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January 9, 2017 HIGHLIGHTS

- President Obama renominated Commissioner Rosenworcel to serve a second term as an FCC Commissioner. Chairman Wheeler issued a [statement](#).
- The next [FCC Open Meeting](#) has been changed from January 26, 2017, to January 31, 2017. The tentative agenda is not yet released.
- The Wireline Competition Bureau issued an [Order](#) to clarify an ETC must permit Lifeline-eligible customers to apply the Lifeline discount to standalone broadband Internet access service if the ETC subject to high-cost support broadband obligations commercially offers a standalone BIAS service. The Bureau said this clarification renders moot the [Petition for Temporary Waiver](#) filed by NTCA and WTA.
- [Petitions for Reconsideration](#) of the Broadband Privacy [Report and Order](#) were filed.
- [Replies were filed](#) on the FCC's [Public Notice](#) seeking comments on what rules should be modified or repealed as part of its 2016 Biennial Review of its rules.
- Sandwich Isles Communications filed a [Petition for Reconsideration](#) of the [Order](#) that found SIC improperly received payments in the amount of \$27,270,390 from the federal high-cost support mechanisms from 2002 to June 2015. SIC also filed [two declarations](#) from GVNW.
- Replies were filed by [Lake and Peninsula Borough, Alaska Federation of Natives](#), and [Quintillion](#) on the [FNPRM](#) on the process to eliminate duplicative high-cost funding in areas where more than one carrier is receiving support for the provision of 4G LTE service in Alaska. They suggested that if the Commission decides to curtail duplicative support, it should reallocate the monies to middle-mile networks.
- Great Lakes Communications filed [a letter](#) to address what it claims are certain factual misstatements in Sprint's reply comments on AT&T's Petition for Forbearance from certain access charge tariffs.

Other Key Upcoming Dates

- Jan. 9 - Oppositions due to Smart City Telecommunications' [Petition for Reconsideration](#) of the [Order](#) denying its Petition for Waiver of section 51.917, the ICC Eligible Recovery rule. Replies due January 17. [FR](#)
- Feb. 3 - Comments due on Sandwich Isles' continued applicability of the study area waiver [granted](#) to SIC in 2005, which provided it status as an ILEC for purposes of receiving high-cost support. [PN](#)

USF Reform

- Reply comments were filed on January 5, 2017, on the [FNPRM](#) on the process to eliminate duplicative high-cost funding in areas where more than one carrier is receiving support for the provision of 4G LTE service in Alaska. [Lake and Peninsula Borough](#) suggested that if the Commission decides to curtail duplicative support, it should reallocate monies to a new, previously unfunded state-wide middle-mile network to link Alaska's off-road communities to urban Alaska with adequate, affordable, competitive high-speed broadband capability. The [Alaska Federation of Natives](#) also suggested the Commission reallocate monies to a new, previously unfunded state-wide middle-mile network to link Alaska's off-road communities to urban Alaska. [Quintillion Subsea Operations and Quintillion Networks](#) agreed the Commission should end duplicative support where it exists and dedicate the monies that are freed up to support middle-mile construction. It suggested the middle mile support only be directed toward builds and recipients where the subsidies are adequate to enable provision of affordable high-speed, reliable broadband services and to multiple middle-mile wholesalers. [FR](#)
- No replies were filed on ACS' [Petition for Reconsideration](#) of the meaning of "high-cost" in the context of the [Order](#) establishing voice and broadband service obligations for Alaska Communications. [Federal Register](#)

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- Great Lakes Communications filed [a letter](#) on January 3, 2017, to address what it claims are certain factual misstatements in Sprint's reply comments on AT&T's Petition for Forbearance from certain access charge tariffs. Great Lakes said, contrary to Sprint's comments, its point of interconnection with INS is in Spencer, Iowa, not Des Moines, and it assesses Sprint charges of \$0.0003 for one mile – not 132 miles – between INS in Spencer and Great Lakes' switch in Spencer. It asserted Sprint's comments are similar to the many unsubstantiated claims that AT&T makes in its Petition, and argued Sprint and AT&T needed to offer substantial evidence to support the counterintuitive notion that consumers are being harmed by declining terminating access charges, which neither Sprint nor AT&T have offered.

