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January 25, 2016 HIGHLIGHTS

- The FCC issued the [agenda](#) for its January 28, 2016 Open Meeting. The FCC will consider: the 2016 Broadband Progress Report; a Report and Order which modernizes the public inspection file rules; and an NPRM to strengthen the Emergency Alert System.
- The FCC [seeks to refresh](#) the record on USTelecom's December 19, 2012 [Petition for Declaratory Ruling](#) that ILECs are "no longer presumptively dominant when providing interstate mass market and enterprise switched access services." Comments due February 22; replies due March 7.
- ITTA [filed comments](#) in support of FairPoint's [Petition](#) asking the FCC to direct NECA to recalculate FairPoint's Eligible Recovery for its rate-of-return study areas in states where FairPoint accepted CAF Phase II Right-of-First-Refusal funds. NECA filed [comments](#) last week. Replies are due February 3. [Public Notice](#)
- NTCA, ITTA, and USTelecom [expressed support](#) for a simple and straightforward means of updating existing USF mechanisms to support standalone broadband services that could work separate from, but alongside, existing mechanisms. ITTA filed [a letter](#) on the speed requirements that would apply to RoR companies participating in the voluntary model-based USF support plan for partially-funded locations. Totah Communications and WTA [discussed](#) potential features of USF reform for the rate-of-return LECs, including options for buildout requirements, distribution of high-cost support in areas served by unsubsidized competitors, budgets and budget controls, capital expenditure and operating expense limitations, and rate re-prescription.
- Nebraska Companies filed [a letter](#) to express support for ITTA's proposal for model recipients' broadband speed requirements and opposed the use of alternative technologies for partially-funded locations. Nebraska Companies also [provided](#) a model election sensitivity analysis that concludes all plausible assumptions regarding model election exceed \$200 million of additional support.
- Fred Williamson & Associates [provided](#) an analysis of the actual network costs and customer support expenses attributable to broadband services in RLEC areas. Clearfield and FTTH Council [claimed](#) the payback period for FTTH builds has decreased in most rural areas to seven years and the Commission should feel confident if FTTH is preferred in a CAF Phase II competitive bidding process.
- The FCC [seeks comments](#) on NECA's [2016 Modification of Average Schedules](#). Comments are due February 22; replies due March 8.
- Over 50 organizations sent a [letter](#) to Chairman Wheeler urging him to commence a rulemaking to protect the privacy of broadband consumers. The Open Technology Institute at New America issued a [report](#) encouraging the FCC to protect the online privacy of broadband users. [Press release](#)

Other Key Upcoming Dates

- Feb. 3 - Replies [due](#) on FairPoint's [Petition for Declaratory Ruling](#) on ICC eligible recovery calculations.
- Feb. 5 - Replies [due](#) on CenturyLink's [Petition for Waiver](#) of sections 51.907 and 51.915 to facilitate an internal restructuring plan.
- Feb. 5 - Oppositions to direct cases [due](#) in the investigation of tariffed special access service pricing plans of AT&T, CenturyLink, Frontier, and Verizon. Rebuttals due February 26.

