

[USF Reform](#) [Open Internet](#) [Broadband](#) [IP Transition](#) [USF](#) [Call Completion](#) [Misc.](#) [Upcoming Events](#)

April 3, 2017 HIGHLIGHTS

- The FCC issued a [tentative agenda](#) for its April 20, 2017 Open Meeting, as well as draft texts and fact sheets of the agenda items. The FCC will consider, among other things, an [Order on Reconsideration](#) amending the construction project limitation within section 54.303 to permit carriers to report, for USF purposes, capital expenses per location up to the established per-location per-project limit; a [Report and Order](#) recognizing the strong competition present in the BDS market and modernizing the FCC's regulatory structure; an [NPRM, NOI, and Request for Comment](#) on removing regulatory barriers to infrastructure investment, proposing changes to speed the transition from copper networks and legacy services to next-generation networks and services; and an [NPRM and NOI](#) on the regulatory impediments to wireless network infrastructure investment and deployment.
- Comments [are due](#) April 17, 2017, on the [FNPRM](#) proposing a further 18-month extension of the freeze of jurisdictional separations category relationships and cost allocation factors. Replies are due April 24.
- The Mobility Fund II [Report and Order and FNPRM is effective](#) April 27, 2017, except for §§ 54.1013, 54.1014, 54.1015(a) - (e), 54.1016(a) and (b), 54.1017, 54.1019, 54.1020, and 54.1021, which require OMB approval.
- The FCC [announced](#) the Wireless and Wireline Bureaus propose to release minimum advertised or expected 4G LTE speed data included in the December 31, 2015, and June 30, 2016 Form 477 filings (and any subsequent 477 filings) to provide additional information about the geographical areas eligible for Mobility Fund II support.
- The Wireline Bureau [seeks comments](#) on PRTC's [Petition for Declaratory Ruling](#) on whether section 54.320(d)(2) applies to recipients of CAF Phase I Round 2 support. Comments are due April 28, 2017; replies are due May 15, 2017. The Wireline Bureau also [seeks comments](#) on ACS' [Petition for Clarification](#) of the requirement to provide geocoded location information for CAF Phase I deployments. Comments are due April 28; replies due May 15.
- The FCC [seeks PRA comments](#) on revisions to FCC Form 481 and its instructions to provide clarification for some reporting items and to reflect certain updates. PRA comments are due May 30, 2017.
- NTCA, Golden West, and Twin Lakes Telephone [discussed](#) the negative impacts of continuing USF budget shortfalls on the availability and affordability of broadband in rural America.
- WTA [discussed](#) eliminating or deferring implementation of the \$20 local service rate floor for RoR path carriers on July 1, 2017; expressed support for full high-cost support funding for both the A-CAM and the RoR paths; and asked for clarification or revision of the Construction Allowance Adjustment provision, among other things. WTA et al. discussed similar issues in [separate meetings](#).
- FairPoint filed a [Petition for Limited Waiver](#) of section 54.312(c) to permit it to submit, *nunc pro tunc*, the locations and census blocks in Virginia in which FairPoint deployed broadband in satisfaction of the requirements for receipt of CAF Phase I, Round 2 support.
- The Wireline and Wireless Bureaus opened two new dockets on [accelerating wireline](#) and [wireless](#) broadband deployment by removing barriers to infrastructure investment.
- Chairman Pai issued a [statement](#) on the [passage](#) of [S.J. Res. 34](#) that disapproves the Broadband Privacy [Order](#).
- The FCC filed a [Motion](#) with the D.C. Circuit Court asking it to remand the Lifeline Reform [Order](#) back to the FCC. Chairman Pai [said](#) Congress gave state governments, not the FCC, the primary responsibility for approving which companies can participate in the Lifeline program.

Other Key Upcoming Dates

- Apr. 12 - Comments [due](#) on the Mobility Fund Phase II challenge process for determining eligibility of geographic areas for support. Replies due April 27, 2017. [Notice](#)
- May 4 - Comments due on whether rules adopted in 2001–2004 should be continued without change or be amended or rescinded, consistent with section 610 of the Regulatory Flexibility Act. [FR](#)

Editor: [Teresa Evert](#) | Assistant Editor: [Shawn O'Brien](#)

