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Subject: [NARUC-CI-S] What to Watch in Washington This Week - Brad Ramsay - NARUC GC
Date: Tuesday, September 20, 2022 6:30:24 PM
Attachments: [image001.jpg](#)
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What to Watch in Washington this Week

Brad Ramsay

NARUC General Counsel

I. BACKGROUND NOISE:

A. ELECTIONS:

Seven weeks till election day. House - still predicted to flip to R control. Senate - odds by Cook and 538 say likely D's retain control – but key races are narrowing: Vulnerable D's? [] Kelly – AZ – last two polls have Kelly with avg 1.4 lead w/in margin of error over Masters (R) [] Cortez-Masto – NV – last two polls have Laxalt (R) with avg 1.5 lead [] Fetterman – PA – last two polls average 3.5 Fetterman lead over Oz [] Vulnerable R's? – Johnson – WI – last four polls Johnson avg lead at just under 2 over Barns (D).

<https://projects.fivethirtyeight.com/2022-election-forecast/senate/?cid=rrpromo>

B. ECONOMY (still tops the polls as the issue voters care most about):

Rail strike averted? Note strike would have impacted drinking water treatment chemicals, coal and other energy product shipments. But tentative deal struck friday. In mid-October rank and file union members will vote whether to ratify the deal. If they don't negotiations begin anew.

*Inflation/Recession Fresh off the market's worst week since June, stocks fell on Monday due to investor fears **the Federal Reserve will again hike interest rates this week**, with the Dow and S&P 500 both dipping 0.4% and the Nasdaq dropping 0.3%.*

*Federal Reserve begins two-day meeting Tuesday, likely culminating in another .75% percentage interest-rate rise
After championing an aggressive stimulus campaign just 12*

months ago, Powell has this year led the most rapid tightening of monetary policy since the early 1980s. Won't be a soft landing..... WEDNESDAY more news: When people buy new homes, they typically buy a lot to go inside, including furniture, accessories and appliances. Such spending has slowed or fallen this year as many home buyers were sidelined by climbing interest rates and a shortage of homes to buy. U.S. existing-home sales fell in July for the sixth straight month, the longest streak of declines in more than eight years. On Wednesday, the National Association of Realtors will reveal whether the streak continued into August.

II. CONGRESS:

- A. **COVID ABSENCES:** Note - Covid-19 still playing a role in the Senate. D member absences can cause problems on ANY close votes for nominations (or even the CR to keep the government running)

Since the beginning of September, 3 D Senators, Rosen (NV), Menendez (NJ) & Ossof (GA) have tested positive and had to isolate for five days at various times before returning to the Capital.

- B. **THE CLOCK:** House is scheduled to leave Sept 30 and has 5 legislative days on the calendar before then. Senate set to leave at the same time but has 7 legislative days on the calendar.

Note – the SENATE only is scheduled to return for two weeks in October (11th – 21st) but not clear if they will stick around for those two weeks. The House isn't back until after the elections for a lame duck session.

- C. **CONTINUING RESOLUTION (CR) TO FUND THE GOVERNMENT (because the Senate hasn't passed any of its 12 approps bills or even agreed on top line allocations)- VOTE REQUIRED BEFORE END OF FISCAL YEAR – SEPT 30:**

VOTE – NONE ANNOUNCED YET – SEEMS LIKELY NEXT WED-THURSDAY: Neither Speaker Pelosi (D-CA) or Senate Majority Leaders Schumer (D - NY) have announced which chamber will move the must-pass CR or when.

CR LIKELY THROUGH DECEMBER 2022: Because Rs believe they will pick up at least one chamber in the midterms – some in both chambers are pushing for the continuing resolution (CR) to fund the government expire in January – when there is a new Congress (and presumably the House at least is R). In two letters, one from 14 R senators and one from 42 R House members, lawmakers demanded a CR stretch into January and be free of additional amendments or riders. The House letter also vows to oppose any appropriations bill between now and the end of the year. But the D's are unlikely to move off of mid-December as a target – so funding the government will become a lame duck session priority.

WHITE HOUSE'S SUPPLEMENTAL REQUEST – UKRAINE & DISASTER AID A SHOO IN - NO NEWS ON RESOLUTION OVER COVID/MONKEY POX FUNDING: The majority in either chamber has yet to announce how much of President Joe Biden's \$50 billion request for supplemental funds will be attached to the CR. Rs & Ds support Biden's request for \$11.7 billion in additional support for Ukraine and for the WH request for

\$6.5 billion in extra emergency disaster aid. But R's are not backing the requests for \$22.4 billion in extra Covid funds or the \$4.5 billion to address the monkeypox virus. The President's announcement on 60 minutes Sunday that "the pandemic is over" was ill-timed given the ongoing debate over those funds.

MANCHIN'S PERMITTING BILL – NARUC OPPOSES - STILL NO TEXT: Last week, NARUC sent a [letter](#) basically opposing the new and preemptive transmission text that was included in an early version of the Manchin (D-WV) permitting proposal (outlined at length in earlier editions of his e-mail) Last week Manchin suggested b/c of Senate D opposition he may need as many as 20 Rs to vote for it – that seems unlikely (although 46 R Senators have signed on to an alternate permitting proposal by Senator Capito (R-WV)). And as reported last week – 70 plus House D's have asked the permitting measure be separated from the CR. The other problem, no one has seen the permitting proposal text. D leadership is keeping under wraps the details – most lawmakers have only seen an outline of the plan. There were reports that even Speaker Pelosi suggested there are other "must pass" bills in the coffer that it could be attached to – other than the CR. Still he got a promise – AND earlier today – Manchin said the plan (as of today) was still to attach his bill to the government funding legislation. WSJ editorial this morning suggested: "It sounds as if the strategy is to prevent anyone from pondering the details too long. The permitting changes might be unveiled at the last minute, as pressure to avoid a government shutdown peaks." The one thing that seems clear – because of D defections in both chambers - the bill goes nowhere without R support. Senator Markey said last week – he doesn't support attaching the deal to the CR AND Senator Sanders says he will vote against the CR if the Manchin deal is attached. Stay tuned.

D. SENATE:

FERC/FCC NOMINATIONS – RADIO SILENCE: Still no word on when FERC Chair Glick might be brought before Senate ENR – and no word on third FCC nominee Sohn in terms of a discharge petition vote.

The President will have to renominate both of them if Congress adjourns in December without acting on either. Doubt if there will be any action before Oct 1 on either. And seems like Glick has a much better shot than Sohn.

Those of you that read these updates will recognize the following analysis from Blair Levin re: Sohn (as I've said pretty much the same thing for quite a while now): [FierceTelecom](#) ---" Levin [said]there are two primary reasons the Biden administration might feel pressure to get Sohn appointed . . . [1] the upcoming election in November could flip control of the Senate to [Rs]. And "the practical reality I think is if the [Rs] win the Senate, it is unlikely they will confirm any [Ds] who will give the Democrats a working majority at the Commission." If they lose the Senate, Democrats could try to push Sohn through during the lame duck session . . . However, given the roadblock thus far has been reported concerns among some Democrats, Levin said the key question is whether those Democrats would still object to her appointment during the lame duck period."

EPA/TENNESSEE VALLEY AUTHORITY NOMINATIONS: Senate EPW is voting on 5 board members for TVA and – well-known-to-NARUC – from the Obama EPA – **Joseph Goffman** to be an EPA Assistant Administrator for the Office of Air and

Radiation – TVA Board members up?

Michelle Moore, Robert P. Klein, Beth Pritchard Geer, William Renick, Adam Wade White and Joe H. Ritch.

SENATE HEARINGS OF POSSIBLE INTEREST:

Tuesday, September 20, 2022

3:00 PM ET Telecom Senate Judiciary: [Oversight of Federal Enforcement of the Antitrust Laws](#) They had the new FTC chair on the dais for questions about the new approach to antitrust she is championing along with DOJ Antitrust chief Kanter. Video archived at this link.

September 21, 2022

10:00 AM ET Cross Sector Senate EPW: [Business Meeting \(Goffman to EPA & TVA Board\) & Putting the Bipartisan Infrastructure Law to Work: The State and Local Perspectives](#)

2:30 PM ET Cross Sector Senate Committee on Intelligence: [Protecting American Innovation: Industry, Academia, and the National Counterintelligence and Security Center](#)

September 22, 2022

9:00 AM ET Telecom: Senate Judiciary: [Executive Business Meeting re: S 673](#) (which provide a temporary safe harbor for publishers of online content to collectively negotiate with dominant online platforms regarding the terms on which content may be distributed)

10:00 AM ET Telecom: Senate Committee on Aging: [“Stopping Senior Scams: Empowering Communities to Fight Fraud”](#)

10:00 AM ET Energy: [Senate Committee on Energy and Natural Resources: Energy Storage to examine opportunities and challenges in deploying innovative battery and non-battery technologies for energy storage.](#)

2:30 PM ET Telecom Senate Committee on Indian Affairs: [Roundtable discussion “Promoting and Supporting Tribal Access to Spectrum and Related Benefits in Native Communities”](#)

E. HOUSE:

This week the big item – not related to the utility sector – is the update to the Electoral Count Act of 1887 from Lofgren (D-CA) and Cheney (R-WY) – which goes further than the bipartisan Senate bill introduced by Collins (R-ME) & Manchin (D-WV) earlier this summer.

House members are anxious to get out on the campaign trail and hope not to have a government shutdown in the news.

Lawmakers started yesterday with debate on 26 measures under suspension of the rules, which limits debate to 40 minutes and requires a two-thirds majority for passage or adoption. Two bills postponed yesterday – which could be taken up today- affect critical infrastructure supply chains: (1) [H.R. 8503](#) – the Securing Global Telecommunications Act - which authorizes the International Digital Economic and Telecommunication Advisory within the State Dept, requires the development of a strategy to promote the use of secure telecommunications infrastructure, and mandates a report on Chinese and Russian influence in the International Telecommunications Union. and (2) [H.R. 8520](#) – Countering Untrusted Telecommunications Abroad Act, which requires the State Department to provide information on the use of unsafe telecommunications equipment produced by Chinese companies and requires

companies to disclose the use of unsafe equipment in their networks.

HOUSE HEARINGS OF POSSIBLE INTEREST:

September 21, 2022

10:00 AM ET Water: House Committee on Homeland Security: "[Critical Infrastructure Preparedness and Resilience: A Focus on Water](#)"

September 22, 2022

9:00 AM ET Cross Sector : House Committee on Financial Services Subc: [State of Emergency: Examining the Impact of Growing Wildfire Risk on the Insurance Market](#)

10:00 AM ET Cross Sector House Committee on Homeland Security "[Federal Building Security: Examining the Risk Assessment Process](#)"

10:00 AM Energy: House Committee on Natural Resources: [PROMESA and LUMA Energys Contract](#) (*Protesters in Puerto Rico are demanding the cancellation of the **contract** with **LUMA Energy** amid seven consecutive electricity price rises and increasing blackouts).*

III. SECTOR NEWS

A. ENERGY SECTOR – Appendix B

[1] Highlights: FERC has its September agenda this week

NAESB Gas-Electric “Interdependency” Forum is online Friday

US Energy Association has their Advanced Energy Tech Forum Thursday

Reply Comments filed in the FERC Transmission NOPR yesterday (and weblinks to ALL filings in attached Appx B)

DOE put out a “report” on consent based siting of Nuclear Waste

and more - including quite a few energy specific events of interest (see below)

[2] ENERGY SECTOR ONLINE EVENTS OF LIKELY INTEREST:

September 21, 2022

10:00 AM ET Cross Sector Senate EPW: [Business Meeting & Putting the Bipartisan Infrastructure Law to Work: The State and Local Perspectives](#)

2:30 PM ET Cross Sector Senate Committee on Intelligence: [Protecting American Innovation: Industry, Academia, and the National Counterintelligence and Security Center](#)

September 22, 2022

9:00 AM ET Cross Sector: House Committee on Financial Services Subc: [State of Emergency: Examining the Impact of Growing Wildfire Risk on the Insurance Market](#)

9:00 AM ET US Energy Ass’n: [4th Annual Advanced Energy Technology Forum](#) (9 to 1 ET) register [here](#). Greg White is among the speakers.....

10:00 AM ET FERC: Virtual Open Meeting <https://www.ferc.gov/news-events/events/september-22-2022-virtual-open-meeting-09222022> Webcast <http://ferc.capitolconnection.org/> AGENDA <https://www.ferc.gov/news-events/news/sunshine-notice-september-commission-meeting-0>

10:00 AM ET Senate Committee on Energy and Natural Resources: [Energy Storage opportunities and challenges in deploying innovative battery and non-battery technologies for energy storage.](#)

10:00 AM Energy: House Committee on Natural Resources: [PROMESA and LUMA Energys Contract](#)

10:00 AM ET EPA: Texas Water, Energy, & Emergency Management Virtual Workshop (10 – 4 ET) [Register](#) This virtual workshop will focus on two key interdependencies with the water sector: energy and emergency services.

2:00 PM ET AGA: Winter Heating Outlook Series Part I: Market Fundamentals [register](#)

1:00 PM ET Berkeley Lab: 2022 edition of BL's [Tracking the Sun](#) report (on Utility Solar) Register here: https://lbl.zoom.us/webinar/register/WN_3FHV1Sd4T1ObszUI4IcdsgT

3:00 PM ET EPA: Supporting Air Quality and Climate Change Planning with [GLIMPSE](#) (Energy System focus tool) [Register](#)

7:00 PM ET FERC : Scoping meeting: Gregory County Pumped Storage Project (P-14876-002) (800) 779-8625 Access code: 3472916

September 23, 2022

10:00 AM ET FERC: NAESB Gas-Electric "Interdependency" Forum (10 – 1 ET) [register here: https://us06web.zoom.us/webinar/register/WN_MDDWtkKNQF-paKbnySnjoQ](#)

[3] SOME REPRESENTATIVE "CLIPS" FROM APPENDIX B – there are more stories in that appendix:

0920 Solar: Lawrence Berkeley Lab : [2022 edition of Berkeley Lab's Utility-Scale Solar report released](#) – analyzes record deployment and higher value in 2021.

0920 DER Integration: [Florida Phoenix: Amid a massive American clean energy shift, grid operators play catch-up](#)

0920 DER Integration: [EE Online: FERC accepts ISO-NE tariff revisions to streamline interconnection process for distributed energy resources](#)

0919 DEI: [Sens. Warner, Kaine introduce bill to give public more say in pipeline proposals](#) [unlikely to move this congress – brad]

0919 SPR Depletion: DOE is accepting bids until Sept. 27 for the sale of an additional 10 million barrels of oil from the Strategic Petroleum Reserve. The department will award contracts by Oct. 7, with deliveries slated for November. [S&P Global](#)

0919 [Reply Comments filed in "Building for the Future Through Electric Regional Transmission Planning & Cost allocation & Generator Interconnection" RM21-17-000 NOTE](#) – all of the links **for all** of the 100 plus filings are in appendix B.

0919 [Enviros challenge EU decisions to include natural gas and Nuclear in sustainable fiancé taxonomy](#). [The Associated Press](#)

0919 Solar: [Rep. Mike Levin Leads Letter Urging CPUC Not to Undermine Solar Incentives in Updated Net Energy Metering Proposal](#)

0919 Solar: [The US solar industry has a supply problem](#)

0919 Solar - [Minnesota PUC approves Xcel Energy's 460-MW solar project to replace Sherco coal-fired generation](#)

0918 CCS: [Climate law spurs CCS at new West Virginia gas plant](#) Carlos Anchondo,

0918 Energy Prices: WSJ: Electric Bills Soar Across the Country as Winter Looms - Rising natural-gas prices are expected to make it more expensive to light and heat homes in the coming months -

0916 [Natural Gas: US natural gas production growth is struggling to keep up with surging foreign and domestic demand, putting further pressure on already strained gas inventories and making them vulnerable to weather shocks](#), [Reuters](#)

0916 FERC Oversight: DC Circuit finds FERC correctly concluded that Tri-State

Generation and Transmission Association Inc. is subject to agency regulation after adding a non-utility member.

0916 Nuclear: [U.S. DoE: 6 Steps DOE is Taking to Address Spent Nuclear Fuel](#)

0916 Natural Gas - [California provides disincentives to Use Natural Gas in New Buildings](#) Mark Chediak, Bloomberg Utilities will no longer be able to pass along part of costs for new gas lines to residential, commercial customers.

0916 Minnesota PUC approves Xcel Energy's 460-MW solar project to replace Sherco coal-fired generation – Industry Dive.

0916 Wind: Administration "hopes" to deploy "up to" 15 gigawatts of electricity through floating wind turbine platforms in the deep ocean by 2035, ([The Associated Press](#))

0916 Pipelines: [D.C. Circuit leans toward FERC in NEPA dispute](#) Niina H. Farah, E&E News Federal judges Wednesday pressed energy regulators for an update on their plans to use a contested metric to evaluate the costs of GHG emissions from natural gas projects.

0916 Solar - [Minnesota regulators approve huge solar project in Becker](#)

0915 Nuclear Waste – and another rehash of "consent based siting"...nothing new: [The U.S. Department of Energy \(DOE\) released a new report today summarizing public feedback on the Department's consent-based siting process to identify sites for the consolidated interim storage](#)

0915 Hydro: [Hydro Review: FERC cancels preliminary permit for NY State - Saugerties Community Hydro Project](#)

0915 Renewables: [Inflation Reduction Act could raise prices on clean energy, warns Bank of America](#) Without additional transmission capacity, the law could incentivize inefficient development of renewables and result in higher price volatility.

0915 Pipeline Siting: [BTU Analytics: High-Profile Intervenors Seek to Shake Up FERC's Gas Pipeline Approval Criteria](#)

0915 Wind: [Perkins Cole LLC: New England Requests Information on Electric Grid Upgrades To Integrate Offshore Wind](#)

0914 Natural gas: AmGas September 2022: The Forecast for Global Gas https://read.nxtbook.com/aga/american_gas_magazine/american_gas_september_2022/cover.html T

0914 Nuclear: [Hurdles ahead for saving Michigan nuclear power plant](#)

0914 Coal to Nuclear: Up to 80% of retired or active coal power plant locations in the United States could be converted to nuclear power sites, according to a Department of Energy report, including as many as 157 retired plants and 237 operating plants. [Reuters](#))

0914 Clean Energy: [New York announces \\$16.6M for hydrogen and 4 other long-duration storage demonstration projects](#)

0914 Hydrogen: [SDG&E Hydrogen Pilot to Assess Hydrogen's Feasibility as a Decarbonization Tool](#) T&D World

0914 Residential Storage/"Virtual Power Plant": [Rocky Mountain Power rolled out its Wattsmart program to create a virtual power plant comprised of residential energy storage systems](#) [Canary Media](#)

0913 Hydro: Hydropower is considered a baseline energy source in California and other parts of the Western US, but confidence in the energy source's long-term reliability is drying up alongside the region's reservoirs. [E&E News](#)

0913 Hydrogen - Nuclear: Energy Harbor has joined forces with the University of

Toledo and several industrial companies and DOE national laboratories to launch the Great Lakes Clean Hydrogen coalition, [Power Engineering](#)

0913 Resiliency: [Congress should require FERC, NERC to monitor gas pipeline capacity to ensure reliability, manufacturers say](#), Utility Dive F

0913 Gas: [A decade after FERC tried to tackle New England gas issues, concerns remain and solutions are uncertain](#) Industry Dive

0913 [Coal to Nuclear: U.S. DoE: Could the Nation's Coal Plant Sites Help Drive a Clean Energy Transition?](#) new DOE report finds that 394 operating and retired coal power plants across the US could transition to nuclear power production using small-scale advanced nuclear reactors

0913 [Storage: US added a record 2.6 gigawatts of utility-scale energy storage capacity in the second quarter](#). [ReNews \(UK\)](#)

0913 Storage - New York state has committed \$16.6 million in funding to five long-duration energy storage demonstration projects, two of which are focused on clean hydrogen production via the Nine Mile Point Nuclear Station. [Utility Dive](#)

0912 [LNG: FERC issued a final environmental impact statement for the proposed Commonwealth liquefied natural gas export project in Louisiana](#), [Institute for Energy Economics and Financial Analysis/Agence France-Presse/E&E News](#) (

B. TELECOM SECTOR - Appendix C

[1] Highlights: MORE STORIES & DETAIL IN APPX C CISRIC meeting this week – and NCTA's Powell and NTIA's Berk speaking tomorrow on WashPost live event about BB infrastructure.

0920 BB Speeds: Phoenix Center: Speed-Tests: Substitute for, or Complement to, Broadband Maps?, [online here](#).

0920 [The Latest Stats on Broadband Usage](#) Doug Dawson, CCG Consulting

0919 Service Quality: [State regulators respond to complaints about telephone service quality in Nebraska](#) Lincoln Journal Star

0919 [Unbundling: FCC seeks comment on Sonic Telecom's petition for recon](#) of the Oct. 2020 [report and order](#) on modernizing the FCC's [unbundling and resale requirements \(Federal Register\)](#). Comments due Oct. 4; replies are due Oct. 14, NECA WW

0918 Mapping: FCC Broadband Mapping Fabric Doug Dawson [CCG Consulting](#)

0919 BB Programs – LOC: Rep Harris (R-MD) Asks NTIA to Reconsider Letter of Credit Requirements for Infrastructure Investment and Jobs Act Broadband Programs [Letter](#)

0919 BB Funding Guide Update: [NTIA updated its website - Federal Broadband Funding Guide](#) which includes broadband funding opportunities and information on more than 80 federal programs across 14 federal agencies.

0916 Section 230/censorship: [The Hill: Appeals \(5th Circuit\) court upholds controversial Texas social media law](#)

0915 Robocalls: [Reply comments were filed](#) on the [seventh FNPRM and fifth FNPRM](#) on robocalls. NECA WW

0915 BB Grants: Xochitl Torres Small of the USDA said that federal government definitions for "rural" vary widely where broadband programs are concerned. Rep. Jimmy Panetta, D.-Calif., has called for a unified standard. [FierceTelecom](#)

0915 Mapping: [FCC Announces Data Specifications for Bulk Fixed Availability Challenge and Crowdsource Data](#) FCC also [established](#) procedures for entities using their own hardware and software to submit on-the-ground speed test data for the mobile BDC.

0915 NTTA files paper on broadband sustainability funding on Tribal lands [National Tribal Telecommunications Association](#)

0915 Speed Measurement metrics Needed: The national broadband rollout has a blind spot: Lack of accurate, transparent data about internet access speeds Sascha Meinrath | Op-Ed | [The Conversation](#)

0914 Privacy: [Mondaq: US FTC Moves Forward On Privacy Rulemaking With Public Forum](#)

0914 ETC Abandonment: FCC Seeks Comment on Two Petitions for Relinquishment of Eligible Telecommunications Carrier Designation From T-Mobile [Federal Communications Commission](#)

0914 BEAD: [Are BEAD Grants Large Enough?](#) Doug Dawson, CCG Consulting

0914 BB: Phoenix Center Paper: Overstating Broadband Availability: An Assessment of the "All-In" Assumption for FCC 477 Data [online here](#)

0914 NANC - FCC CANCELS OCT. 4 MEETING OF THE NORTH AMERICAN NUMBERING COUNCIL. [DA-22-950A1.docx](#) [DA-22-950A1.pdf](#) [DA-22-950A1.txt](#)

0913 Spectrum Interference- 5G - Ligado Networks scrubbed plans to introduce 5G service in Virginia after a govt report showed the L-band spectrum would create problems for DDOD operations using satellite and GPS technology. [Light Reading](#)

0913 USF – AEI White paper on THE FUTURE OF UNIVERSAL SERVICE: Thomas M. Johnson Jr. <https://platforms.aei.org/the-future-of-universal-service/> [full text in appendix C]

0913 USF Contribution Factor: [FCC announces the proposed USF contribution factor for 4th quarter 2022 will be 28.9%, down from the previous quarter's 33%](#). NECA WW

0913 RDOF: FCC [authorizes](#) authorizes RDOF support for 49 winning bids identified in Attachment A of the public notice. [DA-22-944A1.docx](#) [DA-22-944A1.pdf](#) [DA-22-944A1.txt](#) [DA-22-944A2.pdf](#)

[2] TELECOM SECTOR ONLINE EVENTS OF LIKELY INTEREST:

Tuesday, September 20, 2022

3:00 PM ET Senate Judiciary Subcommittee: [Oversight of Federal Enforcement of the Antitrust Laws](#)

September 21, 2022

10:00 AM ET Fiber Broadband Association: Millions Left Behind: BEAD Isn't Enough to Close the Digital Divide

<https://register.gotowebinar.com/register/2426217967641155853>

10:00 AM ET Washington Post: [America's Infrastructure investment – NCTA's Powell and NTIA's Berk.](https://aiisept2022.splashthat.com/) <https://aiisept2022.splashthat.com/>

12:00 PM ET Broadband Breakfast News: [Broadband Mapping & Data](#)

12:00 PM ET Georgetown: [Broadband & Tech Industry updates. A conversation with Recon Analytics' President, Roger Entner](#)

1:00 PM ET FCC: [Communications Security, Reliability, and Interoperability Council VIII Meeting](#)

2:30 PM ET Cross Sector Senate Committee on Intelligence: [Protecting American Innovation: Industry, Academia, and the National Counterintelligence and Security Center](#)

September 22, 2022

9:00 AM ET Cross Sector : House Committee on Financial Services Sub: [State of Emergency: Examining the Impact of Growing Wildfire Risk on the Insurance Market](#)

9:00 AM ET ITIF: [The EU's Digital Markets Act: A Triumph of Regulation Over Innovation?](#) [see appx a]

10:00 AM ET Senate Committee on Aging: ["Stopping Senior Scams: Empowering Communities to Fight Fraud"](#)

12:00 PM ET FCC: [Virtual Digital Skills Gap Symposium and Town Hall](#)

2:30 PM ET Senate Committee on Indian Affairs: [Roundtable discussion "Promoting and Supporting Tribal Access to Spectrum and Related Benefits in Native Communities"](#)

C. WATER SECTOR Appendix D

[1] Highlights: [Interior-Reclam: Biden-Harris Administration announces \\$20 million funding opportunity for small surface and groundwater storage](#)

[House Committee on Homeland Security hearing](#)

[Wednesday on "Critical Infrastructure Preparedness and Resilience: A Focus on Water"](#)

[Thursday, at 10 ET EPA is holding a Water, Energy, & Emergency Management Virtual Workshop \(10 – 4 ET\) see appx or \[2\] below.](#)

0920 WUS – Supply: [Wildfires are burning away the West's snowpack.](#)

0919 NY – Polio: NY Governor declared a disaster emergency last week in a bid to accelerate efforts to vaccinate residents against polio after the virus was detected in wastewater samples taken in four counties.

0919 WUS – Supply: Colorado River Water

Conservation District General Manager Andy Mueller warned Colorado River Basin states Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming — on Friday that

the system's federal reservoirs could effectively empty in a few short years barring aggressive reductions to water demands. "If we continue in the way we're operating now, if we don't reduce our demands, we're going to really see those reservoirs really hit a crisis," Mueller said. "I'm not talking about in 20 years, I'm talking about in the next three or four years. We have a period of time here to change our use."

0919 NY - PFAS: [Politico: Albany looks to crack down on 'forever chemicals' contamination](#)

0916 [First Round of BIL Funding Awarded to 18 States for Water Infrastructure](#). BIL allocates more than \$50 billion over five years toward repairing the nation's water infrastructure. More than \$1.1 billion in BIL capitalization grants have been issued to 18 states through the State Revolving Funds (SRFs), with additional capitalization grants forthcoming. The grants mark the first significant distribution of BIL water infrastructure funds. State allocations were previously announced. EPA awarded SRF capitalization grants to 18 states, including: Arizona, Colorado, Connecticut, Delaware, Hawaii, Maine, Maryland, Massachusetts, Montana, New Hampshire, New Mexico, Pennsylvania, Rhode Island, Utah, Vermont, Virginia, Washington and West Virginia. The Federal funding announced on 9/16 represents 2022 Fiscal Year (FY22) awards for states that have submitted and obtained EPA's approval of their plans for use of the funding. Capitalization grants will continue to be awarded, on a rolling, state-by-state basis, as more states receive approval throughout FY22. States will also receive additional awards over the next four years. Once grants are awarded, state programs will begin to deliver the funds as grants and loans to communities across their state. More information on EPA's infrastructure funding efforts can be found [here](#).

0914 US – NAWC CEO & Ex-NARUC Pres. OpEd [Our](#)

[water infrastructure: Extolling low rates only increases inequities!](#)

0912 AZ – PFAS: [Ariz. announces \\$3M public water sampling plan \(that exceeds EPA req.\) for PFAS](#)

0912 CA- MISC: [Calif. approves world's first microplastics testing requirements for drinking water](#)

NOTE – there are a lot more clips – and several newsletters in Appendix D.

[2] WATER SECTOR ONLINE EVENTS OF LIKELY INTEREST:

September 21, 2022

10:00 AM ET House Committee on Homeland Security: "[Critical Infrastructure Preparedness and Resilience: A Focus on Water](#)"

September 22, 2022

10:00 AM ET EPA: Texas Water, Energy, & Emergency Management Virtual Workshop (10 – 4 ET) [Register](#)

3:00 PM ET NRWA: Beginners Guide to Mapping your system with High-Accuracy GPS [Register Now](#)

D. BIPARTISAN INFRASTRUCTURE ACT CLIPS SINCE LAST UPDATE – Details in Appendix E

0916 Nuclear – DOE is about to roll out a key program which leverages private sector funds to accelerate the commercialization of fusion energy according to Scott Hsu, DOE's lead fusion coordinator before Senate ENR Thursday.

[0916 DHS has given states guidelines for requesting funds from the cybersecurity grant program. States will have 60 days to tell DHS how they intend to distribute their shares of the money, and local governments must receive 80%. \[StateScoop\]\(#\)](#)

0916 NTIA: Reminder: Middle Mile Grant Applications are Due in Two Weeks

0915 ARPA-E [Announced](#) up to \$10 million in funding to establish clear practices to determine whether low-energy nuclear reactions (LENR) could be the basis for a potentially transformative carbon-free energy source.

0914 [Interior-Reclam: Biden-Harris Administration announces \\$20 million funding opportunity for small surface and groundwater storage](#)

0914 Administration Approved First 35 State Plans to Build Out EV Charging Infrastructure Across 53,000 Miles of Highways (details in Appx E)

0913 [DOE Announces \\$178 Million to Advance Bioenergy Technology](#) 37 Projects Will Develop New Technologies That Engineer Plants and Microbes into Bioenergy and Improve Carbon Storage

0912 [Agriculture Dept](#) Accepting Applications for \$1 Billion Rural High-Speed Internet [More info](#)

0908 [U.S. DOE Seeks Input on Biden's \\$10.5 billion Grid Resilience and Innovation Partnership Program](#)

E. CRITICAL INFRASTRUCTURE CLIPS SINCE LAST UPDATE – Details in Appendix F

0920 [SUPPLY CHAIN: FCC Expands Covered List \(of equipment that USE cannot be used to support\) to Include China Unicom and PacNet/ComNet](#)

0920 CYBER: [Ransomware task force outlines threat response](#)// Susan Miller The Joint Ransomware Task Force is designed to unify efforts and identify ways to leverage the federal government's unique authorities and capabilities to disrupt ransomware.

0920 CYBER: [Baker Hostetler: FTC's Latest Staff Report On Dark Patterns: A Warning For](#)

[Marketing Teams And UX Designers](#)

0920 CYBER: [DHS unwraps \\$1B state and local cybersecurity grant program](#) // Susan Miller
Each states will each receive a minimum of \$2 million for FY 22 for a planning committee and a cybersecurity plan that details how it will reduce their cybersecurity risks.

0920 CYBER: [Cyber criminals increasingly relying on ransomware-as-a-service, report says](#) // Chris Riotta

0919 WEATHER: Alaska is reeling from the worst storm in a half century after Typhoon Merbok hit the western part of the state on Saturday, causing widespread flooding and damage across 1,000 miles of the Alaskan coastline. ([The Associated Press](#))

0919 WEATHER: More than 1.3 million customers in Puerto Rico are without power after Hurricane Fiona slammed into the island over the weekend as a Category 1 storm, bringing heavy rains and flooding that led to evacuations and rescues. ([The New York Times](#))

0919 WEATHER: Homes, power lines, roads and at least one bridge were knocked out as Hurricane Fiona swept Puerto Rico over the weekend. islandwide blackout and road-blocking landslides. [Miami Herald \(tiered subscription model\)](#)

0919 DRONES: [DoE: NETL Drone Program Aims to Enhance America's Energy Infrastructure](#)

0919 CYBER: [Nat'l Sci Fnd: Thinking like a cyber-attacker to protect user data](#)

0918 Communications Infrastructure : [FCC: Hurricane Fiona Communications Status Report - September 18, 2022](#)

0916 Resilience: Electric Power Research Institute uses 35 acres in Lenox, Mass., to stress-test poles, cables, towers and other equipment for power transmission and distribution. r. [E&E News](#)

0914 FIRE – DOI: [Interior Dept: Biden-Harris Wildland Fire Mitigation and Management Commission Charts Path Forward](#)

0916 CYBER: Homeland Security Today: New CISA Strategic Plan Focuses on Cyber Threats, Risk Reduction, Collaboration with Partners (09/16) <https://www.hstoday.us/federal-pages/dhs/new-cisa-strategic-plan-focuses-on-cyber-threats-risk-reduction-collaboration-with-partners/>

0916 WEATHER – FCC ISSUES PROCEDURES TO PROVIDE EMERGENCY COMMUNICATIONS IN AREAS AFFECTED BY TROPICAL STORM FIONA. (DA No. 22-973). OMR PSHSB. [DA-22-973A1.docx](#) [DA-22-973A1.pdf](#) [DA-22-973A1.txt](#)

0916 OUTAGE REPORTING: FCC ACTIVATES DISASTER INFORMATION REPORTING SYSTEM FOR COMMUNICATIONS IMPACTED BY TROPICAL STORM FIONA IN PUERTO RICO AND THE U.S. VIRGIN ISLANDS. (DA No. 22-971). OMR PSHSB. [DA-22-971A1.docx](#) [DA-22-971A1.pdf](#) [DA-22-971A1.txt](#)

0914 CYBER – IRAN: [The Hill: Iranians indicted in hacking scheme](#)

0914 FIRE: [California's Mosquito Fire prompts more evacuations as it races toward mountain communities, burning homes and cars in its path](#)

0914 CYBER - IRAN: CISA, FBI, NSA, U.S. Cyber Command, Treasury, Australian Cyber Security Centre, Canadian Centre for Cyber Security, and United Kingdom's National Cyber Security Centre released a [joint Cybersecurity Advisory](#) (CSA) with technical details on cyber activity by advanced persistent threat (APT) actors assessed to be affiliated with the Iranian Government's Islamic Revolutionary Guard Corps (IRGC). This advisory is an update to our 2021 joint CSA on [Iranian government-sponsored APT actors exploiting Microsoft Exchange and Fortinet vulnerabilities](#).

APPENDIX A

DETAILS OF FREE ONLINE EVENTS

Tuesday, September 20, 2022

3:00 PM ET Telecom Senate Judiciary Subcommittee: [Oversight of Federal Enforcement of the Antitrust Laws](#)

3:00 PM ET Energy: Bureau of Reclamation: [\\$20 M funding opportunity for small surface and groundwater storage](#) Please [join this webinar](#). To learn more about implementing the Bipartisan Infrastructure Law, please visit www.usbr.gov/bil.

[Interior-Reclam: Biden-Harris Administration announces \\$20 million funding opportunity for small surface and groundwater storage](#) Bipartisan Infrastructure Law funds will support water storage opportunities in the Western United States, Alaska and Hawaii – *The Bureau of Reclamation today announced a funding opportunity through President Biden’s Bipartisan Infrastructure Law for small surface and groundwater storage projects. In the wake of severe drought, surface water and groundwater storage are essential tools in stretching the limited water supplies in the Western United States. These projects will provide Western communities with new sources of water and increase water management flexibility, making water supply more reliable. The Bipartisan Infrastructure Law allocates \$8.3 billion for Bureau of Reclamation water infrastructure projects over the next five years to advance drought resilience and expand access to clean water for families, farmers, and wildlife. The investment will repair aging water delivery systems, secure dams, complete rural water projects, protect aquatic ecosystems and fulfill Indian Water Rights Settlements, including \$100 million for small surface and groundwater storage projects over five years. In fiscal year 2023, \$20 million is available for eligible projects. Funding is available for projects with a water storage capacity between 2,000 and 30,000 acre feet that increase surface water or groundwater storage or convey water directly or indirectly to the storage project. Project sponsors may request cost-shared funding for their project’s planning, design and/or construction.* Reclamation will host a webinar on Tuesday, Sept. 20, at 1 p.m. MDT to provide more information on this funding opportunity and answer questions. Please [join this webinar](#). To learn more about implementing the Bipartisan Infrastructure Law, please visit www.usbr.gov/bil.

