April 4, 2016 HIGHLIGHTS

- The FCC issued a Report and Order, Order and Order on Reconsideration, and FNPRM, reforming the universal service support program for rate-of-return carriers. The Order, among other things, creates two paths for RoR carrier USF support; a model-based option and a Broadband Loop Support mechanism that will provide support for stand-alone broadband and replace ICLS. The Order also reduced the allowable rate of return from the current 11.25 percent to 9.75 percent, with a phased transition. The FNPRM seeks comments on: expenses and cost allocations for ratemaking and USF support purposes; methods for reducing support in competitive areas; the proposed Tribal Broadband Factor; measures to improve the operation of the current rate-of-return system; and streamlining ETC annual reporting requirements. News release. The FCC will hold a webinar on April 4 on the reforms.

- The FCC adopted an Order to modernize and reform the Lifeline program. The Order, among other things, refocuses Lifeline support on broadband, establishes an independent National Eligibility Verifier to confirm subscriber eligibility, and adopts a budget mechanism to limit Lifeline’s cost to ratepayers, setting an initial budget at $2.25 billion. The Order is not yet released.

- FCC adopted an NPRM on establishing privacy guidelines for broadband ISPs to ensure broadband customers have greater transparency and strong security protections for their personal information collected by ISPs. Comments are due May 27; replies due June 27.

- The FCC seeks comments to refresh the record on Sandwich Isles’ Petition for Reconsideration of the 2010 Declaratory Ruling on Sandwich Isles’ cable network lease costs, AT&T’s Application for Review of the Declaratory Ruling, and NECA’s Petition for Clarification and/or Declaratory Ruling of the provisions of the 2010 Declaratory Ruling. Comments are due April 18; replies due April 28.

- Chairman Wheeler responded to Members of Congress on standalone broadband USF reform for rate-of-return carriers, adoption of a Tribal Broadband Factor, and rules for the CAF Phase II reverse auction.

- WTA discussed reform and reduction of reporting requirements for RLECs. ATA discussed the Alaska Infrastructure Fund.

- The FCC provided guidance on the process for ETCs to elect USAC to perform Lifeline recertification for their subscribers in 2016.

- The FCC suspended the Verizon pricing plans subject to the price cap tariff investigation that are included in the new Frontier Tariffs F.C.C. Nos. 13 and 14 for one day from the effective date and instituting an investigation and incorporating it within the price cap tariff investigation.


**Other Key Upcoming Dates**

- Apr. 7 - Comments due on Endeavor’s Petition for Clarification on the separations freeze. Replies due April 22.
- Apr. 18 - PRA comments due on revisions to Form 481 to reflect reporting requirements for price cap carriers for CAF Phase II support, for recipients of RBE support, a reasonably comparable rate certification for broadband for high-cost support recipients, and an E-rate bidding certification for Phase II model-based support and RoR carrier high cost recipients.
USF Reform

- The FCC issued a Report and Order, Order and Order on Reconsideration, and FNPRM on March 30, 2016, reforming the universal service support program for rate-of-return carriers. The Order creates two paths for RoR carrier USF support; a model-based option and a Broadband Loop Support mechanism that will provide support for stand-alone broadband and replace ICLS. Neither type of support will be provided in census blocks where an unsubsidized competitor offers qualifying service. The Order contains broadband deployment milestones, service performance requirements, OpEx and CapEx limitations, as well as budget controls to maintain the $2 billion per year budget. The Order also reduces the allowable rate of return from the current 11.25 percent to 9.75 percent, with a phased transition. The FNPRM seeks comments on: expenses and cost allocations for ratemaking and USF support purposes; methods for reducing support in competitive areas; increasing support for RoR carriers in Tribal lands and unserved areas; measures to improve the operation of the current rate-of-return system; and streamlining ETC annual reporting requirements. Comments are due 30 days after Federal Register publication; replies due 60 days after FR. News release

- The Wireline Competition Bureau released a Public Notice on March 31, 2016, announcing it will hold a webinar on April 4, 2016, to provide a summary of the reforms to the USF high-cost support mechanisms for rate-of-return carriers adopted in the March 30, 2016 Rate-of-Return USF Reform Order.

