. The ability to count on this system has been an important part of the success of USF programs."**

In assessing other reform options, Rosenworcel noted that expanding the contributions base to broadband revenues would increase the contributions base by $220 billion over the current $33 billion base. It also would drop the contribution factor to about 3.3 percent compared to the current 34.6 percent contribution factor. However, Rosenworcel warned that this proposal would lead to an increase in the monthly broadband bills paid by the average U.S. household raising the USF line item from about $2 to $4.

"It is important to understand that with a new broadband assessment," Rosenworcel said, "consumers would bear a larger burden of total USF fees than under the present contribution system due to the proportion of broadband revenue that comes from residential customers. The Commission expects, as is presently the case, that broadband providers will pass on the entirety of their USF contribution assessments to their end users, the majority of which are consumers.

"Making this service more expensive could harm those who may already be struggling to get and stay connected."

Rosenworcel made similar comments about any proposals that would expand USF contributions to edge providers. But, she noted the FCC would probably need first to complete a rulemaking to define an edge provider given the broad range of service that could fit into the edge provider category.

**Expanding the contribution base to edge providers would increase the contribution base by about $2.3 trillion, according to Rosenworcel; reduce the contribution factor to 0.4 percent; and cost consumers about $0.03 on their phone bills. However, she noted that the overall costs would be passed onto consumers and cited "important legal and consumer cost concerns with adding categories of edge providers to the contribution base."**

Rosenworcel said that adding digital advertising revenues would likely have the smallest financial impact on consumer bills compared to the other options. She said this would likely expand the contribution base to about $250 billion and result in a contribution factor of about 3.3 percent. She said this would likely lead to a decrease in USF fees on monthly household telephone bills to about 30 cents because an assessment on digital advertising would be less likely to be passed on to consumers.

## Federal Courts Continue To Take Up Conservative Group's Crusade To Declare USF Unconstitutional

As the 5th Circuit of the U.S. Court of Appeals continues to consider a ruling on the constitutionality of the USF program, the FCC and rural telecommunications providers got a victory in the 11th Circuit of the U.S. Court of Appeals recently when judges affirmed the constitutionality of the USF.

The case in the 11th Circuit was brought by Consumers Research, a conservative organization focused on limiting government operations. Consumers Research has filed a series of cases – all identical – before several circuits of the federal courts as part of a "court shopping" exercise with hopes of securing one victory that would pave the way for review by the U.S. Supreme Court.

So far, Consumers Research has been unsuccessful; but a September 2023 hearing before the 5th Circuit offered the organization some hope that the decision could go its way. But, the 11th Circuit which ruled in mid-December had a different outcome.

As it has in other cases, Consumers Research argued that the FCC illegally delegated its responsibility for USF to the Universal Service Administrative Company (USAC).

**The 11th Circuit held that there was no violation of the private non-delegation doctrine in the USAC's administration of the USF. The ruling found that a government agency may delegate authority to a private entity as long as the private entity functions subordinately to the government agency and the agency retains authority and surveillance over the activities of the private entity.**

The court said that USAC cannot make policy or interpret unclear provisions or rules because it must seek direction from the FCC when there is confusion over how USAC should act: "Today, we hold that there are no unconstitutional delegations because Congress has laid out the principles the FCC must follow in bringing universal service to our nation," the court said. "Additionally, because all USAC action is subordinate to the FCC, and the FCC retains ultimate decision making power, we further hold that there is no violation of the private non-delegation doctrine."

NTCA joined with the Competitive Carriers Association (CCA) and USTelecom in a statement calling the court action a "victory for the many rural and urban consumers and anchor institutions across the country who rely on the services supported by the federal USF."

## FCC Begins Wind Down Of Popular Affordable Connectivity Program As Congress Takes No Action On Biden Supplemental Funding Request

The FCC has begun the formal process of ending the highly popular and successful Affordable Connectivity Program (ACP) after the U.S. Congress has failed to take up a $6 billion supplemental funding request made by President Joe Biden last October to continue the program past April 30, 2024. Since it was established in January 2022, the ACP has grown to provide support for 22 million U.S. households to connect to high-speed broadband.

The program has broad support from state and local elected officials, the telecommunications industry, a wide range of businesses and non-profit organizations, and even a bipartisan majority of lawmakers in the U.S. Congress, but apparently not from congressional Republican leaders.

**In fact, the program has become the first casualty of the poisonous political environment in the U.S. House of Representatives which is holding up any action on a supplemental funding measure sought by Biden that would include additional funding for the ACP as well as funding to cover the shortfall in the rip and replace program. The supplemental funding package also includes additional aid for Ukraine, Israel, and funding to bolster defenses at the nation's southern border.**

House Republican leaders are currently holding the funding package hostage because it includes funding that is not supported by former President Donald Trump, who has publicly called on lawmakers to defer any action; Trump maintains that the legislation is a bad bill, though its text has not been released and Trump offers no detail or specifics on what he finds bad about it. Political analysts suggest that Trump seeks to defer action on the bill so that there will be no improvement in the border situations, enabling him to use the border issues in a rematch with Biden for the presidency later this year.

**Congress originally appropriated $14.2 billion for the ACP, but the funding is expected to run out by April of this year. Although the Commission has not yet set ACP's final month of operation, the FCC issued guidelines last month for the wind-down of the program. The Commission is expected to announce the formal end date for the program later this month.**

The Commission issued the guidelines after FCC Chairwoman Jessica Rosenworcel formally notified Congressional leaders that the program would be forced to end and called on lawmakers to approve funding to extend the program.

"If Congress does not provide additional funding for the ACP in the near future," she wrote, "millions of households will lose the ACP benefit that they use to afford Internet service. More funding is urgently needed to keep the ACP in place so that it continues to support the households that rely on it and reach others that may be on the wrong side of the digital divide. The ACP is in jeopardy and, absent additional funding, we could lose the significant progress this program has made towards closing the digital divide. Yet, we have come too far with the ACP to turn back."

**The ACP will stop accepting new applications and enrollments later this week on February 8. Providers are required to provide ACP recipients with three notices about the end of the program – the first of which was to be sent on January 25. The second notice must be sent 15 days after the FCC announces the end date for the ACP. The third notice must coincide with the last bill or billing cycle in which the ACP is applied.**

Rosenworcel notified members of Congress last week that the ACP would no longer accept new enrollments beginning on February 8. In that letter, Rosenworcel provided a state-by-state breakdown of the number of households currently enrolled in the program. She also offered a spirited defense of the program and warned that the failure of Congress to fund the program could have the effect of disconnecting millions of Americans from the Internet.

**"The ACP is connecting millions and millions of households across the country," she wrote to lawmakers. "The Bipartisan Infrastructure Law created this program, our largest-ever effort to make broadband affordable nationwide, but we are now on the brink of letting that success slip away. Disconnecting millions of families from their jobs, schools, markets, and information is not the solution. We have come too far with the ACP to turn back."**

The Commission also cancelled plans to offer a higher $75 monthly benefit for households in high-cost rural areas. The FCC voted last October to raise the monthly benefit for high-cost rural areas. However, the Commission now has said it would create too much confusion to implement the higher benefit for the short time left before the program ends.

## Lawmakers Introduce Bipartisan ACP Funding Measure

In an effort to circumvent the funding logjam for the Biden supplemental funding request, a group of bipartisan lawmakers introduced new legislation last month to provide $7 billion for the ACP. The measure was introduced in the U.S. Senate by Senators Peter Welch (D-VT); J.D. Vance (R-OH); Jacky Rosen (D-NV); and Kevin Cramer (R-ND). The measure was introduced in the U.S. House of Representatives by Representatives Brian Fitzpatrick (R-PA) and Yvette Clarke (D-NY).

The legislation is supported by more than 450 organizations, including AARP; the American Civil Liberties Union (ACLU); the AFL-CIO; AT&T; Charter; Comcast; Communications Workers of America; Cox Communications; CTIA; INCOMPAS; NAACP; NCTA; NTCA; T-Mobile; USTelecom; Verizon; the Wireless Infrastructure Association; and WTA. Rarely has a measure enjoyed such broad support.

In recent weeks, several groups have called on Congress to extend funding for the ACP. In one letter last month from the U.S. Conference of Mayors, 174 mayors across the U.S. noted that the program has wide support "from Democrats to Republicans, rural and urban areas, the telecommunications industry and all levels of government" and has proven to be a successful program.

"Extending the ACP will help close the digital divide, allow Americans to access the resources they need, and strengthen the U.S. economy to compete in the 21st century," the mayors said.

Recently, FCC Commissioner Anna Gomez joined calls for renewing the program.

**"We are at a critical time for the program," Gomez said, "and I am dismayed that the Commission finds itself with no choice but to initiate the wind-down process. A loss of funding will mean a loss of trust in this public-private partnership that could squander this opportunity to close the digital divide. ACP has been key to connecting communities historically on the wrong side of the digital divide."**

NTIA Administrator Alan Davidson testified before the U.S. House Energy and Commerce Subcommittee on Communications in December that continued funding of the ACP was critical for the success of NTIA $42.5 billion BEAD grant program.

"Affordability is critical to our success here," Davidson told lawmakers, "and ACP has played an essential role in recent years in making sure we've got affordability in Internet access. We won't be able to reach our goal of affordable networks without it."

## GOP Lawmakers Try To Scapegoat Rosenworcel For Their Unwillingness To Fund ACP

In a stunning development in mid-December, Republican leaders in the U.S. Congress orchestrated a plan to scapegoat FCC Chairman Jessica Rosenworcel for their failure to approve additional funding for the ACP.

**They sent a letter to Rosenworcel asking her to correct testimony she provided at an oversight hearing convened by the House Energy and Commerce Subcommittee on Communications on November 30. At that hearing, Rosenworcel warned that failure to provide additional funding for the**

**ACP would require the Commission to end the program probably in April 2024 and could lead to ACP recipients being "unplugged" from the Internet.**

In the letter signed by Representatives Cathy McMorris Rodgers (R-WA), the chair of the House Committee on Energy and Commerce, and Robert Latta (R-OH), the chair of the House Energy and Commerce Subcommittee on Communications; and U.S. Senators Ted Cruz (R-TX), the ranking member of the Senate Committee on Commerce, and John Thune (R-SD), the ranking member of the Senate Commerce Subcommittee on Communications, the GOP lawmakers took issue with Rosenworcel's suggestion that the 22 million ACP households would be "unplugged."