Information on how to apply for funding The funding opportunity is available on [grants.gov](https://www.grants.gov) by searching for funding opportunity number R23AS00019. Applications are due to Reclamation on Dec. 9, at 5

p.m. MST. A completed feasibility study must also be submitted to Reclamation no later than Oct. 31, to determine project eligibility under this funding opportunity, using the study requirements Reclamation published in January 2022. Reclamation encourages applicants to submit their completed feasibility study to Reclamation before the October deadline. Eligibility does not entitle a project to any future federal funding or create a new project authorization. Applicants must provide a cost share of 75% or more of the total project costs. To learn more, please visit www.usbr.gov/smallstorage. [Funding opportunity on grants.gov](http://www.usbr.gov/smallstorage)

September 21, 2022

10:00 AM ET Cross Sector Senate EPW: [Business Meeting & Putting the Bipartisan Infrastructure Law to Work: The State and Local Perspectives](#)

The Senate Committee on Environment and Public Works will hold a Business Meeting to consider the following items: Joseph Goffman to be an Assistant Administrator for the Office of Air and Radiation of the Environmental Protection Agency - Michelle Moore, Robert P. Klein, Beth Pritchard Geer, William Renick, Adam Wade White and Joe H. Ritch to be Members of the Board of Directors of the Tennessee Valley Authority. THEN they have a session on BIF – focused on transportation issues – hearing from (1) Nicole Majeski, Secretary, Delaware Department of Transportation, Regina Romero Mayor City of Tucson, Jimmy Wriston Secretary West Virginia Department of Transportation & Jim Tymon Executive Director American Association of State Highway and Transportation Officials

10:00 AM ET Water: House Committee on Homeland Security: ["Critical Infrastructure Preparedness and Resilience: A Focus on Water"](#)

10:00 AM ET Telecom: Fiber Broadband Association: Millions Left Behind: BEAD Isn't Enough to Close the Digital Divide <https://register.gotowebinar.com/register/2426217967641155853>

How much will it cost to reach universal broadband availability in the United States? Answering that question requires understanding network construction costs, estimating the number of unserved and underserved locations, and defining "broadband" – and that is exactly what Vantage Point Solutions has done in their recent whitepaper, Cost of Bringing Broadband to All. Larry Thompson, PE, co-author of the paper, will discuss the methodology and findings of the report during this Fiber for Breakfast presentation. In particular, he will explain how previous estimates came to be so far off the mark and will share the implications raised by this new research, including – perhaps shockingly – that even the current funding infusion is woefully inadequate to truly finish the job once and for all. And while the cost to bring broadband to all is high, the cost of failing to do so is higher.

10:00 AM ET Telecom: Washington Post: America's Infrastructure investment – NCTA's Powell and NTIA's Berk. <https://aiisept2022.splashthat.com/>

12:00 PM ET Telecom Broadband Breakfast News: – [Broadband Mapping & Data](#)

*Much hinges on the success or failure of the Federal Communications Commissions' updated broadband maps. This fall, the agency is entering into a period of intensive updating in which it is assessing an address-level "fabric" of locations and comparing internet service data received from providers. Now comes the hard part: Providing a framework for broadband users and providers to understand and challenge the FCC's map. The future of the Biden administration's Infrastructure Investment and Jobs Act depends upon it. **Panelists: Scott Wallsten**, President, Technology Policy Institute **Bryan Darr**, Vice President of Smart Communities at Ookla Other panelists have been invited. **Drew Clark** (moderator), Editor and Publisher, Broadband Breakfast **Scott Wallsten** is President and Senior Fellow at the Technology Policy Institute and also a senior fellow at the Georgetown Center for Business and Public Policy. He is an economist with expertise in industrial organization and public policy, and his research focuses on competition, regulation, telecommunications, the economics of digitization, and technology policy. He holds a Ph.D. in economics from Stanford University **Bryan Darr** is the Vice President of Smart Communities at Ookla. He coordinates Ookla's outreach to local, state and federal governments and serves on CTIA's Smart Cities Business & Technology Working Group.*

12:00 PM ET Telecom Georgetown: [Broadband & Tech Industry updates. A conversation with Recon Analytics' President, Roger Entner](#)

A conversation featuring Roger Entner, Analyst and Founder of Recon Analytics LLC, a leading telecommunications, media, and technology research firm. They will compare notes with Roger on the market and regulatory headwinds facing broadband and tech industries heading into Q4. They will also discuss the current thinking on the impact of IJIA, RDOF and BEAD funding on the market for broadband access and broadband providers, the potential for fixed wireless access to take share from cable, the thinking behind a satellite and terrestrial network mash-up and more.

1:00 PM ET Telecom FCC: [Communications Security, Reliability, and Interoperability Council VIII Meeting](#)

2:30 PM ET Cross Sector Senate Committee on Intelligence: [Protecting American Innovation: Industry, Academia, and the National Counterintelligence and Security Center](#)

September 22, 2022

9:00 AM ET Cross Sector : House Committee on Financial Services Subc: [State of Emergency: Examining the Impact of Growing Wildfire Risk on the Insurance Market](#)

9:00 AM ET Energy: US Energy Ass'n: [4th Annual Advanced Energy Technology Forum](#) (9 to 1 ET) register [here](#).

9:00 AM ET Telecom: Senate Judiciary: [Executive Business Meeting re: S 673](#)

Business meeting to consider S.673, to provide a temporary safe harbor for publishers of online content to collectively negotiate with

dominant online platforms regarding the terms on which content may be distributed - S. 673, Journalism Competition and Preservation Act of 2021 (Klobuchar, Kennedy, Booker, Whitehouse, Graham, Feinstein, Hirono, Blumenthal, Durbin) This bill creates a four-year safe harbor from antitrust laws for print, broadcast, or digital news companies to collectively negotiate with online content distributors (e.g., social media companies) regarding the terms on which the news companies' content may be distributed by online content distributors. R's pushed to make sure there could be no antitrust exemption for "content moderation."

9:00 AM ET Telecom ITIF: [The EU's Digital Markets Act: A Triumph of Regulation Over Innovation?](#)

The EU is set to adopt the Digital Markets Act (DMA) this fall, which presents three fundamental challenges: First, it will increase regulatory fragmentation. Second, its disproportionate obligations on the few companies it designates Internet "gatekeepers" and blanket prohibitions on certain types of business practices will be economically detrimental and legally controversial. Third, it will be difficult to implement, as some of its provisions clash with other European regulations. Is the DMA a triumph of regulation at expense of innovation? Please join ITIF's Schumpeter Project on Competition Policy for an expert panel discussion and the release of a new report on the challenges ahead in implementing and enforcing the DMA.

[Learn more and register.](#)

10:00 AM ET Energy: FERC: Virtual Open Meeting <https://www.ferc.gov/news-events/events/september-22-2022-virtual-open-meeting-09222022>

A free webcast of this event is available through <http://ferc.capitolconnection.org/>.

AGENDA HERE : <https://www.ferc.gov/news-events/news/sunshine-notice-september-commission-meeting-0>

A-2 Customer Matters, Reliability, Security & Market Operations

AD22-2-000

E-1 Incentives for Advanced Cybersecurity Investment

Cybersecurity Incentives RM22-19-000 RM21-3-000

E-2 Data Collection for Analytics and Surveillance and Market-

Based Rate Purposes RM16-17-001ER16-775-000 ER11-2649-000

ER10-269-000 ER20-1477-000 ER13-2260-000 ER17-1151-000 ER06-

743-000 ER12-2600-000 ER03-769-000 ER13-415-000 ER04-226-000

ER07-1287-001 ER17-1594-002 ER17-923-001 ER09-1689-000 ER15-

2693-002 ER12-2233-000 ER16-371-000 ER13-48-000

10:00 AM ET Telecom: Senate Committee on Aging: ["Stopping Senior Scams: Empowering Communities to Fight Fraud"](#)

10:00 AM ET Energy: Senate Committee on Energy and Natural Resources: [Energy Storage](#)

Hearings to examine opportunities and challenges in deploying innovative battery and non-battery technologies for energy storage.

10:00 AM ET Cross Sector House Committee on Homeland Security ["Federal Building Security: Examining the Risk Assessment Process"](#)

10:00 AM Energy: House Committee on Natural Resources: [PROMESA and LUMA Energys Contract](#)

*(Protesters in Puerto Rico are demanding the cancellation of the **contract** with **LUMA Energy** amid seven consecutive electricity price rises and increasing blackouts. Assuming this will be about some related bills that have been introduced).*

10:00 AM ET Water: EPA: Texas Water, Energy, & Emergency Management Virtual Workshop (10 – 4 ET) [Register](#)

This virtual workshop will focus on two key interdependencies with the water sector: energy and emergency services. The workshop will include morning presentations and an afternoon tabletop exercise designed to foster ideas and actions to better prepare for, respond to, and recover from power outages and other multi-sector incidents

12:00 PM ET Telecom FCC: [Virtual Digital Skills Gap Symposium and Town Hall](#)

The goal of the Symposium and Town Hall is to examine the issues and challenges that states and localities face in addressing the need for greater adoption of digital skills training. The Symposium and Town Hall will provide information to attendees on what federal and state government entities, non-profit sector, community-based organizations, and other diverse stakeholders are doing to close the digital divide and advance digital literacy for all Americans. The Symposium will feature a panel discussion to present information on the Digital Equity Act (DEA), the FCC's Affordable Connectivity Program (ACP), and other efforts to address access to broadband. The panel discussion will examine the following issues, among others:

The FCC's efforts to close the digital divide and promote digital equity through its Affordable Connectivity Program and other initiatives.

Overview of the Digital Equity Act, including funding aspects, and the DEA's implications for the Broadband Equity, Access, and Deployment (BEAD) Program and the ACP.

How should equity be defined and how should stakeholders identify the constituencies and populations that remain underserved?

What are the impacts of the persistent digital divide on underserved communities and others left out of the digital ecosystem?

The importance of states adopting comprehensive digital equity plans.

Best practices and examples of states that have digital equity offices or that are developing plans and procedures to address digital equity.

The event will also feature a robust Town Hall discussion with experts from a range of perspectives, including faith-based institutions, civil rights organizations, digital literacy services, library services, local government, and Historically Black Colleges and

Universities (HBCUs). The Town Hall seeks to highlight several important topics, including:

How to build the case for equity and diversity as the foundation for eliminating America's digital skills gap.

Breaking down the silos between corporate entities, non-profits, and government agencies.

Lessons learned as communities adopt the FCC's Affordable Connectivity Program.

Community-based training programs developed and sponsored by non-profits and faith-based organizations.

The detailed agenda for the Symposium and Town Hall will be released prior to the event. The event will be convened in an online format and will be available to the public via live feed from the FCC's web page at www.fcc.gov/live. The public may also follow the Symposium/Town Hall on the Commission's YouTube page at <https://www.youtube.com/user/fccdotgovvideo>. In addition, the public may follow the event on [Twitter@fcc](https://twitter.com/fcc) or via the Commission's Facebook page at www.facebook.com/fcc. Members of the public may submit questions during the panel discussion and the Town Hall to livequestions@fcc.gov. Members of the public may submit written comments to the FCC's Communications Equity and Diversity Council using the FCC's Electronic Comment Filing System, ECFS, at www.fcc.gov/ecfs. Any comments should be filed in GN Docket No. 17-208.

2:00 PM ET Energy: AGA: Winter Heating Outlook Series Part I: Market Fundamentals [register](#)

Energy prices across the globe and in the United States have become a focus for many Americans. AGA is consistently examining the natural gas market to understand and explain the dynamics of prices and the impacts it will have on customers. Please join AGA for a two-part series to discuss natural gas prices, market conditions, and the upcoming winter heating season. Part 1 will focus on energy market fundamentals and details about what is influencing natural gas prices. Stay tuned for more information on part 2, the Winter Heating Outlook, which incorporates market fundamentals and factors to provide a forecast on the upcoming winter heating season and the steps natural gas utilities take to plan and prepare for changes in the market. <https://web.cvent.com/event/e091998c-ea68-47aa-8a84-5bc1e946909c/summary>

1:00 PM ET Solar Berkeley Lab: 2022 edition of BL's [Tracking the Sun](#) report

Join us for an upcoming webinar on the 2022 edition of Berkeley Lab's [Tracking the Sun](#) report. This free webinar will be held this Thursday, September 22nd at 10:00 am Pacific / 1:00 pm Eastern. Register for the webinar here:

https://lbnl.zoom.us/webinar/register/WN_3FHV1Sd4T1ObszUI4Jcdsg The report describes installed prices and system design trends

for distributed photovoltaic (PV) systems in the United States. The latest edition is based on data from roughly 2.5 million systems installed nationally through year-end 2021, with preliminary data for the first half of 2022. New to the report this year is an expanded coverage of paired PV-plus-storage systems. The report, data visualizations, public dataset, and other accompanying materials can all be downloaded or accessed at trackingthesun.lbl.gov. We appreciate the funding support of the U.S. Department of Energy Solar Energy Technologies Office in making this work possible.

2:30 PM ET Telecom Senate Committee on Indian Affairs: [Roundtable discussion "Promoting and Supporting Tribal Access to Spectrum and Related Benefits in Native Communities"](#)

3:00 PM ET Water: NRWA: Beginners Guide to Mapping your system with High-Accuracy GPS
[Register Now](#)

Do you need a digital map that shows all your assets? Have you got staff retiring, or wish you had a laser-guided shovel when a line needs to be dug up, or just wish you could find assets faster in the field? Now imagine this map is not only accurate, but able to be updated in real-time by your field workers — on any mobile device, with quality assurance. In this 60-minute webinar sponsored by Canadian GPS manufacturer (and NRWA partner) Eos Positioning Systems, you will learn the following:

Industry drivers for having a digital map of your water system

An example of a rural water district that is successfully deploying accurate, digital maps of their systems in Kentucky

Best practices for transitioning from manual data entry to a completely online data-collection workflow

Understanding from a manager's perspective what is involved in a successful mapping system

How you can save money and respond to field events faster with accurate maps

Learn about the latest innovations in mobile apps and GPS receivers from industry experts

Expert advice and Q&A from the thought leaders driving this GIS and GPS technology

3:00 PM ET Energy: EPA: Supporting Air Quality and Climate Change Planning with [GLIMPSE](#) (Energy System focus tool) [Register](#)

EPA's Office of Research and Development (ORD) is developing a modeling framework called [GLIMPSE](#) that has the potential to explore a wide range of topics of interest to state air quality managers. GLIMPSE focuses on the energy system, which includes energy production, transformation in refineries and power plants, and use in buildings, industry, and transportation. GLIMPSE allows users to simulate how the energy system may evolve at the state level through 2050, including how it responds to new and emerging

technologies (e.g., electric and hydrogen vehicles) and existing and potential policies (e.g., technology subsidies and clean energy standards) under certain user-defined scenarios. GLIMPSE can also suggest cost-effective strategies for achieving air pollutant and GHG reduction targets simultaneously. GLIMPSE outputs include the market shares of energy technologies, fuel use and prices, and air pollutant and greenhouse gas emissions. As states tackle the dual challenges of attaining air quality standards and meeting greenhouse gas reduction targets, GLIMPSE has the potential to be a valuable tool in the planning process. This presentation will provide a preview to GLIMPSE, demonstrate its use for multi-pollutant planning, and recruit modelers from states to be beta-testers.

7:00 PM ET Energy: FERC : Scoping meeting: Gregory County Pumped Storage Project (P-14876-002)

At the scoping meetings, Commission staff will: (1) initiate scoping of the issues; (2) review and discuss existing conditions; (3) review and discuss existing information and identify preliminary information and study needs; (4) review and discuss the process plan and schedule for pre-filing activity that incorporates the time frames provided for in Part 5 of the Commission’s regulations and, to the extent possible, maximizes coordination of federal, state, and tribal permitting and certification processes; and (5) discuss the potential of any federal or state agency or Indian tribe to act as a cooperating agency for development of an environmental document. Meeting participants should come prepared to discuss their issues and/or concerns. Please review the PAD in preparation for the scoping meetings. Directions on how to obtain a copy of the PAD and SD1 are included in item n of this document.

Virtual site tour of the project Access online at:

<https://www.mrenergy.com/energy-resources/gregorycounty-pumped-storage-project>

Meeting for the general public: Thursday, September 22, 2022 6:00 p.m. – 8:00 p.m. CDT Call in number: (800) 779-8625 Access code: 3472916 Following entry of the access code, please provide the required details when prompted

September 23, 2022

10:00 AM ET Energy: FERC: NAESB Gas-Electric “Interdependency” Forum (10 – 1 ET)

*NAESB Gas-Electric Forum will follow the below plan to address the request of the Chairman of the Federal Energy Regulatory Commission (FERC), Richard Glick, and the President and CEO of the North American Electric Reliability Corporation (NERC), Jim Robb, contained in the letter submitted to NAESB leadership on July 29, 2022. **This is an open meeting and all interested parties are welcome to attend. To participate in this meeting, please register through the following hyperlink:***

https://us06web.zoom.us/webinar/register/WN_MDDWtkKNQF-paKbnySnjoQ

APPENDIX B – ENERGY SECTOR NEWS

0920 Hydrogen: [Fox News: Midwestern states team up to expedite development of infrastructure for hydrogen energy](#)

0920 Solar: Lawrence Berkeley Lab : 2022 edition of Berkeley Lab's [Utility-Scale Solar](#) report released – analyzes record deployment and higher value in 2021. We are pleased to release the 2022 edition of Berkeley Lab's [Utility-Scale Solar](#) report, which presents analysis of empirical plant-level data from the U.S. fleet of ground-mounted photovoltaic (PV), PV+battery, and concentrating solar-thermal power (CSP) plants with capacities exceeding 5 MW_{AC}. While focused on key developments in 2021, this report explores trends in deployment, technology, capital and operating costs, capacity factors, the levelized cost of solar energy (LCOE), power purchase agreement (PPA) prices, and wholesale market value among the fleet of utility-scale solar (and PV+battery) plants in the United States. The report, published in slide-deck format, is accompanied by a narrative summary briefing, interactive data visualizations, and a public data file, all available through the link above. The authors will host a free webinar summarizing key findings from the report on September 28, 2022, at 10:00 AM PT/1:00 PM ET. Please register for the webinar here:

https://lbln.zoom.us/webinar/register/WN_hQmjF-kUQpaolTQ6UDedsg The following are a few key findings from the latest edition of the report.

A record amount of new utility-scale PV capacity achieved commercial operations in 2021. Annual capacity additions of 12.5 GW_{AC} brought cumulative installed capacity to 51.3 GW_{AC} across 44 states (see map below). Texas (3.9 GW_{AC}) added by far the most new capacity in 2021, followed by California (1.2 GW_{AC}), Florida (1.1 GW_{AC}), and Virginia and Georgia (both with 0.9 GW_{AC}).

Rising wholesale electricity prices boosted solar's market value by 50% on average in 2021, to \$47/MWh. This increase in solar's combined energy and capacity value outpaced the more-modest rise in PPA prices, thereby improving solar's competitiveness (see graph below).

Solar's market value also exceeded average electricity prices in most regions in 2021. Exceptions include ERCOT, CAISO, Nevada Power, and ISO-NE. Compared to 2020, however, solar's relative value versus a "flat block of power" contracted in 13 of the 17 regions analyzed.

2021 was also a record year for PV+battery hybrid plants. Adding battery storage to shift a portion of excess mid-day solar generation into evening hours is one way to increase the value of solar. These PV+battery hybrid projects are becoming increasingly common, particularly in higher-penetration markets. In 2021, 47 PV+battery hybrid plants totaling 3.5 GW_{AC} of PV and 2.2 GW / 6.9 GWh of battery storage achieved commercial operations, while many additional hybrids entered the development pipeline. The report presents plant metadata, including installed costs and PPA prices, from a subset of these online and in-development PV+battery hybrids.

A massive pipeline of utility-scale solar plants dominate the interconnection queues across the country. Looking ahead, at least 674 GW of solar capacity was in the

nation's interconnection queues at the end of 2021. Nearly 284 GW, or 42%, of that total was paired with a battery. All of the data and analysis presented in this 2022 edition of [Utility-Scale Solar](#) pre-dates the passage of the *Inflation Reduction Act of 2022*. This new law, with its many incentives aimed at stimulating clean energy deployment, is likely to have a significant impact on the utility-scale solar market in future years, potentially accelerating some trends and slowing others, while also creating new developments altogether. We look forward to tracking the industry's progress in future editions of this report.

0920 Steve Mitnick at PUF: Electric Rate Inflation: Residential electric rates were 15.8 percent higher in August than they were in August of last year on average nationally. According to last week's Consumer Price Index report. The numbers regionally varied a lot. Rates were 19.5 percent higher in the northeast. And 18.4 percent higher in the south. Both these regions were well above the national average. But they were 10.2 percent higher in the west. And 12.0 percent higher in the midwest. Both these regions were well below the national average. The regional differences make sense. The northeast and south are especially dependent on natural gas-fired generation. While the west and midwest are less dependent on gas-fired generation. According to last week's Producer Price Index report, natural gas prices paid by generation owners were 43.9 percent higher in August than they were in August of last year on average nationally. The overall CPI for all goods and services was 8.3 percent higher this August. That's a national average. Regionally, the overall CPI was up 8.9 percent in the south while it was up 7.4 percent in northeast. And it was up 8.1 percent in both the west and midwest. So, the overall CPI numbers varied much less than did the electric rate numbers.

0920 Nuclear: DOE could provide stronger federal oversight of its nuclear energy demonstrations and improve project performance by using external independent reviews in an effort to avoid cost overruns and failed projects, according to a new report from the Government Accountability Office. The report focused on two DOE offices tasked with overseeing three large planned advanced nuclear technology demonstrations — NuScale Power's Carbon Free Power Project in Idaho, TerraPower's Sodium demonstration in Wyoming and X-energy's Xe-100 demonstration in Washington state — which have received \$4.6 billion in agency funding. ([E&E News](#))

0920 Machin Permitting Bill: [Revenge? Republicans weigh tanking Manchin's permitting plan](#) *Caitlin Emma et al., Politico* Speeding up energy project construction is a long-held GOP policy goal. That doesn't mean the party's senators are ready to cough up the votes.

0920 Climate - [Researchers Hit With Lawsuits, Records Requests for Fact-Checking Climate Claims](#) *Margi Murphy, Bloomberg* Researchers say the demands, some from groups with fossil fuel ties, attempt to muzzle their voices.

0920 Solar - [Why does Duke Energy's carbon plan shortchange solar?](#) *Canary Media* The utility wants to build new gas plants. Its critics want it to build far more solar and batteries. North Carolina regulators have until year's end to decide.

0920 Solar: [Why solar 'tripping' is a grid threat for renewables](#), *E&E News* May 9th of last year was supposed to be a typical day for solar power in west Texas. But around 11:21 a.m., something went wrong.

0920 Solar: [Home Solar Firm Sunnova Energy Pushes Into Commercial Sector](#) *Bloomberg* Texas firm sees more value from going beyond rooftop solar.

0920 SPR - [U.S. refiners eye Canadian oil once strategic reserve turns off taps](#) *Reuters* U.S. refiners are expected to buy more Canadian oil after the Biden administration ends releases from the Strategic Petroleum Reserve (SPR) this fall, traders said, adding this should boost the price of Canadian barrels at a time of tight global supply.

0920 Oversight: Puerto Rican officials are rethinking putting private operators in charge of electricity services, according to people familiar with the matter, as the island turns to rebuilding after Hurricane Fiona slammed into it over the weekend, causing the power grid to fail even before the storm made landfall. A contract with Luma Energy LLC is set to expire in November and is expected to be extended for another 15 years, but government officials are considering options for seeking concessions from the private venture utility, including crafting contingency plans in the event that the contract is canceled early or negotiations break down, those familiar with the matter said. ([The Wall Street Journal](#))

0920 DER Integration: [Florida Phoenix: Amid a massive American clean energy shift, grid operators play catch-up](#)

0920 Hydro: [Sentinel-Stand: Consumers Energy gathering feedback on Ionia County's Webber Dam](#)

0920 DER Integration: [EE Online: FERC accepts ISO-NE tariff revisions to streamline interconnection process for distributed energy resources](#)

0919 DEI: [Sens. Warner, Kaine introduce bill to give public more say in pipeline proposals](#)

0919 LNG: Cheniere Energy and Whistler Pipeline will form a joint venture to build a natural gas pipeline that will extend 43 miles from Whistler's terminus in Agua Dulce, Texas, to Cheniere's Corpus Christi liquefied natural gas facility on the Texas Gulf Coast. The ADCC Pipeline will have an initial capacity of 1.7 billion cubic feet per day, expandable to 2.5 Bcf/d, and is expected to come online in 2024. [S&P Global](#)

0919 SPR Depletion: DOE is accepting bids until Sept. 27 for the sale of an additional 10 million barrels of oil from the Strategic Petroleum Reserve. The department will award contracts by Oct. 7, with deliveries slated for November. [S&P Global](#)

0919 Manchin Permitting Deal: [GOP's bad blood threatens Manchin side deal](#) *The Hill:* But now Republican senators say a continuing resolution combined with Manchin's permitting reform proposal probably won't get 10 GOP votes in the upper chamber

0919 Reply Comments filed in "Building for the Future Through Electric Regional Transmission Planning & Cost allocation & Generator Interconnection" RM21-17-000

09/20/2022 LS Power Grid, LLC submits Errata to Partial Reply Comments

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Reply of Transmission Dependent Utility Systems <https://elibrary.ferc.gov/eLibrary/filedownload?fileid=192068B0-A600-C3BC-9B2A-8356A1500000>

Reply of Solar Energy Industries Association <https://elibrary.ferc.gov/eLibrary/filedownload?fileid=95D00EFF-2079-CA10-9EFA-8356A0A00000>

Reply of Southeast Public Interest <https://elibrary.ferc.gov/eLibrary/filedownload?fileid=95D00EFF-2079-CA10-9EFA-8356A0A00000>

Comments of American Transmission Company LLC <https://elibrary.ferc.gov/eLibrary/filedownload?fileid=19979396-D3CB-C59B-B221-83565FE00000>

Reply of Citizens Energy Corporation <https://elibrary.ferc.gov/eLibrary/filedownload?fileid=AB249FD9-4B09-CC21-9CAB-83565B000000>

Reply of New England States Committee on Electricity
<https://elibrary.ferc.gov/eLibrary/filedownload?fileid=B2FDF1B1-A388-CDCB-846A-835657E00000>

Reply of Organization of PJM States, Inc. <https://elibrary.ferc.gov/eLibrary/filedownload?fileid=BD571D1B-690E-CED8-9D1A-835648500000>

Union of Concerned Scientists under RM21-17. <https://elibrary.ferc.gov/eLibrary/filedownload?fileid=E9D70148-195B-C8CA-9C9B-835643D00000>

KS Industrial Consumers Group, Inc. & KSans for Lower Electric Rates, Inc
<https://elibrary.ferc.gov/eLibrary/filedownload?fileid=5EDA74F3-B119-CC70-9F43-835618300000>

Reply of Michigan AG and CUB of Michigan <https://elibrary.ferc.gov/eLibrary/filedownload?fileid=4D327268-B7EE-C237-9EA7-8355E5200000>

Reply of Shell Energy North America (U.S.), L.P <https://elibrary.ferc.gov/eLibrary/filedownload?fileid=97C0631D-4FE6-C810-9FC2-8355C3D00000>

09/06 MISO Transmission Owners submits revision to initial comments

<https://elibrary.ferc.gov/eLibrary/filedownload?fileid=3DB875E7-0BD0-CA33-ADE3-831432800000>

0919 Enviro challenge EU decisions to include natural gas and Nuclear in sustainable fiancé

taxonomy. A group of environmental organizations have launched legal challenges against the EU's decision to include natural gas and nuclear energy in its sustainable finance taxonomy. "Gas is a leading cause of climate and economic chaos, while there is still no solution to the problem of nuclear radioactive waste and the risk of nuclear accidents is far too significant to ignore," said Ariadna Rodrigo, sustainable finance campaigner at Greenpeace EU. [The Associated Press](#)

0919 Solar: [Rep. Mike Levin Leads Letter Urging CPUC Not to Undermine Solar Incentives in Updated Net Energy Metering Proposal](#)

0919 House R's on focus if House flips as currently predicted: Media Wrap-Up: Leader Rodgers

Previews Top E&C Priorities -Don't miss these highlights from [Punchbowl News](#), [Bloomberg Law](#), and [E&E News](#), of House Energy and Commerce Committee Republican Leader Cathy McMorris Rodgers (R-WA) previewing top priorities for Energy and Commerce Republicans, including oversight over the Biden administration.

PUNCHBOWL NEWS: Exclusive Interview with Cathy McMorris Rodgers - On Thursday, [Leader Rodgers joined Punchbowl News'](#) Jake Sherman and Anna Palmer for a discussion of her priorities for Republicans on the Energy and Commerce Committee.

HIGHLIGHTS:

ON FLIPPING THE SWITCH ON AMERICAN ENERGY PRODUCTION: "We're going to stop the war that's been waged on American energy. We have abundant energy resources, ingenuity, and new technologies that are so important to affordability, reliability, as well as our energy security and national security. "I am quite disheartened by the [Democrats'] political agenda that seems to be dominated on energy that is making us more dependent upon Chinese supply chains and our foreign adversaries."

HOLDING BIG TECH ACCOUNTABLE: Leader Rodgers said she was concerned about "the amount of data that's collected that has been stored in China" from TikTok and explained the dangers of Snapchat. "I will put Snapchat up there too. There are a number of examples of individuals that have purchased a pill laced with fentanyl unknowingly off Snapchat and died. I have stories in my own district. And they're not being held accountable for criminal activity."

ON E&C'S AUTHORIZING RESPONSIBILITIES: "Clearly, it's time to authorize the CDC. We're the authorizing committee. We're the committee of jurisdiction. That's fundamental to our role as elected representatives of the people to determine the mission and give direction to these agencies. "The CDC has never been authorized. The NIH's authorization ended in 2020. Many of the agencies within the Energy and Commerce Committee need to have their authorization updated. That is our fundamental responsibility. "I've seen Dr. [Rochelle] Walensky, the CDC Director's, review. She's asking for more money and more authority. Well, Congress is the one that needs to authorize that. "This is just so fundamental to our oversight efforts as well as building trust. Because the trust among the public health agencies has been shattered, especially during COVID in the last couple of years. Restoring trust also means bringing accountability. I believe it's important that we are drafting the authorization to give that clear direction."

ON COVID-19 OVERSIGHT: "We need to answer the question of where COVID-19 originated. That's fundamental to informing our decisions moving forward. "Overall,

regarding the COVID response, the lockdowns, the decisions that were made in response to COVID, we want to look at the decisions that were made, what drove those decisions, and how we might want to approach that in the future. “This generation of school aged kids that have been impacted. Their education has been impacted. We have a mental health crisis among our kids due to the lockdowns and the decisions that were made in that moment that did not take into consideration any other factors.” [CLICK HERE](#) to watch the full conversation.

IN E&E NEWS: “Ready to go on oversight.” KEY HIGHLIGHTS as reported by E&E:

Aside from legislation, the ninth-term legislator expects Energy and Commerce to ramp up oversight of a range of energy and environmental agencies. “We’re anxious, we have a lot of [oversight] work to do, and we are ready to go at it,” said McMorris Rodgers. She said EPA, the Department of Energy, the Federal Regulatory Energy Commission and the Nuclear Regulatory Commission should all be ready for oversight sessions next year if she’s wielding the gavel. McMorris Rodgers said she is especially interested in hearings to explore how agencies are operating in the wake of this summer’s Supreme Court ruling on West Virginia v. EPA, which limited the agency’s power to broadly regulate emissions. Conservatives saw the ruling as an opening to challenge the scope and authority of other federal regulators. “Where agencies are going beyond their authority, it’s very important that we hold them accountable,” she added. [CLICK HERE](#) to read the full coverage.

IN BLOOMBERG: Rodgers said she sees a “real crisis of confidence” in federal health agencies. KEY HIGHLIGHTS, as reported by Bloomberg Law: *House Republicans aren’t waiting for next year to demand documents from the Biden administration about the federal response to the Covid pandemic and the role of key presidential advisers. Republicans want to use a procedural tool—known as a resolution of inquiry—in the coming weeks to advance investigations into areas ranging from Health and Human Services Secretary Xavier Becerra’s role as a Covid adviser to oversight of research conducted in China at the start of the pandemic. “There are so many questions that need to be answered about the government’s response to Covid-19,” Rep. Cathy McMorris Rodgers (R-Wash.), ranking member of the House Energy and Commerce Committee, said in an interview. “How the pandemic started, that’s probably the most important public health question that needs to be answered.”[...] The resolutions include demands for: information around how much Covid funding remains and how many tests and vaccines were purchased (H. Res. 1263); documents related to oversight of the Wuhan Institute of Virology laboratory (H. Res. 1267); records of HHS Secretary Becerra’s role in the Covid response (H. Res. 1268); and plans for dealing with the rise in fentanyl-related overdose deaths (H. Res. 1274). [CLICK HERE](#) to read the full coverage.*

0919 Energy Efficiency: Better Plants Partners Save \$10.6 Billion in Energy Costs Today, the U.S. Department of Energy (DOE) released the [2022 Better Plants Progress Update](#). The report highlights the leadership of more than 270 manufacturers and water utilities who partner with DOE to increase energy and water efficiency. Collectively, these partners have saved \$10.6 billion in energy costs, 2.2 quadrillion British thermal units (Btus) of energy, and more than 130 million metric tons of CO₂. As part of the Better Buildings Initiative, Better Plants works with industrial partners to develop, implement, and share technologies and best practices to increase energy and water efficiency and reduce greenhouse gas emissions in manufacturing plants and other industrial facilities. Partners represent every major U.S.

industrial sector, comprising 14% of the domestic manufacturing footprint and 3,600 facilities across the country. Better Plants partners voluntarily pledge to reduce portfolio-wide energy intensity by 25% over 10 years. DOE works with partners to meet their goals by providing technical assistance, peer-to-peer learning, technology validation and training, and workforce development. To date, Better Plants partners have achieved more than 75 energy or water goals. Highlights from the 2022 Better Plants Progress Update include:

Legrand North & Central America, Deschutes Brewery, Nestlé Health Science, and Intertape Polymer Group achieved their energy intensity reduction goals in the past year.

More than 60 industrial organizations to date have joined DOE's [Better Climate Challenge](#), a national public-private partnership calling on organizations to cut greenhouse gas emissions by 50% in 10 years and share their solutions with the market.

11 new partners joined the Better Plants program: Acuity Brands Brose North America DENSO Corporation Entegris The Hershey Company Hollingsworth and Vose Lopez-Dorada Foods Michael Foods Nestlé Phoenix Closures West Lafayette Water Resource Recovery Facility 7 new partners joined the Better Plants Challenge ABB BorgWarner Brewery Vivant/Broad Leaf Brewery & Spirits The Chemours Company Emerson Lear Corporation Trane Technologies

Partners hosted 13 peer exchanges on pressing topics in industrial decarbonization from carbon accounting and reporting to renewables, electrification, and more

DOE conducted Virtual In-Plant Trainings (VINPLTs) over the past two years to enable remote workforce learning opportunities during the pandemic. In just the past year, seven virtual in-plant trainings have resulted in 500 trained workers and the identification of more than \$400 million worth of energy cost savings.

Better Practice and Better Project Awards were presented to 17 partners to recognize their leadership in adopting innovative energy-efficiency solutions.

For more information, read the full [2022 Better Plants Progress Update](#). *Better Plants is part of the Better Buildings Initiative, through which DOE partners with public and private sector organizations to make commercial, public, industrial, and residential buildings more efficient, thereby saving energy and money while creating jobs. To date, more than 900 Better Buildings partners have shared their innovative approaches and strategies for adopting energy efficient technologies. Discover more than 3,000 of these solutions in the [Better Buildings Solution Center](#).*

0919 Solar: [The US solar industry has a supply problem](#) *Matt Blois, Chemical and Engineering News* China's control of solar manufacturing puts the sector at risk of disruption.

0919 Energy Policy: [Interior: 'NEPA no longer applies to Lease Sale 257'](#) *E&E News* The Biden administration Friday urged a federal appeals court to end litigation over a massive lease sale in the Gulf of Mexico after the sale was reinstated under the Inflation Reduction Act.

0919 Solar - [Minnesota PUC approves Xcel Energy's 460-MW solar project to replace Sherco coal-fired generation](#) *Ethan Howland, Utility Dive* The Minnesota Public Utilities Commission on Thursday approved Xcel Energy's plan to build and own 460 MW of solar next to its roughly 1,780-MW coal-fired Sherco power plant, which is being retired in phases this decade.

0919 [Fox News: West Virginia governor torches Democrats' energy agenda: How can anybody defend what's going on in DC?](#)

0918 EVs - [US Senate passes bill to maximize EV battery recycling for federal fleet vehicles](#) *Megan Quinn, Utility Dive* Sponsors of the bipartisan bill say the federal government needs a plan to

bolster recycling and reuse of EV batteries, to lessen U.S. dependence on international markets for battery components.