USF Reform

- The FCC [published](#) the March 7, 2017 Mobility Fund II and Tribal Mobility Fund II [Report and Order and FNPRM](#) in the Federal Register on March 29, 2017. The Order allocates up to \$4.53 billion over the next decade to advance the deployment of 4G LTE service to areas that are so costly the private sector has not yet deployed there and to preserve such service where it might not otherwise exist. The Order is effective April 27, 2017, except for the additions of §§ 54.1013, 54.1014, 54.1015(a) through (e), 54.1016(a) and (b), 54.1017, 54.1019, 54.1020, and 54.1021, which contain new or modified information collection requirements that require OMB approval.
- The FCC published a [notice](#) in the Federal Register on April 3, 2017, to correct errors in a March 20, 2017 Federal Register [notice](#) that corrected errors to an original Federal Register document that published the 2016 RoR Reform Order. In final rule FR Doc. 2017–04715, published March 20, 2017 (82 FR 14338), the following correction is made: On page 14339, in the first column, amendatory instruction 3 is corrected to read “In § 54.303, revise paragraphs (a)(1), (b), (c)(2), (e), and (f)(1) to read as follows:”
- The FCC released a [Public Notice](#) on March 29, 2017, announcing the Wireless Telecommunications and Wireline Competition Bureaus propose to release minimum advertised or expected 4G LTE speed data included in the December 31, 2015, and June 30, 2016 Form 477 filings (and any subsequent Form 477 filings) to provide additional information about the geographical areas eligible for Mobility Fund II support. It said in the Modernizing Form 477 Order, the Commission noted that while deployment data generally will be treated as public, it provided that “[f]ilers may request confidential treatment of those specific elements of their deployment data.” The Bureaus said they will afford these filers an opportunity to provide reasons underlying their request for withholding the materials and to state why their individual circumstances warrant withholding the data from disclosure. Affected parties must oppose disclosure of their Form 477 4G LTE speed data and provide a full justification in support of their request for confidentiality under Section 0.459(b) no later than April 12, 2017.
- The Wireline Competition Bureau issued a [Public Notice](#) on March 29, 2017, seeking comments on Puerto Rico Telephone’s [Petition for Declaratory Ruling](#) on whether section 54.320(d)(2) applies to recipients of CAF Phase I Round 2 support. PRTC argued the Commission amended its rules in its [December 2014 CAF Phase II Order](#) to allow recipients of CAF funding an additional twelve months to meet their final build-out milestone deadlines in certain cases, but it did not specifically state in the Order whether section 54.320(d)(2) was intended to apply to recipients of CAF Phase I Round 2 funding in addition to Phase II funding. Comments are due April 28, 2017; replies are due May 15, 2017.
- The Wireline Competition Bureau issued a [Public Notice](#) on March 29, 2017, seeking comments on ACS’ [Petition for Clarification](#) or, in the alternative, petition for limited waiver of the requirement to provide geocoded location information for CAF Phase I deployments. ACS claimed it does not have geocodes for remote locations where it used the Phase I incremental support, nor was this requirement in effect when Round 1 deployment began. It asked the FCC to clarify that it may supply this information on a rolling basis, over the next two construction seasons, as it visits these areas for maintenance and other ordinary business purposes, or, alternatively, the FCC should temporarily waive the rule for the same two-season period, until October 2018. Comments are due April 28, 2017; replies due May 15, 2017.
- The FCC published a [Notice](#) in the Federal Register on March 31, 2017, seeking PRA comments on a revised information collection; specifically it proposes to revise FCC Form 481 and its instructions to provide clarification for some reporting items and to reflect certain updates. The FCC noted the 2016 Rate-of-Return Reform Order replaced the ICLS mechanism with the CAF–BLS mechanism. The Commission also proposes to move certain reporting requirements from this control number into a new information collection for which OMB approval was recently received for the CAF High Cost Portal Filing. PRA comments are due May 30, 2017.