USF/ICC Transformation Order

- ITTA [filed comments](#) on January 19, 2016, on Fairpoint's [Petition for Declaratory Ruling](#), which asked the FCC to direct NECA to recalculate FairPoint's Eligible Recovery for its rate-of-return study areas in states where FairPoint accepted CAF Phase II Right-of-First-Refusal funds, retroactive to January 1, 2015. ITTA supported Fairpoint's Petition, saying FairPoint is entitled to its full Eligible Recovery, subject to the duplicate recovery rules, and as of January 1, 2015, when FairPoint transitioned to CAF Phase II support, duplicate recovery no longer applies because FairPoint is no longer recovering LSS-derived amounts previously included in CAF Phase I Frozen Support. ITTA said the Commission should clarify that Section 51.917 of the rules requires NECA to modify its tariff and restore the ICC Transitional Support owed to FairPoint as requested in the Petition. Replies are due February 3. [Public Notice](#)
- ITTA filed [a letter](#) on January 19, 2016, saying it understands that under the voluntary model-based USF support plan for RoR companies all eligible locations likely will receive some capped level of funding, and the Commission has been considering increasing the broadband speed requirement and some form of a "reasonable request" standard for locations not fully funded. ITTA proposed that if the Commission decides to adopt a deployment expectation beyond "reasonable request" for locations that are not fully funded, participating companies with a density of more than 10 locations per square mile should be required to build out at the 4/1 Mbps speed by the end of the 10-year term of the plan to 50% of their partially-funded eligible locations, and participating companies with a density of 10 or less locations per square mile be required to build out at the 4/1 Mbps speed by the end of the 10-year term of the plan to 25% of their partially-funded eligible locations. ITTA further proposed that if a particular company cannot meet this expectation because of the economics of some of these very high cost areas, the company should have an opportunity to provide the necessary information to demonstrate to the Commission why the expectation cannot be met.
- NTCA, ITTA, and USTelecom [met with](#) Commissioner Clyburn and her Legal Advisor, Commissioner O'Rielly and his Chief of Staff, Chairman Wheeler's Legal Advisor, and Wireline Competition Bureau staff on January 20, 2016, to express support for a simple and straightforward means of updating existing USF mechanisms to support standalone broadband services that could work separate from, but alongside, existing mechanisms. They also expressed willingness to discuss other measures that could be adopted to achieve a similar result.
- Totah Communications and WTA [met with](#) Commissioner O'Rielly and his Chief of Staff on January 21, 2016, to discuss potential features of USF reform for the rate-of-return LECs, including options for buildout requirements, distribution of high-cost support in areas served by unsubsidized competitors, budgets and budget controls, capital expenditure and operating expense limitations, and rate re-prescription. They also discussed the Alaska Plan and tribal alternatives.
- Nebraska Companies filed [a letter](#) on January 19, 2016, noting they have advocated providing model-opting RoR companies at least \$200 million annually in additional support plus their legacy support, or provide up to \$200 monthly per eligible location. In response to FCC staff questions about using alternative technologies, such as fixed wireless and satellite, to serve some partially-funded locations, they expressed support for the ITTA proposal for model recipients to provide broadband service of at least 4/1 Mbps to a significant numbers of locations. They described their experiences and analyses regarding the capabilities of fixed wireless and satellite technologies, saying customers that have used these alternative technologies have stated in no uncertain terms they prefer landline-based broadband.
- Parrino Strategic Consulting filed [a letter](#) on behalf of the Nebraska Companies on January 19, 2016, to provide a model election sensitivity analysis in response to a request from Rebekah Goodheart of Commissioner Clyburn's office. The analysis asserts all plausible assumptions regarding model election exceed \$200 million of additional support.
- Fred Williamson & Associates filed [a letter](#) on January 20, 2016, to provide its analysis of the actual network costs and customer support expenses attributable to broadband services in RLEC areas. It

noted it excluded the costs of jointly provisioned (with voice) subscriber loops. It said recovery of these costs is generally from the retail rates assessed for broadband services and, in most cases, settlements from the NECA Pool. FWA asserted without appropriate mechanisms for recovery of the high costs of providing broadband services in rural areas, associated rates may become unaffordable and the rural provider will have difficulty sustaining rates that are below the FCC's established benchmarks.