0918 EVs - [The Affordable Electric Vehicle Is Still Mostly Fantasy](#) *Kyle Stock, Bloomberg* With battery supplies tight and customers eager, car companies are only cranking out expensive EVs.

0918 FERC Chairman's Term ends in December.....[FERC's murky leadership future could derail U.S. climate goals](#) *Catherine Morehouse, Politico* Chair Richard Glick has spent the past two years pushing the adoption of policies he advocated as a minority voice on the commission....A spokesperson for Manchin's office said there is no update on when Glick might be brought in front of the ENR committee.

0918 CCS: [Climate law spurs CCS at new West Virginia gas plant](#) *Carlos Anchondo, E&E News* Competitive Power Ventures Inc. announced plans Friday to build a multibillion-dollar natural gas power plant in West Virginia with carbon capture technology, saying the project would not be possible without the new climate and energy law. **[After climate bill passage, WV natural gas plant unveiled](#)** *John Raby, The Associated Press* A Maryland company announced Friday it will build a natural gas power plant designed to capture climate-changing carbon in West Virginia. Officials said it was made possible by a recently signed law embraced by Democratic Sen. Joe Manchin that gives tax breaks for alternative energy projects.

0918 Standing: [Virginia judge dismisses youth climate change lawsuit](#) *The Associated Press* A Virginia judge on Friday dismissed a lawsuit filed on behalf of 13 young people who claim that the state's permitting of fossil fuel projects is exacerbating climate change and violating their constitutional rights.

0918 Manchin Permitting Deal: Democratic leadership is keeping under wraps the details of an energy permitting reform deal secured by Sen. Joe Manchin, D-W.Va., much to the chagrin of other lawmakers, who have only seen an outline of the plan. "There's a reason they're keeping it secret: it's either still being negotiated or it's so weak it has no meaning or it's too strong for other people," said Sen. Shelley Moore Capito, R-W.Va. [The Hill](#)

0918 Fossil Fuel "Registry": Carbon Tracker and Global Energy Monitor today are rolling out the Global Registry of Fossil Fuels, the first large-scale public database of the world's fossil fuel production, reserves and emissions, with data for more than 50,000 oil, natural gas and coal fields in 89 countries (collected? verified? By who? . . . Carbon Tracker founder Mark Campanale - who hopes the database will help environmental groups and investors challenge companies' and governments' fossil fuel production plans and pressure them to move the needle on climate action. [Associated Press](#)

0918 Energy Prices: WSJ: Electric Bills Soar Across the Country as Winter Looms - Rising natural-gas prices are expected to make it more expensive to light and heat homes in the coming months - From New Hampshire to Louisiana, customers' electricity rates are increasing. The Energy Information Administration anticipates the residential price of electricity will average 14.8 cents per kilowatt-hour in 2022, up 7.5% from 2021. The agency forecasts record gas consumption this year amid surging prices, in part because power producers are limited in their ability to burn coal instead due to supply constraints and plant retirements....[Eversource Energy](#), a utility company that serves about four million electric and natural-gas customers in Connecticut, Massachusetts and New Hampshire, last month implemented an unprecedented price increase for customers in New Hampshire. Rates more than doubled from about 10.67 cents to 22.57 cents a kilowatt-hour and will remain at that

level through January.

0917 Fusion: Nuclear Regulatory Commission staff white paper evaluates ways to classify and regulate fusion energy systems to inform the creation of an appropriate regulatory framework for fusion by 2027. The paper proposes treating fusion devices as either utilization facilities, byproduct material facilities or a combination of the two.: [Forbes \(tiered subscription model\)](#)

0916 Natural Gas: US natural gas production growth is struggling to keep up with surging foreign and domestic demand, putting further pressure on already strained gas inventories and making them vulnerable to weather shocks, writes analyst John Kemp. Energy Information Administration data show working gas inventories in underground storage stood at 2,771 billion cubic feet on Sept. 9, the second-lowest seasonal level since 2010, as US gas-fired electricity generation and liquefied natural gas exports set records, Kemp writes. [Reuters](#)

0916 FERC Oversight: DC Circuit finds FERC correctly concluded that Tri-State Generation and Transmission Association Inc. is subject to agency regulation after adding a non-utility member. Tri-State had been exempt from FERC jurisdiction for more than 60 years because it had been wholly owned by small cooperatives or public power districts, which the agency doesn't regulate. But when Tri-State admitted natural gas supplier Miecoco Inc. as a member, the commission ruled that the company was now subject to its regulation.

0916 Energy Policy: Letter from 8 House D's want more SPR releases "at least to the end of the year". Should not stop at the end of October.

0916 [FERC Staff Issues the Draft Environmental Impact Statement for the Venice Extension Project \(Docket No. CP22-15-000\)](#)

0916 Manchin Permitting Bill – NARUC Opposition: [Nat'l Law Review: Congress Might Make It Easier for Us to Transition to Renewable Energy but The States Say Not so Fast](#) . . . Now the Biden Administration and some in the Senate, led by Senator Manchin, want to do something about that currently crushing challenge. Among other things, they would have projects transmitting renewable energy benefit from the same streamlining already available for pipeline projects. But the National Association of Regulatory Utility Commissioners says not so fast. Its Executive Director says the mind numbing delay in permitting essential transmission projects isn't the States' fault, it is the time it takes for projects to do what is necessary under the National Environmental Policy Act, including the judicial review of decisions under the Act. I say the White House, Senator Manchin, and the Association are all correct. But the derailment of the New England Clean Energy Connect project has everything to do with state and local opposition and nothing to do with NEPA. I would add that the Federal legislation to be proposed would do something about NEPA delays though more could be done. So let's figure out what is necessary to address the current challenges faced by these essential projects under Federal and State laws and have Congress and the President quickly make what is necessary the law of the land. "We don't think that removing the states is actually going to reduce the time frames," said Greg White, executive director of the National Association of Regulatory Utility Commissioners, which represents state officials. He called the permitting proposal "draconian," arguing it does nothing to solve delays stemming from federal environmental reviews. NARUC has pressed the department to scrap the proposal and bring states to the table.

0916 Natural Gas: It appears that China is buying Russian LNG at a discount and reselling it as "Chinese LNG" to Europe at marked-up prices. *Special report:* China is buying a lot of

Russian natural gas (+29% y/y). This is not to be confused with pipeline LNG from Russia to China, which has also increased about 63%. *Why?* China has lower demand for energy due to a broad, macro-economic downturn. **It appears that China is buying the Russian LNG at a discount and reselling it as "Chinese LNG" to Europe at marked-up prices.** For instance, China's JOVO Group and Sinopec, big LNG traders, recently sold cargoes of LNG to European buyers, and the latter acknowledged in an earnings call that it has been "channelling excess LNG to international markets." (Russia has **discounted** the price by 50%, yet is still making a profit.)

0916 Nuclear: U.S. DoE: 6 Steps DOE is Taking to Address Spent Nuclear Fuel (the good news? this rehash of the last 30 years conversation is "just getting started....) Nuclear energy is essential to combatting climate change and reaching our nation's goal of a net zero economy by 2050. When people talk about nuclear energy, they wonder where the waste will go. I've dedicated my professional career to help solve this issue and it's the U.S. Department of Energy's (DOE) legal obligation to make sure that we do. We can't continue passing this problem on to future generations. Now is the time for progress. We **recently asked** for the public's feedback on using a consent-based siting process to identify sites for the consolidated interim storage of our nation's spent nuclear fuel. DOE has taken these responses and summarized them in a **new report** to help inform our consent-based siting process and develop future funding opportunities for interested groups and communities to learn about these efforts. When building a system of consent, listening is key and this report is the definition of letting communities and stakeholders know that we heard them loud and clear. We all want to be heard, and this summary is the first step in building a long-lasting, trusting relationship between the DOE and the communities we will serve.

Breaking Down the Feedback

In the past, I've responded to requests for information as a private citizen in the hope that my input would be useful. Now, as the leader of DOE's R&D portfolio for the nation's spent nuclear fuel, I get to read thousands of pages of responses and know that the input is, in fact, useful. A few major themes appeared in the Request for Information. Understandably, distrust and fairness were frequent themes in the comments.

Relationship Building **Summary Report** (gosh all these comments are so new and innovative – I've never heard any of them before)

Public response analysis on using consent-based siting process to identify Federal interim storage facilities.

Commenters feel DOE has not taken meaningful steps to build trust and relationships with communities and stakeholders.

Some commenters also feel that a new, independent organization should be created to lead waste management efforts.

DOE is, indeed, responsible for this process and we hope to rebuild trust and relationships with the public.

We also recognize that relationships between the DOE, potential host communities, and other stakeholders must be built on collaboration, two-way communication, information sharing, and accountability.

This will ensure a fair consent-based siting process.

Determining Success

Commenters also expressed feelings of support and skepticism around the success

of a consent-based siting process.

We believe that a consent-based approach, driven by community well-being and community needs, is both the right thing to do and our best chance for success.

We plan to shape our consent-based siting process, with help from communities and stakeholders, until we successfully site a safe and secure facility to store spent nuclear fuel.

Several commenters also expressed opposition to developing consolidated interim storage.

While we hear these concerns, DOE recognizes that the communities currently storing spent nuclear fuel never agreed to host the material long term.

Nuclear Energy Perception

Finally, some commenters also viewed nuclear energy as fundamentally flawed and disagreed that this technology will be needed to mitigate climate change.

It is very clear that we need the nation's [largest source of clean power](#) to reach our ambitious goals of net-zero and we plan to openly communicate the benefits of nuclear energy to help [alleviate any concerns](#) on this firm, dispatchable clean energy source.

DOE Action Steps

In an effort to build and sustain strong, trusting relationships, we identified six key priorities to guide the implementation of a successful consent-based siting process:

1. Implement congressional direction to pursue consolidated interim storage in a way that **maximizes the potential benefits** of an integrated nuclear waste management system.

2. **Address the current lack of trust in DOE** by making changes internally and externally. Internally, DOE is working to improve its follow through on commitments and candidly acknowledge past missteps. Externally, DOE is embarking on a consent-based siting process that is inclusive, community-driven, phased, and adaptive.

3. **Ensure DOE's consent-based siting process is fair.** This procedural justice means actively and equitably engaging with communities; appropriate levels of Tribal, State, and local government; and other interested parties in all phases of the process. It also means providing the resources and data communities need to participate fully and make informed decisions.

4. **Focus on fairness in siting outcomes** as well as process. We will prioritize equity and environmental justice considerations, work collaboratively with communities to define what constitutes consent, and consistently recognize communities' needs, priorities, and voices, as well as Tribal Nations' rights to self-determination and sovereignty. A community's participation in a voluntary, equitable, and consent-based siting process should be of lasting benefit, even if the community ultimately chooses not to host a facility.

5. **Continue planning for the safe transportation of spent nuclear fuel** in close cooperation with Tribal and State partners and regional groups to address radioactive-material transportation issues and respond to the concerns of communities near proposed facility sites and along potential transportation corridors.

6. **Rigorously apply safety, security, and other relevant criteria** in assessing the suitability of potential sites for different types of spent nuclear fuel facilities. A consent-based siting process should unfold in phases and include a series of evaluation steps, including suitability assessments. DOE anticipates that potential host communities may want to make their own assessments of the impacts and risks of proposed facilities and is

committed to helping communities conduct independent studies related to safety and other issues of concern.

What's Next?

We appreciate the public's input on developing a consent-based siting process and are committed to making every reasonable effort to incorporate suggestions and address concerns.

We are also aware that these comments do not fully represent the ideas of all relevant communities and stakeholders.

We plan to continue our outreach and engagement efforts to ensure that the views of Tribes and underrepresented groups are included, understood, and considered in future DOE policies and decision-making related to consent-based siting and consolidated interim storage.

This report will be followed by an updated consent-based siting process document that incorporates this feedback. We also plan to issue a funding opportunity to support learning and help build a community of practice in consent-based siting.

Stay tuned for this conversation to continue because **it's just getting started.** (and guessing it won't get finished for another 8 years....)

0916 Manchin Permitting Bill: Bloomberg: A federal permitting deal that Senate Democrats planned to attach to any stopgap funding measure has yet to materialize, jeopardizing support and threatening to derail the measure as a looming government shutdown pressures talks.

Sen. Manchin said Thursday he was still working on the bill and needs as many as 20 Senate Republicans to vote for his plan to streamline the federal approval for energy projects to counter Democratic defections. . . . Dozens of House Democrats have called on leaders to remove the permitting bill from any stopgap. Still, few — if any — would vote against the funding bill and shut the government down if push comes to shove, House Budget Chair John Yarmuth (D-Ky.) told reporters yesterday. . . . Manchin said the measure's fate was sealed if it doesn't ride on the stopgap. "If it doesn't get on the continuing resolution, it's dead," Manchin said..

0916 Manchin Permitting Bill: Sen. Joe Manchin (D-W.Va.) said he is hopeful that colleague Sen. Shelley Moore Capito (R-W.Va.) will help him push through his permitting reform plan that he said would take as many as 20 Senate Republicans to pass as part of a stopgap spending measure meant to keep the government open past Sept. 30. Capito earlier this week introduced a permitting reform bill with 46 Republican co-sponsors because Democrats have yet to unveil their own bill, as disagreement over Manchin's proposal continues to build from both chambers and parties. ([Bloomberg](#))

0916 Manchin Permitting Bill: [W.Va. vs. Va.: Permitting overhaul a backyard brawl](#) *Jeremy Dillon and George Cahlink, E&E News* Sen. Joe Manchin (D-W.Va.) wants a contested natural gas pipeline in his state to be part of his permitting reform effort. But Virginia lawmakers who might typically support a permitting overhaul are balking at the deal, in part because of the pipeline that would run between the two states.

0916 Natural Gas - [California provides disincentives to Use Natural Gas in New Buildings](#) *Mark Chediak, Bloomberg* Utilities will no longer be able to pass along part of costs for new gas lines to residential, commercial customers.

0916 Minnesota PUC approves Xcel Energy's 460-MW solar project to replace Sherco coal-fired generation – Industry Dive.

0916 Wind: Administration "hopes" to deploy "up to" 15 gigawatts of electricity through floating wind turbine platforms in the deep ocean by 2035, targeting sites in the Pacific Ocean off the coasts of California and Oregon as well as in the Atlantic in the Gulf of Maine. Pledges

50 Billion. Two pilot projects are already planned for the north and central California coast, while a third one is planned off the coast of southern Oregon. ([The Associated Press](#))

0916 Exercises in.....[What Price Is Right? Why Capping Russian Oil Is Complicated.](#) *Alan Rappeport, The New York Times* Officials from the Group of 7 are striving to strike a delicate balance that encourages Russia to keep pumping oil but to sell it at a discount.

0916 Pipelines: [D.C. Circuit leans toward FERC in NEPA dispute](#) *Niina H. Farah, E&E News* Federal judges Wednesday pressed energy regulators for an update on their plans to use a contested metric to evaluate the costs of GHG emissions from natural gas projects.

0916 EVs - [Newsom opposes EV ballot measure to tax millionaires](#) *Anne C. Mulkern, E&E News* California Gov. Gavin Newsom, who is spearheading efforts to ban new gasoline cars in his state, came out swinging against a ballot measure that would tax rich residents to help fund electric vehicle purchases.

0916 Solar - [Minnesota regulators approve huge solar project in Becker](#) *The Associated Press* A massive solar project that is expected to cost at least \$575 million was approved Thursday by Minnesota utility regulators

0915 FERC - [FEIS for Driftwood Line 200 and Line 300 Project CP21-465-000](#)

0915 CCS - Venture capitalists invested \$882.2 million in carbon removal startups in the second quarter, the highest quarterly total on record, according to PitchBook. "Carbon capture technologies are experiencing high global interest and investment, and the regulatory environment has created pressures and incentives that will support their continued growth in the future," PitchBook said. [PitchBook](#)

0915 Nuclear Waste – and another rehash of “consent based siting” ...nothing new: The U.S. Department of Energy (DOE) released [a new report](#) today summarizing public feedback on the Department's consent-based siting process to identify sites for the consolidated interim storage of the nation's spent nuclear fuel. This report will be followed by an updated consent-based siting process document that incorporates public feedback. December 1, 2021, DOE issued a request for information (RFI) on using consent-based siting to identify sites for interim storage of spent nuclear fuel. DOE **received 225 submissions** in response from a wide variety of commenters, including the Energy Communities Alliance. To read ECA's formal comments, please [click here](#). The new report summarizes and analyzes the input provided in these responses. It also summarizes responses to an earlier request for comment on the Draft Consent-Based Siting Process for Consolidated Storage and Disposal Facilities for Spent Nuclear Fuel and High-Level Radioactive Waste released by DOE in 2017. The Department reported it is incorporating the public input described in this report in its efforts to pursue a consent based siting process, advance progress toward an integrated waste management system, and develop funding opportunities for interested groups and communities.

Major themes in the RFI responses, as identified by the report, include:

Distrust of DOE and of the federal government's nuclear waste management efforts more broadly;

An emphasis on "fairness" - both in the way the siting process itself is conducted and in terms of outcomes from the siting process;

An appreciation of the challenges inherent in defining consent and successfully implementing a consent-based siting process;

Significant differences of opinion about whether the federal government should

pursue consolidated interim storage for commercial spent fuel, including related concerns about progress toward a deep geologic repository and transportation requirements and risks;

Support for changes in the nation's overall approach to nuclear waste management and for a new, independent organization to lead waste management efforts; and

Strong differences of opinion about the need for and merits of nuclear energy technology.

The report identifies next steps that DOE is committed to taking, which include (1) implementing congressional direction in a way that maximizes the potential benefits of consolidated interim storage, (2) addressing the current deficit of trust in DOE by making changes internally and externally, (3) ensuring that its consent-based siting process is fair and inclusive, (4) focusing on fairness in siting outcomes by putting communities' needs and well-being at the center of the siting process, (5) continuing and expanding ongoing efforts to address transportation issues and related planning needs, and (6) rigorously applying safety, security, and other criteria in all aspects of the siting process, including by supporting communities that wish to conduct independent studies related to safety and other issues of concern.

0915 Hydro: [Hydro Review: FERC cancels preliminary permit for NY State - Saugerties Community Hydro Project](#)

0915 Renewables: [Inflation Reduction Act could raise prices on clean energy, warns Bank of America](#) Without additional transmission capacity, the law could incentivize inefficient development of renewables and result in higher price volatility.

0915 Pipeline Siting: [BTU Analytics: High-Profile Intervenorers Seek to Shake Up FERC's Gas Pipeline](#)

[Approval Criteria](#) With the close of the public comment period having come on May 25th, the much awaited announcement of the final form of FERC's pending [policy guidance](#) would seem to be imminent. While the final form of this revised guidance – likely to spell out how FERC will approach its evaluation of newly proposed energy projects with regard to both greenhouse gas emission impacts and economic need – has understandably been the subject of intense interest and speculation. However, a more subtle development has emerged in recent months that also has the potential to significantly alter the Commission's criteria for issuing project approvals. Specifically, two pending FERC dockets have seen requests for interventions from high-profile governmental entities seeking to block approval for proposed pipelines. The requests are based upon new arguments that the projects have not adequately demonstrated an economic need and/or would violate statutory state climate targets. In today's Energy Market Insight, we will examine these arguments and assess the likely federal and state regulatory impacts that would occur if FERC were to accept these new criteria as valid and deny approval for either of the pipelines in question.

The first requested intervention of note occurred in FERC proceeding CP21-94, in which Williams is seeking approval for its proposed Regional Energy Access Expansion (REAE) project. As proposed, this project would provide an additional 830 MMcf/d of capacity to serve end users primarily in New Jersey markets. In a joint filing on July 11, 2022, the New Jersey Board of Public Utilities (the regulator of all electric and gas utilities in the state) and the New Jersey Division of Rate Counsel (a ratepayer advocacy agency) sought intervenor status in order to lodge a commissioned study from a major economics firm into the proceeding. The study concluded that under "most scenarios," New Jersey could "easily

meet firm demand” through 2030 without incremental pipeline capacity. As such, the intervening parties argue that, on the basis of the filed study, the Commission should reject REAE’s application on the grounds that the project does not serve an economic necessity.

The second intervention of note occurred in FERC proceeding CP22-2, in which TC Energy is seeking approval for its proposed GTN Xpress project. GTN Xpress would eventually add 250 MMcf/d of additional capacity through compression upgrades and additional gas cooling stations in Idaho, Oregon, and Washington. The initial application with FERC seeks authorization for the first 150 MMcf/d of this incremental capacity. Following the release of a generally favorable project environmental impact statement (EIS) by FERC staff, the Attorneys General (AGs) of California, Oregon, and Washington filed jointly to request intervenor status in the proceeding on August 22, 2022. In this filing, the AGs argue that the proposed expansion violates state energy policy for three of the four markets that the project would serve, is not economically necessary, and may result in existing customers subsidizing the project.

While the filings in both cases were out of time and, at the time of writing, FERC has yet to issue a ruling in either case granting the requested intervenor status to the filing parties, it may be difficult for FERC to ignore the stated public opposition of New Jersey’s utility regulator and three AGs to the REAE and GTN Xpress projects, respectively. Absent any other reason, the requested interventions in the REAE and GTN Xpress cases would be notable simply for the prominent stature of the protesting parties. However, the potential impact of the interventions becomes even more pronounced when the precedent agreements with shippers filed in each case are examined closely.

As part of the application with FERC, the sponsors of proposed pipeline projects typically disclose pre-arranged, binding precedent agreements with shippers to demonstrate the economic need for the project. The precedent agreements with shippers filed in the REAE and GTN Xpress dockets are summarized below.read more here:

<https://btuanalytics.com/energy-transition/high-profile-intervenors-seek-to-shake-up-fercs-gas-pipeline-approval-criteria/>

0915 Nuclear: Michigan Gov. Whitmer last Friday penned a letter to energy secretary Jennifer Granholm pledging state support for a Holtec International plan to restart the recently shuttered Palisades nuclear plant in Covert, Mich.

0915 Wind: [Perkins Cole LLC: New England Requests Information on Electric Grid Upgrades To Integrate Offshore Wind](#) Five New England states issued a [Request for Information](#) (RFI) on September 1, seeking comment from interested stakeholders by October 14, 2022, on changes and upgrades to the regional electric transmission system to integrate renewable energy resources, particularly offshore wind. Connecticut, Maine, Massachusetts, New Hampshire, and Rhode Island are seeking information through the RFI that will help them improve the grid’s reliability, resilience, and affordability for the regions’ electricity customers. The states aim to improve the grid by integrating offshore wind and other renewable resources and leveraging federal funding for transmission investments under the [Infrastructure Investment and Jobs Act \(IIJA\)](#) and the [Inflation Reduction Act \(IRA\)](#). The RFI builds on information gleaned from earlier efforts of the New England states to engage with ISO New England (ISO-NE)[\[1\]](#) to study transmission needs in light of planned offshore wind deployment.

The joint RFI among the states outlines a conceptual framework for a modular

offshore wind integration plan (Plan) and seeks comments on the Plan and other infrastructure upgrades. Information received during the comment period will inform the states' decisions to procure or facilitate transmission investment, inform planning activities, and further inform efforts to secure federal funding, including under the IJJA, and otherwise support infrastructure investment decisions.

Background

[Recent federal actions](#) to advance offshore wind development off the [Atlantic coast](#) demonstrate the significant potential for offshore wind near New England and Northeast load centers. Offshore wind resources will also be important in meeting state goals and requirements. For example, recent studies from New England states, including the Massachusetts [Energy Pathways to Deep Decarbonization](#) report, assume that 30,000 megawatts (MW) of offshore wind will be deployed by 2040 to 2050. This assumption was also used as the basis of future load assumption in the New England Power Pool 2021 [Economic Study on Future Grid Reliability](#) and the [ISO-NE 2050 Transmission Study](#) that ISO-NE performed in coordination with the New England States Committee on Electricity (NESCOE).

In particular, a 2020 ISO-NE study of offshore wind integration found that up to 5,800 MW of offshore wind could be connected to the existing New England regional grid without additional reinforcements. However, considerable transmission upgrades would be necessary for any significant quantities of offshore wind beyond that amount. Further, existing interconnection points are already at or beyond capacity with current offshore wind projects under contract or review. The report concluded that more or upgraded interconnection points are necessary. In addition to providing security to developers, eliminating transmission constraints would also provide material benefits for consumers.

Given the significant time required to plan, develop, and build transmission, and given the large amount of offshore wind development occurring in the New England region, the states recognized that planning for additional transmission and interconnection needs to happen now, leading to the release of this RFI. The states acknowledge that this planning could include the possibility of collaborating in the procurement of transmission resources associated with renewable energy generation and investigating possible funding opportunities under the IJJA, which includes provisions for funding transmission projects that provide regional reliability benefits and integrate renewable energy resources. The RFI is also intended to better inform each state's renewable energy planning and procurement efforts.

Updates and Changes to the Regional Electric Transmission System

Through the RFI, the states seek comments on changes and upgrades to the regional electric transmission system needed to integrate renewable energy resources. Broadly, the states are interested in identifying how they can best position themselves to access funding, minimize impacts to ratepayers, maximize the reliability of regional clean energy resources, determine the costs and benefits of different kinds of transmission lines, including high-voltage, direct current (HVDC), and consider environmental justice concerns as infrastructure development decisions are made.

Interested stakeholders should consider commenting on the advantages or disadvantages of different kinds of transmission lines, including the use of AC or DC, and whether 1,200MW HVDC lines should be the preferred standard in any offshore transmission procurement. This is particularly important considering the procurement

requirements recently released in the third New York State Energy Research Development Agency (NYSERDA) [solicitation](#) for offshore renewable energy credits (ORECs), which requires that offshore wind projects bidding for the ORECs are “[meshed ready](#)” and use [HVDC](#) and the Bureau of Ocean Energy Management’s (BOEM) notice that it “[may condition](#)” approval of construction and operation plans (COPs) for offshore wind projects in the New York Bight on the incorporation of regional transmission systems and meshed systems into the COPs.

Draft Modular Offshore Wind Integration Plan

Current contracts for offshore wind in New England are expected to use all existing and available transmission capacity at the most convenient and cost-effective points of interconnection. Upcoming offshore wind projects will require significant transmission upgrades across New England in order to successfully interconnect. The current procurement process for offshore wind has states contract offshore wind generation through power purchase agreements while developers take the responsibility to pay for system upgrades and associated costs resulting from interconnection. The existing planning process for ISO-NE does not proactively consider the potential landside reliability impacts of offshore wind interconnections and does not consider potential system upgrades needed to address reliability. In order to ensure that congestion costs do not increase and also to maintain system reliability, significant landside upgrades will be required to enable the interconnection of additional offshore wind. This is anticipated to cost billions of dollars.

The draft Plan proposes adopting a planned regional transmission investment approach for offshore wind integration that can improve system reliability and avoid costly reliability upgrades to the landside transmission system. Specifically, transmission solutions should accommodate up to 8,400 MW of offshore wind from current and future New England lease areas, in 1,200 MW increments, through 2040. Any projects should maximize access to and be consistent with the terms of U.S. Department of Energy (DOE) funding programs, including those established under the IJJA, through the DOE Transmission Facilitation Program and any Loan Programs Office (LPO) programs or resiliency funding. The draft Plan also suggests that transmission solutions are designed to allow future transmission lines to connect in a meshed manner and share landing points, consider other onshore clean energy, and use HVDC converter technology to support potential weaknesses in the grid.

In seeking comments on the draft Plan, the states are particularly interested in potential points of interconnection in the ISO-NE control area for all renewable energy resources, and the costs and benefits, including local co-benefits, associated with each point of interconnection. Specifically, interested stakeholders should comment on how offshore wind should be integrated deeper into the region’s transmission system, if at all, as opposed to interconnecting at the nearest landfall. Offshore corridor options for transmission lines should be identified and describe how that corridor avoids or minimizes disturbance to marine resources. Stakeholders should also comment on how future interconnection between offshore converters can be optimized, particularly to facilitate the transmission of power from offshore to multiple points of interconnection as needed. The RFI notes that Bridgeport, Connecticut, and Boston, Massachusetts, are potential efficient interconnection points for future offshore wind generation but seeks further information from developers on additional locations to consider.

The RFI also seeks comment on how ownership of transmission should be

structured, including through the use of public-private partnerships, and how costs should be allocated to prevent cost-shifting between the states on their policy goals and ensure that local and regional benefits remain distinct so that ratepayers only pay for services that they benefit from.

RFI Is the Latest in Recent Efforts To Spotlight Offshore Wind Transmission Constraints

The RFI represents the latest effort of stakeholders to get their arms around transmission grid constraints and their significant impact on states' ability to achieve ambitious and growing offshore wind procurement targets. There is now widespread recognition at both state and federal levels of the upcoming difficulties in integrating significant amounts of offshore wind into existing transmission infrastructure.

For example, as noted above, the [latest competitive solicitation for offshore wind](#) in New York included requirements for projects proposing HVDC interconnections to be "meshed ready" based on results from the [New York State Power Grid Study](#), which sought to identify ways to provide greater reliability and flexibility for future offshore transmission. NYSERDA's [Offshore Wind Cable Corridor Constraints Assessment](#), which aims to understand the constraints of siting cables in New York state waters, and along overland routes to existing points of connection, is due to be published later this year.

At the federal level, DOE is preparing an [Atlantic Offshore Wind Transmission Study](#) to evaluate pathways to offshore wind goals through coordinated transmission solutions along the Atlantic coast in the near term (by 2030) and long term (by 2050). This DOE study is a two-year effort to evaluate coordinated transmission solutions for offshore wind energy development along the Atlantic coast. In the study, researchers from the National Renewable Energy Laboratory (NREL) and the Pacific Northwest National Laboratory (PNNL) will study multiple scenarios of interstate, interregional transmission topologies (including size, shape, branching, and location) between 2030 and 2050. The study will evaluate coordinated transmission solutions to enable offshore wind development; compare different transmission technologies and topologies through an analysis of costs, reliability, and resilience; evaluate key environmental and ocean co-use issues; and produce results that will inform decision-making and benefit stakeholders in their planning processes. In particular, the DOE study aims to identify cost and benefit trade-offs for high-voltage alternating and direct current technologies, identify critical deployment for the benefits of a coordinated transmission framework to outweigh the benefits of radial generator lead lines, and collect data and develop models for easy use by the offshore wind energy industry. The report is expected to be released by the end of 2023.

Separately, FERC is exploring wide-ranging reforms to the transmission planning processes and generator interconnection processes of transmission providers across the country, some of which will affect planning for offshore wind development. In its [Regional Transmission Planning and Cost Allocation Notice of Proposed Rulemaking \(NOPR\)](#), FERC has proposed a variety of reforms designed to promote long-term regional transmission planning that anticipates changes in generating supply (such as the addition of large quantities of offshore wind) farther in the future and attempts to incentivize interregional planning and coordination. As part of these reforms, FERC has proposed new defined roles for relevant state entities (such as states issuing the RFI) within the transmission planning region regarding the cost allocation method or methods that will apply to transmission facilities

selected in a regional transmission plan. In a separate [NOPR on the generator interconnection process](#), FERC is proposing reforms intended to address interconnection queue backlogs, improve certainty for developers, and prevent undue discrimination against new technologies. While neither NOPR is expressly focused on offshore wind development, the reforms proposed by FERC will complement efforts by the states (such as the RFI).

The results of these studies will inform how states upgrade and invest in transmission infrastructure.

Next Steps

Interested stakeholders in the New England RFI should attend the upcoming public technical meeting, to be [scheduled](#) soon. Areas of focus for the meeting include discussing effective points of interconnection for offshore wind, how to minimize land-based transmission upgrades traditionally located in overburdened and underserved communities, how to design and implement HVDC systems, how to co-optimize transmission infrastructure to provide maximum consumer benefits, and how to reduce overall system cost and consumer impact. Stakeholders should also prepare and submit comments on the RFI, due by 4:00 p.m. EST on October 14, 2022, by [email](#).

Endnote

[1] [ISO-NE](#) is the Regional Transmission Organization (RTO) that serves six New England states: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. It is responsible for operating wholesale power markets that trade electricity, capacity, transmission congestion contracts, and related products, in addition to administering auctions for the sale of capacity. ISO-NE operates New England's high-voltage transmission network and performs long-term planning for the New England system. <https://www.ferc.gov/industries-data/electric/electric-power-markets/iso-ne>. [\[View source.\]](#)

0915 Natural Gas: The number of active US natural gas rigs has increased from 112 in early 2020 to 166 as of Sept. 9, reversing a downward trend observed before the coronavirus pandemic, according to the Energy Information Administration. The main driver of natural gas-directed drilling growth has been the Haynesville Shale, where the gas rig count has jumped by more than half between January 2020 and August 2022. [U.S. Energy Information Administration](#)

0915 Natural gas: New figures from North Dakota's Department of Mineral Resources show that oil production in the state fell by 2.5% month over month to just over 1 million barrels per day in July, while natural gas output rose 1.3% to 3.1 billion cubic feet per day. Director Lynn Helms attributed the unexpected oil production decline to reduced well completion activity due to workforce shortages. [The Bismarck Tribune \(N.D.\)](#)

0915 SEC Climate regs? - SEC Chair Gary Gensler claimed Investors are largely supportive of the SECs proposed climate disclosure rule for public companies at a Thursday hearing before the Senate Banking Committee. Republicans on the committee said the proposed regulation is burdensome and may expose the agency to legal challenges. [Reuters SEC Climate Rule Won't Demand Extensive Reporting From Small Businesses, Gensler Says](#) *Richard Vanderford, The Wall Street Journal* Small businesses have expressed concerns they would be forced to embark on an accounting mission to provide data to their public-company customers.

0914 Gas and censorship: At a Wednesday hearing of the House Natural Resource Committee's

oversight panel, D's accused public relations firms of running campaigns for oil and natural gas industry clients that stymie their preferred solutions to climate concerns. The committee also published a report alleging that PR firms engineered "astroturf 'citizen' groups to advocate for industry interests and defeat legislative proposals" and used "unscrupulous tactics to sabotage genuine policy solutions and attack community advocates." [Reuters](#)

0914 Natural gas: AmGas September 2022: The Forecast for Global Gas

https://read.nxtbook.com/aga/american_gas_magazine/american_gas_september_2022/cover.html Today, natural gas markets—Europe and Asia in particular—are in disarray, roiled by a supply-demand imbalance initially triggered by robust demand as the global economy rebounded from the pandemic, then exacerbated by Russia's decision to cut gas flows to Europe in response to sanctions following its invasion of Ukraine in February. In this issue of *American Gas*, read how the still-unfolding crisis has highlighted the critical role of natural gas—and increasingly that means liquefied natural gas—in meeting global energy needs and facilitating the transition to a net-zero energy system. **Other Highlights:** [Benchmark study identifies areas of opportunity for utility training and operations.](#) [] [Utilities partner to offer Pay As You Save program in Missouri.](#) [] [A Dominion Energy West Virginia employee's persistence put him in the right place to notice and respond to a customer's call for help.](#)

0914 Energy Policy: D's on the House Natural Resources Committee House propose legislation to ban new federal fossil fuel leasing and permitting that fails to meet the White House's targets to reduce greenhouse gas emissions over the next three decades. There's a hearing on the bill set for Sept 20 – it only has D sponsors and won't go anywhere in the Senate.

0914 Energy Policy: [Wash Examiner: Prospects for Iran nuclear deal fade as Blinken admits Tehran's demands are 'a step backward'](#)

0914 Nuclear: [Hurdles ahead for saving Michigan nuclear power plant](#) *Reuters* The governor of Michigan said last week she wants a nuclear power plant to reopen to save jobs and help curb climate change, but the company that bought the plant said there are many hurdles to save the facility.

0914 Coal to Nuclear: Up to 80% of retired or active coal power plant locations in the United States could be converted to nuclear power sites, according to a Department of Energy report, including as many as 157 retired plants and 237 operating plants. The report said the switch could help the nation reach its net-zero emission goals by 2050 by hosting advanced nuclear 0914 reactors. ([Reuters](#))

0914 Ideas from the Carter Presidency: [Republican wants to raise office temperatures at DOE,](#) [EPA](#) *Jeremy Dillon, E&E News* A new bill introduced Tuesday by Sen. Joni Ernst (R-Iowa) would set the temperature at the agencies' headquarters to at least 78 degrees during the summer.

0914 Clean Energy: [New York announces \\$16.6M for hydrogen and 4 other long-duration storage demonstration projects](#) *Emma Penrod, Utility Dive* The five projects represent a variety of long-duration storage technologies, including battery storage, pumped hydroelectric storage, and hydrogen.

0914 Clean Energy: [NC utilities panel hears testimony over Duke Energy CO2 plan](#) *Gary D.*

Robertson, The Associated Press North Carolina's electricity regulators began listening Tuesday to potentially weeks of testimony over proposals by Duke Energy Corp. subsidiaries on how to carry out a state law demanding greenhouse gas reductions in the next decade.