They expressed concerns with the FCC's overall management of the ACP. However, the letter demonstrated the larger issue that congressional Republicans are unwilling to approve any government funding at this time; are seeking to roll-back federal investments made during the COVID pandemic; and are committed to budget reductions without regard to the impact of the funding cuts.

"The Biden Administration's reckless spending spree has left America's current fiscal situation in a state of crisis with gross debt at nearly $34 trillion," the GOP lawmakers said. "It is incumbent on lawmakers to protect taxpayers and make funding decisions based on clear evidence.

"Unfortunately, your testimony pushes 'facts' about the ACP that are deeply misleading and have the potential to exacerbate the fiscal crisis without producing meaningful benefits to the American consumer."

They faulted the program for enrolling ACP recipients who were already Internet subscribers stating the program should be reserved only for consumers that were not connected to the Internet.

**"While you have repeatedly claimed that the ACP is necessary for connecting participating households to the Internet," the lawmakers said, "it appears the vast majority of tax dollars have gone to households that already had broadband prior to the subsidy. If you are going to dismiss concerns over the ACP's efficiency as unproven, you should hold yourself to the same standard and avoid sweeping claims of effectiveness with no basis in data."**

In their letter, the lawmakers ignored the fact that it was Congress – not Rosenworcel or the FCC – that established the qualifying income limits for households to be eligible for the ACP.

## Rosenworcel Fights Back In Defense Of ACP

Rosenworcel responded to the lawmakers' letter's claims with a blunt letter which reemphasized that the ACP is "the largest – and most successful – broadband affordability program in our nation's history."

She also reminded the lawmakers of the language in the bipartisan Infrastructure law that created the program and suggested that the lawmakers now wanted the FCC to implement the program in a way that would, in effect, rewrite the statute approved by Congress.

**"The Commission administers the ACP in a manner consistent with the Bipartisan Infrastructure Law," she said. "As a result, providing the ACP benefit for both new adopters and**

**existing low-income subscribers is consistent with the law. It also assists with closing the digital divide. Indeed, data shows that a sizeable number of low-income households experience subscription vulnerability after they adopt broadband, meaning their service may be disconnected due to inability to pay.**

"Under the current law, the program is available to households that meet the criteria specified by Congress and the agency cannot condition it on other factors."

She again stressed that inaction by Congress on providing additional funding would end the program.

"The Commission will need to start taking steps in 2024 to begin winding down the ACP due to the lack of additional funding," she said. "Without ACP support, participating households' broadband bills will increase by up to $30 every month. ACP households will struggle to make these larger payments and will lose their service if they can no longer afford it.

"The ACP has broad bipartisan support from members of Congress and Governors across the country and has been an important part of our efforts to help close the digital divide nationwide. I strongly support funding the ACP into the future to help more families get help and stay connected to the high-speed Internet they need to participate in modern life."

## Group Organizes "National Day Of Action" To Save ACP

No telecommunications policy issue – with the exception of network neutrality – has generated as much interest among the general public and the media as the ACP. A group of non-profit, industry, and public interest groups organized the Affordable Broadband Campaign to promote broadband affordability programs and has focused its work recently on saving the ACP.

**The Affordable Broadband Campaign organized a national day of action, called Don't Disconnect US Day, on January 25. The day coincided with the date the FCC instructed Internet service providers to inform customers that the ACP is ending. According to the Affordable Broadband Campaign, Americans made more than 280,000 calls, e-mails, and social media posts to members of Congress in support of funding for the ACP on January 25 alone. In addition to the outreach to members of Congress, the campaign also focused on media outreach that resulted in numerous articles and editorials in media across the country in support of funding the ACP.**

"Phones were ringing off the hook in congressional offices plus inboxes were flooded with emails from all 50 states," Gigi Sohn, the former embattled FCC nominee who is now the spokesperson for the Campaign, said. "We launched Don't Disconnect US Day because the situation facing 23 million American households is dire: unless Congress acts now, approximately 50 million Americans could be without their Internet.

"Members of Congress need to listen to their constituents and fund this program now."

# House GOP Members Continue To Take Aim At NTIA Rules For BEAD Program

As NTIA continues to keep to its schedule for distributing the nearly $42.5 billion in Broadband Equity, Access, and Deployment (BEAD) infrastructure grants to the states, Republicans in the U.S. House of Representatives have taken new aim at the program rules warning they will result in rate regulation. House Republicans strongly opposed and voted against the BEAD infrastructure grant program when it was considered by Congress. All but 13 Republicans in the U.S. House voted to oppose the broadband grant program, as proposed by President Joe Biden, when it was formally approved by Congress in November 2021.

BEAD is managed by the National Telecommunications and Information Administration (NTIA). Since passage of the law, Republicans in the House and even some in the U.S. Senate, who also opposed the measure, have sought to obstruct NTIA's management of the program. This was on display yet again in December 2023 when NTIA Administrator Alan Davidson appeared before the U.S. House Energy and Commerce Subcommittee on Communications for an oversight hearing.

At the hearing, House Republicans accused Davidson of violating the infrastructure grant legislation by limiting broadband grant money solely to fiber networks. Davidson responded by saying that the BEAD program was technology neutral, but that it would give priority to fiber projects when possible. Davidson stressed that the states would be a better judge of the technology that would best meet their residents' needs.

**"We've always contemplated from the beginning that states would ultimately adopt a range of technologies and different states would choose a different mix," Davidson said. "It's going to be fiber first where we can and then states have the flexibility to use other tools, including setting a high-cost threshold so that for the most expensive, difficult-to-reach places we're going to use alternative technologies – which would include things, like, for example, low-Earth orbit satellites, LEO satellites, which can give very good service and do it more cheaply in remote areas."**

Multiple GOP members also said that the NTIA's rules would subject participating providers to rate regulation on the basis that federal rules would not prohibit states from imposing a requirement that providers receiving the funds must offer a low-cost plan.

Davidson responded that NTIA will not engage in rate regulation at the federal level; but he would not commit to rejecting state plans that establish a low-cost plan requirement.

**"We are not setting a price at NTIA," he said. "We are not setting a national price for broadband. We're not setting rate. Our view is that different states will approach this in different ways."**

He added that BEAD is an optional program and that no provider has to participate.

"Nobody is required to be part of this program," he said. "This is a federal funding program. We're spending billions of dollars of federal money. It seems quite reasonable to say that in return for receiving these federal funds, that providers need to have a low cost option. Different states are going to take different approaches to how they do that. And we're giving them the flexibility to do it in different ways."

This response did not satisfy the House Republicans as the GOP leadership of the House Committee on Energy and Commerce followed up with a letter to Davidson admonishing NTIA for giving states flexibility to require a low cost option as part of state grant programs funded by BEAD.

**The GOP House members said that Davidson's response to questions about the flexibility provided to states was "troubling" and "would permit rate regulation by states." The letter emphasized that the law creating the BEAD program, which they opposed, prohibits NTIA from regulating rates charged for broadband service.**

"Based on your testimony," the House GOP letter said, "it appears that you are planning to ignore this congressional direction. Although your testimony reaffirmed that NTIA, itself, would not engage in rate regulation, you did not foreclose approval of state plans that regulate rates of broadband service. You did not provide a yes or no answer and instead stated that NTIA would give states flexibility on how to approach this issue."

The House GOP leaders defined rate regulation in their letter as "regulating the rate of broadband services in any way, including setting a rate, freezing rates, or placing a cap on rates." Davidson's remarks at the hearing stressed that NTIA rules would not prevent a state from requiring providers to offer a low cost option for consumers, which would not constitute rate regulation under the legislation authorizing the BEAD program.

**Despite the House GOP's ongoing efforts to rewrite the rules of the program – often at odds with the legislative language approved by Congress, but opposed by House Republicans – the House GOP letter applauded NTIA's overall management of the BEAD program under Davidson's steady leadership.**

NTIA was without a permanent Administrator for most of the four years of the Trump Administration that saw the absence of leadership manifest in numerous disputes over spectrum management among federal agencies.

**"NTIA has been a valuable partner to Congress in closing the digital divide," the GOP lawmakers acknowledged. "The Administration has rejected state plans that disregarded Congress' goal of delivering connectivity to unserved and underserved communities across the U.S. It would be a shame for NTIA to diverge from the clear and direct intent of Congress in this case."**

Republicans in the Senate, who also did not vote to support the BEAD program, have taken aim at the program's future. Senator Ted Cruz (R-TX), the ranking member of the Senate Commerce Committee and one of the strongest opponents of the program in the Senate, has sad BEAD is ripe with "waste, fraud, and abuse." Yet, not a single dollar of the BEAD program has been allocated by the states yet.

## Rural Groups Seek BEAD Tax Language In Any New Tax Measure

Nine rural groups, including NTCA and WTA, have sent a letter to congressional leaders in the U.S. Senate and the U.S. House working on tax-related legislation calling on them to include language that would exclude from taxable income the amount received by companies in the form of federal broadband grants.

**"Congress has provided historic investment with the goal of achieving universal connectivity for all Americans," the groups wrote. "However, without this change in the tax code, a significant portion of funding intended for deploying broadband to unserved and underserved communities will revert to the government in the form of taxes.**

"Many challenges exist to closing the digital divide – tax policy should not be one of them. This common sense solution will make sure that several additional billion dollars of broadband funding will be used for that purpose instead of returning to the government as a tax."

The letter was sent by the Competitive Carriers Association (CCA), INCOMPAS; NATE: The Communications Infrastructure Contractors Association; NTCA; the Rural Wireless Association (RWA); Telecommunications Industry Association (TIA); the Wireless Infrastructure Association (WIA); WISPA; and WTA.

