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January 23, 2017 HIGHLIGHTS

- Adak Eagle Enterprises filed a [Petition for Reconsideration](#) of the FCC's decision to deny Adak a second offer of A-CAM support pursuant to the December 20, 2016 A-CAM Offer [Order](#).
- [CCA, WISPA, NTCA, and ACA](#) and [CTIA and CCA](#) filed requests for stay of the January 17, 2017 effective date of the enhanced transparency requirements adopted in the 2015 Open Internet [Order](#) for small broadband Internet access service providers. Commissioner Clyburn [expressed](#) disappointment that the FCC did not reach consensus on extending the small business exemption pending resolution of a rulemaking on this issue.
- The FCC [announced Petitions for Reconsideration](#) were filed on the Broadband Privacy [Report and Order](#). Oppositions are due 15 days after publication of this public notice in the Federal Register.
- The FCC released a [staff report](#) examining the progress of E-rate modernization since adoption of the two [E-rate Orders](#) in 2014. It estimated if every school is to achieve the 1 Gbps per 1,000 users connectivity target within the current E-rate spending cap, the average price for internet access must be reduced to \$3/Mbps.
- The Office of Strategic Planning and Policy Analysis released a [White Paper](#) on improving the nation's digital infrastructure.
- The Consumer and Government Affairs Bureau [seeks comment](#) on whether certain docketed proceedings should be terminated as dormant. Comments are due 30 days after Federal Register publication; replies due 45 days after FR.
- Verizon [discussed](#) its [Request](#) to allow a provider to give interconnecting entities, state PUCs and governors, tribal entities, and the Secretary of Defense a paper copy of the copper retirement notice and a hyperlink to a searchable online list of impacted addresses or locations in lieu of a paper copy of the address list.
- AT&T filed [a final](#) report on activities related to the technology transitions in its wire center trials in Alabama and Florida, noting it has decided to terminate the trials effective immediately.
- The FCC issued its [Eighteenth Report](#) on the status of competition in the market for the delivery of video programming.

Other Key Upcoming Dates

- Jan. 30 – PRA comments [due](#) on the requirement that certain carriers with high cost reporting obligations must file information about their locations which meet their broadband deployment obligations via an electronic portal.
- 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. 13 - Comments due on whether to expand the A-CAM budget for RoR carriers to provide additional funding with an associated increase in broadband deployment obligations. Replies due February 27. [FR Notice](#)

USF Reform

- Adak Eagle Enterprises filed a [Petition for Reconsideration](#) on January 19, 2017, of the FCC's decision to deny Adak a second offer of A-CAM support pursuant to the December 20, 2016 A-CAM Offer [Order](#). Adak noted the decision to deny it a second offer was made based on the FCC's understanding that AEE would not be able to meet the 4/1 Mbps service standard required of rate-of-return carriers receiving A-CAM support, but claimed it now has the ability to meet the service requirements due to a change in satellite service providers. Adak also asserted there are other grounds for reconsideration, including the fact that the FCC never specified that potential recipients of A-CAM support would have to meet the 4/1 Mbps standard as a starting point for receiving A-CAM support, and also asserted the FCC based its decision on information AEE submitted under different circumstances and in a different proceeding.
- The Town of New Shoreham, RI filed [a letter](#) on January 18, 2017, to propose a different CAF Phase II auction weighting scheme to provide what it claimed is an optimal mix of performance and cost effectiveness across the population of eligible census blocks and to avoid the inclusion of very high-cost census blocks. The Town also suggested the best way to ensure that states receive substantially all the funds declined by their incumbent carriers is to determine each state's pro-rata share of the available \$215 million based on the per state percentage of total declined funds, and suggested awards be made in each state up to the ceiling of the state's pro-rata share, with any per-state shortfall added to a nationwide pool of funds that would be awarded by the cost effectiveness score, regardless of geography.
- New York State, through Empire State Development, filed a [letter](#) on January 17, 2017, in response to the American Cable Association's [letter](#) that expressed support for New York's pending Petition for Expedited Waiver of certain CAF Phase II auction rules. New York said ACA recognizes that the coordination of federal and New York state broadband funding made possible through the waiver would help to overcome certain challenges, and said the Commission should adopt ACA's proposed principles as standards in rules for coordination between state broadband initiatives and Phase II of the CAF program.
- AT&T [met with](#) Commissioner Pai's Legal Advisor on January 17, 2017, to discuss the Mobility Fund II. AT&T reiterated its position that MF II should be designed using the lessons learned from implementing other CAF programs, including the CAF Phase II term length, deployment milestones, and compliance framework, and should use the CAF II challenge process as the starting point for its challenge process. AT&T also argued the MF II should not be based on road miles, but should instead use either POPs or geographic area, and it opposed the flash cut of legacy support for nationwide carriers.

