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**Congress Should Restore Focus on Bringing Broadband to Unserved Rural Americans**

**by**

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On June 21, the House Committee on Agriculture held a hearing on "[Closing the Digital Divide in America](#)." Hearing testimony called attention to ways that the U.S. Department of Agriculture (USDA) has diverted the focus of the ReConnect Loan and Grant Program away from connecting unserved Americans in rural areas. USDA-imposed evaluation criteria for awarding subsidies instead pushes "network neutrality" and "open access" requirements on applicants, and the criteria include preference for government-owned networks over private networks. Those provisions risk diverting program dollars to overbuilding areas that already have broadband access. They also discourage broadband provider participation in the program and reduce effectiveness in expanding rural coverage.

Congress should restore the ReConnect Program to its original purpose of connecting unserved Americans. It should incorporate into the Farm Bill the Rural Internet Improvement Act – [S.130/H.R. 3216](#). The proposed legislation would make unserved Americans the number one priority of the ReConnect Program by prioritizing connectivity support for rural areas where at least 90% of residents lack broadband access. It also would require the ReConnect program to be applied neutrally toward providers regardless of the technology they use or whether they are privately or publicly owned. Additionally, the Rural Internet

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Improvement Act would prevent the ReConnect Program from being misused to impose net neutrality mandates or symmetrical speeds requirements.

Rural areas have been some of the most challenging areas to connect to broadband Internet access services. According to data compiled in the FCC's [2022 Communications Marketplace Report](#), at year-end 2021, over 7% of households in rural areas lacked access to broadband offerings with 25/3 Mbps speeds and 23% lacked access to offerings with 100/20 Mbps speeds. There has been significant progress in expanding access to rural areas since late 2018 – when 22% of households lacked access to 25/3 Mbps offerings and 41.5% lacked access to 100/20 Mbps offerings. In mid-2023, however, disparate parts of rural America remain unserved and particularly difficult to connect due to factors such as low population density, low number of households, and inhibitive geographical terrain.

Congress established the ReConnect Program to offer loans and grants "to facilitate broadband deployment in areas of rural America that currently do not have sufficient access to broadband." In 2020 and 2021, the ReConnect Program disbursed about \$1.5 billion total in loans and grants. But beginning in 2022, grants and loans awarded under the ReConnect Program have been based on USDA evaluation criteria that put idiosyncratic policy preferences of the agency above the objective of connecting the hardest-to-reach rural areas to broadband Internet services.

In a November 2021 *Perspectives from FSF Scholars*, "[The Department of Agriculture \(Obviously\) Is Not the FCC: Why, Then, Is It Dictating Communications Policy?](#)", FSF Senior Free State Foundation Senior Fellow Andrew Long explained how the Agriculture Department inappropriately has leveraged its oversight of the ReConnect Program to further policy ends outside its regulatory jurisdiction and unrelated to connecting unserved rural America. Several aspects of the USDA's current points-based system for evaluating competing applications for grants and loans undermine Congress's goal of connecting unserved rural areas.

For example, the USDA's [evaluation criteria](#) impose network management regulation indirectly by awarding 10 points to "applicants that commit to net neutrality" as well as to applicants that commit to offering "open access" wholesale broadband network services "at rates and terms that are reasonable and nondiscriminatory." Additionally, the USDA's criteria include backdoor price regulation by awarding 20 points to providers that offer at least one low-cost option "offered at speeds that are sufficient for a household with multiple users to simultaneously telework and engage in remote learning." And its criteria unfairly advantages providers based on the makeup or nature of its ownership, awarding 15 points to "[a]pplications submitted by local governments, non-profits or cooperatives."

Such criteria further policies that do not accelerate broadband deployment or expand access to anyone. Indeed, as described during the House Committee on Agriculture's June 21 hearing, the USDA's changes to the ReConnect Program are likely to impede build-outs to unserved areas.

According to [testimony](#) by James Assey, Executive Vice President of NCTA – The Internet & Television Association, USDA's criteria changes that are biased toward municipalities, non-profits, and co-ops "have made winning funding awards extremely difficult for cable ISPs,

and have clouded the program's focus away from unserved areas." Also, Mr. Assey pointed out that "most providers are not willing" to agree to "onerous open access mandates."