The letter was sent to all members of the U.S. Senate Committee on Finance and the U.S. House Ways and Means Committee.

**NTCA sent a separate related letter to Senators Ron Wyden, the chairman of the Senate Committee on Finance, and Mike Crapo, the ranking Republican on the Committee indicating its support for the Tax relief for American Families and Workers Act of 2024 which is under consideration by the Senate Committee.**

The U.S. House of Representatives voted last week to approve the measure, but it faces an uncertain future in the U.S. Senate where a number of Senators from both political parties have raised objections.

The legislation includes an extension of 100 percent bonus depreciation to allow businesses to immediately deduct the purchase price of eligible assets.

**"This tax benefit has played and will continue to play an important role in promoting investment by many businesses across numerous industries," NTCA said. "The 100 percent bonus depreciation extension would help many small rural broadband providers justify and recover the costs of network investment in the most sparsely populated areas of the U.S."**

NTCA added that any tax measure, however, should include language that would ensure federal broadband grant funding is not taxed. NTCA noted that many carriers receiving broadband grant funding would not qualify for the 100 percent bonus depreciation since much of the network construction would not be completed until the bonus depreciation extension expires.

## NTIA Gives Broadband Providers More BEAD Buildout Flexibility

NTIA took steps at the end of 2023 to give broadband providers receiving BEAD funding more flexibility in building out their networks. As part of new rules adopted for the program, NTIA said the period over which ISPs would be bound by the terms and conditions of grants would be shortened from 20 years to 10 years. Cable companies had asked for a shorter compliance period.

Some carriers said the longer compliance period could make it difficult for providers to obtain financing for future broadband projects. They said this could discourage some providers from applying for BEAD grants from the states.

Providers also will be able to use income from BEAD-funded programs without restrictions. States also will not have to track where that income goes. ISPs also will be able to upgrade BEAD-funded plant without first getting NTIA's approval.

USTelecom said the changes were a "positive step towards streamlining the broadband deployment process for providers and consumers alike." The organization said this would encourage participation in the BEAD program and ensure more effective utilization of federal funds.

The NTIA action was also applauded by the cable industry.

## Louisiana Becomes First State To Get BEAD Money

NTIA Administrator Alan Davidson announced in December 2023 that the agency had approved all necessary documents for the state of Louisiana to get access to $1.3 billion in BEAD rural broadband funding becoming the first (and so far the only) state to reach that milestone.

**According to Davidson, Louisiana under the administration of Governor John Bel Edwards (D-LA) submitted a "sophisticated and high quality plan" for BEAD. Edwards' term of office ended on January 8, 2024.**

Davidson also praised the state's plan to encourage funding recipients to use buried fiber cabling, which is less prone to weather-related outages in comparison with aerial fiber.

Prior to leaving office, Edwards said he expected ground to be broken on BEAD projects in the state in 2024. The state anticipates seeking applications for the funding in the first quarter of this year.

## WISPA Issues New Warning About NTIA Rules For BEAD Program

The Wireless Internet Service Providers Association (WISPA), which has been highly critical of the NTIA's rules for the BEAD grant program because of its focus on fiber deployments, has sent a new letter to NTIA warning that multiple states will fail to reach all unserved locations by using the BEAD dollars to fund fiber over other technologies. WISPA noted that many state plans, which are now being reviewed by NTIA, are "likely to exhaust BEAD funds before all unserved and underserved locations are connected" because of "a planned over-reliance on funding fiber infrastructure."

Specifically, WISPA referenced state plans submitted by Maryland, California, Minnesota, New York, and North Carolina. The group said other state plans would not have any BEAD funding available for digital equity projects because it would be spent totally for fiber deployments.

# Rural Industry Groups Push Congress To Take Action On Additional Rip And Replace Funding

Nine telecommunications and technology industry groups, including NTCA, CCA, RWA and WTA, joined together recently to send a letter to the leadership of the U.S. House Energy and Commerce Subcommittee on Communications to push Congress to fund the shortfall in the FCC's Secure and Trusted Communications Networks Reimbursement Program better known as "rip and replace." In the letter, the groups said that immediately funding the current $3.08 billion shortfall is critical to securing American's networks and demonstrating America's cybersecurity leadership.

The groups noted that four years have passed since Congress first approved the Secure and Trusted Communications Networks Act which required carriers to remove Chinese-manufactured technology that lawmakers considered a national security threat. That legislation also promised to reimburse carriers to rip out and replace the network technology, but provided funding significantly less than required to fully reimburse carriers.

Congress appropriated only $1.9 billion for the reimbursement program – far short of actual costs – some of which have increased over the years due to supply chain issues and labor shortages. Carriers have said that preliminary estimates did not account for the full range of costs for the rip and replace effort. However, inflation and supply chain constraints also have contributed to increased costs.

The Congress also mandated that carriers complete the work within a year which requires additional funding for labor costs.

**"The effort remains incomplete," the groups said, "leaving networks vulnerable because the program is significantly underfunded. At the direction and advice of Congress and the FCC, carriers began the rip and replace process of removing such equipment with the understanding that they would be fully reimbursed. However, many could be stranded mid-effort.**

"Most applicants cannot complete this important work without full funding and the likelihood of network degradation or even failure, leaving communities vulnerable and unserved, is growing. Failure to fully fund the programs means that untrusted equipment is still in service today, including near some military bases, airports, and other areas of strategic importance."

**As part of an emergency supplemental funding request, President Joe Biden has called on Congress to allocate $3.1 billion to cover the shortfall in the Secure and Trusted Communications Network Reimbursement Program. This would enable carriers to be reimbursed fully for ripping and replacing equipment in their networks that has been determined to be a national security risk.**

The funding measure is being held up in the U.S. House of Representatives by GOP hardliners who oppose any supplemental funding, including other measures to support Ukraine in its war with Russia and to help provide military support for Israel in its war with Hamas.

**Now, the measure is being held up by a political disagreement over additional funding sought by Biden to secure the southern border. Former President Donald Trump has called on congressional Republicans to oppose any legislation to address the southern border; Democrats and many political**

**analysts contend that Trump opposes the measure so that he can use the border problems as a campaign issue in the upcoming presidential election.**

At current funding levels, carriers would be able to be reimbursed for only 40 percent of the costs for complying with the federal mandate to remove equipment from banned Chinese vendors.

According to a new FCC report submitted to the U.S. Senate Committee on Commerce and the U.S. House Committee on Energy and Commerce, only five companies have completed certification that Huawei and ZTE gear has been removed from their networks. The FCC report said that companies attributed the slow pace to lack of funding, supply chain delays, labor shortages, and weather-related challenges.

Industry groups noted that the FCC has been forced to grant extensions to carriers to complete the work because of the lack of funding. They added that carriers want to complete the transition to secure their networks, but the government's failure to provide the needed funding raises questions about the U.S. commitment to secure its own networks from the risks posed by communications equipment and services from companies connected to the Chinese government.

**"The FCC cannot provide additional resources for this program," the groups said. "Only Congress can provide funding to resolve the shortfall. Every day that passes without addressing this national security threat is another day that American networks remain at risk. Congress must immediately prioritize this national security emergency and fully fund the program."**

The letter was sent to Representatives Bob Latta (R-OH), the chairman of the House Energy and Commerce Subcommittee on Communications; Buddy Carter (R-GA), the Subcommittee vice chair; and Doris Matsui (D-CA), the ranking Democrat on the Subcommittee.

The letter was signed by the Competitive Carriers Association (CCA); the Information Technology Industry Council (ITI); NATE: The Communications Infrastructure Contractors Association; NTCA; the Rural Wireless Association (RWA); the Telecommunications Industry Association (TIA); the Wireless Infrastructure Association (WIA); WISPA; and WTA.

Meanwhile, Representative Doris Matsui (D-CA), the ranking member of the House Energy and Commerce Subcommittee on Communications, released new updated state-by-state data from the FCC documenting that carriers in every state are still relying on Chinese telecommunications equipment that is considered a threat to national security.

Matsui had requested the data from the FCC as part of a congressional oversight hearing last November.

"The data I requested from the FCC is crystal clear," Matsui said. "There is an alarming amount of vulnerable gear in American telecommunications networks affecting nearly every single state in the country. As an original cosponsor of the bipartisan Secure and Trusted Networks Act, I believe it is a national security imperative that we immediately remove every last piece of this vulnerable equipment.

**"These networks carry our personal, financial, and sensitive health information. Allowing China to maintain a backdoor into our infrastructure is flat out unacceptable. I have continually**

**sounded the alarm on the severity of this threat – and this data shows exacting why addressing this funding shortfall needs to be a bipartisan, nationwide priority for all my colleagues.**

"It is absolutely critical that we finish the job as soon as possible," she continued.

CCA, which has led the advocacy efforts in Congress to secure additional funding for rip and replace, issued a statement applauding Matsui for her leadership and added that the new data "helps demonstrate the broad and urgent need to finally address this issue across America."

The new data shows there are a total of 6,393 sites across the U.S. with vulnerable equipment with cost estimates for removing and replacing the equipment at the sites totaling more than $4.3 billion. So far, only $429.5 million has been spent nationwide to address the problem, according to the FCC's data.

## Biden Signs Legislation Granting FCC Temporary Authority To Issue Already Auctioned Spectrum Licenses

President Joe Biden signed into law in late December legislation that would require the FCC to release previously auctioned spectrum that was delayed when the U.S. Congress failed to extend the Commission's spectrum auction authority.

The FCC's spectrum auction authority expired in March 2023 and has not been extended by Congress; as a result, the FCC has had no authority to conduct spectrum auctions or issue new licenses for spectrum that were won previously in an auction but not yet licensed. That meant that nearly 8,000 licenses in the 2.5 GHz band, most of which were won by T-Mobile in the 5G auction, could not be issued by the Commission. In all, the mid-band spectrum auction drew more than $427 million in gross bids for 7,872 licenses.

