April 13, 2015 HIGHLIGHTS

- The FCC issued the agenda for its April 17, 2015 Open Meeting, and will consider a Report and Order and FNPRM and a Public Notice on spectrum.

- The FCC published the 2015 Open Internet Order in the Federal Register, and the Order will become effective June 12, 2015, except for the information collection, which require OMB approval.

- Chairman Wheeler responded to Rep. Rod Blum’s (R-Iowa) concern that the FCC’s Open Internet Order would have a disproportionate impact on small and mid-sized ISPs by saying the Order includes a temporary exemption for small providers from the enhanced transparency rule.

- Rep. Alexander Mooney (R- W.Va.) introduced a bill proposing to amend the Communications Act of 1934 to exempt providers of broadband Internet access service from Federal USF contributions.

- The FCC announced it published an online, publicly-accessible map of rate-of-return study areas that will be incorporated into the next version of the Alternative Connect America Cost Model.

- NTCA discussed potential USF contribution reforms, and urged the FCC to consider a voluntary model for small rural carriers and to update the “baseline” foundational USF programs that enable universal service in areas served by all such carriers. NTCA also discussed voluntary model issues in separate meetings with FCC staff and provided a chart showing the “$110 DSL problem” faced by consumers in rural areas - a problem NTCA says a voluntary model-based path will not solve. ITTA, TDS, and Hargray discussed an alternative regulation plan for RoR carriers.

- Reply comments were filed on the NOI asking what additional actions the FCC can take to expand availability and increase the rate of broadband deployment, reduce the disparity between Americans living in urban and rural and tribal lands, and increase deployment to schools.

- Price cap carriers and USTelecom discussed the relationship between the second round of CAF Phase I Incremental Support and CAF Phase II.

- The FCC announced Petitions for Reconsideration were filed on the E-rate Second Report and Order by WTA, NTCA and NECA, T-Mobile, Cox, and AdTec. Opposition dates not yet set.

- AT&T discussed its first quarterly report on its IP Transition wire center trials. ATIS released a report making recommendations on key areas in which service providers can best collaborate through an industry testbed activity to advance an all-IP Transition.

- NECA discussed the status of the Sandwich Isles Declaratory Ruling proceeding.

Other Key Upcoming Dates

- Apr. 24 - Comments due on Compliance’s Petition for Declaratory Ruling that the Systems Integrator Exemption from the USF contribution obligation applies to the resale or provision of interconnected VoIP.
- Apr. 29- Comments due on Consolidated’s Petition for Waiver of section 61.41(c), which requires the conversion of RoR carriers to price cap regulation within one year of being acquired by a price cap carrier.
- May 13- Petitions for reconsideration due on the Open Internet Order.
- June 12- Petitions for review due on the Open Internet Order.
Open Internet

- The FCC published in the Federal Register on April 13, 2015, the FCC’s March 12, 2015, Open Internet Report and Order on Remand, Declaratory Ruling and Order. The Order will become effective June 12, 2015, except for the information collection requirements in paragraphs 164, 166, 167, 169, 173, 174, 179, 180, and 181, which require OMB approval. The FCC will publish a separate document in the Federal Register announcing such approval and the relevant effective date(s).

- Chairman Wheeler sent a letter to Rep. Rod Blum (R-Iowa) on March 25, 2015, in response to his letter expressing concern that the FCC’s Open Internet decision would have a disproportionate impact on small and mid-sized ISPs and jeopardize their ability to make future investments in their networks. Chairman Wheeler said the Order includes a temporary exemption for small providers from the enhanced transparency rule and directed the Consumer and Governmental Affairs Bureau to adopt an order by December 15, 2015, on whether to make the exemption for small providers permanent. Chairman Wheeler also responded to letters from Rep. Niki Tsongas (D-Mass) (response), Sen. Edward Markey (D-Mass.), et al. (response), and Rep. Maxine Waters (D-Calif.), et al. (response), all of which had urged the FCC to reclassify broadband under Title II. Chairman Wheeler said, based on the input of all stakeholders, the FCC adopted the strongest possible Open Internet protections in the Order.

- Rep. Alexander Mooney (R-W.Va.) introduced a bill entitled the Freedom from Internet Tax Act on March 26, 2015, which proposes to amend the Communications Act of 1934 to exempt providers of broadband Internet access service from Federal USF contributions.

- Commissioner Clyburn spoke at the Sixth Annual Rebele First Amendment Fellowship Symposium at Stanford University on April 1, 2015, discussing the Open Internet Order. She asserted absent clear and concrete Open Internet rules, any ISP would possess the power to limit free expression, and without the new rules, any ISP would be free to block, throttle, favor or discriminate against traffic, or extract tolls from any user for any reason, or for no reason at all.

