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April 17, 2017 HIGHLIGHTS

- The Commission [will consider](#) a number of items at its April 20, 2017 Open Meeting, including: 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; an [NPRM, NOI, and Request for Comment](#) on removing regulatory barriers to infrastructure investment, the transition from copper networks and legacy services to next-generation networks, and reforming FCC regulations; an [NPRM and NOI](#) on the regulatory impediments to wireless network infrastructure investment and deployment; and a [Report and Order](#) recognizing the strong competition present in the BDS market and modernizing the FCC's regulatory structure.
- Fifty-six Senators sent a [letter](#) to Chairman Pai and Commissioners O'Rielly and Clyburn to encourage the FCC to consider changes to the high-cost USF mechanisms to make affordable broadband available to Americans in high-cost rural areas. NTCA issued a [statement](#) on the letter.
- The Wireline Competition Bureau [announced](#) the reasonable comparability voice and broadband benchmarks, and confirmed minimum usage allowance requirements, for Alaska Plan rate-of-return carriers and ACS. The reasonable comparability voice benchmark for these carriers for 2017 is \$49.51. The reasonable comparability benchmarks for broadband range from \$88.34 for 4/1 Mbps speeds (160 GB capacity allowance) to \$120.95 for 50/5 Mbps speeds (160 GB capacity allowance).
- The Wireless Telecommunications Bureau [extended](#) the comment dates, until April 26, 2017, on the FNPRM on the challenge process for areas that will be eligible for Mobility Fund Phase II support. Replies are due May 11, 2017. The Bureau also extended the deadline for interested service providers to file justifications for confidential treatment of their previously filed Form 477 minimum advertised or expected speeds for 4G LTE mobile service, until April 26, 2017.
- The FCC [corrected](#) the due date for filing PRA comments on a [revised information collection](#) associated with FCC Form 481. PRA comments are now due May 1, 2017.
- CenturyLink filed a [Petition for Limited Stay](#) of the six and seven-year ICC transition in the 2011 Transformation Order as it impacts tandem switching and transport charges.
- USAC [summarized](#) the results of its review of Allband's revised cost accounting for the first and second quarters of 2016 related to Allband's request for high cost support in excess of the \$250 per line, per month support cap.
- The Rural Wireless Association filed a [Petition](#) seeking reconsideration of certain aspects of the Mobility Fund Phase II [Order](#).
- Commissioner Clyburn released a [statement](#) on transparency in the Business Data Services proceeding, and suggested the Commission immediately release the list of counties that will be deemed competitive under the competitive market test in the draft BDS [Order](#).

Other Key Upcoming Dates

- Apr. 17 - Comments due on the [FNPRM](#) on a further 18-month extension of the separations freeze. Replies are due April 24. [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](#)