- Chairman Wheeler sent a letter to Congressman Kevin Cramer (R-ND) on March 21, 2016, in response to his December 11, 2015 letter, which urged the FCC to fulfill its commitment to standalone broadband USF reform for rate-of-return carriers. Chairman Wheeler said he circulated to his fellow Commissioners in February an Order to modernize and reform the USF high-cost support program for RoR carriers, including a support mechanism for standalone broadband. He said the proposed Order sets forth a package of reforms that also includes incentives for broadband investment to connect unserved rural Americans, a voluntary path for RoR carriers to choose model-based support, and a lowering of the authorized rate of return for incumbent carriers to better reflect the current financial market conditions.

- Chairman Wheeler sent letters to Congresswomen Suzan DelBene (D-WA) and Anna Eshoo (D-CA) and Congressmen Frank Pallone (D-NJ), Tony Cardenas (D-CA), Tom Cole (R-OK), Derek Kilmer (D-WA), Ben Ray Lujan (D-NM), and Jerry McNerney (D-CA) on March 21, 2016, in response to their January 4, 2016 letter, which expressed support for the adoption of a Tribal Broadband Factor to promote greater access to telecommunication on Tribal lands. Chairman Wheeler said he circulated an Order on February 12, 2016, to modernize USF support for rate-of-return carriers that included a NPRM that would seek comment on additional reforms, including the TBF. He said once the FCC has a full record, he intends to take action before the end of the year to further promote broadband deployment on Tribal lands.

- Chairman Wheeler responded to a letter from Reps. Billy Long (R-Mo.), Vicky Hartzler (R-Mo.), Sam Graves (R-Mo.), Ann Wagner (R-Mo.), Emmanuel Cleaver II (D-Mo.), Jason Smith (R-Mo.), and Blaine Luetkemeyer (R-Mo.), which urged the FCC to adopt rules for the CAF Phase II reverse auction to promote the deployment of high-speed, long-term broadband networks in Missouri. Chairman Wheeler said he circulated an updated draft Order in December 2015 to address the framework for the CAF Phase II competitive bidding process, and said he is committed to completing the CAF Phase II auction framework as expeditiously as possible.

- WTA met with Chairman Wheeler’s Special Counsel on March 29, 2016, to discuss reform and reduction of reporting requirements for RLECs. It suggested in addition to reducing or eliminating certain forms and reports, the FCC might include modification and/or sharing of existing Commission forms and reports so RLECs can reduce or eliminate duplicative state commission filings and consolidate various annual certifications due at different times of the year into a single form and/or filing deadline.
The Alaska Telephone Association met with Wireless Telecommunications Bureau staff on March 30, 2016, to discuss the Alaska Infrastructure Fund. It reviewed the performance obligations Alaska’s wireless carriers submitted previously and the timelines for meeting the benchmarks defined in the obligations and how completion would be reported.

Frontier Communications spoke with Chairman Wheeler’s Senior Legal Advisor and Wireline Competition Bureau staff on March 28, 2016, to discuss its proposal for interim support to ensure continuity of voice service to extremely high-cost and other unfunded locations in the territories of price cap carriers that accepted model-based support. Frontier asserted the current lack of support places customers in these areas at risk for unnecessary loss of voice service, and urged the Commission to implement an interim voice maintenance support mechanism.

Frontier filed a letter on April 1, 2016, to notify the Wireline Competition Bureau that its transaction with Verizon Communications has officially closed. Frontier requested that the Bureau direct USAC to obligate and disburse to Frontier all CAF support payments for California and Texas that USAC was deferring pending the closing of this transaction. Verizon filed a similar letter on April 1, 2105, notifying the FCC that its transaction with Frontier closed on April 1, 2016.

Plateau Telecommunications filed a supplement on March 29, 2016, to its Petition for Waiver of various obligations relating to Mobility Fund Phase I support. Plateau further updated the FCC on the status of deployment of 4G service. Plateau reported it has completed the upgrade to the final site in the census tract associated with SAC 498017, thereby providing 4G coverage to at least 75 percent of the previously unserved miles in that tract.