- Chester Telephone Company, dba TruVista, and JSI [met via conference calls](#) with Commissioners Rosenworcel and Pai's Legal Advisors on January 20, 2016, to discuss Chester Telephone's January 11, 2016 letter, which notified the FCC it recently revised its Form 477 data after reviewing the illustrative results of the A-CAM version 2.1 and realizing that it had incorrectly reported fiber-to-the-home deployment in 706 census blocks where fiber was not actually deployed. Chester is requesting that the Commission incorporate its revised, accurate data in the forthcoming final version of the A-CAM.
- Clearfield and FTTH Council [met with](#) Commissioner Pai and his Legal Advisor, Commissioner O'Rielly, and Legal Advisors to Chairman Wheeler and Commissioners Clyburn and Rosenworcel on January 19 and 20, 2016, to allow Clearfield, who manages and provides equipment for FTTH deployments, to provide input for the development of the CAF Phase II competitive bidding process. Clearfield claimed the payback period for FTTH builds has decreased materially in most rural areas to seven years, if not less, and should continue to decline. It asserted the Commission should conclude that FTTH deployments in all but the very least dense rural areas are economically viable and will be increasingly so, and said the Commission should feel confident that it can use CAF support to bring the same "future-proof" technology" (FTTH networks) to unserved areas cost-effectively and should not fear "running out of support" if FTTH is preferred in a competitive bidding process.
- Co-Mo Electric, Midwest Energy, SyncGlobal Telecom, the Fiber Networks Owners Alliance, the North Georgia Network, the National Rural Electric Cooperative Association, and the Utilities Telecom Council [met with](#) Commissioner Pai, his Legal Advisor, and Chairman Wheeler's [Legal Advisor](#) on January 13, 2016, to express support for a CAF Phase II auction framework that would promote opportunities for fiber projects to successfully bid for access to funding in unserved areas. They explained utilities could be foreclosed from access to the CAF if the reverse auction is structured so that the fiber projects they are proposing are unable to compete as a practical matter. They attached testimonials from customers in Michigan who support Midwest Energy Cooperative's plans to offer fiber optic broadband services as an alternative to other technologies, including satellite, and also attached a brochure describing the Fiber Network Owners Alliance.
- The FCC published a [notice](#) in the Federal Register on January 20, 2016, seeking PRA comments on FCC Form 690, the Annual Report for Mobility Fund Phase I Support, and the record retention requirements, which were revised in the May 14, 2012 Third Order on Reconsideration of the USF/ICC Transformation Order. The notice indicates the Commission uses this information to ensure that each winning bidder is meeting its obligations for receiving Mobility Fund Phase I support. PRA comments are due March 21, 2016.
- Comments were due January 21, 2016, on CenturyLink's [Petition for Waiver](#) of sections 51.907 and 51.915 of the Commission's rules to facilitate an internal restructuring plan whereby CenturyLink will merge some or all of its ILECs in states in which it has multiple ILECs to reduce the number of study areas in the state. Replies due Feb. 5. [Public Notice](#)

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Broadband

- Over 50 organizations sent a [letter](#) to Chairman Wheeler on January 20, 2016, urging him to commence a rulemaking to protect the privacy of broadband consumers. They noted FTC Commissioner Julie Brill recently said the FCC's reclassification of broadband as a Title II common

carrier service adds the FCC as “a brawnier cop on the beat” on privacy issues. They urged the FCC to move as quickly as possible on a NPRM proposing strong rules to protect consumers from having their personal data collected and shared by their broadband provider without affirmative consent or for purposes other than providing broadband Internet access service.

- The Open Technology Institute at New America issued a [report](#) entitled “The FCC’s Role in Protecting Online Privacy,” which encourages the FCC to take action to protect the online privacy of broadband users. OTI made recommendations as to what consumer-friendly privacy rules for broadband might look like, including setting out an inclusive definition of CPNI, requiring “opt-in” subscriber consent for non-service-related-uses of CPNI, baseline requirements for data security and breach notification, a clear process for consumer complaints, and barring ISPs from charging subscribers a premium for baseline privacy protections. [Press release](#)

Open Internet

- The FCC [published](#) in the Federal Register on January 25, 2016, the December 2015 [Report and Order](#), which extended, until December 15, 2016, the temporary exemption for smaller broadband Internet access service providers from the enhancements to the Open Internet transparency rule adopted in the [2015 Open Internet Order](#). The Order is effective February 24, 2016.