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USF Reform

- Fifty-six Senators sent a [letter](#) to Chairman Pai and Commissioners O'Rielly and Clyburn on April 11, 2017, to encourage the FCC to consider changes to the high-cost USF mechanisms to make affordable broadband available to Americans in high-cost rural areas. They claimed despite reforms last year, millions of rural consumers are still not seeing widespread affordable standalone broadband services due to insufficient USF support, and the limited USF budget also reduced the amount of funding available to carriers electing new model-based USF support, resulting in tens of thousands of rural consumers receiving slower broadband speeds than intended by the model or not gaining access to broadband at all. NTCA issued a [statement](#) on the letter.
- The FCC issued a [Public Notice](#) on April 11, 2017, announcing the Wireline Competition Bureau released the reasonable comparability voice and broadband benchmarks, and confirmed minimum usage allowance requirements, for Alaska Plan rate-of-return carriers and Alaska Communications Systems. The Bureau said as all Alaska Plan carriers certified compliance with the voice benchmark in 2016, there is no reason for a different reasonable comparability benchmark for voice for Alaska. Thus, the reasonable comparability voice benchmark for these carriers for 2017 is \$49.51. The reasonable comparability benchmarks for broadband range from \$88.34 for 4/1 Mbps speeds (160 GB capacity allowance) to \$120.95 for 50/5 Mbps speeds (160 GB capacity allowance). The Bureau indicated only locations being served by fiber middle-mile or hybrid fiber/microwave middle-mile are subject to the reasonable comparability benchmark. For locations Alaska Plan carriers are serving with satellite and microwave middle-mile facilities, carriers are not required to meet the broadband reasonable comparability benchmark.
- The Wireless Telecommunications Bureau adopted an [Order](#) on April 11, 2017, extending the comment and reply dates for 14 days on the FNPRM on the challenge process for areas that will be eligible for Mobility Fund Phase II support in response to CTIA's extension request. The Bureau also extended by 14 days the deadline for interested service providers to file justifications for confidential treatment of their previously filed Form 477 minimum advertised or expected speeds for 4G LTE mobile service, until April 26, 2017. Comments are now due April 26, 2017; reply comments are due May 11, 2017.
- The FCC published a [notice](#) in the Federal Register on April 17, 2017, to correct the due date for filing PRA comments on a [revised information collection](#) associated with 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 proposed 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 now due May 1, 2017.
- Chairman Pai sent [letters](#) to Reps. Mike Doyle (D-Pa.) and Ryan Costello (R-Pa.) on April 3, 2017, in response to their letter, which urged the Commission to adopt rules for the CAF Phase II auction that would ensure an equitable allocation of funding for states such as Pennsylvania. Pai said the CAF Phase II Auction Order incorporates rules to induce new entrants to participate, like wireless ISPs, small-town cable operators, and electric utilities. He said it would be unfair to rural Pennsylvanians to tie their opportunity for high-speed Internet access to the decision of a single company. Pai sent a similar [letter](#) to Senator Robert Casey (D-Pa.) on April 3, 2017, in response to the Senator's letter on the same topic.
- Laurel Highland Telephone and Citizens Telephone, representing the Small Company Coalition, [met with](#) Chairman Pai and Wireline Competition Bureau staff on April 11, 2017, to discuss the need to increase the USF cap, reduce the regulatory burden, implement a more expedited waiver process, and other issues important to small rural RoR carriers.
- USAC filed a [Memorandum](#) dated February 24, 2017, and revised on March 6 and April 14, 2017, summarizing the results of USAC's review of Allband's revised cost accounting for the first and second quarters of 2016 related to Allband's request for high cost support in excess of the \$250 per line, per

month support cap. The Memo addresses allocation of employee time, corporate operations expense allocation, affiliate transactions, and inclusion of improper expenditures, and contains Allband's and USAC's responses. USAC said based on its test work, Allband appears to have adjusted its cost accounting practices to substantially comply with the FCC's rules for cost allocation between regulated and nonregulated activities.

- The Rural Wireless Association filed a [Petition for Reconsideration and/or Clarification](#) on April 12, 2017, asking the Commission to reconsider: its [decision](#) to utilize a 5 Mbps download threshold to determine an area's eligibility for Mobility Fund II support and instead use a 10 Mbps threshold; its decision to eliminate from MFII support eligibility those areas where VoLTE service is not available and where only one of the two types of 3G networks is available for voice fallback service via an unsubsidized carrier; and its decision to make substantive changes to the tower collocation requirement for MFII support recipients.
- Empire State Development [met with](#) Chairman Pai's Legal Advisor on April 7, 2017, to discuss the New York CAF Phase II Auction Order. It reviewed New York State's auction structure, the auction guidelines the State recently issued, and implementation measures the State intended to undertake to comply with the conditions in the Order. It also raised a number of questions regarding the conditions in the Order and how the State could comply with them.
- Hughes Network Systems [met with](#) Commissioner Clyburn's Legal Advisor on April 11, 2017, to discuss what it claimed is the way in which the bid weighting scheme adopted in the CAF Phase II Bid Weighting Order will effectively preclude satellite providers from participating in the auction.