Open Internet

The FCC released the NPRM on April 1, 2016, that the Commission adopted at its March 31, 2016 Open Meeting on establishing privacy regulations for broadband ISPs to implement section 222 of the Communications Act. The NPRM proposes rules to implement the core principles of transparency, choice, and security to ensure that consumers: have the information needed to understand what data the BIAS provider is collecting and what it does with that information; can decide how their information is used; and are protected against the unauthorized disclosure of their information. The scope of the NPRM is limited to broadband service providers, and does not apply to the privacy practices of web sites and other “edge services” over which the Federal Trade Commission has authority. Comments are due May 27; replies due June 27. News Release

Chairman Wheeler sent a letter to Sen. Jeff Flake (R-A.Z.) on March 18, 2016, in response to his letters on the Commission's activities to protect consumer privacy in telecommunications sectors. Chairman Wheeler answered Sen. Flake’s questions and noted FCC recent actions on protecting customers, including last year’s Enforcement Advisory providing guidance to broadband providers about how the Enforcement Bureau intends to enforce section 222 and a recent consent decree with Verizon Wireless resolving a section 222 and 2010 Open Internet Transparency Rule investigation on the company’s insertion of unique identifier headers. He also noted the FCC will consider an NPRM on March 31, 2016, on how broadband providers use and share customer data.

A group of social justice and public interest groups sent a letter to Chairman Wheeler on March 28, 2016, claiming ISPs are using new “zero-rating” plans and other mechanisms to undermine the spirit and the text of the Open Internet rules. They asserted these practices distort competition, stifle innovation, limit user choice, harm free speech, and drive up prices, and without action from the FCC, zero-rating plans will continue to expand and ISPs will continue to seek out ways to monetize capped broadband service at the expense of an open Internet and the communities that rely on it. They urged the FCC to respond to the proliferation of these plans, fulfill its mandate to protect Internet users, and enforce its Open Internet rules.
• Free Press filed a letter on March 30, 2016, attaching a report entitled Same As it Ever Was: The U.S. Broadband Market Continues to Thrive One Year After the FCC’s Historic Network Neutrality Vote, containing data concerning the ISP industry’s performance during 2014 and 2015. Free Press asserted that one year after the FCC’s vote, all of the broadband industry’s predictions about how reclassification of broadband as a Title II telecommunications service and the adoption of enforceable net neutrality rules would destroy the broadband market have failed to materialize. Free Press claimed network investment is up, revenues and profits are higher, and subscriber growth continues at a high level, even as prices rise and the market nears saturation.

Broadband

• The Industry Analysis and Technology Division of the Wireline Competition Bureau issued its Internet Access Services Report on March 30, 2016, which summarizes information about Internet access connections in the United States as of December 31, 2014 and as of June 30, 2014, as collected by FCC Form 477. The Report said Internet connections increased by 9 percent between December 2013 and December 2014 to 321 million, and most of the growth in total Internet connections is attributable to increased mobile Internet access subscribership. Mobile Internet connections increased 13 percent year-over-year to 224 million in December 2014, while the number of fixed connections grew to 98 million – up 2 percent from December 2013.

IP Transition

• The FCC published a correction in the Federal Register on March 30, 2016, to the Notice issued on March 24, 2016, that announced the Office of Management and Budget approved, for a period of three years, the information collection associated with the Commission’s network change disclosure rules on copper retirement notices that were adopted in the August 2015 Report and Order and Order on Reconsideration. Sections 51.325(a)(4) and (e), 51.332, and 51.333(b) and (c) (network change notice rules) are effective March 24, 2016. The FCC noted the original notice omitted the removal of sections 51.331(c) and 51.333(f) as effective rules.

• AT&T met with Commissioner Pai and his Chief of Staff on March 24, 2016, to discuss its community outreach efforts and the general customer feedback received to date during the wire center trial in West Delray Beach, Florida. AT&T also provided an overview of the demographic and topographic characteristics of the wire center and the various TDM-based and IP-based wired and wireless technologies that today are deployed in the wire center.

State Actions

• O1 Communications filed a complaint against AT&T in California District Court, alleging AT&T owes it more than $11 million in access charges and $8 million in late charges for carrier-to-carrier telecommunications services O1 has provided to AT&T. O1 said the amount owed is for terminating calls that originated from AT&T long distance customers to O1’s customers.