Added to those existing problems with the ReConnect Program are concerns that the USDA will unwisely expand its eligibility criteria with additional new mandates unrelated and counterproductive to the goal of expanding rural access to broadband. David Zumwalt, President and CEO, Wireless Internet Service Providers Association (WISPA), [testified](#) that Congress should reject any programmatic requirement or bias favoring symmetrical network speeds. He stated that "mak[ing] symmetry the primary gating criteria for eligibility when consumers are not even asking for or using it when they have access to it, would prevent many providers from even applying for funding, leaving many communities out in the cold" and "in many cases forcing communities to wait additional years." Mr. Zumwalt added that "the ratio of downstream consumption to upstream is 14 to one" and that "[n]etworks are optimized based on consumer use patterns." Requiring symmetrical speeds to reengineer networks based on the agency's own preferences or speculations about future consumer demand likely would discourage providers from participating in the ReConnect Program.

Another aspect of the USDA's eligibility criteria criticized at the hearing is its award of 25 points for projects covering rural areas in which at least 50% of households are not receiving 25/3 Mbps service. Prior to the USDA's criteria changes, an unserved rural area was defined as one in which at least 90% of households lack 25/3 Mbps service.

According to Mr. Assey, by watering down the standards for defining unserved areas from 90% unserved to 50% unserved, "scarce resources that should be directed toward bringing service to unserved households are instead being used to subsidize network overbuilds in ways that further challenge the economics of serving remote areas, and worse, do nothing to reduce the number of unserved households." He added:

When eligibility is restricted to areas that do not receive a basic level of broadband service, such as 25/3, we know that funding will be used to bring broadband where it did not previously exist. But when areas with some level of service are defined as eligible for funding on a par with those with nothing, providers will naturally pursue those projects that are less expensive to deploy broadband to, *i.e.*, those with better potential economic return, while those areas most in need of assistance will again end up at the back of the line...

To address the USDA's mission creep into disputed areas of broadband policy that appear outside the agency's jurisdiction, Congress should act to restore the ReConnect Program's focus on promoting broadband deployment to unserved rural areas. And Congress should make deployment to areas without 25/3 Mbps service – truly unserved areas – the preeminent goal of the program.

If adopted, the Rural Internet Improvement Act of 2023 – [S.130/H.R. 3216](#) – would prioritize rural areas where at least 90% of residents lack broadband access for loans and grants to support build-outs. It would prevent favoritism toward broadband providers based on whether they are privately or publicly owned. The Act also would prevent rural broadband subsidies from being leveraged by the USDA to impose net neutrality, open access, or symmetrical speeds requirements. Other worthwhile provisions in the bill would combine the ReConnect

Program with older USDA subsidy programs for more efficient administration and to streamline USDA processes for applying for and challenging loan and grant awards. Additionally, the Act would require improved USDA/FCC/NTIA interagency coordination to avoid unnecessary wasteful duplication of efforts and resources – precious taxpayer dollars – in connecting more Americans in rural areas.

The pending reauthorization of the Farm Bill presents an opportune occasion for Congress to return the ReConnect Program to its original focus. Congress should pursue that course by incorporating the Rural Internet Improvement Act into the Farm Bill.

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### **Further Readings**

Seth Cooper, "[American Broadband Deployment Act Would Speed Up Buildout Efforts](#)," *Perspectives from FSF Scholars*, Vol. 18, No. 28 (July 11, 2023).

Andrew Long, "[Wasteful Duplication by Design: A Case Study on Overlapping Federal Broadband Subsidies](#)," *Perspectives from FSF Scholars*, Vol. 18, No. 19 (May 8, 2023).

Andrew Long, "[FCC Broadband Map Paves the Way for BEAD Grants, Better Oversight](#)," *Perspectives from FSF Scholars*, Vol. 17, No. 61 (December 2, 2022).

Andrew Long, "[Absent Oversight, the Broadband Funding Faucet Likely Will Overflow](#)," *Perspectives from FSF Scholars*, Vol. 17, No. 58 (November 10, 2022).

Michelle Connolly, "[NTIA's BEAD Program Needs Revisions to Succeed](#)," *Perspectives from FSF Scholars*, Vol. 17, No. 50 (October 3, 2022).

Andrew Long, "[The Department of Agriculture \(Obviously\) Is Not the FCC: Why, Then, Is It Dictating Communications Policy?](#)," *Perspectives from FSF Scholars*, Vol. 16, No. 62 (November 29, 2021).