IP Transition

- AT&T [met with](#) Wireline Competition Bureau staff on January 15, 2016, to discuss AT&T’s report to the Commission on the AT&T Wire Center Trials in Carbon Hill, AL and West Delray Beach, FL. AT&T said the report covers the third quarter, 2015, and provides information about the transition to modern communications services by consumers and businesses located in the trial communities. AT&T noted, among other things, there was an increase in consumer migrations in the third quarter 2015 compared to the second quarter, and AT&T added DIRECTV promotional offers to its consumer marketing campaign in the two trial wire centers.

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Call Completion

- AT&T [met with](#) Wireline Competition Bureau staff on January 21, 2016, to discuss AT&T’s rural call completion data gathering and analysis.

USF

- AT&T [met with](#) Wireline Competition Bureau and Office of Managing Director staff on January 14, 2016, to express support for reform of the Lifeline program that is designed to give eligible users greater autonomy and remove service providers from program administration duties. AT&T discussed ideas for reform that would benefit Lifeline recipients and reduce waste, fraud and abuse, such as establishing a third party verifier and replacement of the current ETC designation process with a voluntary registered Lifeline service provider certification process.
- AT&T filed a [letter](#) on January 20, 2016, to express support for a proposal in the Lifeline FNPRM for the FCC to separate the designation of providers participating in Lifeline from the ETC designation process and separate Lifeline-eligible services from the high cost service definition. AT&T asserted that tying Lifeline to ETC status or treating Lifeline benefits as a form of carrier support analogous to high-cost support is legally insupportable, and said although Lifeline support flows through participating providers, it is ultimately a consumer benefit that does not direct money to an ETC to fund expansion of

facilities or services, and as such cannot be the basis for requiring an expansion of facilities or services.

- Public Knowledge [spoke with](#) the FCC's General Counsel and Chairman Wheeler's Legal Advisor on January 14, 2016, to discuss Lifeline reform. Public Knowledge asserted that based on the 1997 Order that implemented section 254, the Commission can create a Lifeline program that does not require ETC certification.
- Public Knowledge, the National Consumer Law Center, SHLB Coalition, the Benton Foundation, United Church of Christ, and the Raben Group [met with](#) Wireline Competition Bureau staff on January 15, 2016, to urge the Commission to move forward quickly with its proposed modernization of the Lifeline program to support broadband Internet access service. They also asserted the FCC should permit broadband providers that are not ETCs to provide Lifeline-supported services, and that the Commission has the requisite legal authority to do so.
- NCTA [met with](#) Wireline Competition Bureau staff on January 15, 2016, to discuss its support for the Commission's efforts to re-purpose universal service low-income funding to support broadband. NCTA addressed potential barriers, including what it says is an overly-burdensome ETC designation process that could preclude providers from participating in a Lifeline program for broadband. NCTA also asked the Commission to ensure that companies that have obtained ETC designations to participate in the Lifeline program for voice services would automatically be eligible to participate in a Lifeline broadband program.
- Comcast [met with](#) Wireline Competition Bureau and Office of Managing Director staff on January 14, 2016, to urge the Commission to simplify and streamline the rules for Lifeline program entry and provider participation. Comcast also asserted that closing the digital divide is fundamentally dependent on a comprehensive approach that addresses digital relevance and digital literacy, the cost of computing equipment, and the cost of broadband service.
- CTIA [met with](#) Wireline Competition Bureau staff on January 15, 2016, to suggest as the Commission considers how to modify the Lifeline program to support broadband service, mobile wireless must continue to be an integral part of the Lifeline program and eligible low-income consumers should have choice and control over the mobile wireless services that meet their needs. CTIA said if the FCC determines that minimum service criteria are necessary, such requirements should be carefully balanced between a desire to encourage provider participation in the Lifeline program and ensuring that low-income consumers are able to purchase mobile wireless services that meet their needs.
- MTA Wireless/Matanuska Kenai filed a [Petition](#) for leave to file a supplement to its December 2015 [Petition for Reconsideration](#) of the Wireline Competition Bureau's [decision](#) denying its request for waiver of the line count filing deadline. MTA filed the supplement on December 29, 2015, asserting that after further investigation, the error occurred in the transmission of data to USAC, not in the entering of the data, but it failed to file the required motion for leave required by section 1.106(f) because the filing was one day beyond the 30 day deadline.