0914 Resilience: To comply with "the inflation reduction act" the Administration finally moves forward with its very first offshore oil sale: FROM E&E's Coverage: "Cole Ramsey, senior

vice president for upstream policy at the American Petroleum Institute, said the White House must hold regular sales to help meet national energy needs. "We are pleased that the Department of the Interior has finally offered the first offshore leases of this administration, but it is disappointing that it took 19 months and an act of Congress to get us to this point," Ramsey said in a statement. Lease Sale 257 is the only offshore oil sale held by this administration. The White House began a leasing moratorium shortly after Biden took office . . . currently – whether the govt complied with NEPA is pending b/f the 10th Circuit."

0914 Resiliency: [Short-Term Urgency and Long-Term Vision Needed for Grid Planning](#) T&D World Schukar, chairman of Ameren Transmission acknowledges the dual tensions brought by tomorrow's storms and the next decade's diffusion of the electric system

0914 Resiliency – undergrounding power lines: [Entergy Completes Longest Underground Project in Company History](#) T&D World Crews undergrounded approximately eight miles of distribution powerlines along Louisiana Highway 1 from Leeville to Grand Isle.

0914 Hydrogen: [SDG&E Hydrogen Pilot to Assess Hydrogen's Feasibility as a Decarbonization Tool](#) T&D World The project is part of SDG&E's multi-pronged sustainability strategy to explore the feasibility of emerging technologies to rapidly decarbonize multiple economic sectors.

0914 Residential Storage/"Virtual Power Plant": Rocky Mountain Power rolled out its Wattsmart program to create a virtual power plant comprised of residential energy storage systems and the project has been such a success that it plans to deploy it across Idaho and Utah. Sonnen and ES Solar assisted in the solar adoption process and through sales tactics that helped homeowners understand the benefits solar-plus-storage. RMP doesn't offer a full retail rate for net-metering, but the program does reward homeowners who send stored solar back to the grid at a lesser rate. [Canary Media](#)

0913 Hydro: Hydropower is considered a baseline energy source in California and other parts of the Western US, but confidence in the energy source's long-term reliability is drying up alongside the region's reservoirs. Similar situations are playing out in China and across Europe as drought conditions persist. A diverse energy mix including hydropower has helped the California Independent System Operator side step blackouts, but the Energy Information Administration expects the nation's hydropower output to continue on a downward trend. [E&E News](#)

0913 Hydrogen - Nuclear: Energy Harbor has joined forces with the University of Toledo and several industrial companies and DOE national laboratories to launch the Great Lakes Clean Hydrogen coalition, which aims to produce clean hydrogen using nuclear power from the Davis-Besse Power Station in Ohio. The coalition envisions transforming the Midwest into a powerhouse for low-carbon fuel production. [Power Engineering](#)

0913 Resiliency: [Congress should require FERC, NERC to monitor gas pipeline capacity to ensure reliability, manufacturers say](#) *Utility Dive* FERC and NERC should delay nuclear and coal-fired power plant retirements if the shutdowns would lead to pipeline constraints, according to the IECA.

0913 Gas: [A decade after FERC tried to tackle New England gas issues, concerns remain and solutions are uncertain](#) *Industry Dive*

0913 Hydro: [What the Western drought reveals about hydropower](#) *E&E News* Western drought that is threatening water supplies in the country's largest reservoirs is exposing a reality that could portend a significant shift in electricity: Hydropower is not the reliable backbone it once was.

0913 Coal to Nuclear: [U.S. DoE: Could the Nation's Coal Plant Sites Help Drive a Clean Energy](#)

[Transition?](#) new DOE report finds that 394 operating and retired coal power plants across the US could transition to nuclear power production using small-scale advanced nuclear reactors to support the nation's goal of net-zero emissions by 2050. Replacing a large coal plant with nuclear power could create more than 650 permanent jobs and reduce regional greenhouse gas emissions by 86%, the report states. [Reuters](#) see also - [U.S. DoE: DOE Report Finds Hundreds of Retiring Coal Plant Sites Could Convert to Nuclear](#)

0913 Fuel Prices: The global fuel market will remain pressured by inadequate oil refining capacity until at least the middle of this decade, according to a new report from the International Energy Forum and S&P Global. Crude refining capacity has declined by as much as 3.8 million barrels per day between March 2020 and mid-2022 as oil demand increased by 5.6 million bpd, and delays are likely to stall completion of the roughly 2 million bpd of new capacity scheduled to come online by the end of 2023. [Reuters](#)

0913 Fuel Prices: Supply-demand imbalances, insufficient alternative energy sources and underinvestment in new drilling could drive oil prices as high as \$150 per barrel, said Christyan Malek, global head of energy strategy at JPMorgan Chase in an interview. Separately, Chevron Chairman and CEO Mike Wirth warned of "significantly higher" US natural gas prices this winter and argued against an export ban, noting that such an action "runs the risk of taking supplies that are needed in other parts of the world and reducing those which can drive world prices up, which then can affect the price of imports into this country." [Yahoo/Bloomberg](#), [CNN](#)

0913 Storage: US added a record 2.6 gigawatts of utility-scale energy storage capacity in the second quarter, according to Wood Mackenzie and the American Clean Power Association. The US is on track to have 59.2GW of energy storage by 2026, largely alone to the tax credit for standalone projects in the Inflation Reduction Act. [ReNews \(UK\)](#)

0913 Storage - New York state has committed \$16.6 million in funding to five long-duration energy storage demonstration projects, two of which are focused on clean hydrogen production via the Nine Mile Point Nuclear Station. The state is also making available an additional \$17 million for energy storage demonstration projects that deliver 10 to 100 hours of power. [Utility Dive](#)

0912 IRA: Congressional D's letter claims federal agencies await "clear direction" from FERC on implementation of clean energy objectives under the Inflation Reduction Act. The Energy Department's tasks include authoring regulations and guidelines for programs under the new law and onboarding hires to support those programs, while the Interior Department is responsible for oil and gas leasing tied to renewable energy permitting. [E&E News](#)

0912 MANCHIN PERMITTING BILL: Sen. Manchin, D-WV is seeking assistance from energy industry executives to line up R support for his energy permitting bill amid growing D opposition, according to sources. With the final text of Manchin's bill yet to be released, Republicans led by Sen. Shelley Moore Capito, R-W.Va., have put forward their own permitting reform bill to expedite energy projects and increase regulatory certainty for the energy industry. [BNN Bloomberg \(Canada\)](#), [The Hill](#)

0912 LNG: FERC issued a final environmental impact statement for the proposed Commonwealth liquefied natural gas export project in Louisiana, concluding that most of the project's environmental effects could be reduced to less-than-significant levels. However, the analysis found that the project would result in "disproportionately high and adverse" impacts on environmental justice communities. [Institute for Energy Economics and Financial](#)

[Analysis/Agence France-Presse/E&E News](#) (

0912 Energy Policy: Interior announced beefed-up regulations for offshore oil and natural gas drilling, including tougher standards for blowout preventers and a requirement that operators send data about equipment failures directly to the Bureau of Safety and Environmental Enforcement. (increases costs) In response, American Petroleum Institute Vice President of Upstream Policy Cole Ramsey said, "The politicization of this rule and subsequent shift in policy from administration to administration only increases uncertainty for producers and fails to meaningfully improve offshore safety." [The Hill](#) [The Wall Street Journal](#)

APPENDIX C – TELECOM SECTOR

0920 BB Speeds: Phoenix Center: *Speed-Tests: Substitute for, or Complement to, Broadband Maps?*, [may be downloaded free from the Phoenix Center's web page by clicking here.](#) As many of you might know, the Federal Communications Commission's existing broadband availability maps have been heavily criticized as inaccurate, especially for the purpose of distributing billions in subsidy dollars to extend broadband networks to unserved areas. Responding to these concerns, the first iteration of new broadband availability maps using the "fabric" approach are forthcoming in November-2022. This release will be the first to use the FCC's new approach, which seeks to overlay provider footprints with serviceable locations. Given the complexity of this task, it is reasonable to expect some inaccuracy in early versions. A challenge process to help correct the data will render improved versions, and the expectation is that a map the National Telecommunications and Information Administration ("NTIA") can use to allocate the Infrastructure Investment and Jobs Act of 2021's Broadband Equity, Access, and Deployment ("BEAD") program subsidy dollars will be available by mid-2023.

Still, in a rush to distribute subsidy dollars, some advocates have proposed alternative mapping means using speed-test data to identify areas that lack adequate broadband. In a new study released today entitled ***Speed-Tests: Substitute for, or Complement to, Broadband Maps?***, Phoenix Center Chief Economist Dr. George S. Ford evaluates those arguments. To do so, George merges location-specific broadband availability data from Iowa's Broadband Map (Version 5) with Ookla speed-tests results, the most respected source for such data. (George uses Iowa data because the state has developed a broadband availability map at the location level.) The results are not encouraging.

After review, George finds that speed-tests do not appear to be good proxies for actual broadband deployment. In areas where the Ookla data indicate broadband speeds are below the 25/3 Mbps threshold, about 86% of locations have broadband service available above that threshold. At the 100/20 Mbps threshold, about 94% of locations may purchase service meeting or exceeding that threshold. Accordingly, George's analysis demonstrates that speed-test results are not a suitable substitute for rigorous and careful mapping efforts, such as those the FCC is currently undertaking. Speed tests may be useful, however, for detecting errors in broadband maps, such as when very high speeds are observed in areas where the map says they are not available.

0920 [The Latest Stats on Broadband Usage](#) Doug Dawson, CCG Consulting OpenVault released its *Broadband Insights Report* for 2Q22, which contains statistics about nationwide broadband usage at the end of the quarter. As usual, the OpenVault report is an invaluable peek into

the national state of broadband. The report shows that the average home used 491 gigabytes of data at the end of the second quarter. This is up by 13% of the 433 gigabytes used at the end of the second quarter of 2021. The second quarter usage, which represents June 30, is typically the lowest usage levels of the year due to schools being out of session and folks on vacation. Upload bandwidth usage continues to grow and averaged 31.2 gigabytes per household, up from 28 gigabytes in 2021 and 13.6 gigabytes in 2018. Average upload speeds increased from 17 Mbps in 2021 to 23 Mbps in 2022. The percentage of households that use more than 1-terabyte (1,000 gigabytes) of data each month continues to grow rapidly. OpenVault calls these power users. These are homes that will trigger data caps if they have an ISP that enforces them. At the end of the second quarter of 2022, 13.7% of homes are using more than a terabyte compared to 10.8% in 2021, an increase of over 26%. The percentage of homes using more than 2-terabytes increased from 1.5% in 2021 to 2.2% in 2022, an increase of 47%. There has been a huge migration of folks subscribing to faster tiers of broadband. The most extraordinary statistic is that 14.2% of American homes now subscribe to gigabit service, up from 4.6% just two years ago. (go to link to see the chart) This chart, better than anything else I've seen, lays to rest the idea that the national definition of broadband ought to be 100 Mbps download. As of June of this year, 76% of U.S. households are subscribing to broadband plans of 200 Mbps or faster. The most popular tier is 200-400 Mbps, which makes sense since the big cable companies have migrated most broadband customers to speeds of 200 Mbps or 300 Mbps.

0919 Service Quality: [State regulators respond to complaints about telephone service quality in Nebraska](#) [Lincoln Journal Star](#)

0919 Digital "Equity": Massachusetts Broadband Institute MBI "seeks to designate approximately 10-15 Partners as qualified organizations that can implement a suite of digital equity projects that meet the goals outlined in the state's [\$50M funding program]" :: [MBI](#)

0919 Municipal Networks: "Caribou, Maine Moves Forward On Citywide Fiber Plan" :: [Institute for Local Self-Reliance](#)

0919 Municipal Networks: Palo Alto continues to debate citywide FTTP :: [Palo Alto Online](#)

0919 BB Speeds: "College Towns Where Internet Speeds Make the Grade (And Where They Fail)" :: [Ookla](#)

0919 BB Speeds: "14.2% of American homes now subscribe to gigabit service, up from 4.6% just two years ago" :: [POTs and PANs](#)

0919 USF Programs: New York City Announces Free Municipal Broadband Program for New York City Housing Authority Residents [City of New York](#) New York City (NY) will begin the citywide launch of 'Big Apple Connect' — a landmark digital equity program that will make free high-speed internet and basic cable TV available to approximately 300,000 New Yorkers living in more than 200 New York City Housing Authority (NYCHA) developments by the end of 2023. The program was initially piloted at eight public housing developments across the five boroughs and has been expanded to more than 100 developments — at NYCHA's Langston Hughes Houses in Brownsville, Brooklyn (NY). The program will provide residents of NYCHA developments a free bundle that consists of an in-home, high-speed internet connection, including a modem and router; basic cable TV service, including a cable box and remote control; and common area Wi-Fi hotspots, selected in consultation with NYCHA.

NYCHA residents will not be billed anything for these services.

0919 Spectrum: Remarks of FCC Chairwoman Rosenworcel at the 2022 NTIA Spectrum Policy Symposium [Federal Communications Commission](#)

Rosenworcel spoke at the National Telecommunications and Information Administration's (NTIA) 2022 Spectrum Policy Symposium on September 19. Rosenworcel made it a point to discuss how far the FCC has come in the last 5 years in its dealings with spectrum policy and auctions. Her speech focused on the future of the FCC's relationship with the spectrum and spectrum-related policies, initiatives, rule-making, and innovation. "We will see fresh competition in the delivery of household broadband, increasing the number of ways families get online," said Rosenworcel. "Plus, using next-generation wireless technology in the power, transportation, and manufacturing sectors could lead to emissions savings that could help put us on course to reach future climate targets." The chairwoman stated that the FCC will continue to "reset spectrum policy in the United States so we continue to lead the world in wireless," through the following efforts:

Extending the FCC's Auction Authority: it has been through auctioning that spectrum and wireless technologies have been a powerful engine for wireless innovation and economic growth.

Creating More Mid-Band Spectrum: mid-band airways are essential for 5G services to reach everyone, everywhere

Consider Receiver Performance in the Realm of Spectrum Security and Future-Proofing : deployment of older receiver technology denies the introduction of new services but also can degrade the spectrum environment, lessening innovative and economic potential.

You can find Chairwoman Rosenworcel's remarks [here](#).

0919 BB – AEI – Mark Jamison: [Here's Why Florida Should Provide Broadband Leadership . . .](#) As any businessperson knows, the most cost-effective way to get something built is to manage costs, clearly define what you want, make suppliers compete for your business and hold the winners accountable for delivering on promises. This won't happen given how the Biden Administration is implementing the IJA and overcoming the flawed approach will require strong state leadership, which Florida can provide.

The most problematic aspect is the idea that states should run grant programs in which prospective funding recipients submit project proposals that state officials then evaluate and choose between. Studies of previous grant-funding programs consistently found this wastes money because accountability is low and political favoritism is high.

The international best practice for subsidizing broadband is to treat it like a business: Define what is to be built, specify how potential builders will be judged and held accountable and make the prospective providers compete on price. The Technology Policy Institute found this business-like approach cuts costs by 50% compared to a grant approach.

There are other features of the federal plans that add unnecessary costs. The programs press states to pay union-level wages, which tend to be about 11% higher than non-union wages. They also tell states to tilt the grant competition against America's world-class broadband providers to favor municipalities and startup companies. But these enterprises fail to achieve financial viability 90% to 95% of the time. That wastes taxpayer money.

One local municipal utility is an exception to that rule: Gainesville Regional Utilities (GRU), which is a sponsor of my research center at the University of Florida, is one of the few city-owned broadband providers in the country that is both technically and financially

successful. It's just that GRU is rare in this regard.

Florida can provide leadership by partnering with like-minded states to form sound policies and resist the federal inefficiencies by advocating for the business approach to the broadband build out. This will require quick action as the federal government is already rallying support from state broadband officials for its approach.

A first step for Florida and its partner states would be to adopt a funding model that emphasizes transparent price competition between would-be broadband providers and includes protections against favoritism. Creating price competition can be complex, but numerous countries have used this approach for broadband and other communications services. A coalition of states could run effective competitions.

Florida and its partner states could also push the federal government to publicly justify its cost-increasing policies. In essence, Florida and other states would be putting the burden on the federal government to defend why its cost-increasing policies are more important than taxpayers getting their money's worth. The federal rules attempt to put states on the defensive. States should turn the tables.

0919 Section 230/censorship: [California Dems follow Texas GOP into online speech battle](#) | The Hill CA Democrats appear headed for a similar legal battle facing Texas Republicans as the fight over content moderation plays out through state laws. California's transparency law, signed by Gov. (D) last week, has the opposite intent as that of a law backed by Texas Republicans that is set to go into effect after an appellate court [ruled Friday](#) in favor of the state. But the industry groups opposing Texas's law are tying the two together, arguing that both content moderation laws are unconstitutional and could set dangerous precedents that lead to more hate speech online. California's law, though, aims to crack down on "hate speech" (an amorphous term that frequently requires subjective analysis) by establishing regulation to promote transparency by compelling tech platforms to publicly post their policies about hate speech and disinformation. It also requires companies to send a report to the state attorney general about current terms of service and data on violations.

0919 Rip and Replace Status updates due October 13.

0919 Unbundling: [FCC notice seeking comments on Sonic Telecom's petition for reconsideration of the October 2020 report and order on modernizing the FCC's unbundling and resale requirements](#) was published in the [Federal Register](#) on Sept. 19, 2022. **Comments and oppositions are due Oct. 4, 2022; replies are due Oct. 14, 2022. NECA WW**

0918 Mapping: FCC Broadband Mapping Fabric Doug Dawson [CCG Consulting](#) going to hear a lot in the next few months about the FCC's mapping fabric. Today's blog is going to describe what that is and describe the challenges of getting a good mapping fabric.

The FCC hired CostQuest to create the new system for reporting broadband usage. The FCC took a lot of criticism about the old mapping system that assumed that an entire Census block was able to buy the fastest broadband speed available anywhere in the Census block. This means that even if only one home is connected to a cable company, the current FCC map shows that everybody in the Census block can buy broadband from the cable company.

To fix this issue, the FCC decided that the new broadband reporting system would eliminate this problem by having an ISP draw polygons around areas where it already serves or could provide service within ten days after a customer request. If done correctly, the new method will precisely define the edge of cable and fiber networks. The creation of the

polygons creates a new challenge for the FCC – how to count the passings inside of any polygon an ISP draws. A passing is any home or business that is a potential broadband customer. CostQuest tried to solve this problem by creating a mapping fabric. A simplistic explanation is that they placed a dot on the map for every known residential and business passing. CostQuest has written software that allows them to count the dots of the mapping fabric inside of any possible polygon. That sounds straightforward, but the big challenge was creating the dots with the actual passings. My consulting firm has been helping communities try to count passings for years as part of developing a broadband business plan, and it is never easy. Communities differ in the raw data available to identify passings. Many counties have GIS mapping data that shows the location of every building in a community. But the accuracy and details in the GIS mapping data differ drastically by county. We have often tried to validate GIS data to other sources of data like utility records. We've also validated against 911 databases that show each registered address. Even for communities that have these detailed records, it can be a challenge to identify passings. We've heard that CostQuest used aerial maps to count rooftops as part of creating the FCC mapping fabric.

Why is creating a fabric so hard? Consider residential passings. The challenge becomes apparent as soon as you start thinking about the complexities of the different living arrangements in the world. Even if you have great GIS data and aerial rooftop data, it's hard to account for some of the details that matter.

How do you account for abandoned homes? Permanently abandoned homes are not a candidate for broadband. How do you make the distinction between truly abandoned homes and homes where owners are looking for a tenant?

How do you account for extra buildings on a lot. I know somebody who has four buildings on a large lot that has only a single 911 address. The lot has a primary residence and a second residence built for a family member. There is a large garage and a large workshop building – both of which would look like homes from an aerial perspective. This lot has two potential broadband customers, and it's likely that somebody using GIS data, 911 data, or aerial rooftops won't get this one property right. Multiply that by a million other complicated properties, and you start to understand the challenge.

Farms are even harder to count. It wouldn't be untypical for a farm to have a dozen or more buildings. I was told recently by somebody in a state broadband office that it looks like the CostQuest mapping fabric is counting every building on farms – at least in the sample that was examined. If this is true, then states with a lot of farms are going to get a higher percentage of the BEAD grants than states that don't have a lot of compound properties with lots of buildings.

What's the right way to account for vacation homes, cabins, hunting lodges, etc.? It's really hard with any of the normal data sources to know which ones are occupied full time, which are occupied only a few times per year, which have electricity, and which haven't been used in many years. In some counties, these kinds of buildings are a giant percentage of buildings.

Apartment buildings are really tough. I know from working with local governments that they often don't have a good inventory of the number of apartment units in each building. How is the FCC mapping data going to get this right?

I have no idea how any mapping fabric can account for homes that include an extra living space like an in-law or basement apartment. Such homes might easily represent two

passings unless the two tenants decide to share one broadband connection.

And then there is the unusual stuff. I remember being in Marin County, California and seeing that almost every moored boat has a full-time occupant who wants a standalone broadband connection. The real world is full of unique ways that people live.

Counting businesses is even harder, and I'm not going to make the list of the complexities of defining business passings – but I think you can imagine it's not easy.

I'm hearing from folks who are digging into the FCC mapping fabric that there are a lot of problems. ISPs say they can't locate existing customers. They tell me there are a lot of mystery passings shown that they don't think exist.

We can't blame CostQuest if they didn't get this right the first time – Americans are hard to count. I'm not sure this is ever going to be done right. I'm sitting here scratching my head and wondering why the FCC took this approach. I think a call to the U.S. Census would have gotten that advice that this is an impossible goal. The Census spends a fortune every ten years trying to identify where people live. The FCC has given itself the task of creating a 100% census of residences and businesses and updating it every six months.

The first set of broadband map challenges will be about the fabric, and I'm not sure the FCC is ready for the deluge of complaints they are likely to get from every corner of the country. I also have no idea how the FCC will determine if a suggestion to change the fabric is correct because I also don't think communities can count passings perfectly.

This is not the only challenge. There are going to be challenges of the coverage areas claimed by ISPs. The big challenge, if the FCC allows it, will be about the claimed broadband speeds. If the FCC doesn't allow that they are going to get buried in complaints. I think the NTIA was right to let the dust settle on challenges before using the new maps

0919 NECA REG SCAN: [Full edition](#) | [Past issues](#)

The FCC [released data specifications](#) for filing bulk challenges and bulk crowdsource information as part of the Broadband Data Collection. The FCC also [established](#) procedures for entities using their own hardware and software to submit on-the-ground speed test data for the mobile BDC.

NTIA [updated](#) the [frequently asked questions](#) for the BEAD Program.

The FCC [authorized](#) Rural Digital Opportunity Fund support for 49 winning bids.

Comments on NECA's [2023 Modification of the Average Schedule Universal Service High Cost Loop Support Formula are due](#) Oct. 14, 2022; replies are due Nov. 1, 2022.

The FCC [announced](#) the proposed universal service contribution factor for the fourth quarter of 2022 will be 28.9%, down from 33%.

Rep. Andy Harris (R-Md.) sent a [letter](#) to the Department of Commerce expressing concerns with NTIA's irrevocable letter of credit requirement for the middle mile and BEAD programs.

[Reply comments were filed](#) on the [seventh FNPRM and fifth FNPRM](#) on robocalls.

The [report and order](#) adopting a schedule to assess and collect \$381,950,000 in regulatory fees for fiscal year 2022 is [effective](#) Sept. 14, 2022. Fees are due by Sept. 28, 2022.

0919 BB Funding Guide: [NTIA Launches Updated Federal Broadband Funding Guide](#) The National Telecommunications and Information Administration (NTIA) released an update to the Federal Funding site, which serves as a comprehensive, "one-stop shop" of resources for potential applicants seeking federal broadband funding. The site includes broadband funding opportunities and information on more than 80 federal programs across 14 federal agencies. Programs include funding opportunities for high-speed internet-related activities such as

planning, infrastructure deployment, and digital inclusion. Program types include direct grants, loans, indirect support, and discounts for industry, state, local, and Tribal governments, schools, libraries, and other community institutions that are interested in expanding and improving broadband access. Notably, the site features many new programs, including those that were funded through the Infrastructure Investment and Jobs Act including the Department of Commerce's Broadband Equity, Access, and Deployment (BEAD), Enabling Middle Mile Broadband Infrastructure, and Digital Equity Act programs. More information can be found [here](#).

0919 BB Programs – LOC: Rep Harris (R-MD) Asks NTIA to Reconsider Letter of Credit

Requirements for Infrastructure Investment and Jobs Act Broadband Programs [Letter](#) Rep Andy Harris (R-MD) recently sent a letter to US Commerce Secretary Gina Raimondo regarding the National Telecommunications and Information Administration's (NTIA) requirements for its Infrastructure Investment and Jobs Act (IIJA) broadband programs. Specifically, the September 14, 2022 letter expresses concerns about the Letter of Credit (L/C) requirement included in the NTIA's Notices of Funding Opportunity (NOFOs) for the Broadband Equity, Access and Deployment (BEAD) Program and the Enabling Middle Mile (MM) Broadband Infrastructure Program. "Under this requirement," said Harris, "for a broadband provider to be eligible for a grant under the MM and BEAD programs, it must obtain a standby irrevocable L/C from a bank that equals 25% of the grant amount." Harris stated that "this L/C requirement contravenes the IIJA because it prevents the 'distribut[ion of] the funds in an equitable and nondiscriminatory manner' to all broadband providers, both small and big."

0919 Privacy: [Sen. Durbin \(posted today from 9/13 hearing\) : Durbin Delivers Opening Statement During Senate Judiciary Committee Hearing With Twitter Whistleblower Peiter](#)

This hearing will focus on Mudge's allegations of data security failures, foreign infiltration, and misrepresentations to regulatory agencies by Twitter WASHINGTON – U.S. Senate Majority Whip Dick Durbin (D-IL), Chair of the Senate Judiciary Committee, today delivered an opening statement during the Senate Judiciary Committee hearing entitled "Data Security at Risk: Testimony from a Twitter Whistleblower."

Key Quotes:

"Twitter now plays an outsized role in politics, culture, and even democracy itself."

"In July 2020, two teenagers hacked into the accounts of Twitter employees and gained access to a number of high-profile accounts—including now President Biden's and former President Obama's. Those two teenagers then sent a series of tweets from those accounts, and scammed Twitter users out of more than \$100,000 in Bitcoin. In response, then-CEO Dorsey turned to a trusted name in the world of cybersecurity to lead an overhaul of Twitter's security practices, and for more than a year, that's what he tried to do until he was terminated by Twitter's new CEO this January."

"Last month, this individual released a whistleblower disclosure detailing a number of alarming allegations about Twitter's security practices. Without objection, his disclosure will be entered into the record. That whistleblower's name is Peiter Zatkó—or, as he's more commonly known: Mudge."

"You've alleged a number of security flaws and weaknesses within the company—flaws that may pose a direct threat to the safety and privacy of Twitter's hundreds of millions of users as well as America's national security. And more broadly, you allege that compared to other

technology companies, Twitter’s security standards remain woefully deficient. You allege that thousands of employees within the company have extraordinary access to the sensitive information of Twitter’s users and that there is little oversight over how that information is accessed.”

“Twitter doesn’t just have access to your tweets and email address, they also have access to all of the data necessary to directly access your device—and even pinpoint your exact location.”

“Imagine if a malicious hacker or hostile foreign government broke into the President’s Twitter account, and sent out false information claiming that there was a terrorist attack on one of our cities. It could cause widespread panic. The bottom line is this: Twitter is an immensely powerful platform that cannot afford gaping security vulnerabilities. Today, we have a chance to engage in a good faith, bipartisan discussion to ask: What needs to be done?”

Yesterday, Durbin and U.S. Senator Chuck Grassley (R-IA), Ranking Member of the Senate Judiciary Committee, sent a [letter](#) to Twitter Chief Executive Officer (CEO) Parag Agrawal seeking information regarding Mr. Zlatos’s whistleblower report concerning the social media platform. In their letter, Durbin and Grassley outline some of the more serious concerns raised by Mr. Zlatos, including the prospect that more than half of the company’s full-time employees have privileged access to Twitter’s production systems, enabling several thousand employees to access sensitive user data—while, at the same time, Twitter reportedly lacks sufficient capacity to reliably know who has accessed specific systems and data and what they did with it.

[Video of Durbin’s opening statement is available here.](#)

[Audio of Durbin’s opening statement is available here.](#)

[Footage of Durbin’s opening statement is available here](#) for TV Stations.

0919 Spectrum – Interference: UTC News: [Utility Trade Associations Call on FCC to Conduct Further Testing in the 6 GHz Band](#)

UTC, together with the Edison Electric Institute, the American Public Power Association and the National Rural Electric Cooperative Association (Utility Trade Associations) [filed a letter](#) with the Federal Communications Commission (FCC) to emphasize the importance of real-world testing to ensure that the operations of licensed incumbents are adequately protected from harmful interference from unlicensed devices. The Monte Carlo simulations by CableLabs, contracted by proponents for unlicensed operations in the 6 GHz band only make conclusory findings and do not provide the underlying data and algorithms used. In contrast, initial results of real-world testing by other electric companies confirms the Southern Company test report findings regarding a single low power device operating in the path and also indicates that the additional interference caused by operating more than one unlicensed device in the path of an existing 6 GHz fixed service (FS) microwave link presents a significant risk of communications failure.

0919 BB Funding Guide Update – UTC: The National Information and Telecommunications Administration (NTIA) [updated](#) its Federal Funding website, which includes broadband funding opportunities and information on more than 80 federal programs across 14 federal agencies. Programs include funding opportunities for high-speed internet-related activities such as planning, infrastructure deployment, and digital inclusion. This is part of NTIA’s ongoing work to expand access and increase connectivity across the U.S. through its [Internet for All](#) effort by increasing awareness of federal funding available for closing the digital divide.

0916 TDS chases broadband grants in 3 more states after wins in TN, WI *By Diana Goovaerts* In Virginia, it is seeking nearly \$4.6 million to reach over 2,800 locations in Craig County.

0916 Consumer Advisory Committee An FCC [notice](#) was published in the Federal Register on Sept. 16, 2022, announcing the charter of the Consumer Advisory Committee will be renewed for a two-year period on or before Oct. 13, 2022. The CAC's mission is to make recommendations to the commission on topics that may include: consumer protection and education; implementation of statutes, FCC rules and policies to protect consumers; promoting consumer participation and input into FCC rulemaking proceedings and other decision-making processes; and the impact of new and emerging communications technologies on consumers, including those in underserved populations. NECA WW

0916 Robocalls: PWR Notice: An FCC [notice](#) was published in the Federal Register on Sept. 16, 2022, seeking Paperwork Reduction Act comments on a new information collection as it pertains to the May 2022 [report and order](#) addressing foreign-originated robocalls. The order required all gateway providers block calls using a reasonable Do Not Originate list. **PRA comments are due Oct. 17, 2022.** NECA WW

0916 Precision Ag meets Oct 5: FCC [announced](#) the Task Force for Reviewing the Connectivity and Technology Needs of Precision Agriculture in the United States will hold a meeting on Oct. 5, 2022.The task force will cover updates from working groups on their progress and discuss working group reports. The meeting will be held via conference call and available to the public via [live feed](#). NECA WW

0916 FEES: FCC [public notice](#) announces payment methods and procedures for fiscal year 2022 regulatory fees. The FCC also issued fact sheets on [regulatory fee exemptions](#), and on amounts owed from [interstate telecommunications service providers, cable television, IPTV and DBS](#), and [international and satellite services](#). NECA WW

0916 Lifeline: Smith Bagley, Inc. filed a [request](#) for a three-month extension (through Dec. 31, 2022) of the waiver of Lifeline rules relating to certification, recertification, income documentation and general disenrollment, which is currently set to expire on Sept. 30, 2022. SBI also requested clarification that tribal Lifeline subscribers will not be subject to the Affordable Connectivity Program recertification process for the duration of the waiver of the Lifeline recertification rules, and that any tribal Lifeline subscribers who are disenrolled as a result of the ongoing ACP recertification process may reenroll in ACP based on their continued participation in Lifeline. NECA WW

0916 Section 230/censorship: [The Hill: Appeals \(5th Circuit\) court upholds controversial Texas social media law](#)

0916 Supply Chain: Wireline Competition Bureau [reminded](#) recipients in the Secure and Trusted Communications Networks Reimbursement Program of their obligation to file status updates with the FCC every 90 days, beginning on the date the bureau approved their applications, until the obligation to file expires. The bureau said because recipients' applications were approved on July 15, 2022, all initial status updates are due on Oct. 13, 2022. NECA WW

0916 5G -[Verizon challenges Comcast Xfinity 5G marketing claims](#) *By Monica Allevan* Comcast was told to tone down some of its messaging so that it doesn't give the impression that consumers will save massive amounts of money by switching to Xfinity.

0916 Robocalls: Reply comments were filed on the [seventh FNPRM and fifth FNPRM](#) on protecting consumers from illegal calls, whether they originate domestically or abroad.

[NTCA](#) said the FCC must take steps to ensure call authentication is available across networks of all kinds. NTCA asserted given the presence of TDM tandems in many of the call flows for rural America, this can be achieved either by adopting standards for non-IP call authentication or providing a regulatory backstop against which IP interconnection can be promoted and implemented. The [VON Coalition](#) asserted the FCC should reject proposals broadly targeting VoIP providers that will introduce regulatory uncertainty and unnecessary burdens on the entire VoIP industry without any likelihood of reducing illegal robocalls. [Verizon](#) asserted the FCC should utilize the Industry Traceback Group's unique capabilities to identify and take enforcement action against the many service providers currently failing to comply with its existing rules. NECA WW

0915 BB Speeds: Manhattan, Kan., was the college town with the fastest 5G broadband speed in Ookla's Speedtest Intelligence, which ranked 100 towns during the second quarter. Clemson, S.C., led in mobile speed and Grambling, La., in fixed broadband. [Telecompetitor](#)

0915 RDOF: California PUC [letter](#) responds to Cal.net's [petition for waiver](#) of the deadline for each RDOF support applicant to certify it is a designated eligible telecommunications carrier in each of the areas for which it seeks support. The CPUC asserted Cal.net is asking the FCC to disregard the CPUC's determination on Cal.net's ETC status, as well as ignore the FCC's own finding it does not have jurisdiction to decide Cal.net's ETC status in California, and in doing so, makes several mischaracterizations and misrepresentations.

0915 USF: National Tribal Telecommunications Association letters to [Rosenworcel](#), [Carr](#), [Starks](#) and [Simington](#), and [Trent Harkrader](#), attaches a white paper on examining the need for ongoing broadband support on tribal lands. NTTA said the paper calls for a sustainability funding program that assists tribes with the high cost of operating and maintaining broadband capable networks, especially for those providers not currently assisted under existing federal high-cost support programs. NTTA urged the FCC to consider these issues in its proceeding to determine the reorientation of the High Cost Program. NECA WW

0915 Digital Divide: ""Equity" - Lawmakers Introduce the Digital Equity Foundation Act to Increase Digital Equity, Inclusion, and Literacy - Sen Ben Ray Luján (D-NM), Rep Doris Matsui (D-CA) | Press Release | [US Senate](#) Sen Ben Ray Luján (D-NM) and Rep Doris Matsui (D-CA) led Sens Jeff Merkley (D-OR), Martin Heinrich (D-NM), Ed Markey (D-MA), Richard Blumenthal (D-CT), and Amy Klobuchar (D-MN) to introduce the [Digital Equity Foundation Act](#), legislation to establish a nonprofit foundation to leverage public and private investments to make progress closing the divide on digital equity, digital inclusion, and digital literacy. The Foundation will supplement the National Telecommunications and Information Administration (NTIA) and the Federal Communication Commission's work to award grants, support research, provide training and education, engage with stakeholders, collect data, and promote policies to improve digital equity outcomes. The Foundation will be run by a Board of experts specializing in the fields of digital equity, technology, and telecommunications, and will represent diverse communities throughout the US. Congressionally-established nonprofit foundations have had great success in supporting the missions of various government agencies, including NIH, FDA, and NPS, and provide a mechanism to leverage public-private partnerships and support innovation. As the NTIA works to implement the broadband programs in the Infrastructure Investment and Jobs Act (IIJA) and connect our country, the Digital Equity Foundation will be vital to ensuring the most vulnerable communities have the knowledge and skills to take full advantage of these

new connections. NECA's TAKE: Rep. Doris Matsui (D-Calif.) and Sens. Ben Ray Lujan (D-N.M.), Jeff Merkley (D-Ore.), Martin Heinrich (D-N.M.), Ed Markey (D-Mass.), Richard Blumenthal (D-Conn.) and Amy Klobuchar (D-Minn.) [introduced](#) the [Digital Equity Foundation Act](#) on Sept. 15, 2022, which establishes a nonprofit foundation to leverage public and private investments to make progress closing the divide on digital equity, inclusion and literacy. They said the foundation will supplement NTIA's and the FCC's work to award grants, support research, provide training and education, engage with stakeholders, collect data and promote policies to improve digital equity outcomes.