USF/ICC Transformation Order

- The Wireline Competition Bureau issued a Public Notice on April 10, 2015, announcing it published an online, publicly-accessible map of rate-of-return study areas that will be incorporated into the next version of the Alternative Connect America Cost Model. The A-CAM calculates the forward-looking economic costs of deploying and operating a fiber-to-the-premise network in rate-of-return areas.

- NTCA met with Chairman Wheeler’s Chief of Staff on April 9, 2015, to encourage the FCC to move forward not only with consideration of a voluntary model for those small rural carriers who might seek such an option, but also to redouble efforts on much-needed updates to the “baseline” foundational programs that enable universal service in areas served by all such carriers. NTCA also met with Commissioner Rosenworcel’s Legal Advisor to discuss the same issues, and provided a chart showing the “$110 DSL problem” faced by consumers in areas served by small rural carriers – a problem NTCA says requires resolution through reform right away, and which a voluntary model-based path will not solve.

- ITTA, TDS Telecom, and Hargray Communications met with Legal Advisors to Chairman Wheeler and Commissioners Rosenworcel, O’Rielly, Pai, and Clyburn on April 7, 2015, to discuss an alternative regulation plan for rate-of-return companies. They said the basic principles of the approach would include use of a forward-looking model-based universal service support mechanism that aligns available funding with obligations and associated reporting requirements. They said this approach affords participating carriers reasonable certainty of future revenues over a timeframe that corresponds with investment decisions and funding commitments.
• NTCA spoke with Commissioner Pai and his Legal Advisor, and Legal Advisors to Chairman Wheeler and Commissioners O’Rielly and Clyburn on April 7 and 8, 2015, to discuss potential universal service contribution reforms. NTCA urged a thoughtful look at how the Commission can best ensure the sustainability and viability of important universal service programs. It also urged the Commission to move forward with consideration of a voluntary model for those small rural carriers who might seek such an option, and to redouble efforts on much-needed updates to the “baseline” foundational programs that enable universal service in areas served by all such carriers.

• Frontier, CenturyLink, Windstream, AT&T and USTelecom met with Wireline Competition Bureau staff on April 6, 2015, to discuss the relationship between the second round of CAF Phase I Incremental Support and CAF Phase II. They asserted CAF Phase II more than doubled the speed requirement from CAF Phase I, which more than doubles the costs of deployment. They also said the FCC will have identifying information for all planned Phase I Round 2 deployments and all Phase II deployments, and said the Bureau could thus rely on this data to ensure that any “planned Phase I deployments” are not also counted for purposes of CAF Phase II.

• Prepa Networks filed a reply on April 9, 2015, to PRTC’s CAF Phase I Round 2 incremental broadband deployment plan modifications, claiming it has telecommunications facilities to provide Internet service in at least two of the census blocks PRTC now intends to serve using CAF support.

• Atlantic Telephone Membership Corporation filed a letter on April 7, 2015, withdrawing its October 2014 Petition for Waiver of section 51.917(c), the 2011 Rate-of-Return Carrier Base Period Revenue.

Broadband

• Reply comments were filed on April 6, 2015, on the NOI asking what additional actions the FCC can take to expand availability and increase the rate of broadband deployment, reduce the disparity between Americans living in urban and rural and tribal lands, and increase deployment to schools. NTCA said the FCC should continue to promote efficient and carefully targeted broadband deployment in rural areas through the CAF. Frontier asserted that by proceeding expeditiously with its current plan for CAF Phase II, the FCC will promote broadband deployment to the Americans who need it most. CCA asserted the FCC should focus its efforts on promoting mobile broadband technologies, and said the FCC should implement USF reform that continues to drive high-cost funding towards the broadband platforms that consumers demand, and free up additional spectrum for mobile broadband services. Replies also filed by: ACA, NTTA, Deere, and Tech Freedom and ICLE.

IP Transition

• AT&T met with Wireline Competition Bureau staff on April 3, 2015, to discuss its first quarterly report to the FCC on its Wire Center Trials in Carbon Hill, Alabama and West Del Ray Beach, Florida. AT&T said the report contains information about service migrations consumers are making in the trial areas, how customers are responding to AT&T’s sales and marketing contacts and issues they have encountered in the IP transition, network performance in the trial and control wire center, and outreach efforts to the community in general and specifically to seniors and persons with disabilities.

• ATIS released a report entitled Testbeds Landscape Team Assessment and Next Steps, which makes recommendations on key areas in which service providers can best collaborate through an industry testbed activity to advance the All-IP Transition, including numbering, routing, and provider-to-provider metadata.