**Although many lawmakers pushed FCC Chairwoman Jessica Rosenworcel to issue the licenses without the authority, she refused to do so stressing that it would be illegal for the Commission to grant the licenses when the FCC's spectrum auction authority had lapsed.**

Legislation was introduced in both houses of Congress to temporarily grant the FCC auction authority to complete the spectrum transfers for auctions that were held prior to March 9, 2023, the date when the FCC's authority ended. The Senate approved the legislation in September 2023, but the House delayed hoping that it could use this leverage – albeit unsuccessfully – to prompt the Senate to take action to extend the FCC's spectrum auction authority. The House passed the temporary measure in December 2023.

The Congress still has made no progress in reinstating the Commission's spectrum auction authority.

## Bipartisan Group Of U.S. Senators Call For New Agency To Regulate Digital Platforms

Four U.S. Senators have crossed party lines to join together to introduce legislation in the U.S. Senate that would create a dedicated agency to regulate dominant digital platforms. The legislation has been introduced by U.S. Senators Michael Bennet (D-CO), Lindsey Graham (R-SC), Elizabeth Warren (D-MA), and Peter Welch (D-VT). They recently sent a letter to U.S. Senate Majority Leader Charles Schumer (D-NY) calling for the establishment of the new federal agency.

**"Over the past 15 years," the Senators wrote, "social media platforms have wreaked havoc on our children's mental health, undermined user privacy, and distorted market incentives. Big Tech companies have provided new vehicles for drug trafficking, harassment, and the sexual abuse and exploitation of children. We believe this moment requires a new federal agency to protect consumers, promote competition, and defend the public interest."**

They added the increased deployment of new artificial intelligence (AI) technology creates even greater reason for a new agency.

"These same companies stand to benefit from the rapid development and deployment of AI," the Senators continued. "Although this technology has the potential to improve productivity and lead to new scientific breakthroughs, AI tools also threaten to exacerbate existing harms – threatening the well-being of our children and stifling economic competition.

"Today's challenge calls for a dedicated and nimble agency that is able to keep measured pace with the speed of innovation, supporting safe development without stifling it. Congress must create a new agency with the resources and meaningful enforcement authority to regulate these firms in a comprehensive, considered, and continuous manner."

## Rosenworcel Asks Congress To Update Laws To Protect Consumers From Robocalls

In a letter to U.S. Senator Ben Ray Lujan (D-NM), the chair of the U.S. Senate Commerce Subcommittee on Communication, FCC Chairwoman Jessica Rosenworcel has called on the Congress to update the nation's laws governing the FCC's authority to protect consumers from illegal robocalls and text messages.

**Rosenworcel said that recent action by the U.S. Supreme Court in *Facebook v. Duguid* narrowed the definition of autodialer in the Telephone Consumer Protection Act in such a way as to enable those sending junk calls to evade the law.**

"This needs to be fixed," she said.

"The *Duguid* decision may also impact the Commission's ability to enforce consumer protections under the Telephone Consumer Protection Act with respect to texting," she added. "The Commission has long treated text messages as 'autodialed' calls for the purposes of applying the law's protections against unauthorized messages to consumers. Trends indicate that more and more scammers are turning to text messages as a vehicle for their malicious schemes.

**"Updating the definition of autodialer and giving the Commission clear authority to combat robotexts will allow us to continue to fight robocalls and to tackle the growing problem of junk texts."**

She also called on Congress to give the Commission authority to pursue cases in court to improve the chances of collecting the fines that are imposed on carriers. She said the Commission also would benefit from authority to access Bank Secrecy Act information to more quickly identify financial records of those suspected of scams.

## Lawmakers Push New Robocall Legislation

Representative Frank Pallone (D-NJ), the ranking Democrat on the U.S. House Committee on Energy and Commerce, introduced new consumer protection legislation last week that would plug gaps created by the U.S. Supreme Court's *Duguid* decision which undermined federal legislation to protect consumers from unwanted robocalls and robotexts.

The legislation is known as the Do Not Disturb Act. The bill would define robocalls to encompass a range of robocall technology not covered under current law, including text messages. The legislation also would require disclosure of the use of AI to emulate interaction over text or phone and would double penalties for any robocall violation when using AI to impersonate someone.

Pallone's legislation also would require network service providers to offer robocall detection and blocking services at no additional cost to customers instead of charging a premium for the service.

**"As technology evolves," Pallone said when introducing the legislation, "illegal robocallers are finding new ways to scam Americans and abuse the loopholes created by the Supreme Court's recent decision to undermine one of the foundations of anti-robocall protections. Unfortunately, we know these scammers often target older Americans who are especially vulnerable victims to their fraudsters' scams. This legislation is long overdue to protect Americans from annoying calls and texts, and I look forward to the hard work ahead to see it across the finish line and signed into law."**

Meanwhile, U.S. Senator Kristen Gillibrand (D-NY) has introduced legislation that also would crack down on the use of new technologies, such as AI and voice calling tools, to prevent robocall scams. The legislation is known as the Deter Obnoxious, Nefarious, and Outrageous Telephone Calls Act (DO NOT Call Act).

The measure would impose more criminal penalties for the use of robocalling. People convicted of violating the law would be subject to at most one year of prison time; those convicted of aggravated robocalling would face three years in prison. Making more than 100,000 calls in a 24-hour span would qualify as aggravated robocalling.

Gillibrand said the point of the legislation was to guard against the use of enhanced technology to make robocalls. She noted that recent reports indicate more families are "being targeted by voice calls in family emergency scams."

According to the Senator, criminals are now using a mix of stolen and publicly available data to track down webs of family phone numbers; call one person in the family tree; and then use this response to build an artificial voice clone with computer software. The scammer will then call another person in the family using the cloned voice and claim an urgent need for a large amount of money.

Gillibrand said part of her new legislation also targets spoofing when a caller uses a service to fake the caller identification for the recipient. This can be used by scammers outside the U.S. to make their calls appear to originate from a reputable business and can be used in family emergency scams to specifically fake a family member's phone number.

## Markey, Blackburn Team Up On 12.2-12.7 GHz Band

U.S. Senators Ed Markey (D-MA) and Marsha Blackburn (R-TN), who are at polar opposites on most policy issues, including telecommunications policy issues, teamed up recently in a letter to FCC Chairwoman Jessica Rosenworcel asking the Commission to act expeditiously on expanding the use of the 12.2-12.7 GHz Band for terrestrial 5G services or unlicensed uses. The spectrum is the subject of a Further Notice of Proposed Rulemaking.

"Connecting all Americans with broadband is a national priority," the Senators said, "and the 12.2-12.7 GHz band has the potential to help the U.S. achieve this goal."

The FCC is considering proposals for sharing the spectrum that is now used by satellite providers for fixed broadband services.

**"With the 12.2-12.7 GHz band," the Senators added, "the Commission has a unique near-term opportunity to expand broadband access, improve the distribution of spectrum resources, and put our spectrum to its most efficient use, especially in rural areas of the country. In particular, if the Commission determines that fixed broadband operations can coexist in the 12.2-12.7 GHz band without interfering with incumbent users, the Commission should move swiftly to permit such use, particularly as the federal government deploys additional resources to close the digital divide.**

"The Commission can do this by updating 20-year old rules for the band to account for new technological advances, which can make sharing possible, and considering the creation of a sharing framework to permit local access to unused spectrum channels in this band; ensuring Tribes have adequate spectrum access in the band; and potentially authorizing low-power, indoor-only unlicensed use of the band."

Rosenworcel has indicated previously that the technical review of the 12 GHz band was one of the most complex issues facing the Commission.

## GOP Senator Objects To GOP Nominee For FTC Post

U.S. Senator Josh Hawley (R-MO) is now preventing confirmation of a former congressional staff member for Senator Mitch McConnell (R-KY), the Senate Minority Leader, who was appointed by President Joe Biden to fill a Republican seat on the Federal Trade Commission (FTC). Hawley's action is part of a continuing dispute with Senator Mitch McConnell (R-KY), the Senate Minority Leader, who recommended that Andrew Ferguson, his former Chief Counsel, be nominated by Biden to fill the slot. It is traditional that the highest ranking U.S. Senator selects the nominees for that party to independent agencies, like the FTC and the FCC, when the President is from the other political party. As is traditional, Biden deferred to McConnell and moved forward to nominate McConnell's selection.

Ferguson also has worked previously for Senators Chuck Grassley (R-IA) and Lindsey Graham (R-SC). The ongoing dispute is another indication of the dysfunction among Republicans in the Congress.

**Hawley has complained that Ferguson is a "pro-corporate monopoly guy." "I've got concerns about Senator McConnell's views on this," Hawley said. He referred to Ferguson as a "McConnell guy" and said he wanted to hear directly from Ferguson.**

Some Republican Senators have criticized Hawley for making his opposition public.

**"I just don't know what the motivation was for making it so public," Senator Thom Tillis (R-NC) said recently. "If there was a legitimate concern outside of the fact that Ferguson was supported by Mitch, let's talk about the concern."**

Senator John Thune (R-SD) commented that he did not think the issue was about Ferguson's qualifications. "He's a really good FTC nominee," Thune said. "They need him over there – very well qualified."

Hawley is also preventing approval of another McConnell choice also to be a member of the National Transportation Safety Board (NTSB).

According to some reports, Hawley's opposition is tied to McConnell's decision to strip an amendment that Hawley sponsored for the annual defense authorization bill that would have expanded government compensation for radiation exposure to individuals and families in the St. Louis area who may have been exposed to stored nuclear waste left over from the Manhattan Project. Hawley also has been an outspoken opponent of McConnell's leadership among Republicans in the Senate.

## Deployment Costs Represent Significant Barrier To Widespread Fiber Deployment, NTCA Survey Concludes

In a survey of its 850-member rural telecommunications companies, NTCA – the Rural Broadband Association reported that nearly 80 percent of the companies' customers are served by fiber-to-the-premises connections. Nearly 84 percent of the companies' customers have access to 100 Mbps or higher downstream speed with 67 percent receiving a maximum downstream speed for fixed broadband greater than or equal to 1 Gig, NTCA said.