- FairPoint filed a [Petition for Limited Waiver](#) of section 54.312(c) on March 30, 2017, to permit it to submit, *nunc pro tunc*, the locations and census blocks in Virginia in which FairPoint deployed broadband in satisfaction of the requirements for receipt of CAF Phase I, Round 2 support. Fairpoint explained in submitting the deployed locations, a FairPoint employee improperly associated the 1,027 locations in question with the census block number of the serving nodes of the locations, rather than with the census block numbers which contained the locations themselves, but FairPoint subsequently determined that none of the locations to which it deployed broadband in Virginia using CAF Phase I, Round 2 support were actually “served” within the meaning of the FCC’s rule. FairPoint argued strict enforcement of the rule would work undue hardship on FairPoint and its wholesale and retail customers, and granting a limited waiver and conducting a challenge process *nunc pro tunc*, as requested, would better serve the Commission’s Connect America universal voice and broadband goals.
- NTCA, Golden West Telecommunications, and Twin Lakes Telephone [met with](#) Chairman Pai’s Legal Advisor on March 29, 2017, to describe the negative impacts of continuing USF budget shortfalls on the availability and affordability of broadband in rural America, including the fewer number of locations that would be reached under the cost model, the higher rates that consumers will pay for standalone broadband, and the chilling effect on investments of the unpredictability of the new budget control mechanism under the non-model mechanism. They discussed the need for prompt action on the rate floor policy, the lack of an inflationary factor within the OpEx caps, and the imputation of access recovery charges on a subset of standalone broadband lines that are causing consumers to pay even higher rates for such services. They also discussed steps that must be taken to undertake a robust competitive overlap analysis. They, along with Totelcom, also [met with](#) Commissioner Clyburn’s Legal Advisor on March 29, 2017, and NTCA, Golden West, Totelcom, and Premier Communications [met with](#) Commissioner O’Rielly’s Legal Advisor on March 28, 2017, to discuss the same issues.
- WTA [met with](#) Chairman Pai’s Legal Advisor on March 23, 2017, to discuss the local rate floor, high-cost support funding, and broadband privacy. WTA urged action to eliminate or defer implementation of a \$20 rate floor for rate-of-return path carriers on July 1, 2017. WTA reiterated its support for full high-cost support funding for both the A-CAM and the RoR paths, asked for clarification or revision of the Construction Allowance Adjustment provision in section 54.303(f), and suggested the FCC provide clarification regarding the treatment of exchange sales, transfers of control, and mergers that take place between A-CAM path and RoR path companies. WTA also urged the FCC to act on petitions for waiver of the Part 51 rules regarding CAF-ICC support. WTA said, should the Congressional Review Act nullify the Broadband Privacy Order, certain voice CPNI rules that were eliminated may be resurrected, and it indicated its members were concerned about the status of the annual CPNI certifications.
- WTA and Totah Communications met with Legal Advisors to Commissioners [O’Rielly](#) and [Clyburn](#) on March 29, 2017, to discuss the local service rate floor, broadband privacy, E-rate and other issues. WTA urged action to eliminate or defer implementation of a \$20 rate floor for rate-of-return path carriers on July 1, 2017. WTA said should the Congressional Review Act nullify the Broadband Privacy Order, certain voice CPNI rules that were eliminated may be resurrected, and it indicated its members were concerned about the status of the annual CPNI certifications. WTA suggested the FCC provide clarification regarding the treatment of exchange sales, transfers of control, and mergers that take place between A-CAM path and RoR path companies, and urged the FCC to act on petitions for waiver of the Part 51 rules regarding CAF-ICC support. It also discussed Lifeline and E-rate issues.
- Butler-Bremer Mutual Telephone, NTCA, and GVNW [met with](#) Wireline Competition Bureau staff on March 28, 2017, to urge grant of Butler-Bremer’s Petition for Waiver, filed May 12, 2015. They emphasized that delay in addressing the waiver has prevented and will continue to prevent Butler-Bremer from saving approximately \$45,000 annually in accounting, reporting, and other administrative costs, and claimed consolidation of the access rate bands for the merged study area are revenue neutral and the requested study area merger has no adverse impact on CAF-ICC. They also discussed whether there were any ways small companies seeking waivers could structure such requests to expedite their consideration.

- Mescalero Apache Telecom, Ft. Mojave Telecommunications, Tohono O'odham Utility Authority, Gila River Telecommunications, and the National Tribal Telecommunications Association [met with](#) Chairman Pai and his Legal Advisor, Commissioner O'Rielly and his Legal Advisor, Commissioner Clyburn's Legal Advisors, and Wireline Competition Bureau and Office of Native Affairs and Policy staff on March 29, 2017, to discuss waiving the operating expenses limitation rule for carriers serving predominately Native lands, tribal engagement and consultation, compliance reporting, fully funding the USF, broadband Lifeline credit, and the Lifeline national verifier.
- Frontier [met with](#) Wireline Competition Policy Bureau staff on March 23, 2017, to discuss the CAF Phase II auction and the potential for public/private partnerships, including with state and local entities, similar to the New York model. Frontier also provided an update on its CAF Phase II deployment to date.
- The Rural Wireless Association [met with](#) Commissioner O'Rielly and his Legal Advisor, Legal Advisors to Chairman Pai and Commissioner Clyburn, and Wireless Telecommunication, Wireline Competition, and Office of Strategic Planning & Policy Analysis staff on March 29, 2017, to discuss Mobility Fund Phase II issues, including area eligibility determinations. It claimed the fact that the MF II Order adopted a 5 Mbps download threshold and does not specify an upload speed means areas currently served by subsidized rural carriers at 5/1 speeds will be ineligible for MF II support and may lose that service if an unsubsidized carrier is only providing 5 Mbps download and less than 1 Mbps upload. RWA also discussed the challenge process and the methodology for legacy support disaggregation, among other issues.
- ViaSat [met with](#) Chairman Pai's Legal Advisor on March 29, 2017, to indicate it is continuing to review the Commission's February CAF Phase II Order and analyze the possible reverse auction outcomes, based on the adopted weighing criteria.
- Hughes filed [a letter](#) on March 27, 2017, to respond to New York State's March 22, 2017 [letter](#) that proposed auction guidelines for distributing federal CAF support through the New York State Broadband Program. Hughes claimed by providing large bidding credits to higher speeds and low latency, the proposal does not appear to be consistent with the objectives of the Connect America Fund because it is not technology neutral. Hughes said the Commission should urge New York to revise its proposal to avoid the need for the Commission to consider whether to "reevaluate its public interest findings" that underlay the grant of New York's request.

[Back to Highlights](#)

ICC

- West Kentucky and Tennessee Telecommunications filed [a letter](#) on March 27, 2017, to urge the Commission to grant its [Petition for Waiver](#) of section 51.917(b)(7)(ii) to permit it to establish a Base Period Revenue that it claimed accurately reflects its revenue for the period contemplated by the ICC rules. It said its recovery of revenues for service "provided in FY2011 but recovered after the March 31, 2012 cut-off" is consistent with the Kentucky PSC's practice of encouraging carriers to resolve billing issues without a formal proceeding, and is consistent with footnote 1745 of the 2011 Transformation Order.