• TDS and COMPTEL spoke with Wireline Competition Bureau and FCC General Counsel staff on April 2, 2015, to discuss proposals in the Technology Transitions NPRM. They discussed the need for the
FCC to adopt competitive policies with regard to large ILEC Ethernet special access services that yield wholesale prices that will enable competitors to effectively compete. They also discussed TDS’s experience in providing voice and data services, and the cost differences in the deployment of last mile fiber networks throughout its incumbent LEC and competitive LEC segments.

- ACA met with Legal Advisors to Commissioners Clyburn and Pai on April 7, 2015, to discuss how best to ensure that consumers have reasonable access to 911, emergency alerts, and related emergency communications services during power outages and the Commission’s proposals to impose on facilities-based providers of fixed voice services CPE backup power requirements. ACA asserted that given the shift to wireless for voice service, imposing a battery backup mandate on cable operators would not only waste resources but not solve the problem the Commission seeks to address: providing consumers access to emergency communications during power outages.

State Actions

The United States Judicial Panel on Multidistrict Litigation issued a Transfer Order on April 2, 2015, from the March 26, 2015 Hearing Session, transferring eight additional cases to the Northern District of Texas – Dallas Division to the consolidated case in which Sprint alleges defendant LECs improperly billed Sprint for switched access charges for intraMTA wireless calls. To date, 78 of the 79 cases have been transferred to the Texas District Court.

USF

- The FCC released a Public Notice on April 8, 2015, announcing that Petitions for Reconsideration were filed on the E-rate Second Report and Order by WTA, NTCA and NECA, T-Mobile, Cox, and AdTec. Oppositions to these petitions must be filed within 15 days after public notice of the petitions in the Federal Register; replies are due 10 days after the time for filing oppositions has expired.

- The Wireline Competition Bureau and Office of Strategic Planning & Policy Analysis released a Public Notice on April 8, 2015, announcing that a public workshop will be held on May 20, 2015, to provide schools, libraries, providers, and state and local policymakers with information and tools for planning fiber build projects under the new E-rate rules. The workshop will focus on the issues applicants need to consider in order to choose the most cost-effective option for deploying fiber.

- Odin Mobile met with Commissioner Rosenworcel’s Legal Advisor on April 3, 2015, to discuss its desire to provide Lifeline service to blind and visually impaired individuals. Odin Mobile presented documents from the Blinded Veterans Association and the American Council of the Blind showing their support for Odin Mobile, as well as a Consumer Advisory Committee report calling for a Commission plan to address the lack of Lifeline accessibility for the blind.

- Excess Telecom filed a Compliance Plan on April 6, 2015, outlining the measures it will take to implement the conditions of forbearance outlined in the 2012 Lifeline Modernization Order. Excess said implementation of its Compliance Plan will ensure further access to 911 services and safeguard against Lifeline program misuse.

Misc.

- The FCC issued the agenda for its April 17, 2015 Open Meeting. The FCC will consider a Report and Order and FNPRM that would leverage spectrum sharing technologies to make 150 megahertz of contiguous spectrum available in the 3550-3700 MHz band for wireless broadband and other uses. The FCC will also consider a Public Notice requesting additional comment on how to ensure that small
businesses, rural telephone companies, and businesses owned by members of minority groups and women have an opportunity to participate in the provision of spectrum-based services, while ensuring that there are adequate safeguards to protect against unjust enrichment to ineligible entities.

- NECA spoke with Wireline Competition Bureau staff on April 7-8, 2015, to discuss the status of the Sandwich Isles Declaratory Ruling proceeding. NECA said a prompt resolution of the matter was necessary in order to address the continued inclusion of Sandwich Isles unpaid lease obligations as expenses in NECA’s revenue requirement.

- No replies were filed on NECA’s revised cost accounting and procedures manual, which reflect changes that occurred during the 2014 calendar year. Public Notice

- No comments were filed on the Special Access FNPRM. Replies due May 18. Public Notice

- Sprint met with Chairman Wheeler’s Legal Advisor on April 2, 2015, to discuss the status of the Commission’s preparations to release the special access data collection. Sprint also encouraged the FCC to consider a range of options as it considers how to repair what Sprint refers to as the broken special access market once it has analyzed this data.

- Neustar filed a Petition for Review in the D.C. Circuit Court on April 6, 2015, of the FCC Order conditionally approving Telcordia as the next LNP Administrator. Neustar claimed it was denied the opportunity to negotiate an extended renewal of its contracts with the NAPM and is required to begin to participate in a transition of LNPA responsibilities to Neustar’s competitor. Neustar asserted the Order violated the notice-and-comment rulemaking requirements of the APA and section 251(e)(1) and the Commission’s implementing rules by designating an entity to serve as LNPA that is not impartial or neutral.