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Misc.

- The FCC issued the [agenda](#) on January 21, 2016, for its January 28, 2016 Open Meeting. The FCC will consider: the 2016 Broadband Progress Report on whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion, pursuant to section 706; a Report and Order which modernizes the public inspection file rules; and an NPRM to strengthen the Emergency Alert System. The FCC will also consider as consent agenda four items on requests for inspection of records, two media-related items, and an order on exemption from the Commission's closed captioning requirements.

- The FCC released a [Public Notice](#) on January 21, 2016, seeking to refresh the record on USTelecom's December 19, 2012 [Petition for Declaratory Ruling](#) that ILECs are "no longer presumptively dominant when providing interstate mass market and enterprise switched access services." The FCC specifically seeks comment on marketplace or regulatory developments since the filing of the Petition that may bear on the Commission's evaluation of the Petition, and on the practical impact and scope of the finding sought by the Petition. Commissioner O'Rielly released a [statement](#). Comments due February 22; replies due March 7.
- The Wireline Competition Bureau issued a [Public Notice](#) on January 21, 2016, seeking comments on NECA's [2016 Modification of Average Schedules](#) that contains proposed revisions to formulas used for average schedule interstate settlement disbursements. The revisions are proposed to become effective for a one-year period beginning on July 1, 2016. Comments are due February 22; replies due March 8.
- Comments were due on January 22, 2016, on Section IV.B of the Special Access [FNPRM](#). Replies due Feb. 19. [Order](#)
- The FCC issued a [Public Notice](#) on January 21, 2016, reminding parties that the results of any analyses (including statistical descriptions) performed on the Confidential and Highly Confidential data submitted in response to the Commission's business data services data collection are themselves Confidential or Highly Confidential, depending on the data from which they are derived. The FCC also reminded parties that they are not permitted to disclose information submitted as Confidential or Highly Confidential based on their own belief that the information is not, in fact, confidential.
- TDS [spoke with](#) Wireline Competition Bureau staff on January 14, 2016, to discuss the importance of addressing wholesale Ethernet prices in the special access rulemaking. TDS asserted its ability to continue to provide a competitive option is being threatened because as bandwidth increases, the rate of price increase drops for Ethernet but continues to climb linearly for TDM-based services. TDS recommended the Commission require pricing disclosures to better detect unjust and unreasonable pricing of wholesale Ethernet services and establish a benchmark that, at the very least, constrains wholesale Ethernet rates to be less than retail Ethernet rates by some measure that approximates actual avoided costs.
- The Wireline Competition Bureau issued a [Public Notice](#) on January 21, 2016, announcing the second LNP Administrator Transition Outreach and Education Plan webcast will be held on January 27, 2016, from 3:00-4:00 pm Eastern Standard Time. It will be hosted by PriceWaterhouseCoopers, LLP, the Transition Oversight Manager for the LNPA transition.
- The FCC issued a [News Release](#) on January 20, 2016, announcing Chairman Wheeler appointed Jonathan Levy as Acting Chief Economist for the FCC, replacing the prior Chief, David Waterman. The FCC Chief Economist reports directly to the Chairman on economic issues and is part of the agency's Office of Strategic Planning and Policy Analysis.