Broadband

- The Wireline Competition Bureau issued a [Public Notice](#) on March 30, 2017, opening WC Docket No. 17-84, captioned "Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment." The Wireless Telecommunications Bureau issued a [Public Notice](#) opening WT Docket No. 17-79, captioned "Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment."

- Chairman Pai issued a [statement](#) on March 28, 2017, on the [passage](#) of [S.J. Res. 34](#) that disapproves the FCC's Broadband Privacy [Order](#). Pai said "[l]ast year, the Federal Communications Commission pushed through, on a party-line vote, privacy regulations designed to benefit one group of favored companies over another group of disfavored companies. Appropriately, Congress has passed a resolution to reject this approach of picking winners and losers before it takes effect." He said "the FCC will work with the FTC to ensure that consumers' online privacy is protected through a consistent and comprehensive framework."
- Chairman Pai [spoke](#) at the U.S. – India Business Council on March 29, 2017, discussing infrastructure investment and broadband deployment. He said his top priority is to close the digital divide, and said the most powerful tool for unleashing investment and innovation is a competitive free market. He said he is pursuing a light-touch regulatory approach, stressing the Internet should be free from heavy-handed government regulation. He also said he is working to make the FCC more open and transparent, noting in his second week as Chairman, he changed the way proposals are made available. Pai said proposals that will be voted on at Open Meetings are now publicly available on the internet three weeks before FCC meetings.
- Chairman Pai sent a [letter](#) to Rep. Michelle Lujan Grisham (D- N.M.) on March 22, 2017, in response to her letter supporting the appointment of Ms. Sandy Jones, Chairwoman of the New Mexico PRC, to serve on the Commission's Broadband Deployment Advisory Committee. He said the FCC will consider Ms. Jones for the BDAC, and said the BDAC is intended to provide an effective means for stakeholders to exchange ideas and develop recommendations to the Commission on broadband deployment.
- The Competitive Carriers Association [met with](#) Commissioner O'Rielly's Legal Advisor on March 24, 2017, to discuss its Petition for Reconsideration of the 2016 Broadband Privacy [Order](#). CCA claimed the FCC's privacy rules create an unwarranted regulatory disparity between broadband and edge providers that will harm competition and consumers, and asserted the Order applies undue burdens to small providers. CCA also commended Commissioner O'Rielly's recent blog post stressing the need to reign in FCC-imposed information collection burdens and to track associated cost data.

[Back to Highlights](#)

USF

- The FCC filed a [Motion](#) with the D.C. Circuit Court on March 30, 2017, asking it to remand the Lifeline Reform [Order](#) back to the Commission. [NARUC](#) and [twelve states](#) have sought court review of the Order. The Commission said it will soon commence a proceeding to eliminate the federal Lifeline Broadband Provider designation process at issue in these cases, recognizing that state governments, not the FCC, have primary responsibility for designating carriers that can participate in the Lifeline program.
- Chairman Pai issued a [statement](#) on March 29, 2017, on the future of the Lifeline program. He said broadband will remain in the Lifeline program so long as he is Chairman, and noted Congress gave state governments, not the FCC, the primary responsibility for approving which companies can participate in the Lifeline program under section 214. He said last year the FCC decided "to create its own federal 'Lifeline Broadband Provider designation process.'" He noted 12 states are challenging the legality of the FCC's Order in the D.C. Circuit court, and said "it would be a waste of judicial and administrative resources to defend the FCC's unlawful action in court" and is instructing the General Counsel to ask the D.C. Circuit to send the case back to the Commission for further consideration and to begin a proceeding to eliminate the new federal designation process. He also said the Wireline Bureau should not approve the Lifeline Broadband Provider applications that are pending at the FCC, saying it would be irresponsible for the Bureau to allow companies to sign up customers for subsidized broadband service through "an unlawful federal authorization process that will soon be withdrawn."