- The Enforcement Bureau issued two Orders on April 6, 2015, fining CenturyLink $16 million and Intrado Communications $1.4 million following the Commission’s investigation of the April 2014 multi-state 911 “sunny day” outage. The FCC concluded the outage was preventable if the providers had implemented basic safeguards and timely notifications to the affected emergency call centers. The companies also agreed to adopt compliance plans that require them to implement appropriate risk management processes in the continued rollout of Next-Generation 911 services and to exercise the same oversight over their subcontractors and affiliates. News release

- The FCC issued a News Release on April 8, 2015, announcing it has entered into a Consent Decree to resolve its investigation into whether AT&T failed to properly protect the confidentiality of almost 280,000 customers’ proprietary information, including sensitive personal information such as customers’ names and at least the last four digits of their Social Security numbers, as well as account-related data, in connection with data breaches at AT&T call centers in Mexico, Columbia, and the Philippines. As a condition of settlement, AT&T will pay a $25 million civil penalty and must notify all customers whose accounts were improperly accessed, and pay for credit monitoring services for all consumers affected by the breaches in Colombia and the Philippines. The FCC said this is the FCC’s largest privacy and data security enforcement action to date.

- The Consumer and Governmental Affairs Bureau released an Order on April 7, 2015, suspending the conditional certification of InnoCaption to provide IP Captioned Telephone Service. The Bureau said InnoCaption failed to operate its IP CTS in compliance with the Commission’s TRS emergency calling requirements. The Bureau said in order to lift the suspension and avoid revocation of its conditional certification, InnoCaption must implement compliant 911 calling arrangements, demonstrate that it is in compliance with the TRS emergency calling, and be in full compliance with all other aspects of the Order within six months.

- The FCC issued a News Release on April 7, 2015, announcing that Commissioner Clyburn has appointed Chanelle Hardy as her Chief of Staff and Media Legal Advisor effective May 1, 2015. Ms. Hardy recently served as Senior Vice President for Policy at the National Urban League and Executive Director of the National Urban League Washington Bureau.
Upcoming Filing Dates

- Apr. 13 - Replies due on letter of credit issues contained in NTCA’s Petition, the Alliance of Rural Broadband Applicants’ Petition, and the CFC’s Petition that may be relevant to possible LOC requirements for the CAF Phase II competitive bidding process. FR, PN, PN

- Apr. 17 - Comments due on FairPoint’s Petition for Waiver of section 51.917(b)(7), seeking to include in its Base Period Recovery calculations $124,531.06 in revenues associated with intrastate access traffic terminated to Halo during Fiscal Year 2011. Replies due April 27. Public Notice

- Apr. 21 - Replies due on the proposing rules to address failures leading to recent multi-state 911 outages, and proposing additional mechanisms designed to ensure that the 911 governance structure keeps pace with evolving technologies and new reliability challenges. Order FR

- Apr. 24 - Comments due on the Commpliance Group’s Petition for Declaratory Ruling that the Systems Integrator Exemption from the USF contribution obligation applies to the resale or provision of interconnected VoIP when resold or provisioned by a systems integrator. Replies due May 11. Public Notice

- Apr. 24 - Comments due on Westelcom’s Petition for a limited and expedited waiver of the definition of “rural CLEC” in section 61.26(a)(6). Replies due May 11. Public Notice

- Apr. 27 - Replies due on FairPoint’s Petition for Waiver of section 51.917(b)(7), seeking to include in its Base Period Recovery calculations $124,531.06 in revenues associated with intrastate access traffic terminated to Halo during Fiscal Year 2011. Public Notice

- Apr. 29 - Comments due on Consolidated’s Petition for Waiver of section 61.41(c), which requires the conversion of rate-of-return carriers to price cap regulation within one year of being acquired by a price cap carrier. Replies due May 14. Public Notice

- May 11 - Replies due on the Commpliance Group’s Petition for Declaratory Ruling that the Systems Integrator Exemption from the USF contribution obligation applies to the resale or provision of interconnected VoIP when resold or provisioned by a systems integrator. Public Notice

- May 11 - Replies due on Westelcom’s Petition for a limited and expedited waiver of the definition of “rural CLEC” in section 61.26(a)(6). Public Notice

- May 13 - Petitions for reconsideration due on the Open Internet Order.

- May 14 - Replies due on Consolidated’s Petition for Waiver of section 61.41(c), which requires the conversion of RoR carriers to price cap regulation within one year of being acquired by a price cap carrier. Public Notice

- May 18 - Replies due on the Special Access FNPRM. Public Notice

- June 12 - Petitions for Review due on the Open Internet Order.

- June 23 - Petitions due seeking to suspend or reject tariff filings made on 15 days’ notice. Replies due June 26.

- July 1 - Comments due on Section IV.B of the Special Access FNPRM. Replies due July 22. Public Notice

Back to Highlights

Editor: Teresa Evert  |  Assistant Editor: Shawn O'Brien