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Broadband

- Petitions for Reconsideration of the Broadband Privacy [Report and Order](#) were filed on January 3, 2017. [USTelecom](#) claimed the Order dispenses with any cost-benefit analysis and subjects ISPs to a burdensome opt-in regime for marketing uses of all web-browsing information on the theory that all such information is equally "sensitive." [ITTA](#) asserted the FCC's invention of an entirely new legal obligation under section 222(a) simply cannot be squared with the plain language of that statutory provision, its history, and the FCC's own consistent holdings, and said section 222(a) does not create any authority different from the subsections of section 222 that follow. [ACA](#) asserted the Order fails to consider and reasonably weigh evidence or acknowledge contrary evidence in the record, does not undertake a reasoned economic and final Regulatory Flexibility Analysis, and fails to adopt reasonable data breach notification rules that are in sync with other federal government policies and practices. [NCTA](#) asserted the rules in the Order exceed the scope of the Commission's authority under section 222, arbitrarily and capriciously depart from the FTC long-standing and effective privacy framework applicable across the Internet, and infringe on the protected speech of ISPs in a manner that cannot pass muster under the First Amendment. NCTA also claimed the Order establishes unworkable and conflicting data breach and data security requirements. [Level 3](#) asserted the FCC should reconsider its requirement that providers of wholesale and enterprise voice services must meet prescribed contractual requirements in order to be exempt from the rules adopted in the Order, and reconsider its

decision to limit preemption of state law and instead clarify that state privacy and data security laws are preempted with respect to enterprise voice service. [List of all available petitions to date.](#)

- The Office of Native Affairs and Policy of the Consumer and Governmental Affairs Bureau issued a [Public Notice](#) on January 5, 2016, announcing two upcoming FCC Tribal Broadband, Telecom, and Broadcast Training and Consultation Workshops. The first workshop will be held at Black Oak Casino & Resort, Tuolumne, CA on January 31 - February 2, 2017, and the second workshop will be held at Seneca Allegany Resort & Casino, Salamanca, NY on March 7 - 9, 2017. The workshops will include discussions of how communications infrastructure can support Tribal economic development, Tribal schools and libraries, low-income families, and health care clinics, as well as Tribal radio stations, public safety departments, and Tribal governments.

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- The Wireline Competition Bureau issued an [Order](#) on January 6, 2017, to clarify that an ETC must permit Lifeline-eligible customers to apply the Lifeline discount to standalone broadband Internet access service if the ETC subject to high-cost support broadband obligations commercially offers a standalone BIAS service. The Bureau said this clarification renders moot the [Petition for Temporary Waiver](#) filed by NTCA and WTA, and dismissed that petition. The Bureau said while high-cost recipients are required to offer BIAS consistent with specified benchmarks as a condition of receiving high-cost support, there is no specific requirement that high-cost recipients offer standalone BIAS service, and said recipients of high-cost support may meet their broadband public interest obligations by offering BIAS as part of a bundle with voice or on a standalone basis, at the carrier's discretion.
- Sandwich Isles Communications filed a [Petition for Reconsideration](#) on January 5, 2017, of the [Order](#) that found SIC improperly received payments in the amount of \$27,270,390 from the federal high-cost support mechanisms from 2002 to June 2015. SIC claimed the final audit report prepared by USAC ignored evidence submitted by SIC that it claimed demonstrates the alleged overpayments are overblown, and claimed the maximum overpayment the FCC can find is the \$4.1 million computed by GVNW. SIC requested the Order be set aside and public comment be permitted to address the potential effects of the Order on end user subscribers. SIC asserted that because of the interrelationship of this Order with the [Notice of Apparent Liability for Forfeiture and Order](#), considerations of fundamental due process require that the Commission allow interested parties to comment on the issues and implications of this Petition for Reconsideration in the context of, and at the same time as, the comments due under the NAL. SIC also filed [two declarations](#) from GVNW.
- The National Tribal Telecommunications Association filed a [Petition for Reconsideration](#) of the Wireline Competition Bureau's [Order](#) conditionally granting designations to certain wireless carriers to be Lifeline Broadband Providers. NTTA asserted there is no evidence in the record of compliance with section 54.202(c) by the carriers granted LBP status in the Order, and said the Commission should reverse the Bureau's grant of LBP status to those petitioners that seek to serve on Tribal lands. NTTA also requested the FCC make clear that any LBP applicant seeking to serve Tribal lands must comply with the requirements of section 54.202(c).
- The Lifeline Connects Coalition filed [comments](#) on December 30, 2016, on USAC's Draft National Verifier Plan. LCC asserted the National Verifier should: include real-time review of enrollments, including where manual review of proof of eligibility is necessary; involve service providers early and often in the recertification process; include collection of the Tribal residency certification at enrollment for the Tribal residency verification; and include a safe harbor for service providers, among other things. [Public Notice](#)

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Misc.