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ICC

- CenturyLink filed a [Petition for Limited Stay](#) on April 12, 2017, of the six and seven-year ICC transition in the 2011 Transformation Order as it impacts tandem switching and transport charges. CenturyLink said the Commission's rules now anticipate that in Year 6 (2017) terminating end office rates are to be moved permanently to zero, and a subset of tandem switching and transport rates are expected to move to \$0.0007 in Year 6 and then to zero in Year 7 (2018). It claimed significant debate has arisen within the industry about what subset of tandem switching and transport rates are subject to the years six and seven transition to bill and keep, and there is disagreement regarding how the Bureau's guidance for price cap ILECs and RoR ILECs carry-over by virtue of the CLEC benchmark rule to the variety of potential call flows where a CLEC might own the tandem. CenturyLink argued if this stage of the ICC transition is not suspended, there will likely be a great deal of confusion as carriers take a variety of different approaches to the section 51.907(g) requirements in the year six annual tariff filing process that begins June 16, 2017, and there will be irreversible competitive harm in years six/seven and beyond, and arbitrage schemes that have already been launched in anticipation of this transition will only expand.

Broadband

- Verizon [met with](#) Commissioner Clyburn's Legal Advisor on April 10, 2017, to discuss the [NPRM](#) on wireline infrastructure, which will be considered at the April 20, 2017 Open Meeting. Verizon discussed whether the FCC should seek comment on how to handle new Orders during the time a copper retirement notice is pending, and whether the FCC should consider modifying the copper retirement notice and timeline requirements in situations of unexpected mandatory facilities relocations, such as municipal public works projects or copper cable cuts. Verizon also discussed whether the FCC should seek comment on how it interprets the definition of poles for purposes of section 224, and whether the NPRM would look at rates on existing pole attachments as well as new ones.

- NCTA and Charter Communications [met with](#) Legal Advisors to Chairman Pai and Commissioner Clyburn on April 11, 2017, to discuss the impact of right-of-way fees imposed by local governments on cable operators for the provision of broadband services, claiming such fees raise the cost of broadband service and are at odds with Commission policy established in the Open Internet Order. They encouraged the Commission to seek comment on the lawfulness of such fees in the [NPRM](#) that will be considered at the April 20, 2017 Open Meeting. They also encouraged the Commission to ensure the NPRM does not inadvertently create confusion regarding the application of the Commission's pole attachment rate regulations. Charter also [spoke with](#) Chairman Pai's Legal Advisor on April 10, 2017, to discuss similar issues.
- CTIA [met with](#) Chairman Pai's staff on April 11, 2017, to urge the Commission to modernize local review of wireless infrastructure applications, clarify that certain actions prohibit or have the effect of prohibiting wireless service, and ensure that compensation for use of public rights-of-way is based on the actual, direct costs for managing these public spaces. CTIA encouraged the Commission to update its shot clocks and broaden the deemed-granted remedy to account for the smaller size of next-generation infrastructure deployments. CTIA also noted there is a similar opportunity for the Commission to update and clarify the scope of and procedures for tribal review of siting applications on non-tribal lands to ensure timely deployment of 5G networks
- The City of New York filed [a letter](#) on April 12, 2017, to urge the Commission to either rewrite or omit the language and discussion of section 253(a) in any ultimately issued Notices on Wireline and Wireless infrastructure deployment. It asserted there is no coherent reading of section 253(a) in which the word "may" is read to mean "might," and courts throughout the country since *Level 3* and *Sprint Telephony* have unanimously recognized that point. The City urged the Commission to, in any final version of the draft Notices, avoid confusion and wasted effort by deleting the inaccurate and deceptive paraphrasing of section 253(a) in the draft Wireline Notice and the inaccurate description of the state of judicial analysis in the draft Wireless Notice.
- Google Fiber [spoke with](#) Chairman Pai's Legal Advisor and Wireline Competition Bureau staff on April 10, 2017, to discuss the draft [NPRM, NOI, and Request for Comment](#) on accelerating wireline broadband deployment by removing regulatory barriers to infrastructure investment, which will be considered at the April 20, 2017 Open Meeting. Google Fiber asserted the public draft inaccurately characterizes the current rules governing the timing of make-ready work, and proposed minor edits to the public draft. It also responded to questions from Bureau staff related to sequential performance of make-ready work and to make-ready charges. Google Fiber also [spoke with](#) Legal Advisors to Chairman Pai, Commissioners Clyburn and O'Rielly on April 13, 2107, to discuss similar issues.
- ACA [met with](#) Legal Advisors to Chairman Pai and Commissioner Clyburn and Wireline Competition Bureau staff on April 11 and 13, 2017, to discuss the draft [NPRM, NOI, and Request for Comment](#) on accelerating wireline broadband deployment by removing regulatory barriers to infrastructure investment. ACA requested the Commission seek comment on: requiring pole owners to collect and make available data about their poles, ducts, and conduits; whether the FCC should require all pole owners to provide applicants with access to an online application system via a web portal; whether to require pole owners to establish an online notification system for make-ready work; and alternatives to incorporate the use of joint field surveys as mandatory or optional for the applicant in the pole attachment process, among other things.
- CTIA [spoke with](#) Commissioner O'Rielly's Legal Advisor on April 13, 2017, to urge the Commission to modernize local review of wireless infrastructure applications, clarify that certain actions prohibit or have the effect of prohibiting wireless service, and ensure that compensation for use of public rights-of-way is based on the actual, direct costs for managing these public spaces. CTIA also asked the Commission to update its shot clocks, broaden the deemed granted remedy, declare that those policies apply to requests to site facilities on municipal poles and in municipal rights-of-way, and update and clarify the scope of and procedures for tribal review of siting applications on non-tribal lands to ensure timely deployment of 5G networks.
- The Information Technology and Innovation Foundation issued a [report](#) on April 10, 2017, suggesting new broadband infrastructure support should rely on proven mechanisms, such as reverse auctions.