0915 BB Grants: Xochitl Torres Small of the USDA said that federal government definitions for "rural" vary widely where broadband programs are concerned. Rep. Jimmy Panetta, D.-Calif., has called for a unified standard. [FierceTelecom](#)

0915 Digital Divide - Digital Divide: Tribal Communities Are Undercounted, Underserved Kaitlyn Levinson | [nextgov](#) When broadband fails to reach indigenous tribes, the result is not only a lack of connectivity but also a scarcity of data that essentially masks their needs from the government. The digital divide disproportionately affects underserved populations, and for Tribal communities, it is exacerbated by jurisdictional challenges, geographic coverage limitations, and a lack of affordability, said Traci Morris, executive director of the American Indian Policy Institute (AIPI). The absence of technology and even staff on Tribal lands restricts the amount of their information that can be gathered about native communities compared with other areas of the country, creating data divides. When American Indians and Native Alaskans are undercounted by the census, for example, their needs are too, according to the Center for Data Innovation's recent [report](#) on the data divide. Despite funding from the National Telecommunications and Information Administration (NTIA) to increase digital access and broadband on indigenous lands, "government officials cannot effectively grasp the scope of the problem," because of inadequate data according to the report. There have been efforts to improve the situation, Morris said. In Temecula (CA) in the summer of 2021, representatives from various tribes met up to learn about broadband installation for the first tribal wireless boot camp. The session focused on building, maintaining, and troubleshooting wireless networks. Tribal broadband boot camps are slated to continue next year as well. Additionally, the US Department of Commerce announced the Tribal Broadband Connectivity Program (TBCP), which will award nearly \$1 billion in funds that would help "deploy broadband infrastructure, establish affordable broadband programs, and support digital inclusion across Indian Country to lessen the digital divide."

0915 ACP - Biden-Harris Administration Makes "Back to School" Drive to Help Students and Families Get Free High-Speed Internet [White House](#) As America's kids get back to school and continue to recover from the challenges of the pandemic, ensuring that all families have access to affordable high-speed internet is more important than ever. That's why President Biden and Vice President Harris worked with Democrats, Republicans, and Independents to create the Affordable Connectivity Program (ACP) in the Infrastructure Investment and Jobs Act. The Biden-Harris Administration's "Back to School" enrollment drive includes: Working with local leaders to help families in their community sign up. Providing a "Back to School" [toolkit](#) for schools. Raising ACP awareness through the Department of Education's "Back to School" outreach. Reaching out to principals at key schools. Emailing all Pell Grant awardees to notify them of their eligibility and encourage them to sign up. Conducting outreach to Tribal communities. For more information, visit [here](#).

0915 Mapping: FCC Announces Data Specifications for Bulk Fixed Availability Challenge and

Crowdsource Data [Federal Communications Commission](#) The Federal Communications Commission announces the release of Data Specifications for Bulk Fixed Availability Challenge and Crowdsource Data, which provides guidance as to the requirements in the FCC's rules and orders for filing bulk challenges, as well as bulk crowdsource information, to the fixed broadband availability data that will be published on the FCC's Broadband Maps as part of the new Broadband Data Collection (BDC). The Data Specifications for Bulk Fixed Availability Challenge and Crowdsource Data, which also explains how to make the required filings in the BDC system, is available [here](#). The bulk fixed availability challenge and crowdsource processes will open after the FCC's Broadband Maps are published. NECA's TAKE: Broadband Data Task Force, together with the Wireline Competition Bureau and Office of Economics and Analytics issued a [public notice](#) on Sept. 15, 2022, announcing the release of [data specifications](#) that provide guidance on the requirements for filing bulk challenges and bulk crowdsource information to the fixed broadband availability data to be published on the FCC's broadband maps as part of the new Broadband Data Collection. The bulk fixed availability challenge and crowdsource processes will open after the maps are published. [DA-22-961A1.docx](#) [DA-22-961A1.pdf](#) [DA-22-961A1.txt](#)

0915 Mapping/Mobile BB Data Collection: BROADBAND DATA TASK FORCE ESTABLISHES PROCESS FOR ENTITIES TO USE THEIR OWN SOFTWARE AND HARDWARE TO COLLECT ON-THE-GROUND MOBILE SPEED TEST DATA AS PART OF THE BROADBAND DATA COLLECTION. (DA No. 22-962). (Dkt No 19-195). Broadband Data Task Force establishes procedures for wireless providers, governmental entities and third parties that use their own hardware and software to submit on-the-ground speed test data as part of the BDC mobile challenge and verification processes. MB WTB OEA OET. News Media Contact: Anne Veigle, Anne.Veigle@fcc.gov. [DA-22-962A1.docx](#) [DA-22-962A1.pdf](#) [DA-22-962A1.txt](#) - NECA - The Broadband Data Task Force, together with the Wireless Telecommunications Bureau, Office of Economics and Analytics, and Office of Engineering and Technology issued a [public notice](#) setting procedures for mobile wireless broadband service providers, governmental entities and other third parties that use their own hardware and software to submit on-the-ground speed test data as part of the mobile challenge and verification processes of the Broadband Data Collection. NECA WW

0915 Precision Ag: Next Precision Ag Connectivity Task Force Meeting October 5 at 3 ET At the meeting, the task force will cover updates from working groups on their progress and discuss working group reports. The meeting will be held via conference call and be available to the public via [live feed](#).

0915 Farm Bill: - The House Agriculture Committee held a [hearing](#) on Sept. 15, 2022, entitled "2022 Review of the Farm Bill: Broadband." Witnesses included: [Xochitl Torres Small](#), USDA; [B. Lynn Follansbee](#), USTelecom; [Tarryl Clark](#), Stearns County, Minnesota on behalf of the National Association of Counties; and [Garrett Hawkins](#), Missouri Farm Bureau. NECA WW

0915 FCC Vacancies – OpEd opposing Gigi: [The Hill: The FCC is working just fine without Gigi Sohn](#)

0915 Section 230/Censorship: Biden-Harris Administration Hosts United We Stand Summit on Taking Action to Prevent and Address Hate-Motivated Violence [White House](#) On September 15, 2022, President Biden hosted the [United We Stand Summit](#) to counter the corrosive effects of hate-fueled violence on our democracy and public safety. Announcements from the tech sector at the summit took a step towards recognizing the

important role companies play in designing their products and platforms to curb the spread of hate-fueled violence both online and off:

YouTube is expanding its policies to combat violent extremism by removing content glorifying violent acts for the purpose of inspiring others to commit harm, fundraise, or recruit. YouTube will also launch an educational media literacy campaign across its platform.

Twitch will release a new tool that empowers its streamers to help counter hate and harassment. Twitch will also launch new community education initiatives on topics including identifying harmful misinformation and deterring hateful violence.

Microsoft is expanding its application of violence detection and prevention artificial intelligence (AI) and Machine Learning (ML) tools and using gaming to build empathy in young people.

Meta is forging a new research partnership with the Middlebury Institute of International Studies' Center on Terrorism, Extremism, and Counterterrorism. Meta will also partner with Search For Common Ground to equip community-based partners working locally to counter hate-fueled violence.

0915 BB – Company Access to Govt Funds: Altice USA CEO says its quest for broadband grants is gaining steam Diana Goovaerts | [Fierce](#) Outgoing Altice USA CEO Dexter Goei revealed the operator has already secured tens of millions in broadband grant awards this year, as it pursues as much as \$1 billion in government funding to boost its fiber expansion plan. Goei indicated it has received around \$50 million so far this year to help it reach between 40,000 and 45,000 locations. He added it continues to apply for grants “every week” and is hoping to score additional funding over the next 12 to 24 months to help it cover “a couple hundred thousand more” locations. The operator’s wins thus far include a \$6 million Arizona Broadband Development Grant to cover 7,000 locations in La Paz and Coconino (AZ) counties; a \$6 million grant from the state of West Virginia to cover more than 9,000 locations there; and a \$4 million award to cover around 1,500 locations in North Carolina. It also scored \$15 million from Louisiana’s Granting Unserved Municipalities Broadband Opportunities (GUMBO) program to serve more than 9,000 locations and \$12.6 million from Arizona’s Yavapai County to reach around 8,000 locations. Ultimately, Altice USA continues to ramp up its ongoing fiber overbuild of its cable footprint until 2024 to reach 1.6 to 1.8 million new passings.

0915 Spectrum: Starlink and Wireless Internet Service Providers Battle for 12GHz Spectrum Doug Dawson | Analysis | [CCG Consulting](#) A big piece of what the Federal Communications Commission does is to weigh competing claims to use spectrum. One of the latest fights, which is the continuation of a fight going on since 2018, is for the use of the 12 GHz spectrum. The big wrestling match is between Starlink’s desire to use the spectrum to communicate with its low-orbit satellites and cellular carriers and wireless internet service providers (WISPs) who want to use the spectrum for rural broadband. Starlink uses this spectrum to connect its ground-based terminals to satellites. Wireless carriers argue that the spectrum should also be shared to enhance rural broadband networks. In the current fight, Starlink wants exclusive use of the spectrum, while wireless carriers say that both sides can share the spectrum without much interference. These are always the hardest fights for the FCC to figure out because most of the facts presented by both sides are largely theoretical. The only true way to find out about interference is in real-world situations – something that is hard to simulate any other way. It seems every spectrum fight has two totally different

stories defending why each side should be the one to win use of the spectrum.

0915 NTTA files paper on broadband sustainability funding on Tribal lands Godfrey Enjady [National Tribal Telecommunications Association](#) On September 15, 2022, the National Tribal Telecommunications Association (NTTA) sent letters to Federal Communications Commission Chairwoman Jessica Rosenworcel, Commissioners Carr, Starks and Simington, and Chief of the Wireline Competition Bureau Trent Harkrader attaching a white paper on examining the need for ongoing broadband support on Tribal lands. According to NTTA, the paper examines the need for ongoing support to assist in eliminating the digital divide that currently exists between broadband availability on Tribal lands and the rest of the United States. It calls for a “sustainability funding” program that assists Tribes with the high cost of operating and maintaining broadband-capable networks, especially for those providers not currently assisted under existing federal high-cost support programs. The NTTA urged the FCC to consider the issues discussed in the white paper in its upcoming proceeding to determine the “reorientation” of the High Cost Program.

0915 Speed Measurement metrics Needed: The national broadband rollout has a blind spot: Lack of accurate, transparent data about internet access speeds Sascha Meinrath | Op-Ed | [The Conversation](#) Unlike other advertisements for goods and services, there are no federally set standards for measuring broadband service speeds. This means there is no clear way to tell whether customers are getting what they pay for. To protect consumers, the FCC will need to invest in building a set of broadband speed measures, maps, and public data repositories that enables researchers to access and analyze what the public actually experiences when people purchase broadband connectivity. The FCC’s latest proposal for the creation of a National Broadband Map is already receiving criticism because its measurement process is a “black box,” meaning its methodology and data are not transparent to the public. Lack of transparency about these new maps and the methodologies undergirding them could lead to major headaches in disbursing the \$42.5 billion in broadband infrastructure grant funding through the Broadband Equity, Access, and Deployment (BEAD) Program. The FCC’s methodologies have been greatly inaccurate, which has hampered the nation’s ability to address the digital divide. Independent analysis is crowd-sourcing data collection of monthly internet bills from across the country. Efforts like these from consumer groups are crucial to shed more transparency on the problem that official measures differ from consumer experience.

0914 E-Rate - Los Angeles Unified School District [letter](#) to all the commissioners urge the FCC to authorize permanent use of E-rate funds for IT security and infrastructure. NECA WW

0914 5G: Building private 5G networks for factories and other large installations represents one of the biggest new 5G business opportunities for Verizon, said CEO Hans Vestberg. The other key trend is mobile access computing, Vestberg said. [Telecompetitor](#)

0914 5G: NTIA: Joint Statement on 5G/Open RAN Information Sharing and Telecommunications Resilience and Security Between the United States and the Australian Department of Home Affairs

0914 Bead – LOC requirement: Rep. Andy Harris (R-Md.) [letter](#) to Commerce Secretary Raimondo asking for reconsideration of NTIA’s standby irrevocable letter of credit requirement for the middle mile and Broadband, Equity, Access and Deployment programs. The LOC requirement requires for a broadband provider to be eligible for a grant, it must obtain a standby irrevocable LOC from a bank that equals 25% of the grant amount. Harris said NTIA

should reconsider this LOC requirement, saying it prevents the distribution of the funds in an equitable and nondiscriminatory manner to all broadband providers, both small and big, and imposes an unreasonable financial burden on all applicants. NECA WW

0914 Average Schedules: WIRELINE COMPETITION BUREAU SEEKS COMMENT ON NECA 2023 MODIFICATION OF THE AVERAGE SCHEDULE COMPANY UNIVERSAL SERVICE HIGH COST LOOP SUPPORT FORMULA. (DA No. 22-957). (Dkt No 05-337 10-90). Comments Due: 2022-10-14. Reply Comments Due: 2022-11-01. [DA-22-957A1.docx](#) [DA-22-957A1.pdf](#) [DA-22-957A1.txt](#)

0914 Section 230/Censorship: [The Hill: Newsom signs controversial social media bill into California law](#) California Gov. [Gavin Newsom](#) (D) has signed into law a social media transparency measure that he says protects residents from hate and disinformation posts spread through social media platforms. A.B. 587 [will require social media companies to](#) publicly post their policies regarding hate speech, disinformation, harassment and extremism on their platforms and report data on their enforcement of the policies. The newly signed legislation will also require platforms to file semiannual reports to the state's attorney general's office that will disclose their policies on hate speech, extremism and disinformation.The bill has also raised concerns from legal experts, citing the First Amendment and free speech as their main issues. "The bill is likely to be struck down as unconstitutional at substantial taxpayer expense. The censorial consequences should trigger the highest level of constitutional scrutiny, but the undue burdens and lack of consumer benefit ensures it won't survive even lower levels of scrutiny," Santa Clara University School of Law professor Eric Goldman [wrote in a blog post](#). "As my blog post mentions, there are several other bases for constitutional challenges."

0914 Privacy: [Mondaq: US FTC Moves Forward On Privacy Rulemaking With Public Forum](#) On September 8, 2022, the Federal Trade Commission (FTC) held a virtual public forum on the agency's release last month of an [Advance Notice of Proposed Rulemaking](#) (ANPR) to regulate the protection of consumers' privacy and data security, which we covered in a prior [Legal Update](#). In addition to allowing the public the opportunity to share feedback about the ANPR, the hearing also included remarks from FTC leaders as well as two panels with consumer advocacy groups and representatives from industry on the perceived harms stemming from what the FTC characterizes as "commercial surveillance" and whether new rules are needed to protect consumers.

Key topics raised by industry representatives and consumer advocates alike included data minimization and the prevention of secondary uses of data, particularly in the context of behavioral advertising. As discussed further below (see "What Can Companies Do?"), the FTC's focus on behavioral advertising and concerns about the widespread collection of consumers' online activities is part of a broader regulatory emphasis on digital marketing across the globe. We saw this in California in connection with the state attorney general's [recent public settlement](#) of an enforcement action for alleged violations of the California Consumer Privacy Act (CCPA) pertaining to cookies; we saw this in Europe, where state regulators [such as the French Data Protection Authority](#) (CNIL) have increasingly fined companies for behavioral advertising and cookie practices under the EU General Data Protection Regulation (GDPR); and we saw this when the US Consumer Financial Protection Bureau (CFPB) issued an [interpretive rule](#) clarifying that digital marketers are subject to CFPB enforcement as "service providers."

One particular point of tension that came up throughout the FTC forum, and especially during the public comment period, related to the FTC's legal authority to engage in a privacy rulemaking. Some participants warned of the FTC interfering with ongoing congressional negotiations over proposed federal privacy legislation, the American Data Privacy and Protection Act (ADPPA), and others alluded to FTC rulemaking authority struggling to clear the hurdle of Supreme Court scrutiny under the "major questions" doctrine.

Regardless of legal procedural concerns, the rulemaking process is fully underway, with the FTC looking to use public feedback in order to move to the next stage of the Mag-Moss rulemaking process: issuing a Notice of Proposed Rulemaking. The agency will take public written comments about the ANPR until October 21, 2022.

Commissioners' Remarks

The three Democratic commissioners—Chair Lina Khan and Commissioners Rebecca Slaughter and Alvaro Bedoya—delivered brief remarks highlighting their individual concerns and areas of focus for privacy rulemaking. Notably, neither of the Republican commissioners, Christine Wilson and Noah Phillips (slated to leave the Commission shortly), shared their views in this forum, though both publicly dissented from the issuance of the ANPR ([Wilson's dissent](#) and [Phillips' dissent](#)), airing disputes on policy and the agency's authority to promulgate privacy rules.

Khan highlighted research that asserts that many Americans have limited insight about the information being collected about them and how it is used. Addressing the question of legal authority, Khan noted that the FTC has a long record of using its tools to regulate data privacy and security. But, she added, the goal of this rulemaking process is to determine if business practices today are so "prevalent" that the FTC needs to move beyond case-by-case adjudication and issue market-wide rules. The public forum was an important step to "democratize" this rulemaking process, according to Khan.

Slaughter shared her view that it is important for the FTC to show that the agency is no longer shying away from exercising its rulemaking authority. (Recall that, as the acting chair for the first six months of 2021, she anticipated new rulemakings when she created a rulemaking group within the FTC's Office of General Counsel.) Slaughter also voiced her support for strong federal legislation but noted that, until there is a law on the books, she believes that the FTC must use its tools to regulate the field.

Bedoya commented on the breadth of the ANPR (which we highlighted in our [Legal Update](#)), noting his view that the ANPR is intentionally broad, going beyond normal bedrocks of consumer notice and consumer choice/consent. According to Bedoya, privacy rights and harms have gone well beyond the point of initial collection, and the FTC needs to enforce across all of these areas.

Rulemaking Process

A staff attorney, Josephine Liu, from the FTC's Office of General Counsel gave a brief presentation on the rulemaking process the FTC will employ here. As we have explained previously, the FTC's rulemaking process in this context is governed by the Magnusson-Moss Warranty Act of 1975 (referred to as "Mag-Moss") and includes several additional steps beyond normal notice-and-comment rulemaking allowed by the Administrative Procedure Act. The timeline for Mag-Moss rulemaking includes this initial ANPR, followed by the issuance of a proposed rule that also will include the FTC's explanation of why the prohibited

practices are sufficiently "prevalent" to warrant rulemaking. After that, interested parties will have an opportunity to cross-examine the FTC's evidence in an investigational hearing. (This part of the process is the least familiar to practitioners and will be subject to new ["streamlined" procedures](#) the FTC approved last year.) After this process, if the agency decides that rules are warranted, the FTC would issue final rules, subject to court challenges.

In addition to describing the Mag-Moss rulemaking process and timeline, Liu highlighted three key questions with which the FTC is grappling among the 95 questions raised in the ANPR:

Which of these measures or practices are prevalent? Are some practices more prevalent in some sectors than in others?

How should the Commission identify and evaluate these commercial surveillance harms or potential harms? On which evidence or measures should the Commission rely to substantiate its claims of harm or risk of harm?

Which areas or kinds of harm, if any, has the Commission failed to address through its enforcement actions?

Industry Perspectives

After the staff presentation, the forum turned to perspectives from industry. The four panelists included Jason Kint (chief executive officer, Digital Content Next), Marshall Erwin (chief security officer, Mozilla), Paul Martino (vice president and senior policy counsel, National Retail Foundation), and Rebecca Finlay (chief executive officer, Partnership on AI). Each panelist discussed issues from their own organization's perspective.

Below are some highlights from each panelist's statement:

Kint: Collecting data in one context and using it in another (for behavioral advertising) tends to violate consumer expectations. Behavioral advertising fueled by commercial surveillance primarily benefits the dominant market players.

Erwin: Web platforms and browsers play a role in protecting privacy (e.g., features in Firefox), but technical solutions are not enough. He would like to see regulation in the following areas: dark patterns, harmful uses of data after it is collected, and more transparency about systematic harm on the main platforms.

Martino: Martino would like the FTC to follow three key "customer is always right" principles: (1) the customer should be free to make informed choices, (2) businesses can use data to serve customers as they choose to be served, and (3) regulations should be customer-centric and risk-based.

Finlay: Algorithmic decision-making is growing exponentially (cites the Stanford AI index, showing private sector investment in AI as more than double than that of the previous year).

The panelists also discussed "best practices" from their perspectives. Finlay explained that, when AI is deployed—especially in high-risk settings such as healthcare and hiring—companies need well-functioning internal organizational processes from design to deployment. Erwin stated that there are consensus best practices in data security—consistent with FTC's safeguards rule—that are universally accepted but not universally adopted. Kint pointed to best practices coming out of specific companies, naming specific examples such as Apple (app tracking transparency), Firefox, Brave, and Global Privacy Control. And Martino focused on retailers, explaining that certain concepts, such as Global Privacy Control, could frustrate consumers' choices if they previously elected to receive

communications or other services from businesses.

Consumer Advocate Perspectives

Next, the forum invited the opinions of four panelists from the consumer protection space: Caitriona Fitzgerald (deputy director, Electronic Privacy Information Center (EPIC)), Harlan Yu (executive director, Upturn), Ambassador Karen Kornbluh (ret.) (director, Digital Innovation and Democracy Initiative, German Marshall Fund of the U.S.), Spencer Overton (president, Joint Center for Political and Economic Studies), and Stacey Gray (senior director for U.S. Policy, Future of Privacy Forum (FPF)). These panelists focused on the perceived harms of commercial surveillance and the need for the FTC to use the tools at its disposal.

Below are some highlights from each panelist's statement:

Fitzgerald: The US is facing a crisis because powerful companies have employed commercial surveillance systems to build profiles of individuals, far beyond what individuals expect. The FTC should thus create a strong data minimization rule.

Yu: The FTC needs to use all available tools to tackle the disparate adverse impacts that leave certain consumers systematically behind and perpetuate discrimination.

Kornbluh: The Supreme Court's *Dobbs* decision revealed the dangers of data collection in our current environment, including sales of personal information about vulnerable people.

Overton: Companies collect data on users and develop algorithms to promote content. These processes can facilitate discrimination, e.g., ads for employment opportunities and housing.

Gray: Rapid development of wearable tech, connected technology, etc. makes this time ripe for the FTC to adopt federal rules.

The panelists also suggested ways for the FTC to implement data minimization and transparency in practice as well as debated whether notice and consent remains an appropriate framework. Fitzgerald and Overton stressed that the burden should move away from individual users, with structural rules assigning compliance obligations to companies. Yu highlighted that the FTC should require companies to make good faith efforts to stop discrimination in their data processing and to "show their work." Gray encouraged the FTC to codify past enforcement actions related to inadequate disclosures being an unfair practice. All four panelists disapproved of the notice and consent framework, highlighting the need to consider power imbalances.

What Can Companies Do?

The FTC rulemaking process will take time, with several additional opportunities for companies and industry groups to share their thoughts and concerns and to describe beneficial uses of data that may be negatively impacted by a rulemaking. Crafting any rule will be difficult for the FTC given the hurdles of showing that the practices are prevalent, not negatively impacting data collection and use practices that benefit consumers, and developing a rule sufficiently narrow to avoid vacatur under the major questions doctrine.

But the FTC is not the only regulator looking at these issues. If, as a company, you are actively using digital marketing or cookies to track users online across websites and apps, then you should consider yourself formally on notice that you are engaging in the kind of so-called "commercial surveillance" that is generating regulatory and public angst around the globe.

The first step for companies involved in this space is to understand how you are using digital

marketing. Of course, digital marketing is not in itself anti-consumer—many companies rely on this advertising to find and cultivate their business and to provide meaningful choices and opportunities to consumers. But it is important to recognize when you are gathering behavioral data about users interacting with your website and then tracking those users across different websites and apps. This latter type of third-party tracking and profile building is the kind of activity that is concerning to regulators and, to a certain degree, consumers. Visit us at mayerbrown.com

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0914 How state-level subsidies might refill cable's broadband subscriber tank [LightReading](#) With US cable broadband subscriber growth remaining flat or going negative, operators are hard-pressed to find a remedy that will rekindle growth in a service category now considered central to the overall business. Analysts at MoffettNathanson are attributing cable's recent broadband subscriber woes to market saturation and market share loss to fiber and fixed wireless access (FWA). To remedy the broadband subscriber issue, analysts expect US cable operators to accelerate buildout through voluntary edge-outs and participation in programs that subsidize network expansions into underserved or unserved areas, which are largely rural. While Charter was already a big winner in phase I of the Rural Digital Opportunity Fund (RDOF), analysts point out that both Charter and Comcast are now securing a "steady stream of state-level grants for network expansion with state-level subsidies." Cable's more aggressive involvement in state-level broadband subsidy programs signals a major change, as telcos have tended to be the largest participants in such programs. Though the reported state-level amounts won by cable have been relatively small or modest, they are "just a warm-up" for the much larger subsidies on tap for next year and beyond that will be appropriated under the Infrastructure Investment and Jobs Act (IIJA).

0914 ETC Abandonment: FCC Seeks Comment on Two Petitions for Relinquishment of Eligible Telecommunications Carrier Designation From T-Mobile [Federal Communications Commission](#) The Federal Communications Commission's Wireline Competition Bureau seeks comment on two petitions for relinquishment of Eligible Telecommunications Carrier (ETC) Designation filed by T-Mobile. T-Mobile seeks to relinquish its ETC designation for which it is eligible to receive [high cost and Lifeline support in Florida](#) and its [Lifeline-only ETC designation in Virginia](#). Interested parties may file comments on or before September 27, 2022; reply comments are due October 12, 2022. [WC Docket No. 09-197]

0914 BEAD: Are BEAD Grants Large Enough? [Doug Dawson, CCG Consulting](#) of the biggest questions associated with the \$42.5 billion BEAD grant program is if that is enough money to solve the national rural digital divide. The funding will be allocated to states in a three-step process. First, States will get an automatic \$100 million. Next, \$4.2 billion will be directly

allocated to States using the relative percentage of locations in each state defined as unserved. This will rely on the new FCC maps, and the NTIA may still refine the definition of high-cost areas. The remaining \$38.1 million will also be allocated to States using the new FCC maps, and will also use the relative number of unserved locations in each State.

The funding works out to be around \$850 million per state, but the funding will vary significantly by state. Preliminary estimates have a number of states only getting \$100 million – Connecticut, Delaware, District of Columbia, Hawaii, Maine, New Hampshire, North Dakota, Rhode Island, and Vermont. The largest estimated allocations are estimated to go to Texas at \$4.2 billion and California at \$2.8 billion.

States have been doing the math to see if they think the BEAD grant funding will be enough to reach every rural household with good broadband. I've only been able to find one article that cites an estimate of the effectiveness of the BEAD grants, but this one example raises some good questions.

The State of Minnesota is estimated to receive about \$650 million in BEAD grant funding. In March of this year, the State Legislature approved \$110 million for the existing Border-to-Border grant program, with most of the funding coming from federal ARPA funding given to the state. At that time, the State broadband office estimated that the state will need around \$1.3 billion in total grant funding to reach everybody in the state. If that is a good estimate, then even after BEAD grants and the \$110 million State grants, the state will be \$540 million short.

This raises a lot of questions. First, inflation has hit the broadband industry hard, and I've seen a lot of estimates that the cost to build broadband networks is between 15% to 25% higher than just two years ago. That means that the \$42.5 billion in BEAD funding is not going to stretch nearly as far as was estimated when Congress established the BEAD grants. This also raises the question of how much inflation will further increase costs over the years it's going to take to build BEAD-funded networks. It's not hard to imagine BEAD networks still being constructed in 2026 and beyond.

I've also seen estimates that the rules established by Congress and the NTIA for the BEAD grants could add as much as another 15% to the cost of building broadband networks compared to somebody not using grant funding. These extra costs come from a variety of factors, including the requirement to pay prevailing wages, expensive environmental studies that are not undertaken for non-grant projects, the requirement of getting a certified letter of credit, etc. The extra grant-related costs and the general inflation in the industry might mean that BEAD projects could cost 30% or more than building the same networks two years ago without grant funding.

This also raises an interesting question about how states allocated ARPA funding to broadband. Minnesota's allocation of \$110 million to broadband from ARPA is smaller than what many other states have done. As an example, my state of North Carolina allocated nearly \$1 billion of the state's ARPA money to broadband, and there are many states that have allocated \$300 million or more to broadband. Part of the blame for a state like Minnesota not having enough money to reach everybody could be placed on the Legislature for not allocating much ARPA funding for broadband.

Another interesting question to be addressed is how State broadband offices will deal with areas where a 75% grant is not enough for an ISP to make a business case. From the feasibility work I've been doing this year, I think there are a lot more areas that fit the

high-cost category than might be expected. The NTIA says that it might allow exceptions for grants up to 100% of the cost of assets - but asking for extra funding will probably open up the possibility for a State to instead fund less costly technologies. It might turn out that finding solutions for the many high-cost areas might be the unpredictable wild card in the BEAD grant process.

Finally, there are going to be areas where a State doesn't make a BEAD grant award. It's not hard to imagine a situation where only one ISP asks to serve an area, and a State broadband office decides that the ISP is unqualified to receive funding.

If the Minnesota estimate is even roughly accurate, it's likely that Minnesota won't be the only state that doesn't receive enough BEAD money to get broadband to everybody. We're not going to know this for sure until ISPs start applying for grants, but it won't be a surprise if the BEAD grants are not large enough.

0914 BB: Phoenix Center Paper: *Overstating Broadband Availability: An Assessment of the "All-In" Assumption for FCC 477 Data*, As many of you might know, collection of the Federal Communications Commission's Form 477 data assumes that if a single location in a census block has broadband, then *all* locations in that block have broadband (the "all-in" assumption). As a consequence, the Form 477 data presumably overstate broadband availability, and the data have been heavily criticized for doing so. In a new analysis released today entitled ***Overstating Broadband Availability: An Assessment of the "All-In" Assumption for FCC 477 Data***, Phoenix Center Chief Economist Dr. George S. Ford again attempts to quantify how much these data overstate broadband availability. Consistent with past research, George finds that when the Form 477 data are analyzed at the state level, the Form 477's overstatement is small—less than four percentage points. Criticisms of these high-level statistics, therefore, are somewhat overblown. That said, George also finds that if one wants to know the exact locations without broadband service availability, then the consequences of the Form 477's "all-in" assumption can be severe. In blocks that cover many square miles, the overstatement of availability can be very large. Thus, for subsidy allocation purposes, the Form 477 data are unreliable—at least for partially-served census blocks. Fortunately, several states and the federal government have begun collecting much more detailed data, and new broadband maps from the FCC are expected soon—both of which should improve subsidy allocation. **For those interested, a full copy of Phoenix Center Policy Perspective No. 22-04, *Overstating Broadband Availability: An Assessment of the "All-In" Assumption for FCC 477 Data*, [may be downloaded free from the Phoenix Center's web page by clicking here](#).**

0914 Suicide Hotline: More Americans are reaching out to the national 988 Suicide and Crisis Lifeline more than a month after the new three-digit hotline number went live. The 988 lifeline received 413,425 contacts during the month of August, through phone calls, online chat messages and text messages. That's a 45 percent increase in overall volume compared to August 2021 and about a 2 percent increase from July 2022, according to the Department of Health and Human Services (HHS). Calls and text messages in August exceeded July metrics, except for online chats, which were at about 75,000 in July 2022.

0914 RDOF - FCC WCB & Rural Broadband Auctions Task Force partially grant Point Broadband's petition requesting a waiver of Connect America Fund Phase II auction and Rural Digital Opportunity Fund auction requirements that auction recipients obtain letters of credit from banks that maintain a Weiss bank safety rating of B- or better. The bureau allowed

Point Broadband to maintain letters of credit with its current bank until June 15, 2023. [DA-22-951A1.docx](#) [DA-22-951A1.pdf](#) [DA-22-951A1.txt](#)

0914 BB: AT&T wins challenge of Charter's "20X faster" internet speed claim Fierce Telecom: The clash is the latest in a series of advertising battles between AT&T and Charter that the National Advertising Division has ruled on this year

0914 Regulatory Fees: FCC [report and order](#) adopts a schedule to assess and collect \$381,950,000 in regulatory fees for fiscal year 2022 in the [Federal Register](#) on Sept. 14, 2022. The order is effective Sept. 14, 2022, and fees are due by Sept. 28, 2022. FCC also [announced](#) procedures for filing requests for waiver, reduction, deferral and installment payment of regulatory fees due to the pandemic AND issued a [fact sheet](#) on amounts owed from commercial wireless services. NECA WW

0914 BEAD Program: AEI – Shane Tews: The National Telecommunications and Information Administration Steps Beyond Congress's Purview in Broadband Deployment Plans
<https://www.aei.org/technology-and-innovation/the-national-telecommunications-and-information-administration-steps-beyond-congress-purview-in-broadband-deployment-plans/>

The National Telecommunications and Information Administration (NTIA) is the distributor of grant funds from the Infrastructure Investment and Jobs Act (IIJA), which the Biden administration [calls](#) a “once-in-a-generation investment in our nation’s infrastructure and competitiveness.” The \$42.45 billion [Broadband Equity, Access, and Deployment](#) (BEAD) program is the NTIA’s largest mechanism for distributing grant funds; through a combination of grant formulas, states will receive and pass along funding for broadband coverage in unserved or underserved populations down to cities, towns, and municipalities. Each state that applies for BEAD grants is [eligible](#) to receive a minimum allocation of \$100 million and can request \$5 million for “Initial Planning Funds” to prepare a grant application.

The BEAD program is complemented by several additional federal government programs, including \$2 billion for state digital equity grants, \$2 billion for tribal broadband connectivity, \$1 billion for middle-mile network grants, \$2 billion for broadband grants and loans distributed by the Department of Agriculture’s Rural Utilities Service, and \$600 million in Private Activity Bonds for qualified broadband projects.

NTIA unveiled BEAD this past summer alongside the new Office of Internet Connectivity and Growth. The BEAD Notice of Funding Opportunity (NOFO) has been at the center of attention ever since; 13 senators sent a [letter](#) to NTIA in August asking for clarification around the NOFO’s guidance to states regarding funding applications, since NTIA stepped beyond Congress’s intent by issuing specific guidance to meet new environmental, labor-related, and social goals created by the administration, not the IIJA. The letter applauds the intense effort needed to accomplish the goal of universal broadband access across America, but it calls for NTIA to roll back these additional requirements and administrative burdens that are not in the legislation passed by Congress and are not consistent with its intent.

The introduction of [rate regulation](#) for broadband prices topped the senators’ list of concerns. They [noted](#) that the IIJA established the Affordable Connectivity Plan at the Federal Communications Commission, eliminating any alleged need for rate regulation by letting eligible households apply for a \$30 per month benefit that can be applied to any internet service offering. “The bipartisan negotiators were also deliberate to prohibit the

NTIA, or any other federal agency, from regulating rates of broadband service,” they added, noting that the IIJA clearly states: “Nothing in this title may be construed to authorize the Assistant Secretary or the National Telecommunications and Information Administration to regulate the rates charged for broadband service.”

Yet the BEAD NOFO is specific about a “middle-class affordability plan” that includes rate regulation as a criterion for states’ grant eligibility. But again, rate regulation does not appear in the IIJA; in other words, Congress did not direct NTIA to take on this task, yet NTIA is moving forward with it as part of its grant program.

The NOFO also demonstrates preference for symmetrical upstream and downstream internet speeds of one gigabit per second and requires that any participating internet service provider offer speeds of at least 100 megabits per second (Mbps) for downloads and 20 Mbps for uploads. Again, the senators point out that this requirement was added by the administration—not stipulated in the IIJA.

The NOFO explicitly prioritizes fiber over other technologies with a strong track record of serving hard-to-reach communities such as fixed wireless and satellite. Like the above-mentioned provisions, this preference for fiber is not established by the IIJA. While fiber is at times a preferred way to deliver end-to-end service to consumers, there are many areas of the country where the cost of fiber is exceptionally high due to geographic challenges. Other technologies are capable of more immediately connecting unserved areas that can scale up over time, enhancing speeds as technology advances.

At a recent AEI event I hosted, Duke University’s Michelle Connolly [noted](#) four objectives in the NOFO that have nothing to do with broadband deployment: “Buy American,” which exacerbates supply chain issues; union labor and workforce requirements, which add to the cost and greater challenge of labor shortages; the aforementioned middle-class affordability program created by NTIA, not Congress; and waiving existing state laws that restrict government provisions of certain services—[namely, municipal internet](#). These obligations reduce the actual dollars available to deploy broadband connectivity to citizens.

These extraneous requirements will likely cause delays in broadband deployment with little benefit to the intended recipients. Once broadband is in place, many communities may wish to pursue the guidance NTIA has added to increase local involvement and provide information about the comprehensive capabilities an internet connection can bring to work, play, and communication. But slowing deployment and encumbering programs with expensive priorities that follow the administration’s political goals should not be part of the states’ BEAD planning or connectivity programs.