According to the survey results, which is based on responses from just one-third of the Association's members, the percentage of respondents' customers who subscribe to a maximum broadband downstream speed of greater than or equal to 100 Mbps but less than 1 Gig has increased from 36.7 percent in 2022 to 48.5 percent this year.

**The cost for deployment continues to represent the most significant barrier to widespread fiber deployment in rural America, according to the survey results. Other significant challenges include longer distances to customer premises; regulatory uncertainty; and supply chain delays.**

Most NTCA members offer the Affordable Connectivity Program (ACP) to their customers, according to the survey, but adoption continues to be a challenge.

## DoD Study Concludes Sharing Lower 3 GHz Band Is Not Possible, NTIA Says

A study by the U.S. Department of Defense (DoD) on the lower 3 gigahertz spectrum band has concluded the agency cannot currently share the spectrum with commercial users, according to comments made recently by NTIA Administrator Alan Davidson. Davidson made the comments at a hearing in December before the U.S. House Energy and Commerce Subcommittee on Communications.

The industry has coveted the DoD spectrum for use in 5G networks. Wireless providers have argued the some of the spectrum could be shared with commercial users without jeopardizing national security.

**Davidson told lawmakers that the DOD report leaves open the possibility of sharing the spectrum sometime in the future if certain conditions are met, but makes clear that the spectrum cannot be opened up in the immediate future.**

"They've not seen a way forward on that," Davidson told lawmakers. "And we think their technical work in that area is strong."

The report was mandated by the 2021 Infrastructure, Investment, and Jobs Act. NTIA is currently briefing lawmakers on the report, but notes that some of the findings are classified. Davidson stressed that NTIA is continuing to examine use of the band and is exploring changes that would make sharing possible or moving some of the spectrum to another band. NTIA anticipates concluding the continuing assessment within two years.

## FCC Reforms Pole Attachment Rules

The FCC unanimously approved reforms in its pole attachment rules in December 2023 after reviewing and debating the issue since 2017. According to the Commission, the new rules will support faster resolution of pole attachment disputes and provide pole attachers with more information about the poles they plan to use as part of their broadband build-outs.

The reforms are intended to speed the FCC's pole attachment dispute resolution process by establishing a rapid response team and providing the team with specific criteria to apply when considering complaints. The reformed rules will allow attachers to obtain pole inspection reports from utilities.

**The Commission also clarified what constitutes "red tagging" or marking a pole for repair or replacement due to safety or compliance issues and conditions under which replacing a utility pole is not solely required with the addition of a new attachment, such as equipment or cables.**

The new rules also specify the time frames or deadlines that apply when processing requests to attach equipment to utility poles.

## FCC Takes Action On Video Service Junk Fees

The FCC took action at its December 2023 public meeting to adopt a Notice of Proposed Rulemaking (NPRM) that proposes to eliminate video service junk fees from cable operators and direct broadband satellite (DBS) providers, and to study the impact of these practices on consumer choices.

The FCC noted that TV video service subscribers may terminate service for any number of reasons, including moving, financial hardship, or poor service. Early termination fees require subscribers to pay a fee for terminating a video service contract prior to its expiration date. Because these fees may have the effect of limiting consumer choice, they may reduce competition for video service, according to the Commission.

"These fees penalize consumers for terminating service by requiring them to pay for services they choose not to receive," the FCC said.

**In the NPRM, the FCC proposed to adopt customer service protections that prohibit cable operators and DBS providers from imposing a fee for the early termination of a cable or DBS video service contract. Additionally, the NPRM recommends the adoption of customer service protections to require cable and DBS providers to grant subscribers a prorated credit or rebate for the remaining whole days in a monthly or periodic billing cycle after the subscriber cancels service.**

The measure was approved by the Commission by a 3-2 vote with Democratic Commissioners voting in support of the measure and the two Republican Commissions voting in opposition. FCC Chairwoman Jessica Rosenworcel described the junk fees as "friction-filled tactics" that limit consumer choice.

**"Consumers are tired of these junk fees," she said. "They now have more choices when it comes to video content. But, these friction-filled tactics to keep us subscribing to our current providers are aggravating and unfair. So today, we kick off a rulemaking to put an end to these."**

Commissioner Brendan Carr, who opposed the NPRM, said the measure amounted to rate regulation. FCC Commissioner Nathan Simington argued that consumers will pay more because contracts with early termination fees have discounted monthly rates. He added the FCC's "so-called pro-consumer proposal requires angelic forbearance on the parts of MVPDs to have actual pro-consumer effect."

## NTIA Awards Nearly $80 Million In Grants For Wireless Innovation

NTIA announced recently that it has awarded nearly $80 million in grants from the Public Wireless Supply Chain Innovation Fund to support the development of open and interoperable wireless networks.

According to the NTIA, investing in open, interoperable networks will help lay the foundation for a stronger, more secure, and more resilient telecommunications supply chain with the U.S.

The grants will fund six projects in five states. The grant program was created by the Chips and Science Act of 2022. That legislation authorized spending $1.5 billion over the next decade to support the development of open and interoperable networks.

**The legislation was intended to boost the American wireless industry and position the U.S. to compete more effectively with China on the development of wireless technology. The measure passed with broad bipartisan support in the U.S. Senate, but was opposed by all but 24 House Republicans before being approved and signed into law by President Joe Biden in August 2022.**

As part of the new grant awards, DISH Wireless received $50 million to create an Open RAN Center that will serve as a "living laboratory" for testing new technology in the field. VIAVI Solutions received $21.7 million to develop a laboratory for Open RAN. Virginia Tech will receive $2 million to develop a cybersecurity testing framework using 5G O-RAN. Cirrus360 will receive $1.9 million to develop a new test method using RAN components. Northeastern University will receive $1.9 million to develop an AutoRAN testing methodology. Rice University will receive $1.9 million to develop a new testing framework to examine the impact of communication performance on RAN software performance.

## Wireless Industry Raises More Concerns About Spectrum Access

Recently, CTIA President and CEO Meredith Atwell warned that U.S. leadership in spectrum policy is in jeopardy. She cited the failure of the government to hold a spectrum auction in 2023 to justify her concern. She noted that the FCC spectrum auction authority had expired and criticized Congress for failing to renew the agency's spectrum auction authority.

**She called on Congress to reestablish the FCC's spectrum auction authority with a "forward-looking and comprehensive pipeline of future auctions." She also called on the implementation of a national spectrum strategy with "clear targets for future full-power auctions."**

Atwell also stressed the federal government should provide licensed commercial access to the lower 3 GHz spectrum band which is currently occupied by the U.S. Department of Defense (DoD). She commended NTIA Administrator Alan Davidson for his efforts to develop ways to share this spectrum.

**In the meantime, she stressed that the government should focus efforts on making the upper mid-band at 7-8 GHz available for licensed commercial use.**

Atwell's recent remarks were consistent with comments filed recently by AT&T, Verizon, and T-Mobile with NTIA on the agency's draft national spectrum strategy.

Meanwhile, NTIA convened a Spectrum Policy Symposium last week focused on the implementation of a national spectrum strategy, but highlighted the role that spectrum is playing on the world stage, especially for national security.

**"The U.S. is engaged in a high-stakes, must-win competition," Don Graves, the Deputy Secretary for the U.S. Department of Commerce, said at the meeting. "It's critical that we focus on spectrum and on emerging technologies because there are adversarial nations all across the globe who are challenging us on all of these fronts. And spectrum is at the center of all of it."**

The symposium included discussions about spectrum as a key economic driver for the current and future economy as well as national security.

Also addressing the symposium was FCC Commissioner Anna Gomez, who stressed that the federal government needed to move quickly to identify new spectrum and to focus on spectrum-sharing.

"As we have less and less new spectrum that we can identify," Gomez said, "we are going to need to continue to coordinate even more closely to identify the best path forward for managing this resource. There is limited greenfield spectrum left. As consumer demand for wireless devices grows and new wireless uses are developed, identifying spectrum for exclusive-use licenses will become more and more difficult.

"We can try to identify new spectrum, but we need to acknowledge that sharing needs to be part of our toolbox going forward. Dynamic spectrum sharing approaches will be key."

She added that effective collaboration, especially among federal agencies, also will be a critical component of a successful spectrum strategy.

"We cannot expect private sector innovators to invest billions of dollars in spectrum subject to sharing," Gomez said, "unless it can be delivered with clear reliable obligations by all parties to the sharing arrangements."

## Cox Broadband Expansion Impact Survey Outlines Benefits For Rural Broadband

Cox Communications has published a 4-page analysis of how broadband enriches the lives of rural Americans using data from its 2023 Expansion Impact Survey. The 4-page analysis presents a highly-effective and straight-forward argument for why governments at all levels should prioritize broadband deployment in rural America.

The report noted that nearly a quarter of all rural Americans do not have access to a broadband connection. This comes at a time when the world is becoming "more accessible with increased access to online jobs and remote work, broader online educational resources and opportunities, improved healthcare and access to telehealth appointments, and new business opportunities that bring great economic impact to rural communities," according to the report.

**"Today, high-speed Internet is something we count on to function day to day," the report added. "The service elevates the lives and livelihoods of Americans whose broadband needs have been previously unmet."**

The report identified three specific ways that broadband enriches the lives of rural Americans.

First, younger people are more likely to remain in their communities when there is a high speed Internet connection at home, Cox reported. 70 percent of Cox's survey respondents aged 30 or younger indicated that they would be more likely to stay in their community if it has a high-speed connection.

**"Young adults are heading off to college or leaving their hometowns for better job opportunities," the report said. "As they migrate to cities and suburbs, rural communities start to shrink."**

Second, high-speed Internet drives local economic prosperity, the report said.

"High-speed Internet stimulates economic growth in rural communities," the report said, "and businesses need it to succeed. When they do well and grow, their successes have a multiplier effect on the local economy as residents have more options for jobs that need to be filled."

And third, a high-speed Internet connection at home helps bridge the income and education gap, the report concluded.