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ICC

- No replies were filed on Smart City Telecommunications' [Petition for Reconsideration](#) of the [Order](#) denying its Petition for Waiver of section 51.917, the ICC Eligible Recovery rule. [FR](#)

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Open Internet

- Commissioner Clyburn released a [statement](#) on January 17, 2017, to express disappointment that the Commission did not reach consensus on extending the small business exemption from the enhanced transparency rules in the [Open Internet Order](#) pending resolution of a rulemaking on this issue.

- [CCA, WISPA, NTCA, and ACA](#) and [CTIA and CCA](#) filed requests for stay on January 13, 2017, of the January 17, 2017 effective date of the enhanced transparency requirements adopted in the 2015 Open Internet [Order](#) for small broadband Internet access service providers. [CCA et al.](#) said the stay should be permanent or continue until such time as the Commission completes a rulemaking proceeding to determine whether and to what extent the small business exemption should be reinstated and to whom it should apply. [CTIA and CCA](#) said the enhanced transparency rule should not go into effect because OMB's approval of the information collections is premised in no small part on the Commission staff's 2016 Guidance [Public Notice](#), and claimed pending Applications for Review of that Public Notice show that the staff guidance is unreasonable and unlawful.

Broadband

- The FCC issued a [Public Notice](#) on January 17, 2017, announcing Petitions for Reconsideration were filed on the Broadband Privacy [Report and Order](#). Oppositions are due 15 days after publication of this public notice in the Federal Register; replies are due 10 days after the time for filing oppositions has expired. [List of all petitions available.](#)
- The FCC's Office of Strategic Planning and Policy Analysis released a [White Paper](#) on January 19, 2017, on improving the nation's digital infrastructure. The Paper suggested improving the nation's digital infrastructure should be a significant part of any national-infrastructure plan, and said the primary goal of federal actions with respect to digital infrastructure should be to increase and accelerate profitable, incremental, private-sector investment to achieve at least 98 percent nationwide deployment of future-proofed, fixed broadband networks. To achieve this goal, the paper suggests the following policy measures: direct funding support to reduce the cost of capital; changes to the tax code to increase the return on invested capital; and operations-related actions that enhance the productivity of CapEx.
- Chairman Wheeler sent a [letter](#) to Sen. Brian Schatz (D- Hawaii) on January 19, 2017, attaching the FCC's [White Paper](#) on improving the nation's digital infrastructure. Chairman Wheeler said he is providing the Senator with the White Paper given his interest on this issue.

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IP Transition

- Verizon [met with](#) Wireline Competition Bureau staff on January 17, 2017, to discuss its [Request](#) to allow a provider to provide interconnecting entities, state PUCs and governors, tribal entities, and the Secretary of Defense with a paper copy of the copper retirement notice and a hyperlink to a searchable online list of impacted addresses or locations in lieu of a paper copy of the address list. Verizon said its request does not seek changes to what information must be provided in the notice nor when the notice is provided, but asks for the ability to provide the list of addresses electronically via a link. Verizon said the request does not apply to notices to retail customers, and asserted granting the request would improve recipients' access to the information and would significantly decrease providers' costs of paper and postage.
- AT&T filed a [letter](#) on January 19, 2017, proving a final report on activities related to the technology transitions in its wire center trials in Carbon Hill, Alabama and West Delray Beach, Florida through the third quarter of 2016. AT&T said as a result of the progress made in the trials and the development of the regulatory requirements for the technology transition, AT&T has decided to terminate the trials effective immediately.