See also: [Can Billions of Dollars in Federal Grants Solve Broadband Access and Availability Throughout the US? Highlights from FCC Commissioner Brendan Carr and an Expert Panel Discussion](#) | [The Challenge of Putting Federal Broadband Funds to Good Use: Highlights from My Conversation with Mark Jamison](#) | [Government Accountability Office Report Criticizes Broadband Deployment Efforts](#) | [5 Questions on How States Can Put Federal Broadband Funds to Use with Sen. Deb Fischer and an Expert Panel](#)

0914 NANC - FCC CANCELS OCT. 4 MEETING OF THE NORTH AMERICAN NUMBERING COUNCIL.

[DA-22-950A1.docx](#) [DA-22-950A1.pdf](#) [DA-22-950A1.txt](#)

0913 Robocalls - SIP Codes: USTelecom [spoke with](#) Wireline Competition Bureau staff about the release of the new [robocall call blocking notification standard](#), ATIS-1000099 by ATIS and the SIP Forum. USTelecom asserted this standard, known as SIP Code 603+, represents the best,

most reasonable and most efficient approach forward to meet callers' demands for blocking notification. USTelecom also recommended the FCC revise its rules to require SIP Code 603+ as the uniform method to notify callers their calls have been blocked. NECA WW

0913 Spectrum Interference- 5G - Ligado Networks scrubbed plans to introduce 5G service in portions of Virginia after a government report showed the L-band spectrum it planned to use would create problems for Department of Defense operations using satellite and GPS technology.

[Light Reading](#)

0913 Lifeline/ACP: CBO Scores H.R. 4275, Ensuring Phone and Internet Access Through Lifeline and Affordable Connectivity Program Act of 2022 David Hughes, Rachel Austin

[Congressional Budget Office](#) The Ensuring Phone and Internet Access Through Lifeline and Affordable Connectivity Program Act (H.R. 4275) would require the Federal Communications Commission to report to Congress annually on enrollment in its Lifeline program and its Affordable Connectivity Program, disaggregated by how applicants qualify for support. For example, Lifeline applicants may qualify based on prior enrollment in Medicaid, the Supplemental Nutrition Assistance Program, or the Supplemental Security Income program. Affordable Connectivity Program qualifications are similar. In addition, the bill would require the Government Accountability Office, within one year of enactment, to report on efforts to promote participation and enrollment in both programs. **CBO estimates the report would cost less than \$500,000;** any additional spending would be subject to the availability of appropriated funds. The FCC, through the Universal Service Administrative Company, already collects this information and publishes it online. CBO estimates that any additional costs to report to the Congress would not be significant. Moreover, because the FCC is authorized to collect fees each year sufficient to offset the appropriated costs of its regulatory activities, CBO estimates that the net cost to the FCC would be negligible, assuming appropriation actions consistent with that authority. If the FCC increased fees to offset the costs associated with implementing the act, H.R. 4275 would increase the cost of an existing mandate on private entities required to pay those fees. CBO estimates that the incremental cost of that mandate would be small and fall below the annual threshold established in the Unfunded Mandates Reform Act (UMRA) (\$184 million in 2022, adjusted annually for inflation).

0913 Satellite Cell Service [CCG Consulting](#) T-Mobile and Starlink made a joint announcement recently about an arrangement where Starlink will enable voice and texting capabilities to T-Mobile cellphones by the end of 2023. Elon Musk touted this as being able to reach people lost in the wilderness, but the much bigger use will be to fill in cellular coverage in rural areas for T-Mobile. While the two companies made a big splashy announcement about the arrangement, they are late to the game as other industry players already have similar plans underway. Companies such as AST SpaceMobile, Lynx, and Globalstar have already been working to deploy cellular satellites. All of these plans raise a lot of questions that we won't get answered until somebody has a working satellite product. For example, could somebody inside a vehicle connect to a satellite? This is a much-needed service for a lot of people—specifically those in rural areas where 30% or more rural homes have no cellular coverage and the many parts of the world where modern cellular towers are a rarity.

0913 USF – White paper - AEI – THE FUTURE OF UNIVERSAL SERVICE: Thomas M. Johnson Jr.

<https://platforms.aei.org/the-future-of-universal-service/> [1] The United States' current regime for providing communications services to all Americans fails to account for the new communications technologies that have transformed the way Americans work and

communicate, especially in the wake of COVID-19. [2] The Federal Communications Commission's Universal Service Fund works to deliver broadband to underserved Americans but lacks proper funding and may face threats to its constitutionality. [3] Congress should appropriate the money to fund this program and pass substantive changes to the Communications Act to ensure the Universal Service Fund can serve its purpose in the future.

Executive Summary For decades, Congress has made it the United States's policy to make modern communications services available to all Americans. This policy recognizes that in certain rural areas and economically depressed communities, the fixed costs associated with broadband deployment would make providing service prohibitive absent government subsidies. The principal means by which Congress has authorized the Federal Communications Commission (FCC) to achieve universal service, however, no longer makes sense in today's technological environment. Currently, through the Universal Service Fund, the FCC subsidizes broadband deployment with fees collected from providers (and ultimately users) of legacy communications services like voice telephony. That system is unfair, as it unduly and regressively taxes the disproportionately lower-income Americans who continue to use legacy voice services. It is also unsustainable, as the FCC will soon be unable to collect sufficient revenue from the dwindling number of legacy-service users to fund modern broadband deployment. Recent congressional actions suggest a potential path out of this dilemma. During the COVID-19 pandemic, Congress directly appropriated billions of dollars to subsidize broadband deployment and enable lower-income Americans to stay connected. Congress could choose to make such appropriations permanent and tailored to areas of genuine need, rather than continue to support the existing archaic universal-service funding mechanism. Absent direct appropriations, there will be increasing calls to reform the Universal Service Fund to expand its contribution base to keep it solvent. For example, FCC commissioners from both parties and some internet service providers have proposed requiring internet platforms to contribute to the fund because they benefit from the user traffic that rides over modern broadband networks.

TEXT: Nearly 90 years after Congress first declared it the policy of the United States that all Americans should have access to "rapid, efficient, Nation-wide, and world-wide" communications services,¹ and decades since it determined that modern internet-access services "should be provided in all regions of the Nation," including to "low-income consumers and those in rural, insular, and high cost areas,"² the federal government's role in promoting universal service faces an existential crisis. On one hand, the reality of widespread access to communications services has surpassed the wildest dreams of the New Deal-era reformers who enacted the Communications Act. The goal of universal service originated in a belief that all Americans should have access to essential emergency services like 911 on the old landline telephone network. Today, millions of Americans rely on high-speed, low-latency internet access for remote work, remote learning, telemedicine, and connectivity with friends and family.

During the height of the COVID-19 pandemic, the strength and resiliency of America's broadband networks were on full display. Despite increased demand on retail broadband occasioned by the shift from office and school to home, our networks performed admirably, demonstrating the capacity for real-time virtual meetings that would have been unreliable

even 10 years earlier. In response to the crisis, Congress allocated billions of dollars in subsidies to keep Americans connected and spur new broadband adoption, and the Federal Communications Commission (FCC) did an admirable job administering those programs and providing additional regulatory relief. Even before the pandemic, the FCC used its existing statutory authority over the Universal Service Fund to conduct reverse auctions that distributed billions of additional dollars for broadband deployment, connecting millions of additional households. Real challenges remain, however, in ensuring that Americans in rural and other high-cost areas have access to modern communications services. According to one recent estimate, over 19 million Americans still lack access to high-speed broadband services.³

Meanwhile, the FCC's Universal Service Fund—the principal policy tool that the federal government historically has used to promote universal service—faces unprecedented legal, economic, and practical challenges.

Congress has not materially updated the universal service statute since 1996. As a result, the fund relies on an antiquated funding mechanism, and the FCC lacks clear congressional guidance to adapt to the times. Specifically, while the fund now primarily supports modern broadband service (and by extension the countless apps and websites that ride over the networks), the fund receives its revenue primarily from fees assessed on providers (and ultimately customers) of “plain old-fashioned” telephone service. As fewer and fewer Americans own landlines, this contribution base has dwindled, putting the fund on a collision course with insolvency. In addition, frontal assaults on the constitutionality of the fund are currently pending in the federal courts of appeals for the Fifth and Sixth Circuits.

Those lawsuits question whether Congress put in place intelligible standards to guide the FCC's discretion in distributing universal-service support and whether the FCC impermissibly delegated that same work to the Universal Service Administrative Company, a private entity that administers the fund.

This past term, the Supreme Court demonstrated its willingness to aggressively curb federal agencies' power when it declared unlawful the Environmental Protection Agency's assertions of authority to achieve decarbonization through policies like the Obama-era Clean Power Plan. And the Fifth Circuit recently invalidated the Securities and Exchange Commission's long-standing practice of bringing cases seeking civil penalties before the agency's in-house administrative law judges. In sum, it is now imaginable that courts could send Congress back to the drawing board on universal service, forcing a political confrontation on the best path forward.

Adding insult to injury, the Government Accountability Office (GAO) recently released a report sounding an alarm that “U.S. broadband efforts are not guided by a national strategy” and that “federal broadband efforts are fragmented and overlapping, with more than 100 programs administered by 15 agencies.” The result, as FCC Commissioner Brendan Carr recently highlighted, is a lack of “adequate tracking, measurement, and accountability standards,” which risks wasteful overbuilding and “adds to the inflationary pressures that are already hitting Americans in their pocketbooks.”⁴

Federal policymakers must now grapple with how the fund and its various programs intersect with this bewildering array of other sources of federal funding and develop a

coordination strategy to eliminate duplicative spending and minimize potential abuse. Now that Congress has demonstrated its ability and willingness to directly appropriate billions of federal dollars to broadband deployment and low-income connectivity, does the Universal Service Fund have a role in the future? If it does, how should it be funded, and where should its limited pool of money be spent? And with billions of federal dollars already flooding the market, how much more is needed to achieve optimal results?

In short, the challenges confronting the FCC's Universal Service Fund are daunting. But the competing dynamics now at play—a more connected America and an aging, unsustainable federal funding mechanism—could set the stage for a fundamental rethinking of our approach to universal service. The time is ripe for policymakers to ask fundamental questions about what purpose (if any) the fund should serve in the future, where its limited resources should be directed, and whether there are other, better ways for Congress and the FCC to keep Americans connected.

The Need for Congressional Action In the Infrastructure Investment and Jobs Act, which allocated hundreds of billions of dollars to broadband connectivity as a COVID-19 relief measure, Congress recognized that the FCC's incumbent approach to universal service required a root-and-branch reexamination. Accordingly, Congress asked the FCC to provide a report that would “make recommendations for Congress on further actions the Commission and Congress could take to improve the ability of the Commission to achieve the universal service goals for broadband.”⁵ On August 12, 2022, the FCC released a report that included various proposals to reform the fund's aging contribution mechanism and suggested more reliance on appropriations as a means to advance universal service.⁶ While universal service has its origins in the progressive policies of the Franklin D. Roosevelt era, it has rightly become a conservative commitment as well. Conservatives have long understood that public policy has a limited but vital role to play in promoting and protecting the bedrock institutions of a healthy society, from families to churches to civic organizations to workplaces. In recent years, this commitment has included renewed attention on those blue-collar and rural communities that have been disrupted by technological evolution and globalization. For example, former FCC Chairman Ajit Pai (whom I served as the FCC's general counsel) made it his top priority on day one of his tenure to close the “digital divide” between communities that had access to broadband and those that did not. During his administration, the federal government committed tens of billions of dollars to rural deployment, reaching millions of previously unserved homes and businesses. Sound universal-service policies can empower rural communities and lower-income Americans to achieve better outcomes in health, educational achievement, employment, and family cohesion. Improving connectivity through the American heartland also facilitates the essential work done by the farmers who prepare our food, the coal miners and other energy producers who power our grids, and the teachers who educate our children. Moving forward, however, doing this will require Congress to update the anachronistic way that the Universal Service Fund attempts to subsidize broadband deployment and affordability. Historically, Congress has required providers that participate in the fund to pay a percentage of their interstate consumer revenue (called the “contribution factor”) into the fund. While the fund's assets increasingly subsidize modern broadband services, the fees collected for the fund are assessed only on “telecommunications services,” which currently are interpreted to include traditional landline telephone service and interconnected Voice over

Internet Protocol. As a practical matter, providers pass that tax on to consumers in the form of a regulatory fee on their telephone bills. The resulting system is doubly regressive. First, it imposes taxes primarily on consumers of legacy tele communications services (like landline telephone), who are disproportionately likely to be lower-income Americans. Second, because the contributions are revenue based, they do not account for the relative burden placed on consumers based on income. Worse, because legacy services constitute a dwindling fraction of the nation's consumption of communications services, the FCC has had to increase the contribution factor dramatically to keep up with the changing technological landscape. Over the past 10 years, the Universal Service Fund contribution base declined from \$65.9 billion to \$41.4 billion—more than a 35 percent reduction.⁷ To account for the shrinking base, the FCC has increased the contribution factor nearly fivefold from 6 percent in 2001 to 29.1 percent in 2021.⁸ This trend is poised to continue, as more American companies and individuals opt out of legacy landline communications services and use internet-based platforms to host meetings and connect with others. Fund administration also plays a role in taxing consumers. By placing the burden on providers to contribute to the fund and offer low-income Americans access to communications devices (under the long-standing Lifeline program), Congress has created an inefficient scheme whereby providers act as middlemen to collect taxes and distribute benefits. This results in increased costs for providers, which inevitably means higher prices for consumers. There is a simple and practical solution to these problems. As noted, in response to the COVID-19 pandemic, Congress appropriated tens of billions of dollars for broadband deployment and adoption, telehealth, educational connectivity, and other purposes, through the Infrastructure Investment and Jobs Act and other programs. These subsidy programs, in one form or another, address all the four major areas presently targeted by Universal Service Fund dollars—high-cost support for rural areas, low-income consumers (the Lifeline program), schools and libraries, and rural health care. Pandemic-era subsidies point the way to a potential long-term solution to the fund's insolvency:

□ Congress could make direct appropriations permanent and sufficient to meet the fund's needs. Appropriations represent a fairer approach that would distribute costs more equitably, recognizing that all or nearly all American consumers and businesses benefit from broadband connectivity. Indeed, the reduction in provider costs and elimination of regulatory fees would likely result in a net gain for many consumers. Direct appropriations also ensure that individual beneficiaries of services receive those benefits directly, without any need to coordinate with intermediaries and with reduced potential for waste, fraud, and abuse.

□ Congress could further alleviate the burden on taxpayers by adopting a proposal advanced by Chairman Pai and others to use a portion of net proceeds from the FCC's spectrum auctions to fund universal service. Under current law, the FCC has the authority to auction off public airwaves used for wireless broadband and cellular voice service, among other things. For example, the late 2020–early 2021 auction of spectrum for the “C-Band”—a swath of spectrum with significant potential for next-generation 5G wireless services—yielded a record-breaking \$80 billion in proceeds.⁹ By statute, the proceeds for those auctions must be deposited in the US Treasury, where they are used for general appropriations. Dedicating even a small amount of such proceeds to universal service would help alleviate the burden on the fund and consumers.

[] If Congress elects to keep the existing Universal Service Fund in some form, it should confront and resolve challenging questions about its future and trajectory. There is currently a mismatch between the fund's contribution base, which is focused on legacy communications services, and the fund's principal use today to facilitate widespread internet access. In response to this, FCC commissioners from both political parties and some commenters in the FCC's open universal-service proceeding have proposed expanding the existing contribution base to include large internet platforms that benefit from the user traffic facilitated by robust networks.

[] Another potential reform would involve limiting fund eligibility to those providers that would have challenges relying on annual appropriations because they require a dedicated funding mechanism to secure financing for network builds. Congress could also consider reforming the Lifeline program to focus primarily on voice services, given the success of COVID-era subsidies (under the Affordable Connectivity Program and the Emergency Broadband Benefit program) in providing broadband to low-income households. Should Congress decide not to switch to a pure appropriations model, it should weigh alternative proposals that could steer the fund to a more sustainable course.

Further Work at the FCC Meanwhile, the FCC should continue to identify ways to reduce or eliminate regulatory barriers to broadband deployment, which could slow down or even stop the provision of services to high-cost or low-income areas.

PREEMPTION? In recent years, while some states adopted progrowth policies that facilitated and encouraged 5G deployment, other states and localities used their powers as local zoning authorities to create bottlenecks to slow down deployment and exact rents from carriers that needed access to local rights-of-way. In 2018, the FCC released a series of orders designed to ensure that states and localities make speedy decisions on deployments and charge only fees that bear a reasonable relationship to the costs they incur maintaining the rights of way. These reforms helped lower the cost and accelerate the timing of 5G deployment. Consistent with these reforms, the FCC should continue to consider ways in which streamlining state and local regulations can play a part in promoting universal service.

The FCC also plays an important role in ensuring that universal-service dollars accomplish their intended purpose and are neither distributed inefficiently nor diverted to unscrupulous actors. The FCC, for example, has made profitable use of the "reverse auction" procedure to encourage applicants to request only the amount they need to complete a project, ensuring that the most efficient provider is selected. Federal dollars and spectrum licenses

should also continue to be tied closely to specific build-out requirements, reducing the risk that arbitrageurs squat on valuable public resources. The FCC and other federal and state enforcement agencies should also continue to use their authority to identify and prosecute genuine cases of fraud.

Beyond these measures, the FCC will have to develop a coordination strategy with other government agencies to ensure that the multiplying number of federal and state broadband subsidy programs does not result in waste or fraud. The federal government has already dedicated tens of billions of dollars to broadband deployment and should not simply assume that this amount of money must be allocated annually in perpetuity. The GAO and Commissioner Carr have already sounded the alarm that a coordinated federal strategy is needed to determine where genuine pockets of need still exist and direct targeted federal

dollars to those areas.

Conclusion

Resolving the legal, economic, and practical problems with our current universal-service policies will not be easy. But while inflection points like the current moment can be disorienting, they often provide the seedbed for bold, creative, and decisive action. Congress and the FCC should not let this moment pass. They should identify clear goals for the future of universal service and update the Communications Act to account for today's increasingly dynamic and evolving internet environment.

About the Author Thomas M. Johnson Jr. is the former general counsel of the Federal Communications Commission under Chairman Ajit Pai. He is currently an attorney in private practice in Washington, DC. The views expressed herein are his own and do not reflect the views of his former or current employers or clients.

Notes

1. 47 U.S.C. §151.
2. 47 U.S.C. § 254(b)(2), (3).
3. See Federal Communications Commission, Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, January 19, 2021, Figure 3b, <https://www.fcc.gov/document/fcc-annual-broadband-report-shows-digital-divide-rapidly-closing>.
4. See Federal Communications Commission, "New GAO Watchdog Report Underscores Carr's Concerns About the Absence of a National Strategy Coordinating Billions in Broadband Infrastructure Spending," press release, June 10, 2022, <https://docs.fcc.gov/public/attachments/DOC-384164A1.pdf>.
5. Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, § 60104(c)(2).
6. See Federal Communications Commission, Report on the Future of the Universal Service Fund, August 15, 2022, <https://www.fcc.gov/document/fcc-reports-congress-future-universal-service-fund>.
7. See Federal-State Joint Board on Universal Service, Universal Service Monitoring Report, 2021, Table 1.5, <https://www.fcc.gov/general/federal-state-joint-board-monitoring-reports>.
8. Federal Communications Commission, Report on the Future of the Universal Service Fund, December 15, 2021, <https://www.fcc.gov/document/fcc-initiates-proceeding-future-universal-service>.
9. Marguerite Reardon, "Verizon, AT&T and T-Mobile Dominate \$81 Billion 5G Spectrum Auction," CNET, February 24, 2021, <https://www.cnet.com/tech/mobile/verizon-at-t-t-mobile-dominate-81-billion-5g-spectrum-auction>; and Bret Swanson, "Record \$80.9 Billion Spectrum Auction Points to Promise of 5G," AEIdeas, February 8, 2021, <https://www.aei.org/technology-and-innovation/record-80-9-billion-spectrum-auction-points-to-promise-of-5g>.

0913 Spectrum: [NTIA: The NTIA-FCC MOU: What A New Era of Spectrum Coordination Will Look Like](#) by Charles Cooper, Associate Administrator, Office of Spectrum Management The recent update of the [Memorandum of Understanding \(MOU\)](#) between the [Federal](#)

[Communications Commission](#) (FCC) and NTIA memorializes a shared commitment between the two agencies to renew a partnership critical to jointly managing the nation's spectrum resources. Now the work begins to translate this agreement into consistent, meaningful practice. Given the scope of the document, there is quite a lot for the FCC and NTIA to do to fulfill the potential of the MOU. The agreement reflects the need for the two national spectrum managers to share information and communicate frequently and effectively. The agreement's major provisions echo and anchor the goals of the [Spectrum Coordination Initiative](#) announced this past February. The MOU promotes: Evidence-based policy-making; More frequent and more effective communication; Long-range planning and sharing of information to coordinate proposals well in advance; and Development of a common approach for assessment and technical analysis of potential radio frequency interference issues. The MOU will increase the frequency of meetings between the agencies. The leadership will meet at least quarterly, and the staffs will meet monthly. The more frequent engagement will bring increased attention and consistency to interagency coordination. The meetings will provide avenues for each agency to bring forward and communicate their plans and strategies up to 12 months in advance. Agencies can clarify and align their goals, helping to mitigate last-minute disagreements over proposals and technical data. Increasing the MOU's advance notification provision from 15 to 20 business days for consideration of proposals that might result in interference will help all parties. This allows for a more coordinated response among the federal agencies within the Executive Branch to FCC proposals – and vice-versa. Ultimately, this increase in time should help the FCC as well because a well-reasoned federal response is always preferable to too little time for meaningful evaluation. The updated MOU also places a high priority on dispute resolution. The MOU sets the expectation that staff-level disagreements between the two agencies will be promptly raised to senior leadership at NTIA and the FCC. The increased communication and planning should help thwart disputes before they reach a critical stage. [NEXT WEEK: On Sept. 19, NTIA will host its fifth annual Spectrum Policy Symposium at the National Press Club, under the theme *A New Era for U.S. Spectrum Management & Coordination*](#) Separate from the MOU but consistent with one of its key objectives, NTIA is also working to file more public comments with the FCC. Submitting comments, letters, technical information and other materials in FCC proceedings allows NTIA to establish and transparently communicate the considered views of the Executive Branch for public inspection and reaction. This can help stakeholders identify potential issues early in the rulemaking process and work to resolve them as a proceeding moves along. One recent [NTIA filing](#), for example, offered comments on the FCC's [Notice of Inquiry on offshore spectrum](#) needs and uses. NTIA expressed support for FCC efforts to ensure sufficient spectrum for offshore operations — particularly offshore windfarms — while cautioning that many critical federal systems operate in the ocean or near coastal areas. NTIA also filed [comments](#) on a [Notice of Inquiry on receiver performance](#). Our comments included detailed descriptions of many of the existing standards and requirements for receivers under federal control. Although the updated MOU was the product of a joint FCC-NTIA task force, many stakeholders contributed to its success – including Congress and the Government Accountability Office. The [Commerce Spectrum Management Advisory Committee](#) also provided valuable guidance. As a result, NTIA and the FCC have an opportunity to begin a new, sustainable era in our partnership as stewards of the nation's spectrum resources.

0913 Fiber v Cable/coax- Frontier Communications' recent record growth in fiber-based

broadband subscribers is coming largely at the expense of cable, CEO Nick Jeffery said.

"Fiber is a fundamentally better product than cable. It's 50 times faster at the 2 gig level on the upload, it's eleven times faster on the download, it's two-and-a-half times better latency," Jeffery added. [Telecompetitor](#)

0913 USF Contribution Factor: FCC announces the proposed universal service contribution factor for the fourth quarter of 2022 will be 28.9%, down from the previous quarter's 33%. NECA WW

0913 Fiber v Cable/coax - Verizon Business CEO Sampath Sowmyanarayan says inconsistency of cable broadband has helped Verizon grow its fixed wireless access business. There was nearly a 50/50 split with the company's FWA business and consumer subscribers as of the second quarter.

[FierceWireless](#)

0913 Lifeline: FCC - September 12-16 Is Lifeline Awareness Week - Release announces fcc is partnering with NARUC and NASUCA to raise awareness of the Lifeline Program and the Affordable Connectivity Program during Lifeline Awareness Week, Sept. 12-16, 2022.

0913 Fiber Backhaul: Verizon will reach its goal of connecting 50% of its cell sites with fiber by the end of the year. Fiber will boost Verizon's ability to increase capacity, control upgrades, speed repairs and make its network more reliable and secure, the telecom said. [Telecompetitor](#)

0913 RDOF: FCC authorizes Rural Digital Opportunity Fund support for 49 winning bids identified in Attachment A of the public notice. They said a state-level summary will soon be posted under the results tab on the Auction 904 webpage and provide for each long-form applicant the: total support amount over 10 years and total number of locations the applicant is being authorized for in each state; locations to which the authorized support recipient must offer the required voice and broadband services; and eligible census blocks included in the winning bids being authorized in each state. Additionally, they provided a summary of the various obligations of authorized Auction 904 support recipients and important deadlines. [DA-22-944A1.docx](#) [DA-22-944A1.pdf](#) [DA-22-944A1.txt](#) [DA-22-944A2.pdf](#) [DA-22-944A2.txt](#)

0912 ACP Fraud: CARR STATEMENT ON YET ANOTHER INSPECTOR GENERAL REPORT OF FRAUD IN THE FCC'S MULTI-BILLION-DOLLAR BROADBAND FUNDING INITIATIVE. [DOC-387072A1.docx](#) [DOC-387072A1.pdf](#) [DOC-387072A1.txt](#)

The latest Inspector General report focuses on the FCC's \$14.2 billion Affordable Connectivity Program ("ACP"), which is designed to help qualifying low-income households afford a broadband connection and was funded through the 2021 Infrastructure Investment and Jobs Act ("IIJA"). The FCC's Inspector General previously released a fraud report on the FCC's predecessor program, known as the Emergency Broadband Benefit Program, which Carr addressed here. "For nearly two years now, I have been sounding the alarm on the potential for massive levels of fraud in the federal government's broadband funding programs. And I have been pushing for additional oversight and safeguards to ensure that we not only prevent bad actors from illegally lining their pockets with federal dollars but that these funds reach the families that Congress intended to benefit. I have not been alone in expressing concern. Last year, the FCC's Inspector General uncovered an outrageous scheme in which broadband providers or sales agents appeared to be defrauding the program on a near nationwide scale. At the time, I expressed my concern that the fraud uncovered by the Inspector General represented just the tip of the iceberg. That is why I continued to push for more safeguards. Now, the Inspector General has issued yet another report that details a new wave of outrageous

abuse of the FCC's broadband funding program. In just one egregious example, the Inspector General's analysis shows that one or more actors signed up more than 1,000 households for free or discounted Internet service by using the identity of the same four-year-old child. Whatever we are doing to deter this type of fraud is not working. More action is needed to safeguard these federal dollars and ensure that they deliver on the goals Congress has set out." ###

0908 USF – Future of....Chairwoman Rosenworcel [sent letters](#) responding to Congressional letters on the future of the Universal Service Fund. Rosenworcel said the recently released [report](#) on the future of the USF included the costs of data transportation and impact on rural providers, recommended the FCC initiate a proceeding to consider the future support needs of networks serving high-cost areas, and assess what continuing support is needed to develop, maintain and improve broadband operations in those locations. NECA WW

0908 ACP - The American Library Association [spoke with](#) Commissioner Starks' staff about "the central role for libraries to connect with and strengthen the ACP outreach grant" and FCC's outreach into hard-to-reach communities, as well as a variety of [opportunities for libraries to be included in the funding](#) and ensuring equity in access and inclusion. NECA WW

APPENDIX D – WATER SECTOR

[1] WATER CLIPS

0920 US – Cyber: [Dark Reading: Water Sector Will Benefit From Call for Cyber Hardening of Critical Infrastructure](#)

0920 PR – Supply: [Puerto Rico has lost more than power. The vast majority of people have no clean water.](#) *Vanessa Romo, NPR News* The vast majority of Puerto Rican homes have been plunged into darkness after Hurricane Fiona wiped out the power grid, but people on the island are facing another evastating emergency: How to access clean water?

0920 WUS – Supply: [Wildfires are burning away the West's snow](#) *Kylie Mohr, High Country News* A new study finds wildfires are burning more high elevation areas and dramatically impacting the West's snowpack as a result.

0919 NY – Polio: Reuters reports that New York Governor Kathy Hochul declared a disaster emergency last week in a bid to accelerate efforts to vaccinate residents against polio after the virus was detected in wastewater samples taken in four counties.

0919 WUS – Supply: E&E Colorado River Water Conservation District General Manager Andy Mueller warned Colorado River Basin states Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming — on Friday that the system's federal reservoirs could effectively empty in a few short years barring aggressive reductions to water demands. "If we continue in the way we're operating now, if we don't reduce our demands, we're going to really see those reservoirs really hit a crisis," Mueller said. "I'm not talking about in 20 years, I'm talking about in the next three or four years. We have a period of time here to change our use."

0919 NY - PFAS: [Politico: Albany looks to crack down on 'forever chemicals' contamination](#) **Sen. Rachel May (D-Syracuse) and Assemblymember Carrie Woerner** (D-Saratoga County) will unveil their ["PFAS Surface Water Discharge Disclosure Act."](#)

0919 HA – Infrastructure: [EPA grants Hawai'i \\$31M for clean drinking water](#)

0919 CO – Infrastructure: [Sen. Bennet, Hickenlooper Welcome \\$121 Million in Bipartisan Infrastructure Law Funds for Clean Water Across Colorado](#)

0919 MD – Infrastructure: [Water World: MD Board of Public Works approves \\$10M for wastewater, stormwater infrastructure](#)

0919 CA – MISC: [EPA orders two Coachella Valley mobile home parks to provide safe drinking water](#)

0919 NY – PFAS: [NY state urged to strengthen drinking water standards on toxic chemicals](#)

0919 IL – Infrastructure: [Normal approves \\$3.9 million project to upkeep water quality](#)

0919 CA – Drought: [Millions in LA County Can Resume Outdoor Watering With Pipeline Repairs Complete](#)

0919 MS- MISC: [Lawsuit seeks repairs to troubled Mississippi water system](#) Residents of Jackson, Mississippi, have filed a [class action](#) lawsuit against the city, current and past officials, and two engineering companies over failures and neglect that left them without safe drinking water.

0918 VT – Infrastructure: [Vermont Bus: EPA delivers over \\$63 million in historic water infrastructure funding to Vermont](#)

0917 Texas – Infrastructure: [Leander residents required to conserve water as pipeline needs repair](#)

0917 OH – Rates: [Hamilton considering water, wastewater rate increases](#)

0916 US - [Biden-Harris Administration and EPA Announce Delivery of Historic Water Infrastructure Funding from the Bipartisan Infrastructure Law to 18 States](#)

0916 UT – Infrastructure: [EPA announces \\$63 million in federal funding for Utah’s drinking water](#)

0916 AL – Infrastructure: [County receives funding for water, sewer projects](#)

0916 US – MISC: [USDA-Forest Svc: Quantifying the Role of National Forest System and Other Forested Lands in Providing Surface Drinking Water](#)

0916 US – Treatment: Status of Rail Transport, Including Transport of Water Treatment Chemicals

- Recent collective bargaining negotiations between U.S. rail carriers and unions representing 115,000 railroad workers began in 2020. On September 12, 2022, rail carriers began to issue embargoes on the transport of hazardous materials, which has restricted shipments of chlorine products needed for water and wastewater treatment. The rail carriers and unions reached a tentative agreement on September 15, potentially avoiding a stoppage of rail carrier service at the end of a negotiation cooling off period on September 16. This agreement may result in the lifting of embargoes on the transport of hazardous materials, allowing for production and transport of chlorine products to begin to return to normal levels. EPA recognizes the importance of fully restoring railcar delivery of specific chemicals and other commodities that are essential to water sector operations and, by extension, to public health and the environment. Therefore, EPA is working with other key partners at the federal level, particularly the Department of Transportation, to identify specific supply chain disruptions of relevance to the water sector which have resulted from the embargoes, so that we can work to restore deliveries of essential chemicals and commodities as soon as possible. If you have any information of supply chain disruptions of critical treatment commodities resulting from the railcar embargoes, including particular geographies or facilities facing particularly acute shortages, please contact EPA at SupplyChainSupport@epa.gov. For additional updates on this issue, please visit [Railroad Transportation Update](#), and visit [Supply Chain Resilience](#) for additional information and resources.

0916 US – Infrastructure [EPA Delives of Historic Water Infrastructure Funding from the Bipartisan Infrastructure law to 18 States](#) — Today, the U.S. Environmental Protection Agency (EPA) awarded Bipartisan Infrastructure Law funding to the first 18 states across the country for water infrastructure improvements. President Biden’s Bipartisan Infrastructure Law allocates more than \$50 billion to EPA toward repairing the nation’s essential water infrastructure, which helps communities access clean, safe and reliable drinking water, increase resilience, collect and treat wastewater to protect public health, clean up pollution, and safeguard vital waterways. More than \$1.1 billion in capitalization grants from the Bipartisan Infrastructure Law have been issued to 18 states through the State Revolving Funds (SRFs), with additional capitalization grants forthcoming. The grants mark the first significant distribution of water infrastructure funds thanks to the Bipartisan Infrastructure Law. State allocations were previously announced. EPA’s SRFs are part of President Biden’s [Justice40 initiative](#), which aims to deliver at least 40% of the benefits from certain federal programs to underserved communities. Furthermore, nearly half the funding available through the SRFs thanks to the Bipartisan Infrastructure Law must be grants or principal forgiveness loans that remove barriers to investing in essential water infrastructure in underserved communities across rural America and in urban centers. EPA awarded SRF capitalization grants to 18 states, including: Arizona, Colorado, Connecticut, Delaware, Hawaii, Maine, Maryland, Massachusetts, Montana, New Hampshire, New Mexico, Pennsylvania, Rhode Island, Utah, Vermont, Virginia, Washington and West Virginia. Funding announced today represents FY22 awards for states that have submitted and obtained EPA’s approval of their plans for use of the funding. Capitalization grants will continue to be awarded, on a rolling, state-by-state basis, as more states receive approval throughout FY22; states will also receive awards over the course of the next four years. Once grants are awarded, state programs will begin to deliver the funds as grants and loans to communities across their state. The Bipartisan Infrastructure Law presents the largest-ever funding opportunity for investing in water infrastructure. Find out more about Bipartisan Infrastructure Law programs and other programs that help communities manage their water resources on [EPA's Bipartisan Infrastructure Law page](#).

0916 AZ- Infrastructure: [EPA Awards Over \\$57 Million in Historic Funding to Arizona to Improve Water Quality](#)

0916 NV – Supply: [Nevada looks to conservation as the Colorado River dwindles](#)

0916 ID – Supply: [Legislature can intervene in Idaho-US water rights fight](#) Idaho Legislature can intervene in a lawsuit filed against Idaho by the U.S. DOJ challenging recently-passed state water laws, but a federal judge has yet to rule on whether ranchers/Idaho Farm Bureau Federation can take part.

0916 CO- Supply: [State of unease: Colorado basin tribes without water rights Garnett](#) Querta slips on his work gloves as he shifts the big rig he's driving into park. Within seconds, he unrolls a fire hose and opens a hydrant, sending water flowing into one of the plastic tanks on the truck's flat bed.