**"Limited high-speed Internet access poses significant educational challenges in rural communities," the report said. "Without reliable Internet, students can't access educational resources available outside of their textbooks or classrooms. Opportunities that could improve the quality of their learning are limited."**

The report described broadband in rural America as the "tie that binds people and communities together" and "critical for rural residents' quality of life."

## *IN THE STATES …*

### New Municipal Broadband Networks Skyrocket, According To Municipal Research Group

The Institute for Local Self-Reliance (ILSR), a non-profit and advocacy organization that provides technical assistance to local communities on a range of issues, including telecommunications, reported the number of municipal broadband networks in the U.S. surged dramatically over the last three years. According to the ILSR, at least 47 new municipal networks have come online since January 1, 2021.

More projects are in the planning and pre-construction phase, the group added. Forty new municipal networks are planned for California alone, according to ILSR.

**The ILSR said the latest wave of municipal networks include conduit-only networks, like the one in West Des Moines, Iowa that brought Google Fiber, Mediacom, Lumen, and local ISP Mi-Fiber to town to offer residents a choice of broadband providers; institutional networks such as the I-net built by the city of Alexandria, Virginia to serve local government operations that also will enable the city to partner with Ting to provide fiber-to-the-home service citywide; open-access networks like**

**Yellowstone Fiber in Bozeman, Montana; and the new municipal fiber-to-the-home network under construction in Knoxville, Tennessee.**

The group also emphasized that its current tally does not include community broadband networks developed by member-owned electric cooperatives or the rising number of networks being built by Tribal Nations.

**ILSR notes that many dark money advocacy campaigns have been funded across the country to discourage communities from funding municipal broadband networks. The group attributed these efforts to large cable and telecommunications companies who consider municipal broadband a financial threat to their operations.**

However, ILSR added that these dark money campaigns are not having the success they once had because supporters of municipal broadband are working aggressively to ensure that the misinformation spread by the dark money campaigns is not allowed to go without a response.

Leading the effort to counter misinformation about municipal broadband is Gigi Sohn, the former embattled FCC nominee who currently serves as the Executive Director of the American Association for Public Broadband (AAPB). The AAPB was established by state and local broadband officials and advocates in support of municipal broadband.

"What I find somewhat galling about some of the advocacy against public broadband," Sohn said recently, is that it's not only a matter of 'I don't want you to compete with me.' It's like, 'I don't even want you to serve the places I don't want to serve.'"

## Alabama

### RDOF Funds Enable Spectrum To Launch New Service In Cullman County

Spectrum announced recently it was launching new Internet, mobile, TV, and voice services to more than 1,900 homes and small businesses in Cullman County. The new fiber optic network is part of the company's approximately $5 billion Rural Deployment Opportunity Fund (RDOF) investment.

The company received nearly $1.2 billion of this funding from the FCC's RDOF Phase I auction.

## Colorado

### Colorado Approves Lower Fee Schedule For Installing Fiber On State Roads

As part of an effort to accelerate expansion of high-speed Internet access, Colorado officials announced recently that broadband service providers can install fiber along the state's roadways at a lower fee. The Colorado Transportation Commission approved a fee schedule that makes the Colorado Department of Transportation's property available for broadband development. Under the new fiber access fee schedule, broadband providers pay $0.10 per foot of fiber optic line in urban counties with populations over 200,000 people and $0.03 per foot in rural counties. The fee schedule is the lowest in the region and is 90 percent lower than initially proposed.

**Colorado Governor Announces New Funding For Broadband**

Governor Jared Polis recently announced the state will use $113 million of federal funding to expand the state's broadband infrastructure and connect households without Internet access. The funds will connect nearly 19,000 homes and businesses across the state. The funding comes from the Capital Projects Fund distributed by the U.S. Treasury as part of the federal infrastructure investments proposed by President Joe Biden.

## Florida

**Florida Announces More Funding Available For Broadband**

The state of Florida recently announced plans to award more than $13 million in broadband grant funding to connect communities with digital devices. Eligible applications will include carriers, non-profit organizations, and community action agencies serving high poverty areas. The application deadline is March 4, 2024.

## Georgia

**Kinetic Begins $20.5 Million Fiber Expansion Project In Rural Georgia**

Windstream's Kinetic has begun work on a $20.5 million project to expand a fiber network to more than 7,300 locations in rural Union County located in the northern part of Georgia. The new network will double the number of locations served in the country by Kinetic. The project is made possible by $11 million in federal funds made available to the state of Georgia through the American Rescue Plan Act (ARPA).

## Idaho

**Idaho Awards $120 Million In Broadband Funding**

The state of Idaho has awarded $120 million to 18 broadband projects that will connect more than 30,000 homes and businesses to high-speed Internet. Funding was provided to several counties in the state as well as directly to service providers. Among the service providers receiving money were Ziply, which received $11.3 million for two projects; Comcast which will receive $9 million; and MiFiber, which will receive $6.2 million. The funds were made available to the state by the U.S. Department of the Treasury as part of the American Rescue Plan Act (ARPA).

## Illinois

**Groups Forge Pilot Program To Bring Broadband To State's Farmers**

Several organizations, led by the Illinois Soybean Association (ISA) and the Benton Institute for Broadband and Society, have created a new pilot program called Broadband Breakthrough with the goal of bringing new broadband services to the state's farmers. The project is funded by the United Soybean Board.

**The pilot project seeks to achieve its goal by preparing a wide variety of stakeholders to apply for broadband grant money from the federal government. The project will focus on illustrating how better connectivity will increase productivity and generate economic benefits.**

Other collaborators on the project are the Center for Rural Strategies; the Illinois Department of Commerce and Economic Opportunity; the University of Illinois; Illinois State University; and the Wireless Research Center. The project has targeted five Illinois counties: Schuyler, Edgar, Ogle, Hancock, and McLean. As part of the project, the Benton Institute conducted an economic analysis that concluded that faster Internet speeds in 15 Illinois rural counties could boost production of corn and soybeans by more than $100 million annually as a result of precision agriculture. The report adds that improved access also will help boost telehealth and remote schooling in rural counties.

## Maine

### Maine Awards $36 Million To Four Broadband Providers

The state of Maine has awarded $36 million in broadband funding to four providers to cover some of the costs of deploying high-speed broadband services to unserved rural areas in the state. The awards will make service available to 24,000 homes and businesses. Funding for the projects came from the federal government's American Rescue Plan Act (ARPA).

**Consolidated was the biggest winner with slightly more than $17 million in grant funding, including more than $10 million for four last-mile deployments and more than $7 million for middle mile infrastructure. The next biggest winner was Unitel/Direct Communications, which will receive $10 million.**

Other companies receiving funding were First Light, which will receive $5.6 million, and SWI, which will receive almost $3 million. Grant recipients will contribute a combined $25.2 million to the projects.

## Michigan

### Verizon Announces Award For NAACP

Verizon announced it would provide a $100,000 award to the Detroit branch of the NAACP to support the organization's digital education, training, and access program. As part of the award, the Detroit NAACP will partner with local organizations to provide technology-focused training to seniors and formerly incarcerated community members.

## Missouri

**State Announces $7.9 Million In New Grant Funding For Cell Service**

The state of Missouri announced it was awarding more than $7.3 million for 14 projects to construct new cell towers. The funds were made available through the federal government's American Rescue Plan Act (ARPA).

Branch Towers will receive $3.2 million of the funding to construct cell towers to serve 11 counties. U.S. Cellular was the second biggest winner and will receive more than $2 million for four towers that will serve eight counties. The third largest recipient was Rock Port Telephone Company with $1.2 million to build two towers that will serve two counties. AT&T will receive about $850,000 in grant funds to build two towers.

## Nebraska

**Nebraska Grants $20 Million To Bridge Broadband Gap**

The Nebraska Public Service Commission (PSC) recently announced it will provide $20 million in grants for 11 high-speed broadband projects. Projects must be completed by July 9, 2025. Hartelco received the most funding at $7.2 million. Glenwood Telecom received $3.5 million; Pinpoint Communications received $2.6 million; and Cox received $2.4 million.

**Other recipients were ALLO Communications ($223,700); Cambridge Telephone ($1.1 million); Diller Telephone ($1.2 million); Stealth Broadband ($785,000); CenturyLink ($92,000); and Spectrum Mid-America ($491,800).**

The Commission received 51 applications for the awards

## New York

**U.S. Treasury Announces $228 Million For N.Y. Broadband Projects**

The U.S. Department of the Treasury has approved more than $228 million in grant funding for high-speed broadband projects in New York as part of the American Rescue Plan Act (ARPA). The state estimates the funds will connect tens of thousands of homes and businesses in the state to affordable, high-speed Internet. The grant will fund New York's Municipal Infrastructure Program, a competitive grant program designed to fund local governments and Internet service providers to build last-mile broadband infrastructure to tens of thousands of locations.

## North Carolina

**State Receives $82.2 Million In Federal Funds For Broadband**

The U.S. Department of the Treasury recently announced it had provided the state of North Carolina with $82.2 million for high-speed broadband projects through the American Rescue Plan Act (ARPA). The state estimates this will connect approximately 16,000 homes and businesses to affordable, high-speed Internet.

## Ohio

**Ohio To Provide Cleveland With $10 Million For Broadband**

Governor Mike DeWine announced the state will provide the city of Cleveland with $10 million for broadband services. The city plans to use the funds for Digital C, a Cleveland-based non-profit to offer fixed wireless service for $18 monthly. Digital C plans to break ground soon to develop a network to connect the city's 170,000 households by mid-2025.

## Oklahoma

**State Distributes $374 Million In Broadband Grants**

The state of Oklahoma recently announced the 31 recipients that will receive $374 million in awards for broadband funding. Cox and AT&T will receive about one-third of the funds with the rest being shared by 29 smaller providers. Recipients will contribute an additional $90 million to the projects, and the grants will result in new high-speed Internet for more than 55,000 locations.

Competition for the grants was intense with applicants seeking more than $5.1 billion in funding.