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Upcoming Filing Dates

- Jan. 27 - Comments due on Brantley Telephone, Pembroke Telephone, et al.'s [Petition for Limited Waiver](#) of 51.917(b)(7)(ii) in order to include amounts owed by Halo Wireless in their Fiscal Year 2011 Base Period ICC Revenues. Replies due February 8. [Public Notice](#)
- Jan. 29 - Replies due on a [Petition](#) filed by the Schools, Health & Libraries Broadband Coalition, California Telehealth Network, et al. on changes to the Part 54 rural healthcare rules. [Public Notice](#)
- Feb. 1 - Replies due on the [FNPRM](#) proposing to modify in part the four-year compensation rate plan for Video Relay Service adopted in 2013. [FR](#)

- Feb. 3 - Replies due on FairPoint's [Petition for Declaratory Ruling](#), which seeks a ruling that NECA is not properly compensating FairPoint in accordance with section 51.917 of the Commission's rules for ICC Eligible Recovery. [Public Notice](#)
- Feb. 5 - Replies due on CenturyLink's [Petition for Waiver](#) of sections 51.907 and 51.915 of the Commission's rules to facilitate an internal restructuring plan whereby CenturyLink will merge some or all of its ILECs in states in which it has multiple ILECs to reduce the number of study areas in the state. [Public Notice](#)
- Feb. 5 - Oppositions to direct cases due in the investigation of tariffed special access service pricing plans of AT&T, CenturyLink, Frontier, and Verizon. ILEC rebuttals due February 26. [Order](#)
- Feb. 5 - PRA comments due on a revision to a currently approved information collection associated with reporting, recordkeeping and/or third party disclosure requirements under section 251(c)(5), which the FCC changed in the [August 2015 Report and Order](#) and applies to notices of planned copper retirements. [Notice](#)
- Feb. 8 - Replies due on Brantley Telephone, Pembroke Telephone, et al.'s [Petition for Limited Waiver](#) of 51.917(b)(7)(ii) in order to include amounts owed by Halo Wireless in their Fiscal Year 2011 Base Period ICC Revenues. [Public Notice](#)
- Feb. 8 - Comments due on the FCC's Seventh Annual [Report to Congress](#) on State Collection and Distribution of 911 and Enhanced 911 Fees and Charges. Replies due March 9. [Public Notice](#)
- Feb. 8 - PRA comments due on an extension of a currently approved information collection associated with the proposal in the August 2000 [Second FNPRM](#) that ILECs provide requesting carriers with demographic and other information on particular remote terminals similar to the information available regarding ILEC central offices. [Notice](#)
- Feb. 19 - Replies due on Section IV.B of the Special Access [FNPRM](#). [Order](#)
- Feb. 22 - PRA comments due on an extension of a currently approved collection associated with FCC Forms 492 and 492-A, Rate-of-Return Monitoring Reports. [Notice](#)
- Feb. 22 - Comments due on refreshing the record on USTelecom's December 19, 2012 [Petition for Declaratory Ruling](#) that ILECs are "no longer presumptively dominant when providing interstate mass market and enterprise switched access services." Replies due March 7. [Public Notice](#)
- Feb. 22 - Comments due on NECA's [2016 Modification of Average Schedules](#) that contains proposed revisions to formulas used for average schedule interstate settlement disbursements. Replies due March 8. [Public Notice](#)
- Feb. 26 - ILEC rebuttals due to oppositions to direct cases in the investigation of tariffed special access service pricing plans of AT&T, CenturyLink, Frontier, and Verizon. [Order](#)
- Mar. 7 - PRA comments due on an extension of a currently approved information collection associated with pole attachment complaint procedures. [Notice](#)
- Mar. 7 - Replies due on refreshing the record on USTelecom's December 19, 2012 [Petition for Declaratory Ruling](#) that ILECs are "no longer presumptively dominant when providing interstate mass market and enterprise switched access services." [Public Notice](#)
- Mar. 8 - Replies due on NECA's [2016 Modification of Average Schedules](#) that contains proposed revisions to formulas used for average schedule interstate settlement disbursements. [Public Notice](#)

- Mar. 9 - Replies due on the FCC's Seventh Annual [Report to Congress](#) on State Collection and Distribution of 911 and Enhanced 911 Fees and Charges. [Public Notice](#)
- Mar. 21 - PRA comments due on FCC Form 690, the Annual Report for Mobility Fund Phase I Support, and the record retention requirements, which were revised in the May 14, 2012 Third Order on Reconsideration of the USF/ICC Transformation Order. [Notice](#)

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