- Chairman Pai sent [letters](#) to 41 House Representatives on March 22, 2017, in response to their letter, which expressed concerns with his decision to block nine companies from participating in the Lifeline program for subsidized broadband internet access. Pai said the Order affected only nine of the more than 900 carriers participating in the Lifeline program, and eight of the nine had no Lifeline customers. Pai claimed the prior Commission disregarded the well-established process for approving applications like these, and said there is also a serious question as to whether the FCC has the legal authority to designate Lifeline providers or whether such designations must be made by state governments. Chairman Pai also sent similar [letters](#) to 40 House Representatives on March 22, 2017, in response to their letter, which expressed disappointment over the FCC's decision to revoke the Lifeline LBP designations for nine providers.
- Chairman Pai sent [letters](#) to 12 U.S. Senators on March 22, 2017, in response to their letter on the [retraction](#) of the [E-rate Modernization Progress Report](#). Pai said the Report was released in the last days of the previous Administration, and not only were Commissioners not given the traditional 48 hours to review it, but it was not shown at all to Commissioners before being released. Pai claimed this was an abuse of the FCC's processes, and said reports like this should not be and will not be issued without advance notice being provided to Commissioners.
- The FCC issued a [Public Notice](#) on March 27, 2017, announcing the final release of Commissioner Clyburn's #Solutions2020 Call to Action Plan. The plan calls for: streamlined access to Lifeline service; advancing policies to promote 5G deployment in rural America; deployment of next-generation communications services; completing the CAF II auction, the Mobility Fund Phase II auction, and the Remote Areas Fund auction; modernizing the FCC's Healthcare Connect Fund; and promoting efficient and collaborative infrastructure siting policies, among other things.
- Commissioner Clyburn [spoke](#) at the 5th Annual Telehealth Summit of South Carolina on March 30, 2017. Clyburn discussed the FCC's Mapping Broadband Health in America initiative, launched by the Connect2Health^{FCC} Task Force last year. She said this tool identifies areas where there are opportunities for telehealth and complementary initiatives across the nation, suggesting it will help bring more awareness to the importance of providing communities with advanced health services through an innovative mapping platform. She also said the RURAL Telehealth Act, introduced during the last Congress, recognizes that non-rural hospitals and health-care providers may be best positioned to bring telehealth services to their communities.
- The Wireline Competition Bureau issued an [Order](#) on March 30, 2017, denying requests for review of whether certain revenues associated with specific mixed-use special access lines should be considered interstate for the purpose of assessing USF contributions. The Bureau found USAC appropriately relied on the ten percent rule to determine the jurisdictional nature of the revenues, and under the rule, the nature of the traffic carried on a private line, not whether a certification has been completed, is the primary determinant of the proper jurisdictional assignment of the line and the associated revenues. The Bureau, however, found USAC may have failed to consider other relevant evidence that particular private lines were properly classified as intrastate, and remanded the requests for review to USAC for further consideration consistent with this Order.
- The Wireline Competition Bureau issued an [Order](#) on March 29, 2017, extending the deadline for Boomerang Wireless to notify, de-enroll, and transition subscribers currently receiving a Lifeline-supported broadband internet access service in service areas where Boomerang's only ETC designation is a Lifeline Broadband Provider designation. The Bureau extended until June 5, 2017, Boomerang's LBP designation and return of its Petition to pending status before the Bureau. The Bureau also extended the subscriber notification period until April 19, 2017, and extended the [LBP Reconsideration Order](#)'s waiver of section 54.411 (port freeze rule) for Boomerang's impacted subscribers for 12 months after the effective date of this Order. Boomerang was one of nine carriers whose LBP designation was revoked by the Bureau and whose petition for LBP designation was returned to the pending status.
- The Wireline Competition Bureau released a [Public Notice](#) on March 30, 2017, granting, denying, dismissing, and remanding various petitions related to actions taken by USAC on E-rate and USF

contributions. Petitions for reconsideration or applications for review of these decisions must be filed within 30 days of the Public Notice.

- USAC filed its 2016 [Annual Report](#) on March 30, 2017, which covers Fund operations, universal service programs, financials, and 2016 universal service program statistics.
- USAC filed its [Semi-Annual Audit Recovery Report](#) for the Schools and Libraries Program on March 31, 2017, which summarizes the status of all outstanding audit findings.
- TruConnect Communications filed a [letter](#) on March 28, 2017, on its Petition for designation as a Lifeline Broadband Provider. TruConnect proposes, as an alternative to grant of TruConnect's pending LBP Petition, that the Wireline Competition Bureau treat TruConnect's LBP Petition as a supplement to a pending petition for designation as a wireless Lifeline-only ETC for TruConnect's commonly-owned affiliate, Sage Telecom. TruConnect also requested the Bureau grant Sage's ETC Petition, as modified by the LBP Petition, no later than April 3, 2017.
- Telrite filed a [letter](#) on March 29, 2017, in response to TracFone Wireless' [reply](#) on TracFone's [request](#) for clarification of the Lifeline minimum service standards established in the 2016 Lifeline Modernization Order. Telrite claimed TracFone's true purpose is using the regulatory process to try to shield itself from competition and competitors that have out-innovated and out-competed it.
- Applied Research Designs and the Multicultural Media, Telecom and Internet Council [met separately](#) with Legal Advisors to Chairman Pai and Commissioner Clyburn on March 30, 2017, to discuss recent developments in the Lifeline proceeding and possible ways forward for prospective Lifeline Broadband Providers in light of the Chairman's [statement](#) and the Wireline Competition Bureau's February 3, 2017 [Order on Reconsideration](#).
- Microsoft [met with](#) Chairman Pai's Legal Advisor on March 27, 2017, to discuss the [Joint Petition](#) for Clarification or, in the alternative, waiver filed by Microsoft, et al. that asked the FCC to allow E-rate-subsidized broadband networks to be accessed by students at home for educational purposes. Microsoft explained the project, its use of technology, and the value proposition it affords students, the E-rate program, and closing the Homework Gap. Microsoft also responded to concerns about the program raised by some commenters.
- [LICT Corporation](#), [Newport Telephone](#), [Middleburgh Telephone](#), [Union Telephone](#), [Margaretville Telephone](#), [Millry Corporation](#), [Scott County Telephone](#), [Oklahoma Western Telephone](#) and [Strata Networks](#) filed requests for forbearance from the requirement for Lifeline-only ETCs to offer Lifeline-supported BIAS services. [All requests filed to date.](#)

[Back to Highlights](#)

Misc.