**Cox will receive $84.7 million for 14 awards. AT&T won $22.5 million for ten awards. Other companies winning large amounts of funding included Pine Telephone Company which will receive $22.5 million for a single award. Chisholm Broadband will receive $21.8 million for ten projects.**

Overall, winners represented a mix of fixed wireless providers, local telecommunications companies, and rural electric companies.

## South Carolina

**State Provides $112.3 Million In Broadband Grants**

The state announced recently that it had awarded 17 new broadband projects as part of funding received from the federal government for the American Rescue Plan Act's (ARPA) Capital Projects Fund. The funds will be distributed to eight recipients and will connect more than 16,000 locations statewide. With matching funds from the recipients, the total investment will reach $162.1 million.

## South Dakota

**State Awards New Broadband Grants**

The South Dakota State Office of Economic Development announced new broadband grants in the amount of $32.4 million to three providers. The three projects will leverage private matching dollars for a total investment of $40.3 million and will connect more than 2,160 households, farms, and other businesses.

Gallatin Wireless Internet LLC (dba Celerity Internet) will receive $15,249,569; Long Lines Broadband (dba Jefferson Telephone Company) will receive $3,770,300; and Santel Communications Cooperative will receive $13,438,989.

## Texas

### AT&T Sets Sites On Texas For BEAD Money

AT&T CEO John Stankey told the company's shareholders recently as part of the company's quarterly earnings report that AT&T will seek BEAD funding to deploy broadband in Texas. He noted that Texas will receive the most BEAD funding of any state and the rules for the program will be conducive to AT&T securing a significant share of the $3.3 billion in BEAD money to be provided by NTIA to the state.

**"Policy-wise, they had a pretty sound approach to things," Stankey said on the earnings call. "We'll probably have a good opportunity there. There are a few other states where we're not sure if the policies are going to line up effectively."**

Stankey said that the company would be able "to get more scale and more households faster" in Texas.

## Wisconsin

### State Allocates $140 Million In Federal Funds For Broadband

Governor Tony Evers and U.S. Senator Tammy Baldwin (D-WI) announced recently that the state would use $140 million in federal funds to increase Internet access and affordability across the state.

The money was made available to the state through the American Rescue Plan Act (ARPA). The federal money will be used to fund two new state broadband grant programs.

$107 million will be used to fund a grant program that would allow local and tribal governments to pay for construction or renovations to increase digital connectivity in local libraries and community centers. Another $33 million will be distributed to install Wi-Fi in targeted apartment buildings and provide digital navigation services to residents.

## Wyoming

### Wyoming Allocates $70.5 Million In Broadband Funds

The state of Wyoming announced that it was recommending funding 32 applications totaling $70.5 million in federal funds to expand broadband in the state in order to connect more than 11,000 locations that do not currently have Internet access. The federal funds were made available to the state through the American Rescue Plan Act's (ARPA) Coronavirus Capital Projects Funds (CPF). This is the single largest broadband investment in the state's history.

The state received 116 applications for the funding. Application requests totaled $413 million.

## *In Brief …*

- **First Quarter USF Contribution Factor Set:** The FCC announced in mid-December that the universal service contribution factor for the first quarter of 2024 would be **34.6 percent**.

- **FCC Names Gomez, Simington To USF Joint Board:** The FCC announced recently that FCC Commissioners Anna Gomez and Nathan Simington have been appointed to the Federal-State Joint Board on Universal Service. Gomez will serve as the federal chair of the USF Joint Board.

- **FCC Announces Conclusion Of RDOF Auction 904 Review:** The FCC announced in late December that it had concluded the Rural Digital Opportunity Fund (RDOF) Auction 904 long-form application review. The Commission announced there were 379 recipients of RDOF support with authorizing winning bids totaling more than $6 billion in support over a 10-year term covering just slightly less than 3.5 million locations in 48 states and one U.S. territory. 97 percent of the locations were covered by winning bids for gigabit speed service. The $6 billion in support approved by the FCC falls $3 billion short of the total authorized for disbursement when the RDOF was established and when winning bids were announced. Many carriers defaulted on their bids or failed to meet the financial and technical requirements for deployment after submitting successful bids.

- **FCC Defers Next 5-Year Deployment Obligation Term For Legacy Rate-Of-Return Carriers Until January 1, 2025:** Late last year, the FCC issued an Order deferring the commencement of the next five-year deployment obligation term for legacy rate-of-return carriers receiving Connect America Fund (CAF) Broadband Loop Support (CAF BLS) in 2024 until January 1, 2025 as it continues to consider general program reforms. According to the Commission, legacy carriers will remain subject to the Commission's rules requiring the offering of broadband service at actual speeds of at least 25 Mbps downstream/3 Mbps upstream to the previously determined number of unserved locations under the current five-year term that ended on December 31, 2023.

- **U.S. Chamber Of Commerce, Other Business Groups Ask Federal Court To Vacate FCC Digital Discrimination Rules:** The U.S. Chamber of Commerce, the Texas Association of Business, and the Longview, Texas Chamber of Commerce have submitted a petition to the U.S. Court of Appeals for the 5$^{th}$ Circuit, one of the most conservative federal courts in the U.S, to vacate the FCC's recently approved digital discrimination rules. The rules were mandated in the Infrastructure, Investment, and Jobs Act (IIJA) and were adopted in November 2023. The petition asks judges to vacate the rules on the grounds that they are "arbitrary, capricious" and exceed the Commission's statutory authority. The groups said the 5$^{th}$ Circuit Court, which is located in New Orleans, and covers judicial activities in Mississippi, Louisiana, and Teas, is the appropriate venue for the case because all three petitioners' principal offices are located in Texas.

- **Benton Institute Files Appeal Of FCC Digital Discrimination Rules:** The Benton Institute for Broadband and Society has filed a petition in the U.S. Court of Appeals for the District of Columbia challenging two provisions of the FCC's recently enacted digital discrimination rules. Benton asked the court to order the FCC to include a formal complaint procedure as part of the rules and to apply those rules to recipients of future grants from the NTIA's Broadband Equity, Access, and Deployment (BEAD) program.

- **FCC Announces Wavelength's Default Of RDOF Bids:** The FCC announced in late December that Wavelength-Arizona which submitted a winning bid in the Rural Digital Opportunity Fund (RDOF) Auction 904 to deploy service to 12,418 estimated RDOF locations in Arizona had defaulted on its bid. Based on its long-form application, the FCC concluded that Wavelength "failed to demonstrate that it is financially qualified to receive support to meet its RDOF program obligations" for the winning bids in Arizona. "The Commission has an obligation to protect limited Universal Service Funds and to avoid extensive delays in providing needed service to rural areas," the FCC said in announcing the default, "including by not subsidizing risky proposals that propose deployment plans that are unrealistic or that are predicated on aggressive assumptions and predictions."

- **92 Per Cent Of U.S. Homes Have Broadband, Studies Conclude:** A recent Parks Associates research study concludes that 92 percent of all U.S. households now have broadband at home. The study also reports steady growth in smart home and security adoption. The Parks study concludes that 42 percent of all U.S. Internet households now own at least one smart home device. A separate study from Leichtman Research also concluded that 92 percent of U.S. households now get an Internet service at home. This is up from 85 percent in pre-pandemic 2019, according to the study. 98 percent of these Internet connections were considered higher speed broadband accounts, according to the study. The study also reported that about 60 percent of broadband subscribers are satisfied with the Internet service at home.

- **Rosenworcel Seeks Help From Automakers, Wireless Companies To Protect Domestic Violence Survivors:** FCC Chairwoman Jessica Rosenworcel has sent a letter to automakers and wireless service providers seeking their help to protect domestic abuse survivors from the misuse of connected car tools by abusers. In her letter, she noted that auto-based communications technology can and has been used to stalk, harass, and intimidate survivors of domestic violence. "No survivor of domestic violence and abuse should have to choose between giving up their car and allowing themselves to be stalked and harmed by those who can access its data and connectivity," Rosenworcel said. "We must do everything we can to help survivors stay safe. We need to work with auto and wireless industry leaders to find solutions."

- **Monon Telephone Company To Be Acquired:** LightStream, a carrier based in Buffalo, Indiana, announced that it will purchase Indiana-based Monon Telephone Company. Monon, which serves customers in Pulaski and White Counties, has been a family owned company since 1921. LightStream, which operated until 2014 as Pulaski White Rural Telephone Cooperative (PWRTC) serves the Buffalo, Pulaski, Monticello, Royal Center, Star City, and Winamac areas. The deal is expected to close in the first half of 2024.

- **SpaceX Launches Starlink Satellites To Support T-Mobile Service:** SpaceX Starlink has begun launching satellites that are intended to support T-Mobile's planned satellite-to-cellphone service. A launch date for the service has not yet been announced. The service will enable T-Mobile customers to have cellphone connectivity in areas where traditional service is not available. T-Mobile and SpaceX announced the partnership in August 2022, but implementing the plans has taken longer than expected.

- **Dish Network-Echo Star Merger Closes:** The all-stock merger of satellite TV and streaming service provider Dish Network with broadband and communications provider EchoStar has now closed. EchoStar CEO Hamid Akhavan will serve as president and CEO of the combined company to be known as Echo Star. Charlie Ergen, who has controlled both companies, will serve as executive chairman of the new company. The merger is intended to help Dish which has lost nearly half of its subscribers since 2009. As of September 2023, Dish had 8.84 million subscribers.

- **Fiber Association Annual Report Outlines Costs For Fiber Deployment:** A new study from the Fiber Broadband Association (FBA) outlines the average costs for fiber deployment and demonstrates how the costs are evolving over time. According to the report, the cost of aerial deployment at $4-9 per foot is less than half the cost of underground deployment at $11-24 per foot. Labor accounts for over two-thirds of build costs, the report said. Median costs for deploying fiber also increase with population density as urban deployment costs nearly double that in most rural scenarios. Underground costs are affected by terrain, the report said, with rocky areas being nearly twice the cost as laying fiber in soft earth. Underground costs are affected by the type of construction method with trenching being the lowest cost and plowing the highest, according to the report. It was more expensive to deploy in western states whereas the Northeast had the lowest typical costs, FBA said.