USF

• The FCC issued a News Release on March 31, 2016, announcing it adopted an Order at its March 31, 2016 Open Meeting to modernize and reform the Lifeline program. The Order, among other things, refocuses Lifeline support on broadband, and will, for the first time, support stand-alone broadband service, as well as bundled voice and data packages. The Order also establishes an independent National Eligibility Verifier to confirm subscriber eligibility, and adopts a budget mechanism that will
limit Lifeline’s cost to ratepayers. The initial budget will be set at $2.25 billion and indexed to inflation. The Order is not yet released. Chairman Wheeler and Commissioner Rosenworcel issued statements.

- The Wireline Competition Bureau issued a Public Notice on April 1, 2016, providing guidance on the process for ETCs to elect USAC to perform Lifeline recertification for their subscribers in 2016. This guidance will remain in place for subsequent calendar years unless affirmatively superseded by Bureau or Commission action. ETCs must provide notice to USAC by May 2, 2016, if they intend to have USAC perform the recertification process on their behalf for 2016, and any ETC that used USAC to perform recertification in 2015 will be presumed to elect USAC to perform recertification in 2016 unless the carrier notifies USAC otherwise by May 2, 2016.

- Chairman Wheeler sent a letter to Sen. Claire McCaskill (D-Mo.) on March 16, 2016, in response to her letter offering recommendations for the upcoming Lifeline Modernization Order, including taking eligibility determinations out of the hands of carriers, improving competition among participating carriers, and placing a cost-cap or other cost-control mechanism on the program. Chairman Wheeler said he has proposed implementation of a budget mechanism in the Order, which will have two parts: setting a Lifeline budget of $2.25 billion and establishing a process for the full Commission to promptly evaluate and address Lifeline funding in advance of the program hitting that $2.25 billion budget.

- Commissioner Pai issued a statement on March 29, 2016, on modernizing the Lifeline program in a fiscally responsible way. He said he proposed: an annual budget of $1.75 billion, an enforceable budget mechanism that automatically reduces payments to carriers when the estimated costs of the program would exceed the budget, eliminating the “enhanced” subsidy in counties with more than 50 people per square mile, and setting minimum standards of 25 Mbps for fixed broadband services and 4G LTE for mobile broadband services.

- Commissioner O’Rielly spoke at the American Action Forum on March 29, 2016, discussing Lifeline and net neutrality. He expressed concerns with the lack of a budget for the Lifeline program, saying it is the only Universal Service program that does not operate under a budget. He said the Lifeline program can be reformed to include broadband while staying within reasonable fiscal limits. He also discussed claims that Netflix has been actively downgrading the video quality of its service delivered over certain wireless networks, saying these revelations call into question the entire foundation and rationale of the net neutrality decision and justly generates calls for government – and maybe Congressional – investigation.

- The Wireline Competition Bureau released a Public Notice on March 30, 2016, granting, denying, and dismissing various petitions related to actions taken by USAC on E-rate and contributions. Petitions for reconsideration or applications for review of these decisions must be filed within 30 days of the Public Notice.

- USAC submitted its annual report to the FCC and Congress on March 31, 2016, on its operations, activities, and accomplishments in 2015. USAC said in 2015 it simplified audit reports, used direct stakeholder feedback to shape and inform the development of applicant tools and forms, and revamped its approach to Lifeline Program recertification.

- USAC filed its Semi-Annual Audit Recovery Report for the Schools and Libraries Program on March 31, 2016, which summarizes the status of all outstanding audit findings.

- The U.S. Department of Housing and Urban Development spoke with Trent Harkrader of the Wireline Competition Bureau on March 30, 2016, to state that its Federal Public Housing Assistance no longer appears on the proposed list of federal programs that would be used to validate Lifeline eligibility. HUD said it is critical that its HUD-assisted residents be allowed to participate in the modernized Lifeline program, and said it is implementing an initiative to narrow the digital divide for residents in HUD-assisted housing.

- Sprint met with Commissioner Pai’s Legal Advisor on March 23, 2016, and expressed concern that certain elements of the draft Lifeline Order are contrary to established Commission policy and would
undermine the provision of the voice services that are the core of the current Lifeline program. Sprint explained why the proposal described in the Fact Sheet is not competitively neutral in the treatment of wireless and wireline Lifeline service providers; why the unlimited voice proposal is not economically feasible for wireless service providers; and described the administrative and customer service factors which make it impossible for Assurance Wireless to implement a system of end user co-payments or to convert its existing customer base to broadband-enabled handsets by December 1, 2016.