ITIF said subsidies should be directed to the CAF or a similar auction-based distribution mechanism, rather than the Department of Agriculture's Rural Utilities Service program. ITIF claimed one problem with the RUS is that a sizable portion of its grants do not end up supporting unserved rural areas, and "often get funneled into cherry-picking arbitrageurs that overbuild lower-cost areas that are already served..." ITIF suggested Congress should support a major infrastructure package by designating a portion of the funds for broadband deployment to rural and less densely populated areas. [Press release](#).

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Open Internet

- Chairman Pai sent a [letter](#) to Rep. Dave Loebsack (D-Iowa) on April 3, 2017, in response to his letter on improving rural broadband access throughout the nation and the small ISP exemption of the enhanced Open Internet reporting. Pai noted he modeled the [Small Business Reporting Exemption Order](#) on Loebsack's Small Business Broadband Deployment Act of 2017, and said the Order avoids having the nation's smallest and most competitive ISPs be subject to onerous, ill-defined reporting obligations, and will help these ISPs better serve their communities.
- The Internet Association [met with](#) Chairman Pai and his Legal Advisors on April 11, 2017, to express support for the Open Internet Order, saying its preliminary economic research suggests the Order did not have a negative impact on broadband internet access service investment. It agreed with the Commission that edge providers were not subject to the proposed broadband privacy rules since edge companies were, and remain, subject to FTC jurisdiction with respect to privacy and data security. It also supported the original Congressional intent behind the TCPA, i.e., stopping unwanted and unwarranted calls into consumers' homes.

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USF

- TracFone Wireless filed a [letter](#) on April 7, 2017, in response to the Telrite's [letter](#) regarding TracFone's [request](#) for clarification of the Lifeline minimum service standards established in the 2016 Lifeline Modernization Order. TracFone said at issue is whether certain Lifeline services provided by Telrite (and possibly other Lifeline providers) comply with the FCC's minimum service standards for mobile broadband Lifeline service, and whether such services qualify for the 12-month port freezes under the Commission's rules. TracFone said it can no longer take the risk that its customers might be persuaded to switch providers while its competitors continue to lock up their Lifeline customers for 12 months, and will shortly invoke the 12-month port freeze rule on all of its Lifeline customers to whom it has provided 3G feature phone devices and 500 MB of mobile broadband data.
- Blanca Telephone filed a [Third Motion](#) for leave to supplement its June 16, 2016 Emergency Application for Review, or its June 24, 2016 Petition for Reconsideration, on April 10, 2017, related to a USF forfeiture investigation. Blanca asserted "because the Sandwich Isles forfeiture cases were previously referenced in this proceeding"; "because those cases now impose monetary penalties without regard to the statute of limitations"; and "because the Sandwich Isles cases are 'the Commission's first enforcement action in the high-cost program'," consideration of the Sandwich Isles matter in this case would serve the public interest. Blanca claimed the Sandwich Isles cases have significant factual differences from Blanca's situation, which render them readily distinguishable from the instant matter.