- President Obama renominated Commissioner Rosenworcel to serve a second term as an FCC Commissioner. Chairman Wheeler issued a [statement](#).
- The next [FCC Open Meeting](#) has been changed from January 26, 2017, to January 31, 2017. The tentative agenda is not yet released.
- Reply comments were filed on January 3, 2017, on the FCC's [Public Notice](#) seeking comments on what rules should be modified or repealed as part of its 2016 Biennial Review of its rules. [Frontier](#) agreed with calls for the Commission to take a hard look at outdated rules, especially those that apply based on the term "incumbent" for ILECs. It said the Commission can eliminate tariffing, Part 32 accounting requirements, unbundled network element rules, and the requirement to make complex filings and processes just to upgrade a network from copper to fiber. It also said the FCC should correct what it called the current unfunded mandate for ILECs to provide voice service in certain areas by providing a voluntary opt-in funding mechanism or eliminating the obligation altogether. [Windstream](#) asserted the pending Business Data Services proceeding demonstrates that meaningful competition among last-mile facilities providers does not exist for the vast majority of business locations, and said the Commission should avoid deregulatory action that would result in less choice in retail business service solutions for small and medium sized businesses, government entities, and nonprofits. It also agreed that the Commission should review its decision to impose on price cap ETCs an unfunded mandate to provide voice service in high-cost areas where they no longer receive any high-cost support, but said the proper resolution would be the provision of ongoing, interim support. [NCTA](#) agreed that competition for retail voice services has substantially reduced the need for regulation of those services, but said the Commission must take care not to undermine the foundation on which that competition rests. It claimed in many rural areas the ILEC is the only provider of voice and broadband service, and argued that because these rural ILECs are receiving CAF funds that are not available to competitors, they should not be absolved of any regulation the Commission concludes is necessary in these non-competitive areas. It further asserted even in competitive areas, eliminating the obligation of ILECs to file certain tariffs or submit to the standards and procedures specified by section 251(c) would require the negotiation of thousands of new agreements among companies that are marketplace competitors, which would be a monumental undertaking for the entire industry. The [Free State Foundation](#) said the Commission should adopt a procedural rule for implementing future section 11 regulatory reviews that stipulates: "Absent clear and convincing evidence to the contrary, the Commission shall presume that regulations under review are no longer necessary in the public interest as a result of meaningful competition among providers of such service." [List of all replies available to date](#)
- The Wireline Competition and the Public Safety and Homeland Security Bureaus sent a [letter](#) to Neustar on January 6, 2017, to express concern with the failure of the parties to reach agreement on the definition of confidential information in connection with the LNP Administrator transition. The Bureaus said the draft NDA submitted by the NAPM to Neustar on November 22, 2016, presents a workable solution that appropriately balances and protects the interests of all parties, and said should the parties not agree by January 17, 2017, to utilize the last NDA, they suggested the parties execute an NDA that precisely mirrors the definitions of confidentiality in Article 15 of the Master Services Agreement for the current LNPA contract. The Bureaus said should Neustar continue to decline to enter into a reasonable NDA, it would call into question whether Neustar is attempting to intentionally cause delay to the transition.

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Upcoming Filing Dates

- Jan. 9 - Oppositions due to Smart City Telecommunications' [Petition for Reconsideration](#) of the [Order](#) denying its Petition for Waiver of section 51.917, the ICC Eligible Recovery rule. Replies due January 17. [FR](#)

- Jan. 17 - PRA comments due on changes to an information collection resulting from the Commission's new rules on notices of planned copper retirements. [Notice](#)
- Jan. 17 - Replies due to oppositions to Smart City Telecommunications' [Petition for Reconsideration](#) of the [Order](#) denying its Petition for Waiver of section 51.917, the ICC Eligible Recovery rule. [FR](#)
- Jan. 23 - Comments due on Onvoy Spectrum's [Petition for Waiver](#) of section 52.15(g)(2) to allow it to directly obtain pseudo-Automatic Number Identifications for use in its 911 solution for data-only devices using over-the-top VoIP. Replies are due February 6. [Public Notice](#)
- Jan. 30 - Comments due on a new information collection addressing the requirement that certain carriers with high cost reporting obligations must file information about their locations which meet their broadband deployment public interest obligations via an electronic portal. [Notice](#)
- Feb. 3 - Comments due on Sandwich Isles' continued applicability of the study area waiver [granted](#) to SIC in 2005, which provided it status as an ILEC for purposes of receiving high-cost support. [PN](#)
- Feb. 6 - Replies due on Onvoy Spectrum's [Petition for Waiver](#) to allow it to directly obtain pseudo-Automatic Number Identifications for use in its 911 solution for data-only devices using over-the-top VoIP. [Public Notice](#)
- Feb. 14 - PRA comments due on an extension of a currently approved information collection associated with section 69.123, on density pricing zone plans. [Notice](#)
- Feb. 27 - PRA comments due on a revision to a currently approved information collection associated with Form 481 and its instructions to provide clarification for some reporting items and to reflect certain updates. [Notice](#)

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