• TruConnect met separately with Legal Advisors to Commissioners Clyburn, O’Rielly, Rosenworcel and Pai, and Chairman Wheeler’s and Wireline Competition Bureau staff on March 22 and 23, 2016, to express support for expanding the Lifeline program to include broadband services. TruConnect also said it would not be possible to continue to provide Lifeline service on economical terms at the minimum service levels identified in the Lifeline fact sheet, and said the minimum service levels should be set at a baseline “access” level and not presume that low-income consumers desire or can afford a set amount of data or voice service per month.

• MMTC, the Brattle Group, and Georgetown Center for Business and Public Policy spoke separately with Legal Advisors to Commissioners Pai, Rosenworcel, and O’Rielly on March 24, 2016, to brief the Commission on a white paper MMTC commissioned entitled Lifeline to High-Speed Internet Access: An Economic Analysis of Administrative Costs and the Impact on Consumers.” They asserted the paper shows the FCC’s estimated costs for Lifeline program administration were very outdated and the actual program administration costs were significantly higher than reported by the Commission, deterring innovation and competition.

• To date, no comments were filed on Interstate Telecom and CenturyLink’s Petition seeking a study area waiver to permit CenturyLink to remove a portion of its Flandreau Exchange, which Petitioners said has no current active subscriber lines, one requesting subscriber line, and no non-active subscriber locations, from its South Dakota Study Area and for ITC to add the Transfer Area to its study area. Replies due April 14. Public Notice

Misc.

• The Wireline Competition Bureau issued a Public Notice on March 29, 2016, seeking comments to refresh the record on Sandwich Isles’ October 2010 Petition for Reconsideration of the 2010 Declaratory Ruling on Sandwich Isles’ cable network lease costs, AT&T’s October 2010 Application for Review of the Declaratory Ruling, and NECA’s February 2015 Petition for Clarification and/or Declaratory Ruling of the provisions of the 2010 Declaratory Ruling. Comments are due April 18; replies due April 28.

• The Pricing Policy Division of the Wireline Competition Bureau released an Order on March 31, 2016, suspending the Verizon pricing plans subject to the tariff investigation that are included in the new Frontier Tariffs F.C.C. Nos. 13 and 14 for one day from the effective date and instituting an investigation and incorporating it within WC Docket No. 15-247.

• AT&T filed a letter on March 29, 2016, responding to BT America’s reply comments on special access. AT&T asserted BT acknowledges in its reply that TDM-based services are rapidly being replaced by next-generation Ethernet services, and that other countries are moving to deregulate TDM-based services to facilitate the transition to Ethernet. AT&T asserted BT now advocates for the regulation of Ethernet services in the U.S., and disputed BT’s argument that a study it commissioned from WIK shows that U.S. Ethernet prices are higher and uptake is lower compared to countries that regulate Ethernet services. AT&T said it provided data showing nearly the exact opposite, claiming that U.S. Ethernet prices have declined faster and are today no higher than those in the four European countries cited by BT that regulate Ethernet, and Ethernet uptake in the U.S. is on a faster trajectory.
• The Industry Analysis and Technology Division of the Wireline Competition Bureau issued its Voice Telephone Services Report on March 30, 2016, which summarizes the information collected about telephone services as of December 31, 2014 and as of June 2014. The Report noted in December 2014, there were 73 million end-user switched access lines in service, 54 million interconnected VoIP subscriptions, and 323 million mobile subscriptions in the United States. Over the three-year period, interconnected VoIP subscriptions increased at a compound annual growth rate of 14 percent, mobile voice subscriptions increased at a compound annual growth rate of 3 percent, and retail switched access lines declined at 12 percent per year.