- The FCC issued a [tentative agenda](#) on March 30, 2017, for its April 20, 2017 Open Meeting, as well as draft texts and fact sheets of the agenda items. The FCC will consider an [Order on Reconsideration](#) amending the construction project limitation within section 54.303 to permit carriers to report, for USF purposes, capital expenses per location up to the established per-location per-project limit, rather than disallowing all capital expenses associated with construction projects in excess of the limit. The FCC will also consider: a [Report and Order](#) recognizing the strong competition present in the business data services market and modernizing the FCC's regulatory structure to bring new technologies, products, and services to businesses and consumers; an [NPRM, NOI, and Request for Comment](#) on removing regulatory barriers to infrastructure investment, proposing changes to speed the transition from copper networks and legacy services to next-generation networks and services and reforming FCC regulations that are raising costs and slowing broadband deployment; an [NPRM and NOI](#) on the regulatory impediments to wireless network infrastructure investment and deployment; an [Order on Reconsideration](#) to reinstate the UHF discount used to calculate compliance with the national television

audience reach cap; a [Report and Order](#) on noncommercial educational station third-party fundraising; and an [Order on Reconsideration](#) promoting diversification of ownership in the broadcasting services.

- The Commission [published](#) in the Federal Register on April 2, 2017, the [FNPRM](#) seeking comment on its proposal for a further 18-month extension of the freeze of jurisdictional separations category relationships and cost allocation factors for rate-of-return ILECs while the FCC continues to work with the Federal-State Joint Board on Jurisdictional Separations to overhaul its separations rules. The current separations freeze will expire on June 30, 2017. The Commission seeks comment on, among other issues, the effect this proposal would have on small entities. Comments are due April 17; replies are due April 24.
- The Wireline Competition Bureau issued a [Public Notice](#) on March 30, 2017, announcing the process parties can use to access an unredacted version of the proposed Order on business data services that will be considered at the April 20, 2017 Open Meeting. The Bureau said an individual must file Acknowledgments of Confidentiality pursuant to the Data Collection Protective Order, Second Protective Order, and Modified Protective Order, and the time for objection must have run or any objection must have been resolved in favor of the party seeking access to the information.
- The Wireline Competition Bureau issued a [Public Notice](#) on March 28, 2017, announcing that an additional party seeks access to confidential and highly confidential information submitted in response to the Commission's 2015 business data services data collection. Parties that submitted confidential or highly confidential data and information in response to the 2015 Collection have until April 4, 2017, to object to the disclosure of their data and information to the party listed in the attachment to this Public Notice.
- Windstream filed a [letter](#) on March 27, 2017, in response to letters filed by [AT&T](#) and [CenturyLink and Frontier](#) that offered proposals on special access. Windstream claimed the AT&T and CenturyLink/Frontier proposals amount to nationwide deregulation of rates for DS1 and DS3 special access services. Windstream asserted those proposals ignore the fact that in many parts of the country, particularly in less dense suburbs, exurbs and rural areas, DS1s and DS3s are the only way that small and medium-sized businesses, governments, and health care institutions can obtain the quality data services they need to operate. Windstream asserted, if adopted, AT&T's and CenturyLink/Frontier's proposals would leave many customers without any choice of BDS provider and vulnerable to the higher prices and inferior service that often result from unregulated monopolies.
- Windstream and Sprint [met with](#) Chairman Pai's staff on March 28, 2017, to discuss the differences between best efforts broadband services and BDS, and what they say are the Commission's inability to ensure just and reasonable rates for BDS customers by evaluating competition at the level of the Metropolitan Statistical Area and the competition failures in the BDS marketplace. They claimed cable hybrid fiber-coaxial networks do not represent a new technology capable of providing ubiquitous BDS competition, and said the Commission is obligated under the Administrative Procedure Act to issue a NPRM if it wishes to depart dramatically from the proposals in the FNPRM.
- CenturyLink and Frontier [met with](#) Legal Advisors to Chairman Pai and Commissioners O'Rielly and Clyburn and Wireline Competition Bureau staff on March 28, 29 and 30, 2017, to suggest price-cap ILECs be deemed non-dominant in the provision of BDS. They reiterated their views as to how the Commission could structure a regime centered on a location-specific competitive market test.
- INCOMPAS filed a [letter](#) on March 29, 2017, to urge the Commission to maintain, and improve upon, wholesale last mile access policies for the BDS market, even as it takes steps to increase facilities-based competition by reducing deployment barriers. It asserted the record shows that the grant of pricing flexibility to ILECs in the past has resulted in rate increases by the ILECs of as much as 64 percent and, on average, 25 percent. It claimed the BDS market is sorely lacking in facilities-based BDS competition, and thus abrupt elimination of policies that ensure viable wholesale access would leave numerous businesses, schools, libraries, non-profits, and healthcare providers, as well as government entities, with no choice in service provider, and ultimately higher prices and less innovation.