0915 CA – Waterworld: [Assessment highlights water issues across Calif.'s Bay Area](#)

0915 MS – E-Coli: [Governor: Mississippi capital's water is again safe to drink](#), where a boil water advisory had been in place since July. Recent flooding of the Pearl River damaged the city's water system, leading to a loss of water pressure that exacerbated the water crisis. ([Axios](#))

0915 IN – Infrastructure : [Chesterfield discusses extensive water system project](#)

0915 CO- Infrastructure: [State water plan on tap for \\$11.4 million from gaming revenue](#)

0915 MS – Infrastructure: [City uses ARPA funds to match state grant for water and sewer](#)

0915 NV – Infrastructure: [5.2 Million for Walker River Paiute Tribe water infrastructure announced](#)

0914 NM – Supply: [Increasing pressures on Colorado River water in New Mexico](#)

0914 WV – Infrastructure: [State To Receive \\$26 Million In EPA Grants For Drinking Water](#)

0914 PA – Drought: [Drought watch remains in effect for 36 counties in Pennsylvania](#)

0914 US – NAWC Chief (& Ex-NARUC President) OpEd [Our water infrastructure: Extolling low](#)

[rates only increases inequities | The Hill](#) We are seeing firsthand in Jackson, Miss., the true costs of [not investing in water infrastructure](#). In an anthem often repeated in communities across America, low rates are championed as the benchmark against which water systems are judged. What we [don't see or hear about](#) is the rapidly aging infrastructure under our feet, malfunctioning pumps at the water treatment plants and the significant price tags associated with providing safe, reliable water and wastewater service. If there is an overarching lesson to be learned from the [water tragedies](#) of Flint, Newark, [Baltimore](#) and [Jackson](#), it is that — as a country — we must place as much [emphasis on infrastructure investment](#) and water quality as we do on rates. Ending the mindset that cheapest is best would allow communities, no matter the zip code, to have water that is safe to drink and toilets that can be flushed without polluting the environment. Water that is unsafe to drink is unjust at any cost. Water providers, elected officials and activists cannot continue to buy into the [rhetoric that low rates](#) are paramount to any other consideration. If people insist on looking solely at rates, then the [true cost to ratepayers](#) of systems' failures, such as the need to buy bottled drinking water or having no service at all, must be included in these calculations. Efforts to keep rates artificially low means that some water and wastewater providers do not have the resources needed to properly maintain infrastructure. Low rates directly translate into deferring the work needed to protect public health and our environment. Perpetuating the cycle of underinvestment has resulted in failing infrastructure and poor water quality that [disproportionately impacts](#) communities of color and rural communities. Water equity must be the driver. Water equity means that water systems must abide by the basic [principles](#) of meeting water quality standards, addressing fundamental flaws in our water grid and investing in infrastructure, while offering customer assistance to protect our most vulnerable citizens. This is the way that we move all Americans closer to making certain that everyone has access to safe, reliable water at affordable rates — no matter where you live. By way of comparison, our country expects, and often [mandates](#), electric generators to invest in new technologies, like wind and solar, to protect the environment even though those [technologies often increase the price of electricity](#). In doing so, we as a society are signaling that having clean air is a priority over artificially low rates. The same must be true for water and wastewater. To better appreciate the hesitancy to spend money to improve water and wastewater infrastructure, one must understand that the nation's water and wastewater service providers are [highly fragmented](#). About 50,000 systems operate throughout the United States — compared to just 3,300 electric utilities. Government-run systems serve about 88 percent of the population. Time and again we see local elected officials, or those who are appointed by them, struggle to balance investing in the system with [politically unpopular rate increases](#) required to make those improvements. Contrast that with the America's water companies, which understand the importance of maintaining water quality while still focusing on affordability. The 10

largest private water utilities alone [invest \\$3.9 billion annually](#) in their systems to ensure their customers have safe, reliable and affordable service. The result of this investment is clear. These water companies also have the [superior compliance rates](#) with EPA safe drinking water standards. The reality that is playing out across the United States is that putting off infrastructure upgrades to avoid increasing water rates does more harm over time than incremental investment. Over time, the price of doing nothing only continues to build. It's an extraordinary bill that always comes due. The now [\\$1 billion price tag](#) to address the issues in Jackson, Miss., is a prime example of this. Yes, increased infrastructure investment will inevitably put upward pressure on rates, which is why we must do more to protect our neighbors in need. Congress must provide [permanent funding](#) for a low-income water assistance program. States must change antiquated laws that prevent water utilities from implementing customer assistance programs. Not doing anything to fix broken systems in the name of protecting our poorest citizens jeopardizes everyone's health and access to safe, reliable water service. It is far beyond the time to prioritize providing [high-quality service](#), while at the same time [designing rate structures](#) and assistance programs to help ensure continuity of service for those who need it. The federal government made a valiant attempt to assist with the issue in passing the 2021 Bipartisan Infrastructure Law. Unfortunately, given the state of water infrastructure in the United States the [\\$50 billion](#) is merely a [drop in the bucket](#). The American Society of Civil Engineers estimates the investment gap in water and wastewater infrastructure will grow to [\\$434 billion](#) by 2029. Continuing down this path of elevating the importance of low rates above all else means water and wastewater infrastructure in our cities and towns will continue fall into disrepair, resulting in water unsafe to drink, unreliable service, boil water notices, raw sewage discharges into streams and other environmental harms that hurt our communities and our economy. There is a better path, and now is the time to start following it.

0913 KS – Lead: [EPA: EPA to Begin Free Lead Testing at Cherokee County, Kansas, Superfund Site](#)

0913 CA – Infrastructure: [EPA Announces \\$225 Million WIFIA Loan to the City of San Diego to Protect Water Quality and Reduce Flood Risks](#)

0913 CA – Infrastructure: [EPA Announces \\$18 Million WIFIA Loan to Helix Water District for Drinking Water Resiliency in San Diego County](#)

0913 MS – Infrastructure: [EPA inspector general probes Mississippi capital water woes](#)

0913 TX – Infrastructure: [Sunrise Beach gets \\$301K for water system upgrades](#)

0913 CA – Drought: [New water rules in effect for Santa Clara County](#)

0913 NV – Drought: [Temporary solutions keep Las Vegas water crisis from worsening](#)

0813 GA – Outage: [Summerville city council takes next steps in wastewater treatment plan amid ongoing crisis](#)

0812 MD - [EPA Highlights Water Quality Improvements in Chesapeake Bay to Celebrate the Clean Water Act's 50th Anniversary](#)

0812 CA – Desalination: [Calif. DWR offering \\$6M to support desalination pilot projects](#)

0812 VA – E-Coli: [Mayor: Boil water advisory in Dungannon](#)

0812 NJ – Drought: [Water Restrictions In Long Valley Extended Through October](#)

[2] WATER NEWSLETTERS

0919 Water & Wastewater Report

[Reliability-Centered Design](#) Using reliability-centered design and maintenance helps

a wastewater treatment facility reduce its total cost of ownership and improve maintainability.

[Journey to a Performance Management Program](#) Performance management programs can be essential for water management efficiency. What does implementing one of these programs look like? What performance indicators are important? What challenges should a utility expect? Robert Ervin, senior professional engineer for the City of Minneapolis Public Works - Water, explains the city's journey to a successful...

[Biden-Harris Administration, EPA announce delivery of historic water infrastructure funding to 18 states](#) Bipartisan Infrastructure Law funding is being distributed across the country for water infrastructure improvements.

[Rural Water responds to Jackson's water crisis](#) Mississippi Rural Water Association helps Jackson, Miss. with its recovery efforts after heavy rain caused pump failures for the city's O.B. Curtis Water Plant.

[Sewage treatment plant in Japan to test biogas purification system](#) The City of Kurashiki has agreed to evaluate and demonstrate the performance of Asahi Kasei's biogas purification system, which uses a new adsorbent to recover both methane and carbon dioxide separately.

[WEF, partners explore option to destroy PFAS with heat](#) The Water Environment Federation's \$500,000 study with Brown and Caldwell, Western University, and North Carolina State University will explore the use of pyrolysis to potentially destroy PFAS while producing biochar and offgas.

0916 ASDWA Weekly

[] **[First Round of BIL Funding Awarded to 18 States](#)** On Friday, 9/16, EPA awarded Bipartisan Infrastructure Law (BIL) funding to the first 18 states across the country for water infrastructure improvements. The BIL allocates more than \$50 billion over five years toward repairing the nation's water infrastructure. More than \$1.1 billion in BIL capitalization grants have been issued to 18 states through the State Revolving Funds (SRFs), with additional capitalization grants forthcoming. The grants mark the first significant distribution of BIL water infrastructure funds. State allocations were previously announced. EPA awarded SRF capitalization grants to 18 states, including: Arizona, Colorado, Connecticut, Delaware, Hawaii, Maine, Maryland, Massachusetts, Montana, New Hampshire, New Mexico, Pennsylvania, Rhode Island, Utah, Vermont, Virginia, Washington and West Virginia. The Federal funding announced on 9/16 represents 2022 Fiscal Year (FY22) awards for states that have submitted and obtained EPA's approval of their plans for use of the funding. Capitalization grants will continue to be awarded, on a rolling, state-by-state basis, as more states receive approval throughout FY22. States will also receive additional awards over the next four years. Once grants are awarded, state programs will begin to deliver the funds as grants and loans to communities across their state. More information on EPA's infrastructure funding efforts can be found [here](#).

[] **[Railway Strike Averted](#)** This week, EPA [posted information](#) detailing collective bargaining negotiations between U.S. rail carriers and union-represented workers and potential impacts to the chemical supply chain. After the recent issuance of a report in August that included recommendations for ending the stalemate in negotiations, the rail carriers and unions reached a tentative agreement on September 15, potentially avoiding a stoppage of rail carrier service at the end of a negotiation cooling off period on September

16. This agreement may result in the lifting of embargoes on the transport of hazardous materials, allowing for production and transport of chlorine products to begin to return to normal levels. On September 12, rail carriers began to issue embargoes on the transport of hazardous materials, which include chlorine products needed for water and wastewater treatment. The purpose of the embargoes is to avoid the potential for safety-sensitive and hazardous materials being left unsecured and unprotected in the event of a work stoppage.

[] [Source Water Protection Week is September 25 – October 1!](#) AWWA invites water utilities, sections, states, and other partners to join the Association in recognizing Source Water Protection Week from September 25 – October 1, 2022. Throughout the week, advocates will be raising awareness about the importance of caring for the nation’s drinking water sources. Keeping our rivers, lakes and underground wells free from pollution makes it easier and less expensive to keep drinking water safe and healthy. Source Water Protection Week materials are now available, and many additional resources will be added soon. For more information about how to spread the word and celebrate, [visit the AWWA website](#).

[] [AAAS Webinar on Advances in PFAS Destruction](#) n Tuesday, October 4, 2022, from 2:00pm – 4:00pm (eastern time), the American Association for the Advancement of Science’s Center for Scientific Evidence in Public Issues (AAAS EPI Center) will hold a webinar on “Advances in PFAS Destruction.” During the webinar, expert panelists will share the scientific evidence related to current and emerging technologies on PFAS destruction to support decision-makers in their state or community. There will be a question-and-answer session following expert presentations from the webinar panelists. The panelists and presentations are:

Max Krause, U.S. EPA – PFAS destruction methods including super critical water oxidation and electrochemical oxidation

Paul Lemieux, U.S. EPA – PFAS destruction of solid matter including incineration, pyrolytic processes, and other thermal treatments

Michelle Crimi, Clarkson University– Emerging approaches to PFAS destruction including through plasma treatment

For more information and to register for the webinar, [visit the website here](#).

0915 PFAS and your business: Identifying and investigating PFAS impacts Bryan Cave Leighton Paisner LLP [Read Online](#) Summary

Most businesses understand the need to conduct environmental due diligence when buying or selling real estate, but many businesses may not have a good understanding of how to investigate and mitigate the potential risk posed by the presence of PFAS compounds. EPA is expected to add certain PFAS compounds to the list of “Hazardous Substances” under CERCLA later this year, and there are state and federal investigations into PFAS impacts at sites going on across the country, so businesses should begin to evaluate their potential interaction with these chemicals.

The following presents a discussion of some methods and concepts that, if applied correctly, can reduce the risk that future PFAS regulation will undermine the work that organizations are executing in response to the items described in EPA’s [PFAS Strategic Roadmap](#). We also provide information regarding the necessary background regarding due diligence procedures for PFAS substances.

I. Due Diligence Considerations

Presently, an evaluation of potential PFAS impacts is not required in order to satisfy the All Appropriate Inquiries Standard (“AAI”) under CERCLA and state equivalents.

However, once EPA has listed PFOA, PFOS, and any other PFAS compounds as “Hazardous Substances” under CERCLA, those compounds are within scope of AAI and must be considered going forward. In anticipation of these changes, PFOA and PFOS (at a minimum) should be evaluated as part of a company’s due diligence when purchasing property.

II. Conceptual Site Model Development

Once a site is classified as “impacted” by PFAS, developing a robust conceptual site model (“CSM”) is a critical next step. This CSM provides a strategic framework to guide future decisions regarding the management of the site, support stakeholder interactions, and inform the design of future remedial actions if required at a later date. Given the importance of the CSM to the overall response process and the propensity for PFAS to migrate in the environment, the CSM should identify the following:

- Historical uses of the site that may have resulted in PFAS releases;
- Detailed evaluation and interpretation of site hydrogeology and hydrology influencing PFAS migration;
- Historical remedial efforts performed in the vicinity of the PFAS plume;
- Available PFAS data from the site and any adjacent sites;
- Potential and identified regional sources of PFAS to the environment;
- Ecological and human health receptors; and
- Nearby property ownership and use.

In today’s data-rich environment, much of the information needed to create a CSM is available through previous environmental investigations conducted at or near the site, regional databases, and other sources. Leveraging this existing data by conducting desktop reviews using advanced interpretation methods at the beginning of an investigation planning effort provides opportunities to target the investigation, thereby reducing cost and generating data that supports a well-informed strategy designed to achieve the most favorable outcome possible.

As EPA implements the [TSCA data gathering rule](#), the volume of PFAS-related information available to support CSM development, investigation and response action planning will increase exponentially. For additional information regarding the TSCA data gathering rule, please refer to [BCLP’s previous Client Alert](#).

When used to its full potential, this data will help organizations chart a course toward compliance and risk mitigation prior to generating new data. For example, a clear presentation of regional PFAS impacts and potential sources to the environment can be valuable in planning site-specific data collection efforts and communicating risks to internal stakeholders. This information will also be valuable in evaluating historic and ongoing PFAS impacts during the due diligence process.

Summarizing and converting the information described above into a consumable format may seem like a daunting task; however, new technologies are being employed to evolve from conventional “written” or “static” CSMs to dynamic CSMs hosted on a digital platform. This allows for the efficient use of existing and new datasets as projects are implemented.

III. Digital Site Management Tool

Burns & McDonnell has developed a [Digital Site Management Tool](#) ("DSMT") to develop CSMs to support some of the nation's most complex PFAS sites. This web-based tool allows users to seamlessly view disparate PFAS datasets and hydrogeologic data across space and time to make real-time interpretations, identify trends that are indicative of PFAS sources and transport routes, understand the specific processes affecting PFAS fate and transport in the environment, and determine potential exposure scenarios.

For example, Burns & McDonnell's team of stratigraphers has identified specific hydrostratigraphic units at complex PFAS sites that function as barriers and conduits to groundwater migration and therefore guide the transport of PFAS in the environment. Once identified, these units became the focus of data collection and their orientation informed the placement of the monitoring well network.

By relying heavily on the subsurface lithology, the results of the site investigation and the foundation of the CSM provide interpretations about contaminant fate and transport that can be easily repurposed to make interpretations or predictions about the distribution of additional PFAS should they become regulated at future date. This interpretation is captured within the DSMT and becomes part of the living CSM that evolves along with an organization's response to PFAS. The DSMT serves as a data management system with maps and dashboard reporting capabilities that can be used to support technical discussions and decision making as well as stakeholder interactions regarding this complex subject.

IV. Conclusion

Once potential PFAS impacts have been identified, investigating and characterizing those impacts is essential. Organizing and managing that information in a real-time, digital format provides greater flexibility and the ability to more effectively manage future discussions with regulatory agencies, investors, insurance providers, and other key stakeholders. Businesses should evaluate and implement a site modeling plan and dynamic platform that will adapt with their long-term business needs. [Thomas S. Lee](#) and [John R. Kindschuh](#)

0914 National Rural Water Ass'n: Special Report: Potential Railroad Strike Could Impact Water

Sector Talks between freight-rail companies and unions continue under U.S. Labor Secretary Marty Walsh's leadership as the deadline to avert a strike that would disrupt US transport services nears. About 125,000 workers could walk off the job if a deal is not reached by Friday's deadline. Water and wastewater utilities may begin experiencing supply chain disruptions resulting from this potential railroad strike that could start later this week. Items affected by the disruptions could include chlorine and other essential water treatment chemicals and products, some of which have already been impacted. These events call for utilities to assess the status of their suppliers and consider mitigation actions [Read Full Report Here](#)

0914 EPA WaterSense Articles of Interest Wednesday, September 14, 2022

Social Media Spotlight It's not too late to start saving water this year! Join Fort Worth (Texas) Water in conserving water by taking the WaterSense "I'm for Water" pledge and find examples of simple water-saving actions to take throughout the year. twitter.com/FWWater/status/1565324089253830656

WaterSense

"World Water Week: Why The Home Depot Is for Water Conservation"

Northampton, Massachusetts—Even though World Water Week has passed, you can still conserve water with WaterSense. One of the biggest culprits of water waste is leaky toilets. To check your toilet for leaks, add a few drops of food coloring to the tank and wait 10 minutes. If dye appears in the bowl, your toilet likely has a leak. You can also install WaterSense labeled faucet aerators to save water. Swap out your showerhead for a WaterSense labeled model, which uses less gallons of water per minute while maintaining performance. finance.yahoo.com/news/world-water-week-why-home-134512208.html

Conservation

"Bay Area Among Leaders in Statewide Water Conservation" CALIFORNIA—With ongoing drought conditions, California state officials have asked residents to cut back on water use to conserve water. A recent report from the State Water Resources Control Board shows that Californians cut back on water use by 10.4 percent in July 2022 compared to July 2020. The Water Board indicated that 14 counties reached or surpassed the governor's request for a voluntary reduction of 15 percent. To help consumers save water, many water utilities are offering rebates for water-efficient products and landscaping. For example, the Santa Clara Valley Water District provides rebates of up to \$3,000 for residential customers and up to \$100,000 for commercial and multifamily customers through its Landscape Rebate Program. danvillesanramon.com/news/2022/09/11/bay-area-among-leaders-in-statewide-water-conservation

"Sports Plays Key Role in Southern Nevada Water Conservation" Las Vegas, NEVADA —As water conservation continues to be an important topic, many organizations are rethinking how they approach water use and conservation education. Among those trying to reduce water use are sports organizations. Anthem Country Club in Nevada has closed its golf course in order to implement stronger water conservation methods. The environmental division of the NFL is working to improve the organization's water conservation efforts. At Allegiant Stadium, home stadium of the Las Vegas Raiders, uses Bermuda grass, which is drought-tolerant and requires less frequent irrigation. The area's hockey facilities use reclaimed water. Southern Nevada Water Authority also facilitated the conversion of 29 high school football fields from grass to turf. www.reviewjournal.com/sports/sports-plays-key-role-in-southern-nevada-water-conservation-2637526/

"Utility Company Recommends Water Conservation in Face of Drought" CONNECTICUT—New England has been facing its most severe drought in the past two years, and nearly half the state of Connecticut is classified as experiencing severe drought. To alleviate water shortages, Connecticut Water is asking residents to voluntarily reduce water use. The water utility recommends checking toilets and other plumbing fixtures for leaks, covering swimming pools to prevent evaporation, adding mulch around plants to retain moisture, and only irrigating landscapes in the mornings or evenings. www.ctinsider.com/weather/article/Utility-company-recommends-water-conservation-in-17431578.php

"Severe Drought Makes Free Waterwise Resources More Crucial Than Ever" Fontana, CALIFORNIA—As you take action to reduce your daily water use, consider revamping your landscape to make it more water-efficient. Chino Basin Water Conservation District offers a free landscape template to help customers transform their yards into a California-friendly landscape. The Conservation District recommends replacing turfgrass with native and drought-tolerant plants and adding a pollinator garden. Residents can also

request free sprinkler check-ups to ensure their irrigation systems are functioning properly and not wasting water. www.fontanaheraldnews.com/opinion/severe-drought-makes-free-waterwise-resources-more-crucial-than-ever/article_1e369fba-3073-11ed-a217-77bcf0e21b5a.html

"Want to Enjoy Your Swimming Pool While Still Conserving Water? Expert Shares Tips" Los Angeles—While pools are a great way to beat the summer heat, they can also use a lot of water. When left uncovered, up to 70 percent of pool water can be lost due to evaporation. A simple fix is investing in a pool cover. Pool covers prevent debris from falling into pools and limit evaporation when pools are not in use. You can also install barriers around the pool to prevent too much water from splashing out. If you do need to refill your pool, do it at the end of the day when the water is less likely to evaporate.

abc7.com/california-water-crisis-summer-heat-pool-conservation-guard-la/12209940/

0912 Water & Wastewater Report

[Something in the Wastewater](#) Wastewater is a rich source of information for community health, providing dense biological and chemical information on a community with fewer biases than many other types of public health surveillance.

[Water Crisis in Jackson: WEF Responds](#) Water Environment Federation leadership speaks on what we can do now to make sure that our nation's water systems remain functional; ensuring equity and access for all.

[Swedish study verifies advantages of wastewater surveillance](#) New research from Sweden affirms the predictive advantages of wastewater epidemiology, and the research hopes to expand surveillance to include other diseases as well.

[Ariz. announces \\$3M public water sampling plan for PFAS](#) Going beyond EPA's requirements for water system sampling, Arizona's PFAS sampling plan will include all 1,500 of its public water systems.

[Calif. approves world's first microplastics testing requirements for drinking water](#) The State Water Resources Control Board has approved a policy handbook that details quarterly microplastics testing methods for up to 30 of the state's water providers, set to begin in the fall of 2023.

[VODA.ai wins top award at Smart Water Summit](#) The award-winning company's AI solution helps identify pipes at high risk of failure, probable wastewater incidents, and likely lead service lines.

[Texas provides \\$13M to water, wastewater, stormwater infrastructure](#) The state provided financial assistance to a drinking water supply project in the City of Alice, a wastewater treatment plant project in the City of China, and a stormwater drainage project in the City of Kingsville.

Appendix E - BIPARTISAN

INFRASTRUCTURE ACT CLIPS

0920 SUPPLY CHAIN: **[FCC Expands Covered List \(of equipment that USF cannot be used to support\) to Include China Unicom and PacNet/ComNet](#)**

0920 WEATHER: Hurricane Fiona has caused "**[catastrophic](#)**" damage, says Puerto Rico Gov. Pedro Pierluisi. At least two related deaths occurred on the island and **prompted evacuations of hundreds of residents** as it knocked out power and sparked landslides and massive floods.

Fiona has since been [upgraded](#) to a Category 3 storm with maximum sustained winds of nearly 115 mph as it continues on to the Dominican Republic, where at least one more person has died.

0920 CYBER: [Ransomware task force outlines threat response](#) // Susan Miller The Joint Ransomware Task Force is designed to unify efforts and identify ways to leverage the federal government's unique authorities and capabilities to disrupt ransomware.

0920 CYBER: [Baker Hostetler: FTC's Latest Staff Report On Dark Patterns: A Warning For Marketing Teams And UX Designers](#) he Federal Trade Commission issued a detailed [\[staff report\]](#) on September 15 addressing Dark Patterns (or what some more descriptively call “manipulative design,” but Dark Patterns seems to be sticking). Regulators are focusing increased attention on these manipulative designs and it's critical for marketing, user experience and design teams to understand this topic.

The staff report brings together two types of dark patterns you'll see in use. The first manipulates consumers into purchasing, subscribing to or not canceling products or services. The item you think is a one-time purchase, but subscribes you to a recurring monthly purchase. The maze you're sent through to cancel a subscription. The slight intentional delay added to a page to make it just a bit more unlikely that you'll finish the unsubscribe process. The false statement on an order page that there's only “One item left!” (isn't it amazing how often that happens?). The variations are endless.

The second manipulates consumers into “agreeing” or “consenting” to give up information they might not otherwise agree to. The familiar “Accept” button with no equal option to reject (which those operating in Europe will recognize from cookie-banner enforcement actions under the e-Privacy Directive and GDPR). Again, many variations on the theme.

It can sometimes be difficult to decide (and there's room for debate about) when an activity has crossed the line from clever marketing to impermissible manipulative design (and, therefore, from acceptable influence to impermissible manipulation). But state, federal and international regulators are wise to the game. Companies would be wise to cut out activities that cross the line, and guide relevant teams on how to avoid the most problematic examples.

And it's not just scam artists that must take note. Although some of the staff report's examples are associated with clear scams, it would be a mistake to assume that the issue is limited to those scams. Manipulative designs are everywhere, which is part of the problem. Manipulative designs are so prevalent that marketing teams and UX designers might believe it's the right way to do things, or that they aren't being “creative” enough if they aren't using them. The staff report provides a good collection of examples and visual aids for discussions with these teams about where the line is, what's clearly on either side of it and what might be in that gray middle.

0920 CYBER: [DHS unwraps \\$1B state and local cybersecurity grant program](#) // Susan Miller Each states will each receive a minimum of \$2 million for FY 22 for a planning committee and a cybersecurity plan that details how it will reduce their cybersecurity risks.

0920 CYBER: [Cyber criminals increasingly relying on ransomware-as-a-service, report says](#) // Chris Riotta A new report reveals threat actors are using the same ransomware as in previous years – but relying on new malware-free intrusion methods and ransomware-as-a-service offerings to evade popular mitigation techniques.

0919 WEATHER: Greenwire: Puerto Rico faces 'man-made disaster' in Fiona's wake - Millions of people in Puerto Rico are living without electricity on an island where infrastructure has remained hobbled since Hurricane Maria in 2017. Elsewhere, typhoons hit both coastal Alaska and Japan, causing flooding . . . Privately owned LUMA Energy, the company that operates power transmission and distribution, said winds of 80 mph had disrupted transmission lines, leading to the islandwide power outage.

0919 WEATHER: Alaska is reeling from the worst storm in a half century after Typhoon Merbok hit the western part of the state on Saturday, causing widespread flooding and damage across 1,000 miles of the Alaskan coastline. ([The Associated Press](#))

0919 WEATHER: More than 1.3 million customers in Puerto Rico are without power after Hurricane Fiona slammed into the island over the weekend as a Category 1 storm, bringing heavy rains and flooding that led to evacuations and rescues. ([The New York Times](#))

0919 WEATHER: Homes, power lines, roads and at least one bridge were knocked out as Hurricane Fiona swept Puerto Rico over the weekend. Gov. Pierluisi described the damage as catastrophic, including an islandwide blackout and road-blocking landslides. [Miami Herald \(tiered subscription model\)](#)

0919 DRONES: DoE: NETL Drone Program Aims to Enhance America's Energy Infrastructure

0919 CYBER: Natl Sci Fnd: Thinking like a cyber-attacker to protect user data A component of computer processors that connects different parts of the chip can be exploited by malicious agents who seek to steal secret information from programs running on the computer, [MIT](#) researchers have found. Modern computer processors contain many computing units, called cores, which share the same hardware resources. The on-chip interconnect is the component that enables these cores to communicate with each other. But when programs on multiple cores run simultaneously, there is a chance they can delay one another when they use the interconnect to send data across the chip at the same time. By monitoring and measuring these delays, a malicious agent could conduct what is known as a "side-channel attack" and reconstruct secret information that is stored in a program, such as a cryptographic key or password. Senior author Mengjia Yan explains, "An intuitive way to understand interconnect side-channel attacks is to think of the mesh interconnect as roads carrying cars from multiple directions. The cars [interconnect packets] can enter and exit the interconnect at different crossings. When traffic flows overlap, they may slow each other down and cause contention, which can be used to infer the victim's traffic status and then the victim's secret." In work funded in part by the [U.S. National Science Foundation](#), MIT researchers reverse-engineered the on-chip interconnect to study how this kind of attack would be possible. Drawing on their discoveries, they built an analytical model of how traffic flows between the cores on a processor, which they used to design and launch surprisingly effective side-channel attacks. Then they developed two mitigation strategies that enable a user to improve security without making any physical changes to the computer chip.

0918 Communications Infrastructure : FCC: Hurricane Fiona Communications Status Report - September 18, 2022

0916 Resilience: Electric Power Research Institute uses 35 acres in Lenox, Mass., to stress-test poles, cables, towers and other equipment for power transmission and distribution. The nonprofit uses about \$60 million annually from energy sector clients to conduct tests, which recently have focused on clean energy technology and resilience during extreme weather. [E&E News](#)

0916 WEATHER: [Tropical Storm Fiona forms, soon to lash Lesser Antilles, Puerto Rico](#) *Matthe Cappucci, The Washington Post* The storm could eventually be one to watch for Bermuda or even the U.S. East Coast.

0914 FIRE – DOI: [Interior Dept: Biden-Harris Wildland Fire Mitigation and Management](#)

[Commission Charts Path Forward](#) **UT** — Today, members of the Biden-Harris administration’s Wildland Fire Mitigation and Management Commission met for the first time in Salt Lake City, Utah, to begin crafting federal policy recommendations and strategies on ways to better prevent, manage, suppress and recover from record wildfires across the West. Established by President Biden’s Bipartisan Infrastructure Law, and [announced](#) in December 2021, the commission is composed of representatives from federal agencies, state, local and Tribal governments, and representatives from the private sector. The commission is tasked with preparing a report with policy recommendations and submitting them to Congress within a year of its first in-person meeting. The commission’s work will build on existing interagency federal efforts such as the [Wildland Fire Leadership Council](#) and the White House Wildfire Resilience Interagency Working Group and will continue to pursue a whole-of-government approach to wildfire risk reduction and resilience. Its creation comes at an important time as shifting development patterns, land and fire management decisions, and climate change have turned fire “seasons” into fire “years” in which increasingly destructive fires are exceeding available federal firefighting resources. Future commission meetings will be monthly and take place virtually. In addition to establishing the commission, the Bipartisan Infrastructure Law provides historic funding for a suite of programs aimed at reducing wildfire risks, detecting wildfires, instituting firefighter workforce reforms and building more resilient infrastructure. This year, the Departments of the Interior and Agriculture have allocated an initial \$234 million in Bipartisan Infrastructure Law investments for wildfire resilience efforts and established a new joint mental wellness program to equip federal wildland firefighters with post-traumatic stress disorder care and address environmental hazards to minimize on-the-job exposure. These investments support the implementation of the Department of the Interior’s [“Five-Year Monitoring, Maintenance, and Treatment Plan,”](#) which provides a roadmap for addressing wildfire risk on Department of the Interior and Tribal lands. They also support the USDA Forest Service’s “Confronting the Wildfire Crisis” strategy, which aims to treat 20 million acres of national forests and grasslands and 30 million acres of state, local, Tribal and private lands over the next 10 years to reduce wildfire risk where it matters most. These plans help facilitate the collaborative work between the two Departments. The Bipartisan Infrastructure Law also supports landmark pay increases for federal wildland firefighters, [announced on June 21](#), which aim to bring federal firefighter pay in alignment with their state and local counterparts, while aiding in recruitment and retention of a more permanent and stable wildland firefighting force across the federal government. For more information visit the [commission website](#) or email wildlandfirecommission@usda.gov.

0916 CYBER: Homeland Security Today: New CISA Strategic Plan Focuses on Cyber Threats, Risk Reduction, Collaboration with Partners (09/16) <https://www.hstoday.us/federal-pages/dhs/new-cisa-strategic-plan-focuses-on-cyber-threats-risk-reduction-collaboration-with-partners/> *Director Easterly was quoted in an article about the focus of CISA’s Strategic Plan 2023-2025.* At the beginning of the document, CISA Director Jen Easterly wrote that the plan “represents a forward-leaning, unified approach to achieving our vision of ensuring

secure and resilient critical infrastructure for the American people.” “The risks we face are complex, geographically dispersed, and affect a diverse array of our stakeholders, including federal civilian government agencies, private sector companies, state, local, tribal, and territorial (SLTT) governments, and ultimately the American people,” Easterly wrote. “It is our duty to work with our stakeholders to mitigate these risks to preserve our national security, economic stability, and the health and safety of all our citizens.” The plan builds on and aligns with the Department of Homeland Security Strategic Plan for Fiscal Years 2020–2024, with a focus on promoting “unity of effort across the agency and our partners” and defining “success for CISA as an agency.”

0916 WEATHER – FCC ISSUES PROCEDURES TO PROVIDE EMERGENCY COMMUNICATIONS IN AREAS AFFECTED BY TROPICAL STORM FIONA. (DA No. 22-973). OMR PSHSB. [DA-22-973A1.docx](#) [DA-22-973A1.pdf](#) [DA-22-973A1.txt](#)

0916 OUTAGE REPORTING: FCC ACTIVATES DISASTER INFORMATION REPORTING SYSTEM FOR COMMUNICATIONS IMPACTED BY TROPICAL STORM FIONA IN PUERTO RICO AND THE U.S. VIRGIN ISLANDS. (DA No. 22-971). OMR PSHSB. [DA-22-971A1.docx](#) [DA-22-971A1.pdf](#) [DA-22-971A1.txt](#)

0914 CYBER – IRAN: [The Hill: Iranians indicted in hacking scheme](#)

0914 FIRE: [California's Mosquito Fire prompts more evacuations as it races toward mountain communities, burning homes and cars in its path](#) The Mosquito Fire burning in Northern California flared up Tuesday afternoon, charging toward a mountain community and torching more homes as it burned dangerously close to a high school.

0914 CYBER - IRAN: *INTENDED FOR WIDEST DISTRIBUTION* Dear Partners, The Cybersecurity and Infrastructure Security Agency (CISA), the Federal Bureau of Investigation (FBI), the National Security Agency (NSA), U.S. Cyber Command - Cyber National Mission Force (CNMF), the Department of the Treasury (Treasury), the Australian Cyber Security Centre (ACSC), the Canadian Centre for Cyber Security (CCCS), and the United Kingdom's National Cyber Security Centre (NCSC) released a [joint Cybersecurity Advisory \(CSA\)](#) with technical details on cyber activity by advanced persistent threat (APT) actors assessed to be affiliated with the Iranian Government's Islamic Revolutionary Guard Corps (IRGC). This advisory is an update to our 2021 joint CSA on [Iranian government-sponsored APT actors exploiting Microsoft Exchange and Fortinet vulnerabilities](#).

As recently as February 2022, these APT actors has been observed exploiting VMware Horizon® Log4j vulnerabilities for initial access. This is in addition to their exploit of known Fortinet® and Microsoft Exchange® vulnerabilities that were reported in our 2021 CSA and in the FBI Liaison Alert System (FLASH) report [APT Actors Exploiting Fortinet Vulnerabilities to Gain Access for Malicious Activity](#) from May 2021. Also, this CSA provides additional malicious and legitimate tools being used by these actors as well as additional indicators of compromise (IOCs) observed as recently as March 2022 that can help organizations detect this activity.

The agencies assess that multiple critical infrastructure sectors and organizations in the U.S., as well as in the United Kingdom, Australia, and Canada, are being actively targeted. The IRGC-affiliated APT actors have been observed scanning for and/or exploiting the known vulnerabilities on unprotected networks rather than specific entities or sectors. After gaining access to a network, the APT actors likely determine a course of action based on their perceived value of the data, which could lead them to encrypting data for ransom and/or

exfiltrating data.

In addition to enforcing multifactor authentication, making offline backups of your data, securing remote desktop protocol (RDP), and other recommended mitigations, the agencies encourage organizations to immediately patch software affected by vulnerabilities identified in the latest advisory. Those specific common vulnerabilities and exposures (CVE) to patch are:

Microsoft Exchange ProxyShell	VMware Horizon / Log4j	Fortinet FortiOS	Microsoft Exchange
CVE-2021-34473	CVE-2021-44228	CVE-2018-13379	CVE-2021-31196
CVE-2021-34523	CVE-2021-45046	CVE-2020-12812	CVE, 2021-31206
CVE-2021-31207	CVE-2021-45105	CVE-2019-5591	CVE-2021-33768
			CVE-2021-33766
			CVE-2021-34470

Also, organizations are recommended to validate or test their existing security controls to assess how they perform against the adversarial behavior (i.e., MITRE ATT&CK techniques) described in this advisory. In this new [CSA](#), the Iranian APT exploit activity reported in our [2021 CSA](#) is now assessed to be by APT actors affiliated with the IRGC, an Iranian Government agency tasked with defending the Iranian Regime from perceived internal and external threats. All organizations are encouraged to review the CSA for complete details on this ongoing threat and recommended mitigations. Organizations are reminded that in September 2021 Treasury [issued an advisory](#) highlighting the sanctions risk associated with ransomware payments and providing steps that can be taken by companies to mitigate risk being a victim of ransomware. Your support to amplify this CSA through your communications and social media channels is appreciated. And as always, thank you for your continued collaboration. Cybersecurity and Infrastructure Security Agency Cybersecurity and Infrastructure Security Agency Communications Sector SRMA

CommunicationsSector@cisa.dhs.gov

[0912 Utility Dive: Congress should require FERC, NERC to monitor gas pipeline capacity to ensure reliability, manufacturers say](#)

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What to Watch in Washington this Week

Brad Ramsay

UP FRONT:

ELECTIONS: Well – obviously today is election day and that will dominate the news cycle this week. Short take – R's will definitely take the house – the only question is by how many seats – I'm guessing at least 24. R's are slightly favored to take the Senate. See below.

CONGRESS: Latest on Congress – when they return next week, the D majority is going to try to combine the National Defense Authorization Act (which has passed 61 times in a row) with an omnibus spending bill for FY 2023. Manchin says his permitting reform measure is to be part of the NDAA along with the transmission provisions NARUC does not like. Also it is rumored, but not confirmed that FERC Chair Glick - whose term ends when Congress adjourns in December, will get his nomination hearing next week (and likely be confirmed on the floor shortly thereafter). No word on a discharge petition for FCC nominee Sohn yet – but if the R's take the Senate – or it looks like they will – the odds go up for that to take place.

ONLINE: THIS WEEK – Things to watch: Later today at 5:00 Eastern EPRI is hosting an online event from COP27 (the Climate conference) in Egypt titled [The Resilience Imperative](#). Tomorrow at the Fiber Broadband Association is hosting two events – one at 10 ET captioned [Fiber is Not Enough](#) and another at 1 ET captioned [Meeting the BEAD Affordability Requirements](#) (on the required middle class affordability plan to be built into State BB plans). Also tomorrow, Law firm [Bracewell's Policy Resolution Group](#) hosts [2022 Midterms Post-Election Webinar](#), at 1 ET, Clean Energy Group hosts: [Innovative Avenues to Public Participation in Clean Energy Development](#).