• The FCC released the NPRM on April 1, 2016, that the Commission adopted at its March 31, 2016 Open Meeting to update its video description rules to expand the availability of - and consumer access to – video-described programming. The NPRM proposes, among other things, to increase the required amount of video-described programming on each included network carried by a covered broadcast station or MVPD from 50 hours per calendar quarter to 87.5 hours and increase the number of networks subject to the video-description rules from four broadcast and five non-broadcast networks to five broadcast and ten non-broadcast networks. Comments are due 30 days after Federal Register publication; replies due 60 days after FR. News Release

• The Wireline Competition Bureau issued a Public Notice on March 31, 2016, announcing it has granted Vonage Holdings’ application to obtain telephone numbers directly from the North American Numbering Plan Administrator and the Pooling Administrator. The Bureau indicated this proceeding will be terminated 60 days from the date of this Public Notice if there are no further filings in this proceeding or, if there are additional filings, after 60 days of inactivity in the record.

• The Open Technology Institute at New America and the LNP Alliance met with Consumer and Governmental Affairs and Wireline Competition Bureau staff to express concerns with the LNP Administrator transition. They urged the FCC to make the draft iconectiv contract public and accessible to consumers and non-NAPM carriers. They also asserted the current timetable for implementation very likely needs to be adjusted, and encouraged the FCC to review the timetable to ensure that the process is not rushed to conclusion in order to meet artificial deadlines.

Upcoming Filing Dates

• Apr. 7 - Comments due on Endeavor’s Petition for Clarification that rate-of-return carriers who elected to freeze their category relationships in 2001 are permitted to directly assign costs to new categories of investment introduced subsequent to the inception of the freeze if that category is ordinarily directly assigned in accordance with the Part 36 rules. Replies due April 22. Public Notice

• Apr. 14 - Replies due on Interstate Telecom and CenturyLink’s Petition seeking a study area waiver to permit CenturyLink to remove a portion of its Flandreau Exchange. Public Notice

• Apr. 18 - PRA comments due on revisions to Form 481 and its instructions to reflect reporting and certification requirements for price cap carriers that elect to receive CAF Phase II model-based support, for recipients of Rural Broadband Experiment, a reasonably comparable rate certification for broadband for high-cost support recipients, and an E-rate bidding certification for Phase II model-based support and rate-of-return carrier high cost recipients. Notice

• Apr. 18 - Comments due to refresh the record on Sandwich Isles’ Petition for Reconsideration of the 2010 Declaratory Ruling on Sandwich Isles’ cable network lease costs, AT&T’s Application for Review of the Declaratory Ruling, and NECA’s Petition for Clarification and/or Declaratory Ruling of the provisions of the 2010 Declaratory Ruling. Replies due April 28. Public Notice

• Apr. 22 - Replies due on Endeavor’s Petition for Clarification that rate-of-return carriers who elected to freeze their category relationships in 2001 are permitted to directly assign costs to new categories of
investment introduced subsequent to the inception of the freeze if that category is ordinarily directly assigned in accordance with the Part 36 rules. Public Notice

- Apr. 22 - PRA comments due on an extension to a currently approved information collection associated with annual the ARMIS Operating Data Report (43-08). Notice

- Apr. 26 - PRA comments due on an extension of a currently approved information collection associated with section 69.605, Reporting and Distribution of NECA Pool Access Revenues. Notice

- Apr. 28 - Replies due to refresh the record on Sandwich Isles’ Petition for Reconsideration of the 2010 Declaratory Ruling on Sandwich Isles’ cable network lease costs, AT&T’s Application for Review of the Declaratory Ruling, and NECA’s Petition for Clarification and/or Declaratory Ruling of the provisions of the 2010 Declaratory Ruling. Public Notice

- May 3 - PRA comments due on an extension of a currently-approved collection associated with section 64.1903, which requires ILEC’s international, interexchange affiliate to maintain books of account separate from such ILEC’s local exchange and other activities. Notice

- May 3 - PRA comments due on an extension of a currently-approved collection associated with the May 2000 CALLS Report and Order. Notice

- May 27 - Comments due on the NPRM on establishing privacy regulations for broadband ISPs to implement section 222 of the Communications Act. Replies due June 27. News Release

- June 16 - ILEC tariffs due, for those filing on 15 days’ notice. Petitions to suspend or reject tariff filings due June 23; replies due June 27. Order

- June 27 - Replies due on the NPRM on establishing privacy regulations for broadband ISPs to implement section 222 of the Communications Act. News Release

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