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Misc.

- The Commission issued [the agenda](#) for its April 20, 2017 Open Meeting. It 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; 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; a [Report and Order](#) recognizing the strong competition present in the business data services market and modernizing the FCC's regulatory structure; 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. It will also consider two consent agenda items.
- Commissioner Clyburn released a [statement](#) on April 10, 2017, on transparency in the Business Data Services proceeding. She said an integral piece of the proposed [Order](#) is a test to determine which counties will be deemed competitive, and thus deregulated, and suggested the Commission should release this list immediately. If for some reason the list cannot be released, she said the Commission should delay the vote on the proposed Order until the public can see it "well in advance" of a FCC vote.
- Brendan Carr, FCC General Counsel, sent a [letter](#) to INCOMPAS on April 7, 2017, to respond to its letter requesting the Commission release publicly the list of counties that would be deemed competitive under the test in the draft BDS [Order](#). Carr said the list contains or would reveal information designated as highly confidential and is subject to a protective order, and claimed INCOMPAS has made no showing why it and its member companies cannot evaluate the impact of the proposed Order by relying on the standard itself as well as the relevant and available data.
- INCOMPAS sent a [letter](#) to Chairman Pai on April 10, 2017, to respond to the [letter](#) from Brendan Carr, FCC General Counsel, which explained the Commission's reasoning for not releasing the list of counties that would be deemed competitive under the draft BDS [Order](#). INCOMPAS said there is no exigency that compels action on the Order on April 20, 2017, and suggested the Commission undertake the processes that it would otherwise implement after the vote to be able to publish its list of affected counties and then provide a brief period for all affected entities to assess the impact of the Commission's proposed actions. INCOMPAS also said the alternatives suggested in the letter to review the highly confidential information are not adequate to allow proper vetting of the draft proposal.
- Public Knowledge, Consumer Federation of America, National Digital Inclusion Alliance, Common Cause, Next Century Cities, New America's Open Technology Institute, Institute for Local Self-Reliance, and Engine filed a [letter](#) on April 13, 2017, to ask the Commission to seek additional comments to refresh the record in the business data services proceeding. They asked the Commission to refresh the record on competition in the BDS market prior to adopting rules deregulating the BDS market, fully identify on a market-by-market basis the areas in which sufficient competition is alleged to exist at sufficient levels to permit deregulation, and allow the public to have an opportunity to analyze and account for the effects of the Commission's proposal.
- Sprint and Windstream filed a [letter](#) on April 13, 2017, to assert that if adopted on the current record, the draft BDS [Order](#) would fail American small businesses and would violate the statutory requirements of the Administrative Procedure Act. They claimed, instead of seeking input on an evidence-based new framework that would reflect a reasoned change in policy, the draft BDS Order tells the public that the Commission is not obligated to propose new rules or findings of its own before moving to a final order. Sprint and Windstream urged the Commission to issue the draft Order as a FNPRM that explains the Commission's reasoning.