- INCOMPAS and the Cormac Group [met with](#) Commissioner O’Rielly and his Legal Advisor on March 23, 2017, to discuss [Sprint’s](#) letter filed on March 22, 2017, and the current state of the BDS market. INCOMPAS stressed: the consolidation that is occurring is further enhancing the market power of incumbent telcos; the continued need for affordable BDS to enable competition for small businesses, critical community anchor institutions, and 5G infrastructure; and the Commission must seek comment on any proposal that deviates from past findings before moving to Order.
- U.S. TelePacific [met with](#) Legal Advisors to Chairman Pai and Commissioner Clyburn on March 29, 2017, to discuss the importance of rate certainty for its small and medium-sized business, school, health care, and community anchor institution customers. It suggested an explicit prohibition on rate increases for any services deemed competitive would minimize disruption to end users and service providers during the transition from the pricing flexibility regime to any reformed BDS regime. It claimed by capping the actual rates ILECs charge for all interstate TDM rate elements in all MSAs as of the effective date of any BDS reform, the Commission would prevent ILECs from increasing the just and reasonable DS1 and DS3 rates that ILECs set under the current regulatory regime.
- NCTA [spoke with](#) Pam Arluk of the Wireline Competition Bureau on March 27, 2017, to state that best-efforts broadband services offered to business customers are not business data services as that term has been defined by the Commission. NCTA asserted the 2016 Further Notice stated that BDS “refers to dedicated point-to-point transmission of data at certain guaranteed speeds and performance levels using high-capacity connections.” NCTA claimed that even if some customers consider those services to be an alternative to BDS, such services cannot meet the needs of those BDS customers that require guaranteed performance and under no circumstances should they be subject to BDS regulation.
- Cox Communications [met with](#) Wireline Competition Bureau staff on March 22, 2017, to reiterate its claim that there is no basis to impose regulation on new entrants, such as Cox and other cable providers, who lack market power in the Business Data Services market. It asserted Ethernet services are sufficiently competitive so as to preclude the need for any rate regulation, and said any price regulation of ILEC TDM BDS should be carefully targeted to any areas lacking present or potential price constraining competition. Cox also claimed the record does not support a blanket finding that all BDS is offered on a common carriage basis.
- Access Point, Birch Communications, Manhattan Telecommunications, Impact Telecom, New Horizon Communications, and Xchange Telecom filed [a letter](#) on March 29, 2017, to urge the Commission to extend the sunset of the “reasonably comparable replacement” regulatory backstop adopted in the Technology Transitions Order. They said the presence of the regulatory backstop is integral to the ability of the Coalition members to obtain reasonable rates, terms and conditions through negotiation, particularly in areas where the barriers to entry are so high that deployment of alternative facilities is not economically feasible. The Coalition urged the Commission to maintain the regulatory backstop until there is evidence that market conditions necessitating this backstop have materially changed, and said if the Commission determines to eliminate this backstop, it should at a minimum adopt a four-year transition period to protect competition and avoid disruption of service to customers.
- The Digital Policy Institute filed [comments and a report](#), authored by Anna-Maria Kovacs, entitled “Business Data Services: Implications of the Rapid Growth of Cable Business Services” on March 29, 2017. DPI said the report reexamines the state of competition in the BDS market and the status of the cable industry in that market and, among other things, suggests the Commission apply its BDS rules to all of cable services, including best-efforts services.
- The Consumer Federation of America and Public Knowledge filed [a letter](#) on March 30, 2017, calling on the Commission to reject proposals from the dominant incumbent providers of BDS that they claim would deregulate a market in which the incumbents have massive market power. They asserted consumers are already overcharged in this market, and allowing incumbent providers to raise prices and increase their profits through deregulatory measures would make matters worse. They said the FCC’s record in the BDS docket does not support additional deregulation, and asserted the record demonstrates that business customers already pay supracompetitive prices and have few, if any, choice of providers.