USF

- The FCC released a [staff report](#) on January 18, 2017, examining the progress of E-rate modernization since adoption of the two [E-rate Orders](#) in 2014. The report focuses on three policy areas: expanding E-rate support for the equipment and services needed to deliver high speed Wi-Fi to classrooms and libraries; connecting all schools and libraries to high-speed broadband services; and ensuring the financial stability of the E-rate program. The report indicates funding requests and commitments have been stable, and under the \$3.9 billion spending cap, in the two funding years since the program cap increase. It concluded if every school is to achieve the 1 Gbps per 1,000 users connectivity target within the current E-rate spending cap, it estimates the average price for internet access must be reduced to \$3/Mbps in order to reach this target.
- Chairman Wheeler sent a [letter](#) to Sen. Edward Markey (D-Mass.) on January 18, 2017, attaching a copy of the FCC [staff report](#) on E-rate Modernization. Chairman Wheeler said given Sen. Markey's leadership on the E-rate issue in the Senate, he thought he might find it of interest.
- The Wireline Competition Bureau released an [Order](#) on January 18, 2017, conditionally approving requests for designation as a Lifeline Broadband Provider filed by Applied Research Designs, Kajeet, Liberty Cablevision of Puerto Rico, Northland Cable Television, and Wabash Independent Networks. The Bureau said the designations are conditioned on petitioners providing USAC with their service area descriptions in a reasonable format as determined by USAC to enable appropriate administration of the fund and filing a notice with the appropriate state Lifeline regulator that the Petitioners have received an LBP designation to operate within the state.
- [FreedomPop](#), [Boomerang Wireless](#), and [KonaTel](#) filed oppositions and responses to NTTA's [Petition for Reconsideration](#) of the Wireline Competition Bureau's [Order](#) that conditionally granted designations to certain wireless carriers to be Lifeline Broadband Providers. All three oppositions asserted NTTA's Petition presents no evidence of a material error or omission that would justify reconsideration or reversal of the LBP Designation Order. They also said neither the petitions for designation as an LBP nor the Commission's review and approval of them violated the Commission's rules with regard to LBP ETC designations.
- The Wireline Competition Bureau released a [Public Notice](#) on January 17, 2017, granting, denying, and dismissing various petitions related to actions taken by USAC on the E-rate program. Petitions for reconsideration or applications for review of these decisions must be filed within 30 days of the Public Notice.
- NTCA and WTA met with Legal Advisors to Commissioners [Clyburn](#), [O'Rielly](#), and [Pai](#) on January 12 and 17, 2017, to discuss issues related to the Lifeline Modernization [Order](#) and their [Petition](#) for Reconsideration of the Order. They also discussed minimum service standards, rolling recertification, and port freeze issues.
- TracFone Wireless filed [comments](#) on January 18, 2017, on the [Draft National Verifier Plan](#). TracFone expressed support for the Commission's objectives for the National Verifier, but recommended USAC revise and clarify certain aspects of the Draft Plan so that Lifeline applicants can enjoy a more streamlined enrollment process and Lifeline service providers can have access to the resources necessary to assist consumers in obtaining and keeping their Lifeline benefits.
- TracFone filed a [letter](#) on January 18, 2017, alleging certain wireless providers of Lifeline services are engaging in the abuse of the port freeze rule in order to lock up for twelve months those Lifeline customers who were enrolled as voice-only Lifeline customers and whose phones are unsuitable for use with broadband internet access service. TracFone asked the FCC to clarify that: the revised Lifeline rules only permit 12 month port freezes on broadband Lifeline services which meet the 500 MB minimum service standard for mobile broadband services; Lifeline service provided to consumers using feature phones does not enable Lifeline consumers to utilize BIAS as that term is defined in the

Commission's rules; and broadband access through Wi-Fi does not meet the 500 MB minimum standard.

- Madison Communications filed a [Petition](#) on January 17, 2017, seeking designation as a Lifeline Broadband Provider ETC in certain service areas in Illinois.
- Q LINK Wireless [met separately](#) with Commissioner Clyburn and her Legal Advisor and Legal Advisors to Commissioners Pai and O'Rielly on January 17, 2017, to urge the Commission to grant its [Petition](#) for Lifeline Broadband Provider designation, particularly with respect to those states for which the FCC designates wireless ETCs. Q LINK said it has addressed the concerns raised in the record, and it is not aware of any additional concerns with its Petition
- West Carolina Communications filed a [Petition](#) on January 17, 2017, seeking designation as a Lifeline Broadband Provider ETC in the proposed designated service area in South Carolina for the purpose of receiving universal service Lifeline support for the provision of BIAS.
- The Department of Hawaiian Home Lands [met with](#) Wireline Competition Bureau staff on January 12, 2017, to discuss the Sandwich Isles Communications proceeding. DHHL urged the Commission to apply USF policies in a manner that best serves the residents of the Home Lands, and said its primary concern remains that native Hawaiians currently served by SIC continue to receive quality services supported by the USF program.