Featuring CT & WA, at 2:00 NARUC's SCRID – has a session on “*Critical Infrastructure Security – the Key to Preserving our Quality of Life*”, and at 3:00 FERC is hosting a State only Webinar on [FERC's Winter Energy Market and Reliability assessment for States](#). At the same time is the regular USAC Lifeline monthly webinar. At 4 ET, The Water Research Foundation hosts a session on [Purified Recycled Water Demonstration Design & Reuse Communication Toolbox](#) Finally, at 7 ET, the EPA has the Second listening session for [Public Input on the IRA's Greenhouse Gas Reduction Fund](#). This Thursday - November 10th, FERC is having its [Annual FERC Commissioner-Led Reliability Technical Conference](#) from Noon ET to 5:00 pm, starting at 2:30 ET, the Bipartisan Policy Center hosts a session on [Tech Policy on the Horizon : Plans for the 118th Congress](#) and at 3 ET, DOE hosts [Electric Vehicle Grid Assist - Accelerating the Transition: Planning for the Future](#) SEE APPENDIX A FOR REGISTRATION INFORMATION and more detail.

NEXT WEEK: NARUC starts Sunday – so I won't be sending an update next week WHICH MEANS – I included in Appendix A – online events you may want to pay attention too NEXT week – including both FERC and the FCC's November agenda meetings next THURSDAY. Also during the NARUC meeting, you will be able NEXT TUESDAY NOVEMBER 15 (at 10 EASTERN 9 CST) to watch online the [Fifth Meeting Of The FERC Joint Federal-State Task Force On Electric Transmission](#) Also on Tuesday next week, if you are a real early bird or simply cannot sleep, at 3:30 AM ET - EPRI is streaming a live event at the climate conference in Egypt titled [Approaches for Economy Wide Decarbonization](#). Later in the day, at 1 ET, the Fiber Broadband Association has a webinar on [Scaling Up for Large Fiber Deployments in Resource Challenged Times](#). NEXT Wednesday (Nov. 16th) at 10 ET the NRC is holding a [Presubmittal Meeting on NEI 22-01 License Termination Process](#), at 1 ET, USTelecom hosts its [Broadband Investment Forum](#) also at 1 ET, the Clean Energy Group has a session on [Resilient Solar+Storage for Cooling Centers](#) [Resilient Solar+Storage for Cooling Centers](#), at 2 ET EPA hosts two sessions - one on [Optimizing Colling Tower Water Efficiency using existing routines](#) the other on [Real time Risk Characterization tool for Harmful Algal Blooms](#). Thursday along with the FERC and FCC agenda meetings at 10 and 10:30 AM ET – at 1 ET, LBNL has a session on [Residential Solar-Adopter Income & Demographic Trends](#) and the Clean Energy Group has a session on [Behind the Metter Energy Storage: Comparing State Policies](#)

See you at NARUC

BRAD

See the SECTOR UPDATES - for ENERGY & TELECOM & WATER & CRITICAL INFRASTRUCTURE & IRA/IJA RELEASES - below:

I. DETAILED ELECTIONS STUFF – READ ONLY IF INTERESTED – otherwise skip to II – Sector News.....

NATIONAL ELECTIONS – DARK CLOUDS AHEAD FOR THE MAJORITY: A little more on this

below – including how to watch the returns later today.

Of course, anything can happen, but there are definite signs the D's may be looking at a very bad day (or few days). For example,

- [1] the governors' races in both deep blue New York and Oregon are much closer than they should be given historical trends – aka they should not be close at all. In Oregon statistically tied (with the R "up" by 1 within the margin of error). Even if D's retain both seats – the fact that the races are so close in those jurisdictions is not a good sign for the party in power;
- [2] D's spent around \$40 million in an number of national and governor races backing R candidates – many endorsed by Trump – with the expectation that they would be easy to beat in the general. But the polls show most of those candidates are either in a dead heat or polling ahead of the D candidate.
- [3] Last week, The Cook Political Report – which historically has shown a noticeable D bias in terms of predictions vs. actual outcomes – flipped 10 House race rankings in the R direction and on Friday changed the ranking of the race of the most vulnerable R incumbent – Senator Ron Johnson - from "toss up" to "lean Republican."
- [4] Sunday, the Real Clear Politics site projected R's could pick up 3 seats in the Senate – net two governors races – and pick up 31 seats in the House. <https://www.realclearpolitics.com/>
- [5] Polling site 538, which in my last report over two weeks ago, said D's had a 2 in 3 chance of retaining the Senate – last week for the first time since July, found that R's now win 54 of 100 "runs" of their model on Senate elections. <https://fivethirtyeight.com/politics/>
- [6] Less scientific – but often better than the professional pundits – are the betting markets. After being 2 to 1 underdogs in June and July, this weekend, R's were at a 66% chance to win the Senate and the betting community moved their odds to take the house up to 80%.
- [7] Most surprising shift last week – was a WSJ poll on suburban women, which comprise about 20% of the electorate and broke strongly for Ds in the 2020 election. The WSJ poll showed a 27% shift in this demographic from a similar WSJ poll taken a little over two months ago in August. The August poll had D's UP 12 points but now the same poll shows D's DOWN 15 points with this demographic.
- [8] in 2020, 16.5 % percent of early voters were under the age of 30, and they broke hard for D's. This year, at least as of Sunday, just 5.2 % of early voters are under the age of 30. Not clear what role the pandemic played in younger voter EARLY turnout – but this is another demographic where low turnout is expected to be a problem for the majority.

PREDICTIONS: There is a lot that is unknown including the impact of early voting where historically D's do better.

EARLY VOTING: Total Early Votes: as of 11 PM last night – there have been

44,273,515 total early votes, 19,936,099 In-Person Early Votes, 24,337,416 Mail Ballots/Votes Returned (usually from 1 to 4% of these are discarded – though there is a lawsuit filed last Friday in PA claiming both the US Supreme Court and the PA Supreme Court is wrong and misdated Mail In ballots must be counted for the second election in the State’s entire history) AND another big number Mail Ballots Requested (but not yet counted as received)- plus before the debate b/n Oz and Fetterman – (after which Oz’s numbers went up considerably) happened after a lot of votes have been cast – and 65% of them in PA were by registered Ds. Still outstanding: 58,106,039 – online here: https://rpubs.com/ElectProject/early_vote_2022

NO DOUBT: House will go R – the only question is how big a margin – R’s need to net 4 seats to take the majority. I was guessing upwards of 20 seats last week. But it looks like its going to be closer to 30. 30’s is “wave” territory) 538 has R’s with 80% chance of taking 214 to 246 seats.

MOST LIKELY: Senate goes R. Senate, for a variety of reasons, not a sure thing – early voting could play a crucial role especially in PA. As you might expect from my last update two weeks ago, I think conditions give R’s an edge. So if I had to bet, (and I did with Chris last week) I’d say R’s net 1 seat or higher. [to get Chris to give me even money – I said 52 – so I could be out 20 bucks in December).. but it looks like all the professionals have the Senate tilting R – aka R’s as retaining 50 and likely taking a minimum 1 seat and possibly up to 54. D’s cannot lose any Senate seats – unless Fetterman wins in PA.

Real Clear Politics 2016 Election Margin 2020 Election Margin

Alaska Incumbent Murkowski (R) R+15.2 R+10.0

Arizona Incumbent Mark Kelly (D) Masters (R) +0.3 D+2.4 D+0.3

Libertarian candidate Marc Victor’s departed the race last week. Victor had been polling at about 2% and he promptly endorsed Masters in a state where independents have routinely decided elections (but his name will still be on the ballot). FiveThirtyEight.com still rates the race as leaning Democratic, with Kelly ahead of Masters, 50.1% to 48.1%. (within the margin of error) Sabato’s Crystal Ball, out of the University of Virginia’s Center for Politics, continues to say the outcome will likely favor the Democrats, but the “nonpartisan” Cook Political Report (which has a D bias) now with Amy Walter - is rating the contest a toss-up. OTHER FACTORS: Katie Hobbs (D) is up against Kari Lake (R) for the governor’s slot. One Fox News poll last week showed Lake ahead of Hobbs, 47 percent to 46 percent (within the margin of error for that poll.) A New York Times-Siena College released late last month showed Lake and Hobbs tied. And an Emerson College Polling survey released Friday found the two candidates also neck and neck. Lake and Masters seem to be working in tandem – if Lake makes the governors seat

hard to see how Master's doesn't take the Senate seat and vis versa – the odds of split ticket voting there is less likely than in two other races.

Florida Incumbent Rubio (R) Rubio (R) +8.8 R+7.7 R+3.3

Georgia Incumbent Warnock (D) Walker (R) +1.4 D+2.1 D+0.2

In Georgia, Warnock holds a slim lead over, Walker, former NFL star. Last week – a legend in Georgia – Vince Dooley – passed away – back in October he cut an ad strongly endorsing Walker – which continues to run.

<https://www.msn.com/en-us/sports/ncaafb/legendary-college-football-coach-has-endorsed-herschel-walker/ar-AA13c7Pp>

Latest polls? Emerson College Polling and The Hill released one Thursday, showing Warnock leading Walker 49% to 47% among very likely voters, with another 2% undecided. Friday, a new Marist College poll shows them tied at 48% each among voters who say they will “definitely” vote by Tuesday. Warnock performed slightly better among registered voters “overall”, garnering 49% support to Walker’s 45%, but the margin of error is plus or minus 4.2%. EARLY VOTING IMPACT? The Marist poll also found that 51% of voters who said they’ve already cast their ballots say they did so for Warnock, while 47% of the voters supported Walker. Despite allegations that the new voter law would suppress voting – according to the secretary of state - the early voting period ended on Friday with a total of 2,288,889 ballots cast — shattering the state’s early vote record for a midterm (and outpacing the 2016 election, for that matter). Combining the early in-person votes with mail-in ballots, more than 2.5 million ballots have been cast. Black voters account for 29% of early voters, which outpaces the Black electorate’s share of the overall vote in 2020 (when they made up just over 27%). Of the 5 million or so Georgians who voted in the 2020 election, about 2.7 million have yet to cast a ballot, which suggests that thousands of early voters this year did not participate in 2020. OTHER FACTORS:

Incumbent Gov. Kemp (R) – who has maintained a significant lead over challenger Abrams (D) in the last six polls (avg almost 8 percentage points ahead) could have a coattail effect on the Senate race. For Warnock to get 50% of the vote and bypass a runoff with Walker, there will have to be voters who split their ticket and vote Kemp-Warnock.

FiveThirtyEight.com rates the state a toss-up, but has Walker coming out on top 49.5% to 49.0%. Both The Cook Political Report and Sabato’s Crystal Ball rate the race a toss-up.

Missouri Incumbent R retired R+2.8 R+15.4

Nevada Incumbent Cortez Masto (D) Laxalt (R) +3.4 D+2.4 D+2.4

Early Voting? Clark County, the Ds' power base in the state, "is only 66.6 percent of the vote that is in. That is 4.5 percent below its share of the overall vote." Polls are showing a deadlocked race. A recent New York Times/Siena College poll showed the candidates deadlocked at 47% each.

FiveThirtyEight.com rates the contest a toss-up, but forecasts Laxalt coming away with a slight lead, 49.4% to 48.1%. The Cook Political Report and Sabato's Crystal Ball also rate the race a toss-up.

NH Incumbent Hassan (D) Hassan (D) +1.4 D+0.1 D+7.3

FiveThirtyEight.com has the contest leaning Democratic with a forecast vote of 51.1% for Hassan and 47.2% for Bolduc. Sabato's Crystal Ball and The Cook Political Report also have the contest leaning D.

NC Incumbent R Retired Budd (R) +6.2 R+5.7 R+1.3

FiveThirtyEight.com has the contest in the likely R column with a forecast vote of 51.5% for Budd and 46.6% for Beasley. Sabato's Crystal Ball and Cook Political Report have the contest leaning R.

Ohio Incumbent R Retired Vance (R) +8.0 R+20.8 R+8.1

According to the latest Emerson College survey, Vance leads Ryan by 8 (51 percent to 43 percent), with that gap having grown since October when Vance led by a single point (46 percent to 45 percent).

Pennsylvania Incumbent R Retired Oz (R) +0.4 R+1.5 D+1.2

A new survey from Emerson College Polling and The Hill, conducted after the two candidates debated a week ago, showed Oz ahead of Fetterman, 48% to 46% among likely voters, with 4% saying they were undecided. Though the results were well within the survey's 3-point margin of error, it did show a marked improvement for Oz, who was down by as much as 5% or more as recently as September. A similar dynamic is playing out in the governor's race where Shapiro (D) has opened up a sizable lead over Mastriano (R) in the race for governor. Which could cut against Oz in the senate race. FiveThirtyEight.com has the contest as a toss-up, and forecasts that Fetterman will get the better of Oz, garnering 49.2% of the vote to Oz's 48.7%. Sabato's Crystal Ball has the state leaning toward the Democrats, while The Cook Political Report rates the contest a toss-up.

Utah Incumbent Lee (R) R+41.0 R+20.5

Wisconsin Incumbent Johnson (R) Johnson (R) +3.6 R+3.4 D+0.7

FiveThirtyEight.com sees the contest in the likely R column with a forecast vote of 52.2% for Johnson and 47.8% for Barnes.

Sabato's Crystal Ball and Cook Political Report - leaning R.

Washington Incumbent Murray (D) Murray (D) +3.0

FiveThirtyEight.com, The Cook Political Report and Sabato's Crystal Ball all believe the race will wind up in the Democrat's column. FiveThirtyEight.com's forecast vote is 54.2% for Murray, 45.8% for Smiley.

FINAL COUNTS: A lot can delay the final counts - California – notorious for counts in House races that cover days – has six races of lean, tilt or toss-up (aka close races either way) – remember in 2020, Rep. Valadao (R) beat incumbent Cox (D) by 1,522 and the race wasn't called till November 27. In Maine and Alaska – both with competitive House races – and both use rank choice voting if no one gets 50%. In Alaska – they wait 15 days after the polls close to do the ranking. So could be a few days before we have the final tally in the House. The Senate will take longer. PA (and WI and AZ) starts counting mail in ballots today. Given PA's problems with counts in the 2020 election and the D lawsuit filed last week to force counting late or mis-dated mail-in ballots – could be a couple of days before we get PA's count. In the GA Senate race – Walker (R) and Warnock (D) are in a tie – and if neither gets more than 50% of the vote – there will be a runoff December 6.

EARLY INDICATORS TONIGHT: The first [polls close](#) at 6 p.m. ET in Indiana and Kentucky, and the last polls close at 1 a.m. ET in Alaska.

7 PM ET – Polls close in Virginia and Indiana – (some polls in Indiana close at 6 ET)

VA: Look to see how 2018 blue wave incumbents Luria, Spanberger and Wexton fare against their R Challengers. Luria (D) 2nd District, is one of the party's most vulnerable incumbents. If she wins, it would be a sign possible D overperforming expectations – not losing the House by as large a margin. Losses by Spanberger and especially Wexton – whose Northern Virginia seat is considered safer for Democrats – would suggest “a huge night” for Republicans, said CQ Roll Call elections analyst Nathan L. Gonzales.

IN: Ds have held the 1st District for more than 90 years, but Green (R) is challenging incumbent Mrvan (D). If Green pulls it off it's a sign that R's may be having a very good night.

7:30 PM ET – Polls Close in North Carolina – and Ohio

A strong showing by Beasley (D) in the race for an open Senate seat against Budd (R) who currently has the edge in the polls is a good sign for D's – Roll Call analysts Gonzales: “If Beasley wins or even if it's extremely close, it could be a sign that Democrats are holding their own.” Vance is expected to win in Ohio – if he does not that would be a good sign for Ds.

8:00 PM ET – Polls Close in New England

NH – if Bolduc (R) beats incumbent Hassan (D) – who still has the edge in

most polls – signals a bad night for the Ds.

RI – 2nd District open seat pits Fung (R) running on fiscal issues against Magaziner (D) running against “extremists” – If R’s succeed in this solid blue state – bad harbinger for other blue state elections.

CT – 5th District Logan (R) vs. Hayes (D) – same think – CT is blue – an R win suggests bigger problems for Ds as the night progresses.

STATE COMMISSION ELECTIONS: For NARUC member Commissions, there are races in

[1] Oklahoma CC: One open Seat: (Cmr Dan Murphy is termed out, so State Senator Kim David (R) faces a law professor Warigia Bowman (D) – polls give David the edge),

[2] Montana PSC: Two open Seats: (District 1 Incumbent Pinocci (R) is running unopposed, District 5’s Brad Johnson is not seeking reelection so John Repke (D) is up against Ann Bukacek (R), a medical doctor – District 5 is home to an R majority – so Repke faces stiff odds),

[3] Arizona CC: Two open seats: Incumbent Sandra Kennedy (D) is running for re-election challenged by former Tempe councilmember Lauren Kuby (D) - Nicholas Myers (R) runs after five years on the ACC Staff. Kevin Thompson (R), a former Southwest Gas employee is in the mix.

[4] Alabama PSC: Two Open Seats [1] 9 year incumbent Jeremy Oden (R) faces Libertarian candidate Ron Bishop and [2] 7-year incumbent Chris Beeker (R) faces Libertarian candidate Laura Lane. Beeker has won each of his prior general elections with roughly 60% of the vote.

[5] Louisiana PSC: Two Open Seats: 17 year District 3 incumbent Lambert Boissiere (D) faces four D challengers, including Gregory Manning and Davante Lewis. It is possible that a run-off election could be required, as the majority-voting system requires a candidate to receive 50% of the vote to win. More likely is a December runoff election between the top-two candidates. In District 4, incumbent Mike Francis (R) faces Keith Bodin and Shalon Latour.

[6] South Dakota PSC: Incumbent Chris Nelson (R) is up against Jeff Barth (D) looks like Nelson will walk away with this one.

II. SECTOR NEWS

[A] ENERGY SECTOR NEWS – More information/clips in

APPENDIX B

Coming up – This week, FERC is hosting a State only Webinar on *FERC’s Winter Energy Market and Reliability assessment for States* and on Thursday, the agency has its [Annual FERC Commissioner-Led Reliability Technical Conference](#). Also this week, EPA has the Second listening session for [Public Input on the IRA’s Greenhouse Gas Reduction Fund](#). See appendix A for Details. Things to watch --- currently diesel reserves are low. This could affect home heating and basically everything supplies,

food, gasoline etc, that travels by truck. Also the threat of a railroad strike – potentially affecting coal and water utility disinfectant supplies for utilities– remains. Still waiting to see how many other RR related unions will reject the current contract offer and then if they will walk out. And HHS is getting ready to release \$4.5 billion in LIHEAP funding.

At FERC, Since the last update:

Yesterday – quite a few comments filed on the FCC’s NOPR on Cybersecurity incentives – including [MD PSC & PA PUC - the California PUC and the Iowa Utilities Board](#),

[FERC extended the Reply Comment deadline in the GENERATOR INTERCONNECTION NOPR to December 14](#)

[FERC approved MISO reliability contract to keep Ameren Missouri’s Rush Island coal plant operating – to maintain grid reliability.](#)

FERC staff 22-23 Winter Energy & Market Reliability Assessment says U.S. markets projected to have adequate generating capacity to maintain reliable operations this winter, though certain regions may face challenges during extreme weather. [Presentation | Report | News Release](#)

[FERC Staff Report Offers Lessons Learned from CIP Reliability Audits](#) recommendations to help users, owners and operators of the bulk-power system improve compliance with the mandatory Critical Infrastructure Protection reliability standards. [News Release | Report](#)

[FERC interconnection reform proposal poses a barrier to Colorado joining an RTO: PUC Chair Blank](#)

[FERC Staff Issues Draft Environmental Impact Statement for N.D. Wahpeton natural gas expansion project for comment by December 27, 2021](#)

[FERC rejects Alliant-led coalition bid to cut ITC Midwest equity ratio, reduce transmission costs](#)

[FERC approves MISO reliability contract to keep Ameren Missouri’s Rush Island coal plant operating – to maintain grid reliability --- Industry Dive](#)

[10th Circuit Resolves Jurisdictional Dispute, Finds FPA Jurisdictional Limit Does Not Apply to Non-FERC Agency orders](#)

[Supreme Court of California Finds FERC License Preempts Challenge to FERC Order](#)

[FERC Denies Interior’s Requirement for Ongoing Species Notifications: DOE Announces \\$13.5 M Distribution to Hydroelectric Facilities Through the Hydroelectric Production Incentive Program:](#)

At NERC:

NERC Seeks Comment on Reliability Guideline: Bulk Power System Reliability till 11/18/2022 –The guidance provided herein is intended to support state regulators’ adoption and implementation of IEEE 1547-2018 as regulators are the entity most likely to fill the role of the AGIR in many cases.– Clean Version

[https://www.nerc.com/comm/RSTC_Reliability_Guidelines/Guideline-IEEE_1547-2018_BPS_Perspectives_Combined_clean%20\(002\).pdf](https://www.nerc.com/comm/RSTC_Reliability_Guidelines/Guideline-IEEE_1547-2018_BPS_Perspectives_Combined_clean%20(002).pdf) | Redline Version

https://www.nerc.com/comm/RSTC_Reliability_Guidelines/Guideline-IEEE_1547-2018_BPS_Perspectives_Combined_redlines.pdf

[NERC publishes Distributed Energy Resource Strategy document](#)

At IRS:

IRS Solicits Public Comments on Additional Inflation Reduction Act Energy Tax Credits - [View original](#) New IRA Tax Incentives for US Manufacturing in Renewable Energy Sector [View original](#)

Other Stories – Note there are a lot more (and more detail – in APPENDIX B)

1107 Cyber - Monday - DOE warned of growing threats of grid cyberattacks through renewables and customer-owned devices like rooftop solar, electric vehicles, batteries, and smart thermostats. DERs open up new potential vulnerabilities – aka a much larger attack surface.

1103 Morgan, Lewis & Bockius LLP: Draft DOE National Clean Hydrogen Strategy and Roadmap Details Opportunities in Hydrogen Sector [View original](#)

1103 Nuclear: [Deep geological disposal inches closer to reality](#)

1103 Clean Energy: The Energy Infrastructure Reinvestment Program, or Section 1706 program, authorizes up to \$250 billion in loans to projects that aim to retire or retrofit coal-burning power plants and other polluting assets. [Canary Media](#)

1103 Nuclear: The Nuclear Regulatory Commission has made publicly available an unclassified version of its [annual report](#) to Congress detailing the prior year's security inspection program.

1102 Coal: [Dozens of US Coal Plant Closures Delayed as Green Energy Shift Slows](#) Will Wade, Bloomberg As many as 40 US coal-fired power plants that were slated to shut will run for longer than expected

1102 Natural Gas: [California's Natural-Gas Bans Push Largest Gas Utility to Find a New Strategy](#) Katherine Blunt, The Wall Street Journal Southern California Gas will need to spend billions (which will increase rates) to repurpose its system for a future with fewer gas customers. Southern California Gas is considering how to best transition away from natural gas as California moves to prohibit sales of gas furnaces and water heaters beginning in 2030. SoCalGas has 21.8 million customers.

1102 Wind: [The Great US Offshore Wind-Power Boom Has Begun to Falter](#) Josh Saul and Will Wade, Bloomberg Plans for massive offshore wind farms that President Joe Biden hopes will power as many as 10 million American homes by 2030 are starting to wobble.

1101 Solar: Lawrence Berkeley National Laboratory has released the latest edition of its annual report, [Residential Solar-Adopter Income and Demographic Trends](#).

1101 [Jones Day: FERC Signals Increased Scrutiny Over Affiliate Relationships](#)

1001 Nuclear: [EWG: PG&E asks federal regulators to extend life of Diablo Canyon plant](#)

1025 Energy Policy: US now has just 25 days of diesel supply (according to EIA) — the lowest since 2008. Here's why that's more alarming than a dwindling 'oil piggy bank' Yahoo Finance:

1024 GHG: The Biden administration's calculation for the social cost of carbon, which is used to calculate economic damages from greenhouse gas emissions, was upheld by the 8th U.S. Circuit Court of Appeals, which said the 13 states that sought to revive the lawsuit could not challenge a metric that had not yet been used by the federal government to make decisions. The administration calculates the social cost at \$51 per metric ton of carbon dioxide emissions,

which was raised from \$10 per metric ton set by the Trump administration.
(Reuters)

1024 Hydrogen – Congressional Research Service: [R47289| Hydrogen Hubs and Demonstrating the Hydrogen Energy Value Chain](#) R47289 Martin C. Offutt

1021 [FERC Jurisdiction - Gas market manipulation](#) 5th Circuit ruled FERC improperly fined BP \$20 million for manipulating the natural gas market after Hurricane Ike in 2008 because the agency does not have jurisdiction over intrastate gas transactions...Link to case & quote in Appendix B

1020 Renewables – Advocacy Group – Clean Energy Group Releases a white paper: [Resilient Solar and Battery Storage for Cooling Centers: Mitigating the Impacts of Extreme Heat on Vulnerable Populations](#),

1019 Interconnection: A proposed rule from the Federal Energy Regulatory Commission would have transmission providers take a "first-ready, first-served" approach to interconnection requests and pay penalties for missing deadlines on interconnection studies. The Edison Electric Institute is concerned about the conditional nature of withdrawal penalties, and American Electric Power says a lack of engineers renders an increase in obligatory studies infeasible. [S&P Global](#)

1019 Energy Efficiency: [Public Utility Commission of Texas hosts energy efficiency implementation meeting | KVUE & Texas energy companies, leaders look to improve energy efficiency programs | kvue.com](#)

[B] TELECOM SECTOR NEWS – More information/clips in

APPENDIX C

We are about to find out if FCC nominee Gigi Sohn gets a “discharge petition” during lame duck..... Things to Watch – there are a lot of comments being filed about “pole replacement costs” – if your state hasn’t reverse preempted – this might be an area of some interest as electricians often own the poles and however the costs are divided – there is a subsidy there for someone. There is also a lot of commentary on revisions to the A-CAM and CAF programs now. Plus you could be involved in the mapping challenge process – hopefully more on that at NARUC and on the next SNAP call in December.

There is of course – a lot more detail in Appendix C – but of particular interest – since the last update

[1] UNIVERSAL SERVICE/CONTRIBUTION: USAC filed the [Federal Universal Service Support Mechanisms Fund Size Projections](#) for the first quarter 2023 on Nov. 2, 2022. The percentage is going up to just below the all time high for 1st Quarter 2023 – 33.2%..

FCC’s Office of General Counsel issued a [notice](#) on Nov. 2, 2022, announcing an oral argument scheduled for Dec. 5, 2022, for the [case](#) in Fifth Circuit on whether the FCC’s [first quarter 2022 universal service contribution factor](#). Is an unconstitutional tax or otherwise

unlawful.

[2] NET NEUTRALITY: The Congressional Research Service put out another report on 10/18 (presumably at someone on the Hill's request) on [Access to Broadband Networks: Net Neutrality](#)

[] ACP PROGRAM: On 10/20, [Congressman Schiff \(D-CA\) Sent the FCC a Letter Supporting Expanded Access to Affordable Laptops, Computers, and Tablets for Low-Income Households](#) Click [here](#) to read the full letter

On 10/26, [House Energy And Commerce Chair Pallone Letter Demands Answers from 13 Internet Providers on Reports of Anti- Consumer Practices in ACP program](#)

[] BB MAPPING CHALLENGE PROCESS: [Broadband Connects America](#) Broadband Connects America (BCA)—a coalition of diverse national, state-based, and local nonprofit organizations, as well as state agencies—asked the Federal Communication Commission for guidance on how consumers can challenge broadband created through the Broadband Data Collection Program. During the availability challenge process for the Broadband Data Collection maps, the FCC said consumers may file a challenge asserting that the

“reported speed [is] not offered.”

However, it is unclear how consumers can actively participate in this facet of the challenge process. Additionally, without data about the actual speeds that customers are receiving, it is impossible to know if their service meets even the current definition of broadband, let alone the speeds they need to meaningfully engage online.

NOTE – there was an interesting 10/16 BB Breakfast News Webinar – which is archived on Youtube on Challenging the BB Fabri

<https://www.youtube.com/watch?v=vW6sR7SXREs>

See also - : [States Could Face Legal Jeopardy From Challenging the Fabric: Chief Data Officer of Montana](#)

[] VOIP: [FTC Action Against Vonage Results in \\$100 Million to Customers Trapped by Illegal Dark Patterns and Junk Fees When Trying to cancel their service.](#)

*VOIP Numbering Requests:
COMMENTS DUE BY 11-18 ON
INTERCONNECTED VOIP
NUMBERING AUTHORIZATION
APPLICATION FILED BY [1]
OPENTACT, INC. [DA-22-1151A1.docx](#) [DA-22-1151A1.pdf](#)*

[2] IDT DOMESTIC TELECOM, INC. [DA-22-1153A1.docx](#) [DA-22-1153A1.pdf](#) & IP LINK TELECOM, INC. [DA-22-1150A1.docx](#) [DA-22-1150A1.pdf](#)

[] CONDITIONING ACCESS TO STATE \$\$: A court in California ruled that California can put conditions (a \$0 co-payment requirement in this context is not rate regulation) on a wireless company seeking to access state funds in a voluntary lifeline program. The decision was poorly reasoned

and its now before the Ninth Circuit. The FCC's [amicus brief](#) in the [appeal](#) on whether California's \$0 copayment requirement for its LifeLine Program is preempted under Section 332 says the FCC has never addressed whether states may advance universal service by requiring wireless providers to offer minimum service standard plans with a \$0 copayment as a condition of receiving state subsidies through a voluntary program like California LifeLine.

[] FUTURE OF UNIVERSAL SERVICE: FCC WCB issued an [erratum](#) to the [report](#) to Congress on the future of the Universal Service Fund correcting Appendix A by adding the NARUC to the list of comments and replies filed.

[] RDOF & INFLATION: Internet service providers with Rural Digital Opportunity Fund commitments are seeing higher costs and could default on projects because of inflations. ISPs say building costs have doubled since RDOF project estimates were made and are calling for an extension of federal broadband loan programs would help. [Fierce Telecom](#) and POTS AND PANS wrote an essay on it too....in Appendix C

[] RUS BB GRANTS: [USDA dishes out \\$759 million to boost rural broadband in 24 states](#)

[] 911 Services and the FCC Nov Agenda: [FCC Announced the Tentative Agenda for November Open Meeting](#) where Commission will consider a Report and Order to promote public safety by ensuring that 911 call centers receive timely and useful notifications of disruptions to 911 service.

[] BB PRICING: USTelecom's released its 2022 BB Pricing Index: Despite overall price inflation that has occurred in the US marketplace over the past year, USTelecom's latest [Broadband Pricing Index](#) (BPI) report claims significant price reductions

[] CALLER ID: FCC adopted four items at its Oct. 27 [open meeting](#), including an [NOI](#) on caller ID authentication technology for non-IP networks, and an [FNPRM](#) proposing 24 mos of

transitional support for mobile carriers in Puerto Rico and the U.S. VI.

[C] WATER SECTOR NEWS – More information/clips in

APPENDIX D

MONDAY – [NARUC Filed Comments](#) based on a February 2021 Resolution – responding to the EPA notice proposing to classify PFAS as “hazardous materials” under CERCLA re: IOU clean up liability - I’ll get a link up for the next update – haven’t had time this week.

[1] [EPA published Fifth Drinking Water Contaminant Candidate List](#) - a major tool in regulating contaminants, which will guide EPA’s regulatory decisions for the next 5 years — and it includes the entire chemical group of PFAS. For more info/an FAQ, [visit EPA’s CCL 5 site](#).

[2] U.S. Geological Survey released paper on the quality of groundwater used for public supply in the continental US that includes a comprehensive study of the quality of untreated groundwater using samples from 1,458 wells distributed across [25 Principal Aquifers](#) that account for 84 percent of the groundwater used for public supply in the U.S.. The samples were analyzed for 502 constituents, of which 374 have either a regulatory or nonregulatory human health benchmark. The study found that about 40 percent of the groundwater used as a source of public supply in the continental U.S. had elevated concentrations (greater than one-half of a human health benchmark) of one or more chemical constituents. For more information, [see the publication](#) or Brad can arrange a presentation for the Committee by [Ken Belitz](#) of USGS.

[3] NIST puts Cybersecurity Program for [Securing Water and Wastewater Utilities: Cybersecurity for the Water and Wastewater Systems Sector](#) out for comment (by December 19, 2022) - seeks feedback from “all stakeholders in the water and wastewater utilities sector.” [See the publication details](#) for a copy of the draft and instructions for submitting comments.

[4] CISA Released Cross-Sector [Cybersecurity Performance Goals](#) aimed at helping critical infrastructure sector partners prioritize cybersecurity best practices.

[5] GAO Report Recommends that EPA Use New Data to Analyze Demographics of Communities with PFAS in Drinking Water [visit the GAO website](#).

[6] EPA releases [Wildfire Conditions and Risk Map for Water Utilities](#) and [Snowpack Change in the Western US](#) to assist utility adaptation efforts. Explore snowpack projections and case studies [Here](#).

[7] HHS Program: [Federal Government Launches First Ever Water Assistance Program](#) (nice overview and links in this article)

There are a lot more story clips in the appendix -but thought these next few were worth highlighting:

1107 [3M agrees to order to address PFAS contamination near Cordova, Ill.](#)

1106 CA- Reuse: [San Francisco's first approved onsite greywater reuse system operational](#)

1031 Bureau of Reclamation offered 3 options for water conservation along the Colorado River: force CA, AZ & NV to accept supply cuts for 2023-24, have 7 Western states work out their own reduction plan, or do nothing. [Public has](#)

until Dec. 20 to comment on options. (Reuters)

1028 EPA released its [Strategy to Reduce Lead Exposures and Disparities in U.S. Communities](#) includes Lead Service Line Replacement Accelerators in 4 states to provide targeted technical assistance to address the barriers disadvantaged communities face in replacing lead service lines.

1027 WUS- Drought: [Drought in the Great Plains and Midwest is getting more intense, federal report shows](#)

1021 CO – Water Reuse: [Colorado to reuse water for drinking, creating new supply](#)

1020 US: [The Hill: ‘Forever chemicals’ found in water systems serving millions: GAO](#)

1019 US – PFAS: [EPA Should Use New Data to Analyze the Demographics of Communities with PFAS in Their Drinking Water](#) GAO-22-105135, September 30

WATER NEWSLETTERS/LAW FIRM SUMMARIES – PASTED INTO APPENDIX D

[] 1107 WaterWorld [Practical, Pure, Potable San Francisco's first approved onsite greywater reuse system operational 3M agrees to order to address PFAS contamination near Cordova, Ill. EPA publishes Fifth Drinking Water Contaminant Candidate List T](#)

[] 1104 ASDWA.ORG [EPA Announces NDWAC Meeting to Discuss Lead and Copper Rule Improvements Today - New USGS Paper on U.S. Public Supply Well Groundwater Quality Clean Water Act and Your Drinking Water Interactive Infographic](#)

[] 1103 Rural Water Wire [EPA Awards Nearly \\$750,000 in Funding to Research PFAS Exposure Pathways EPA Announces Research, Action Plan for Lagoon Wastewater Treatment](#)

[] 1103 WATERWORLD VIDEOS [What's Going On with Wastewater Surveillance? Advancing Water Reuse DE&I in the Water Sector](#)

[] 1028 ASDWA - EPA released [Strategy to Reduce Lead Exposures and Disparities in U.S. Communities](#) - CISA released series of [Cybersecurity Performance Goals GAO Recommends EPA Use New Data to Analyze Demographics of Communities with PFAS in Drinking Water](#)

[] 1027 Rural Water Wire [Montana DEQ Releases PFAS Surface Water Monitoring Report](#)

[] 1026 Stormwater Magazine [Calif. encourages residents to prepare for flooding W](#)

[] 1026 EPA WICRD Partners E-mail Blast [Creating Resilient Water Utilities](#)

[] 1024 Detailed Overview - PFAS Update: October 2022 State-by-State Groundwater Regulations [Bryan Cave Leighton Paisner LLP View original](#)

[] 1024 Water & Wastewater Report [Looking at the Bigger Picture Journey to a Performance Management Program EPA awards \\$14.5M to nonpoint source management in four states Dutch utility to pilot direct nanofiltration for drinking water](#)

[] 1024 Update on California's Regulation of PFAS - Governor Newsom Vetoes AB 2247 - [Greenberg Glusker Fields Claman & Machtinger LLP View original](#)

[] 1020 Rural Water Wire: [New Steps for Drought Mitigation Funding from Inflation Reduction Act USDA Issues Stakeholder Announcement Federal Government Launches First Ever Water Assistance Program](#)

[] 1019 Water Sense [Dry Weather May Be Here to Stay & Texas-Sized Water Savings in Houston](#)

[] 1019 Water Research Foundation [ES&T Journal Paper on Freshwater Salinization](#)

[] 1019 Stormwater Magazines: [EPA's Stormwater Priorities Eight Steps to Green Infrastructure Success Texas announces Rain Catcher Award recipients Milwaukee](#)