- Sprint [met with](#) Wireline Competition Bureau staff on March 24, 2017, to discuss the points raised in its March 22, 2017 [letter](#) regarding the BDS proceeding.
- No replies were filed on NECA's December 22, 2016 proposed [modification](#) of average schedule formulas. The revisions are proposed to become effective for a one-year period beginning on July 1, 2017. [Public Notice](#)
- To date, no replies were filed on why the Commission should not initiate proceedings to revoke the Commission authorizations granted to Sandwich Isles Communications. [Public Notice](#)
- The FCC issued a [Consumer Alert](#) on March 27, 2017, to alert consumers to be on the lookout for scam callers seeking to get victims to say the word "yes" during a call and later use a recording of the response to authorize unwanted charges on the victim's utility or credit card account. It said fraudulent callers impersonate representatives from organizations that provide a service and may be familiar to the person receiving the call, such as a mortgage lender or utility, to establish a legitimate reason for trying to reach the consumer. The FCC said anyone who believes they have been targeted by this scam should immediately report the incident to the Better Business Bureau's Scam Tracker and to the FCC Consumer Help Center.
- The Wireline Competition Bureau issued a [Public Notice](#) on March 27, 2017, announcing it has granted VoIPStreet's [application](#) for authorization to obtain NANP telephone numbers directly from the Numbering Administrators for its iVoIP service. This proceeding will be closed 60 days from the date of this Public Notice if there are no further filings.
- Neustar filed a [Reply](#) on March 24, 2017, on its request to approve its new owner, Aerial Investors LLC, formed by Golden Gate Private Equity. Neustar asserted the NAPM did not object to Neustar's request, and claimed questions from Telcordia and Ms. Kane about Neustar's new owners and the transition of the LNP Administrator responsibilities are misplaced and do not justify any delay or conditioning of the approval of its request. [Public Notice](#)

[Back to Highlights](#)

Upcoming Filing Dates

- Apr. 4 - Comments due on Telengy's [application for authorization](#) to obtain NANP telephone numbers directly from the Numbering Administrators for its iVoIP service. [Public Notice](#)
- Apr. 12 - Comments due on the Mobility Fund Phase II challenge process for determining eligibility of geographic areas for support. Reply comments due April 27, 2017. [FNPRM](#) | [Notice](#)
- Apr. 17 - Comments due on the [FNPRM](#) seeking comment on its proposal for a further 18-month extension of the freeze of jurisdictional separations category relationships and cost allocation factors for rate-of-return ILECs. Replies are due April 24. [Notice](#)
- Apr. 17 - PRA comments due on an extension of a currently approved information collection covering the conditional forbearance relief granted by the Commission from Cost Assignment Rules, Property Record Rules, ARMIS Report 43-01, and the Structural Separation Requirement for price cap LECs in the May 17, 2013. [Notice](#)
- Apr. 24 - Replies due on the [FNPRM](#) seeking comment on its proposal for a further 18-month extension of the freeze of jurisdictional separations category relationships and cost allocation factors for rate-of-return ILECs. [Notice](#)
- Apr. 27 - Replies due on the Mobility Fund Phase II challenge process for determining eligibility of geographic areas for support. [FNPRM](#) | [Notice](#)

- Apr. 28 - Comments due on PRTC's [Petition for Declaratory Ruling](#) on whether section 54.320(d)(2) applies to recipients of CAF Phase I Round 2 support. Replies due May 15. [Public Notice](#)
- Apr. 28 - Comments due on ACS' [Petition for Clarification](#) or, in the alternative, petition for limited waiver of the requirement to provide geocoded location information for CAF Phase I deployments. Replies due May 15. [Public Notice](#)
- May 1 - PRA comments due on an extension of a previously approved information collection related to the MAG Plan Order, Parts 54 and 69 filing requirements for regulation of interstate services of non-price cap ILECs and interexchange carriers. [Notice](#)
- May 1 - PRA comments due on an extension of a currently approved information collection associated with FCC Form 477, Local Telephone Competition and Broadband Reporting. [Notice](#)
- May 1 - PRA comments due on an extension of a currently approved information collection associated with monitoring the impact of USF support mechanisms. The Commission is reporting a 24-hour increase in the total hour burden based on updated information from NECA regarding the number of respondents/responses. [Notice](#)
- May 1 - PRA comments due on revisions to a currently approved information collection associated with the Lifeline National Verifier. [Notice](#)
- May 4 - Comments due on the [Public Notice](#) seeking comment on whether the rules adopted in 2001 – 2004 should be continued without change or should be amended or rescinded, consistent with the stated objective of section 610 of the Regulatory Flexibility Act. [FR](#)
- May 8 - Comments due on competition in the mobile wireless industry for its Twentieth Annual Report on the State of Competition in Mobile Wireless. Replies due June 7. [Public Notice](#)
- May 15 - Replies due on PRTC's [Petition for Declaratory Ruling](#) on whether section 54.320(d)(2) applies to recipients of CAF Phase I Round 2 support. [Public Notice](#)
- May 15 - Replies due on ACS' [Petition for Clarification](#) or, in the alternative, petition for limited waiver of the requirement to provide geocoded location information for CAF Phase I deployments. [Public Notice](#)
- May 30 - PRA comments due on a revised information collection; specifically it proposes to revise FCC Form 481 and its instructions to provide clarification for some reporting items and to reflect certain updates. [Notice](#)
- June 7 - Replies due on competition in the mobile wireless industry for its Twentieth Annual Report on the State of Competition in Mobile Wireless. [Public Notice](#)

[Back to Highlights](#)

Editor: [Teresa Evert](#) | Assistant Editor: [Shawn O'Brien](#)