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Misc.

- The Consumer and Government Affairs Bureau released a [Public Notice](#) on January 13, 2017, seeking comment on whether certain docketed proceedings listed in the attachment to the Public Notice should be terminated as dormant. The Bureau said to the extent that a particular proceeding includes a petition addressing the merits or other pending pleadings, a party's failure to file comments in response to this Public Notice will be construed as consent to termination of that proceeding. A party aggrieved by a docket termination may file a petition for reconsideration with the CGB or an application for review with the full Commission. Comments are due 30 days after Federal Register publication; replies due 45 days after FR.
- The FCC issued its [Eighteenth Report](#) on the status of competition in the market for the delivery of video programming on January 17, 2017, which focuses on developments in the video marketplace in 2015. The Report said at the end of 2015, cable MVPDs accounted for 53.1 percent of all MVPD subscribers, direct broadcast satellite MVPDs accounted for 33.2 percent, and telephone company MVPDs accounted for 13.4 percent. The Report said total MVPD subscribers declined in 2013, 2014, and 2015, and MVPDs lost about 1.1 million video subscribers in 2015. Also, total MVPD video revenue increased from \$112.7 billion in 2014 to \$115.6 billion in 2015, however MVPD video revenue increases have failed to keep up with increased costs.
- The Free State Foundation released a [proposal](#) for improving the FCC's forbearance process on January 17, 2017. Free State said under new leadership, the FCC should curtail costly regulations that are no longer necessary to protect consumers or competition. Free State asserted the Commission has compiled a disappointing track record of denying meritorious petitions for forbearance relief, along with delaying rulings until just before the expiration of the shot clock. Free State suggested the FCC shift the burden onto those advocating continued regulatory enforcement by adopting the following procedural rule: "In making forbearance determinations, absent clear and convincing evidence to the contrary, the Commission shall presume that enforcement of such regulation or provision is not necessary to ensure that a telecommunications carrier's charges or practices are not unreasonable or unreasonably discriminatory or necessary for the protection of consumers and is consistent with the public interest."

- AT&T [met with](#) Commissioner O’Rielly and his Legal Advisors and Chief of Staff on January 13, 2017, to discuss the status of a number of proceedings, including those on the Open Internet, special access, and broadband privacy, as the Commission prepares for the transition to a new Administration.
- Neustar filed an [Application for Review](#) on January 19, 2017, in response to a [letter](#) sent to Neustar by the Wireline Competition and Public Safety and Homeland Security Bureaus that sought to compel resolution of Neustar’s private contract negotiations with the NAPM on treatment of confidential materials during the LNP Administrator transition. Neustar claimed the Bureaus violated the Federal Arbitration Act by abrogating the arbitration clause in Neustar’s Master Services Agreement with the NAPM, and claimed the Bureaus improperly interfered with private contractual negotiations between Neustar and the NAPM by seeking to require Neustar to agree to a new NDA. Neustar asserted a Commission ruling is necessary to define the scope of the Bureaus’ delegated authority and to confirm they possess no power to abrogate arbitration clauses and interfere with matters of private contract.

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Upcoming Filing Dates

- 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. 13 - Comments due on whether to expand the A–CAM budget for rate-of-return carriers to provide additional funding with an associated increase in broadband deployment obligations, pursuant to the December 20, 2016 [FNPRM](#). Replies due February 27. [Federal Register 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](#)
- Feb. 27 - Comments due on whether to expand the A-CAM budget for rate-of-return carriers to provide additional funding with an associated increase in broadband deployment obligations, pursuant to the December 20, 2016 [FNPRM](#). [FR Notice](#)
- Mar. 13 - PRA comments due on a new information collection on data breach reporting, as required by the October 2016 Broadband Privacy [Order](#). [Notice](#)

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