- USTelecom [met with](#) Chairman Pai and his Legal Advisor on April 10, 2017, to discuss the draft BDS [Order](#). It said if put into place, the Order will drive additional investment in building more fiber connections to more businesses, increasing competition, and expanding and strengthening the fiber networks. USTelecom urged the Commission to adopt the non-dominance approach proposed by CenturyLink and Frontier. USTelecom also suggested several areas where the Commission's competitive market test may be too conservative and not reflect the amount and strength of competition in today's market.
- USTelecom [met with](#) Commissioner Clyburn and her Legal Advisor on April 11, 2017, to express support for the Commission's efforts to advance the BDS proceeding by adopting reasonable measures to identify where BDS is not competitive and to ensure that pricing protections remain in such areas. USTelecom also said because additional pricing flexibility relief has been "frozen" for over 5 years and existing contracts will not be interrupted, competitors likely will not be harmed by the lack of a formal, lengthy transition period.
- INCOMPAS [spoke with](#) Commissioner O'Rielly's Legal Advisor on April 7, 2017, to discuss the draft BDS [Report and Order](#), claiming the record does not support the conclusions reached in the draft Order, particularly for what it claimed are the deficiencies in the competitive market test for DS1 and DS3 services and the blanket finding of competition for transport and Ethernet services. INCOMPAS discussed the protections established by the Technology Transitions Order and the need for the Commission to release the list of counties that will be deemed competitive in time for parties to comment on the impact the changed policies will have in those communities prior to the vote.
- INCOMPAS and the Cormac Group [met with](#) Commissioner O'Rielly on April 10, 2017, to discuss the draft BDS [Order](#) and to assert that American businesses, anchor institutions, and governmental agencies will likely experience significant price increases. They also discussed deficiencies in the competitive market test for DS1 and DS3 services, and claimed it is extraordinary for an agency to find a market competitive based on a duopoly, let alone the mere potential for a duopoly, as is the case here.
- INCOMPAS [met with](#) Chairman Pai and his Legal Advisor on April 11, 2017, to assert the Commission's proposed BDS competitive market test sets a dangerous precedent for the industry. INCOMPAS also said American businesses, anchor institutions, and governmental agencies will likely experience significant price increases, with main street businesses and rural markets likely being hurt the most by the [Order](#). INCOMPAS also said if the Commission chooses to modify its regulatory structure as proposed, it should provide a minimum of three years for the industry and consumers to transition to these policy changes, including maintaining protections established in the Technology Transitions Order. INCOMPAS also [met with](#) Commissioner Clyburn and her Legal Advisor to discuss the impact of the draft Order on small businesses.
- AT&T and Compass Lexecon [spoke with](#) Wireline Competition Bureau staff on April 5, 2017, to discuss the mechanics of the Competitive Market Test in the draft Business Data Services [Order](#). AT&T also [spoke with](#) Chairman O'Rielly's Legal Advisor and Wireline Competition Bureau staff on April 6, 2017, to discuss the X-factor sections of the draft BDS [Order](#), and provided suggested revised text to clarify two passages in the draft Order.
- AT&T [met separately with](#) Legal Advisors to Chairman Pai and Commissioners O'Rielly and Clyburn on April 10, 2017, to express support for the regulatory regime outlined in the draft BDS [Order](#). AT&T said it does not believe any transition period would be necessary, and discussed the need to consider competition from cable companies' entire HFC networks in the proposed Competitive Market Test. It also expressed support for the determination that grandfathered Phase II counties will retain their competitive status.
- AT&T filed a [letter](#) on April 13, 2017, to address issues in the draft BDS [Order](#) and respond to recent letters filed by [Windstream](#) and [Sprint](#). AT&T said contrary to Windstream and Sprint's claims, the decision to extend Phase II relief to transport nationwide is well-supported. AT&T expressed support for the draft Order's conclusion that cable companies' Ethernet services offered over their HFC facilities should be included as competition in the Competitive Market Test and the decision to

grandfather all counties that have Phase II relief today. AT&T also responded to Windstream's proposal to freeze any tariffed rates for the duration of the contract irrespective of whether the contract contained any state stability provisions.