- **Great Plains Appoints New COO:** Great Plains Communications, which is based in Blair, Nebraska, has announced that Joseph Pellegrini will be the new President and COO of the company. Pelleginri joined the company in 2022 as the VP of new market development. Prior to joining Great Plains, he was COO and EVP of Everstream Solutions. Great Plains is one of the largest privately owned digital infrastructure providers in the Midwest. Its regional fiber networks reach across 13 states.

- **Oak Hill Capital Purchases Wire 3:** Oak Hill Capital, a private equity firm, has announced plans to acquire Florida-based fiber-to-the-home provider Wire 3 from Guggenheim Investments, a global asset management company. Oak Hill formed Omni Fiber in 2022 with plans to deploy fiber in the Midwest. It has committed to invest up to $250 million to expand Wire 3's fiber network in underserved communities across Florida. Wire 3's existing management team members will continue leading the business. Wire 3 provides symmetrical Internet speeds up to 10 Gbps. The company previously announced it would no longer offer any speeds below a gigabit saying that megabit speeds are obsolete. Wire 3 is actively expanding its fiber network in Florida communities within Volusia, Brevard, Indian River, St. Lucie, Orange, and Marion Counties.

- **Ritter Communications Names New CEO:** Ritter Communications, a privately held ISP serving the mid-southern U.S., has named Heath Simpson as its new CEO effective January 31, 2024. Simpson joined Ritter in March 2020 as the CFO and was later promoted to president and COO in late 2022. Prior to joining Ritter, Simpson served as AT&T's executive director of corporate development and as SVP of financial planning and analysis for Frontier Communications.

- **Consumers Experienced Major Drop In Robocalls In December, Report Says:** U.S. consumers experienced a significant decline in robocalls in the month of December, according to the YouMail Robocall Index, a private company that estimates robocall volume nationwide. The firm said the volume of robocalls in December was the lowest since February 2022 and "a stunning" 20 percent below the 2023 average of about 4.6 billion calls per month. According to the company, 3.8 billion robocalls were made in December 2023 in the U.S. This was a 19 percent decline from November. The number of robocalls in November also declined slightly by 2.3 percent from calls received the previous month. Overall, the volume of robocalls grew 9.3 percent in 2023 compared to the previous year. However, the number of scam calls declined by 38 percent. The decline in robocalls is attributed to the roll-out of the FCC's STIR/SHAKEN protocols.

- **FCC Denies LTD Application For Review Of RDOF Broadband Support Decision:** The FCC announced early in December 2023 that it denied an application for review submitted by LTD seeking review of a decision that denied its application to be authorized to receive broadband deployment support from the Rural Digital Opportunity Fund (RDOF) Auction 904. LTD failed to obtain ETC designation in seven states where it had submitted successful bids for the auction. LTD defaulted on all winning bids in Kansas, Oklahoma, California, and Iowa. The FCC found numerous financial and technical deficiencies in LTD's long-form application and denied RDOF support. In its application for review, LTD said that the FCC staff review of LTD's long-form application was "overbroad" and exceeded the scope permitted in the Commission's rules. In denying the petition for review, the Commission rejected all of LTD's claims.

- **FCC Reaffirms Denial Of RDOF Support For Starlink:** Prior to concluding its review of long-form applications for the Rural Digital Opportunity Fund (RDOF) Auction 904, the FCC issued a statement in mid-December reaffirming its prior decision to reject the long-form application of Starlink to receive RDOF support. Although Starlink was qualified by the agency to participate in the auction, the Commission determined at the long-form application stage that Starlink failed to demonstrate that it could deliver the promised service. Starlink had been declared the winner bidder of more than $885.5 million. "The agency has a responsibility to be a good steward of limited public funds meant to expand access to rural broadband, not fund applicants that fail to meet basic program requirements, " FCC Chairwoman Jessica Rosenworcel said in the mid-December reaffirmation of the FCC's initial decision. "The FCC followed a careful legal, technical, and policy review to determine that this applicant had failed to meet its burden to be entitled to nearly $900 million in universal service funds for almost a decade."

- **FCC Issues Warnings To Gateway Providers On Robocalls:** As part of its continuing efforts to combat the surge of robocalls and other fraudulent activities, the FCC issued "stern" advisories to seven gateway providers last month that the Commission said were potential collaborators in transmitting illicit traffic on behalf of overseas entities. The FCC said the providers were helping to facilitate illegal traffic from overseas partners. The companies are Bandwidth; Telco Connection; iDentidad Advertising Development; CenturyLink Communications; TeleCall Telecommunication; Tata Communications; and Acrobat Communications. The FCC reminded the companies that they are required to take "reasonable and effective" steps to ensure that foreign providers are not using their networks to carry or process a high volume of illegal traffic.

- **Urban Rate Comparability Benchmarks Set:** The FCC announced in mid-December the 2024 reasonable comparability benchmarks for fixed voice and broadband services for ETCs subject to broadband public interest obligations. Based on the survey results, the 2024 urban average monthly rate is $34.27. Consequently, the reasonable comparability benchmark for voice services is $55.13.

The Commission also published the 2024 benchmarks for several different broadband service offerings.

- **FCC Announces Emergency Connectivity Funding For Schools And Libraries:** The FCC announced plans to commit more than $450,000 in new funding through the Emergency Connectivity Fund Program to support students in communities across the country. The funding will help connect approximately 1,000 students to the Internet.

- **FCC Proposes All Mobile Phones Be Hearing Aid Compatible:** The FCC has proposed that all wireless handsets offered for sale in the U.S. be fully compatible with hearing aids. The Commission issued the Notice of Proposed Rulemaking (NPRM) in mid-December. The Commission is also seeking comment on adopting a definition of hearing aid compatibility that would include the use of Bluetooth connectivity between wireless handsets and hearing aids. The NPRM also seeks comment on a number of proposals to ensure that consumers have the information they need to make informed decisions and to reduce the regulatory burden on manufacturers and service providers.

- **Five Percent Of U.S. Households Have Only Pay-TV Service, Says Study:** Parks Associates has announced the results of a study concluding that just 5 percent of U.S. Internet households have only a pay-TV service. According to the study, this indicates that legacy pay-TV companies continue to lose subscribers to streaming video services. The study, however, notes that the average annualized industry churn rate for streaming services is 50 percent indicating that many streaming services are also struggling to keep their customers.

- **Consumer Research Shows Smartphone Ownership Surpasses TV Ownership:** Americans own more smartphones than TVs, according to the last consumer research from Parks Associates. The results are based on a study of 8,000 U.S. Internet households. 90 percent of households now report ownership of a smartphone; but only 88 percent report ownership of a TV.

- **FCC Updates Spectrum Rules To Facilitate Broadband Access On Ships, Aircraft, and 5G Backhaul Service:** The FCC recently adopted updates to its rules for the 70, 80, and 90 GHz spectrum bands to facilitate broadband access on ships and aircraft in addition to backhaul service for 5G. The Commission said this will promote the efficient use of spectrum and provide opportunities for the development of new broadband service.

- **One-Third Of Consumers Say They Experienced Difficulty Finding Fairly-Priced Broadband Service:** Based on a recent consumer survey from Parks Associates, almost 30 percent of U.S. households that subscribed to a new home Internet provider over the last year had difficulty finding a provider that offered service at a fair price. The survey suggests that consumers considered a fair monthly price to be about $50 for 100 Mbps downstream. The same survey also concluded that subscribers of fixed wireless access are more satisfied with the price of service than fiber or cable subscribers. However, the survey also concluded that consumers considered fiber broadband to be more reliable than fixed wireless.

- **AT&T Reports Fiber Growth:** AT&T reported that its subscribers to it fiber network grew by 1.1 million in 2023. AT& T said the growth reflected a lower churn rate this past year. The company reported it had more than doubled its fiber revenues.

- **Verizon Reports FWA Subscriber Growth:** Verizon recently reported that it had added 375,000 new fixed wireless access (FWA) subscribers during the fourth quarter of 2023 indicating that FWA continues to serve as a growth engine for the company's broadband business. Still, the number of new consumers adding FWA declined during the quarter. Most of the growth experienced by Verizon could be attributed to new business subscribers.

- **Shareholders Approve Consolidated Sale To Private Investors:** Shareholders for Consolidated Communications have approved the company's $3.1 billion sale to Searchlight Capital Partners and British Columbia Investment Management Corporation, two private investment companies. The sale will require regulatory approval, but is expected to close in the first quarter of 2025.

- **DoJ Asks Court To Dismiss Ligado Lawsuit:** The U.S. Department of Justice (DoJ) has asked a federal court to throw out a lawsuit filed by Ligado Networks seeking $40 billion from the government over the company's failed bid to use L-band spectrum for terrestrial purposes. The spectrum only permitted satellite use, but Ligado sought to repurpose the spectrum to operate a terrestrial network. The lawsuit is related to an ongoing dispute between the U.S. Department of Defense (DoD) and the GPS community against Ligado's proposed use of the spectrum. DoD and the GPS community have argued that Ligado's use of the L-band would pose serious interference threats to GPS. Ligado has countered that the DoD wants the spectrum for its own purposes.

## *What's Up…*

- The next regularly scheduled open meeting of the FCC is February 15, 2024. The Commission is expected to consider a Notice of Proposed Rulemaking (NPRM) to increase the accessibility of the emergency alert system; a Report and Order and Further Notice of Proposed Rulemaking (FNPRM) on illegal robocalls and robotexts; a Report and Order to expand opportunities for wireless microphone use; a NPRM for licensing space stations in in-space servicing, assembly, and manufacturing; an enforcement action; and a restricted adjudicatory matter.

- The U.S. House Energy and Commerce Committee and the U.S. Senate Commerce Committee have scheduled no telecommunications-related hearings at this date.

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**Thomas M. Smith, Editor-in-Chief**