- AT&T, on behalf of the Price Cap Industry Forum, [e-mailed](#) Pamela Arluk of the Wireline Competition Bureau on April 12, 2017, a list of technical questions and requests for clarification regarding the application of the price cap reforms proposed in the draft BDS [Order](#). AT&T also spoke with Dick Kwiatkowski of the Wireline Competition Bureau to discuss the questions.
- Verizon [met with](#) Wireline Competition Bureau staff on April 6, 2017, to suggest revisions to the draft BDS [Order](#) to harmonize several paragraphs with the draft Order's intent to apply the new regulatory framework to all legacy special access services within the special access price cap basket. Verizon also discussed proposed detariffing actions and clarifying the implementation timeline if the Commission adopts an Order based on the draft.
- Windstream [met with](#) Commissioner O'Rielly and his Legal Advisor, and Commissioner Clyburn's Legal Adviser on April 7 and 10, 2017, to assert it is important for the Commission to take the time and provide the information for interested parties to assess the impact of the proposed BDS [Order](#). Windstream said although the Commission said it will release a list of competitive counties, no such list accompanies the draft Order or is in the record to date, and, therefore, it and other commenters cannot fully evaluate and adequately comment on the impact of the draft Order on consumers who use low-bandwidth. Windstream also said if the Commission proceeds with the direction proposed in the draft Order, it should provide for adequate transition time, and suggested a three-year transition.
- Windstream [met with](#) Chairman Pai and his Legal Advisor and Wireline Competition Bureau staff on April 11 and 12, 2017, to urge the FCC to allow at least a three-year transition to allow special access purchasers to prepare for and adapt their operations to the substantial regulatory changes proposed in the draft BDS Order.
- Sprint [met with](#) Legal Advisors to Chairman Pai and Commissioners Clyburn and O'Rielly on April 6 and 7, 2017, to claim the BDS record demonstrates there is inadequate competition for BDS, and claimed the draft [Order's](#) reliance on the expectation that ubiquitous competition will develop is unwarranted. Sprint asserted the Order's decision to deregulate transport services, and its competitive market test, are unsupported by the record and arbitrary. Sprint also emphasized the importance of adopting a suitable transition period to avoid the rate shock that would result from flash-cut deregulation.
- CenturyLink filed a [letter](#) on April 12, 2017, to point out what it claims may be a typographical error in the draft BDS Report and Order with respect to competitive transport business data services. CenturyLink also provided additional information about the extensive presence of such competitive offerings nationwide.
- CenturyLink filed a [letter](#) on April 12, 2017, to address the ability of cable-based providers of business data services to extend facilities from Ethernet-capable headends to provide Ethernet BDS to new customers when demand arises. CenturyLink said the record demonstrates cable providers' ability to extend facilities from Ethernet-capable headends, and said more recent representations made by cable providers also demonstrate their ability to economically construct fiber facilities to serve new demand.
- NASUCA sent a [letter](#) to Chairman Pai and Commissioners O'Rielly and Clyburn on April 7, 2017, to express support for an [ex parte](#) filed by the Consumer Federation of America and Public Knowledge that asked the Commission to reject proposals from the dominant incumbent providers of BDS that CFA/PK claimed would deregulate a market in which the incumbents have massive market power. NASUCA also said the Commission must reject the cable companies' arguments that there should be no regulation of BDS service offered on a private-carriage basis.
- Alaska Communications filed a [letter](#) on April 13, 2017, to express support for proposals to deregulate interstate special access or business data services, including the deregulatory direction of the draft

BDS [Order](#). It claimed the competitive market test will fail in Alaska unless accurate Alaska-specific data are used. It also said it is unclear how the Commission intends to apply the CMT at the borough level, and price cap carriers should be deregulated throughout the state.

- LARIAT [spoke with](#) Commissioner O’Rielly’s Legal Advisor on April 7, 2017, to discuss the draft [BDS Report and Order](#). Lariat claimed referring to special access services as business data services was potentially misleading, asserting the latter term suggests these services are mostly or entirely retail services when, in fact, they include both wholesale and retail. LARIAT asserted the draft Report and Order explicitly declines to address what Lariat says is the anticompetitive practices of pricing wholesale services above retail and of refusal to deal, and suggested the FCC revisit this section of the draft Order and consider establishing reasonable rules to prohibit refusal to deal and prevent anticompetitive practices at the wholesale level. LARIAT also [spoke with](#) Commissioner Clyburn’s Legal Advisor on April 10, 2017, to discuss the same issues.
- U.S. TelePacific [spoke with](#) Legal Advisors to Commissioner O’Rielly and Clyburn on April 5 and 6, 2017, to express concern that its small and medium-sized customers that currently have broadband service will lose service or experience rate shock if the draft BDS [Order](#) is adopted. It claimed the proposed Competitive Market Test does not accurately predict actual or potential competition in the markets TelePacific serves. TelePacific urged the Commission to minimize disruption to end users and service providers by adopting a transition period to move from the current pricing flexibility regime to the new BDS regime.
- U.S. TelePacific [spoke with](#) Wireline Competition Bureau staff on April 7, 2017, to discuss the draft BDS [Order](#). TelePacific said the statement in paragraph two stating “Competitive LECs such as... U.S. TelePacific... continue to invest and expand their competitive fiber networks with very successful results” is not accurate. It said although it connects a small percentage of its customers to its network using fixed wireless over the last mile, it has not invested in last mile fiber for many years and relies primarily on ILEC last mile (fiber, copper, and UNEs) to connect customer locations to its network.
- Granite Communications [spoke with](#) Commissioner O’Rielly’s Legal Advisor on April 6, 2017, to discuss maintaining a reasonable transition timeframe for the interim rule that ILECs seeking section 214 authority to discontinue a TDM-based commercial wholesale platform voice service that is currently used as a wholesale input by competitive carriers must provide competitive carriers with reasonably comparable access on reasonably comparable rates, terms, and conditions. Granite asked the Commission to set a concrete end date to the interim rule rather than tie the end date to actions in other proceedings. Granite filed a [letter](#) on April 12, 2017, on the same issue, suggesting the FCC maintain the rule for a multi-year period (e.g., until December 31, 2019) to give ILECs the near-term concrete end to the interim rule they desire while also providing competitive providers and their customers a reasonable time to adjust to the new environment.
- Granite Telecommunications [spoke with](#) Commissioner Clyburn’s Chief of Staff on April 13, 2017, regarding the draft BDS [Report and Order](#). Granite emphasized the importance of maintaining a reasonable transition timeframe for the interim rule that incumbent LECs seeking section 214 authority to discontinue a TDM-based wholesale platform voice service must provide competitive carriers with reasonably comparable access on reasonably comparable rates, terms, and conditions.
- Access Point, Birch Communications, Manhattan Telecommunications, New Horizon Communications, and Xchange Telecom filed a [letter](#) on April 13, 2017, to express support for Granite Telecommunications’ [proposal](#) to establish a reasonable multi-year transition period for the Commission’s proposal to sunset the reasonably comparable platform rule first adopted in the Technology Transitions Order.
- Access Point, Birch Communications, Metropolitan Telecommunications, New Horizon Communications, and Xchange Telecom [met with](#) Legal Advisors to Chairman Pai and Commissioners O’Rielly and Clyburn on April 6, 2017, to discuss the proposal in the draft BDS [Order](#) to sunset the “reasonably comparable” rule the Commission adopted in the Technology Transitions [Order](#). They said a reasonable transition period is essential to allow CLECs and ILECs to negotiate terms of access to

IP-based alternatives to the platform to avoid service disruption. They urged the Commission to adopt a two-year transition period before sunseting CLECs' reasonably comparable access to the platform.

- WISPA filed a [letter](#) on April 13, 2017, to express concern with the proposal in the draft BDS [Order](#) to eliminate tariffs and deregulate the provision of BDS services. WISPA asked the Commission to reverse the tentative decisions to refrain from adopting ex ante rules that would govern the offerings of wholesale BDS and limit relief solely to complaints filed pursuant to section 208. WISPA also recommended adoption of rules that require BDS providers with market power to price wholesale rates below the retail rates they offer and negotiate with any retail broadband provider that requests BDS services.
- The Computer & Communications Industry Association filed a [letter](#) on April 12, 2017, claiming the draft BDS [Report and Order](#) would not effectively promote competition, and would instead lead to price increases that would ultimately be borne by consumers. CCIA also asserted the Commission is overlooking key findings from its extensive data collection, which led to the FNPRM. CCIA recommended the Commission adopt a three-year delay in the implementation of BDS rate increases and revise its current construction of the Competitive Market Test to adequately consider the real offerings of providers.
- Starry filed a [letter](#) on April 12, 2017, suggesting the Commission continue to ensure that all IP-based BDS providers offer just, reasonable, and non-discriminatory terms and conditions. Starry asked the Commission to recognize the potential for significant anti-competitive behavior by BDS operators in downstream markets, and take the minimal regulatory steps to require that they offer just, reasonable, and non-discriminatory terms and conditions.
- NCTA filed a [letter](#) on April 13, 2017, to respond to Starry's [letter](#), which suggested the Commission continue to ensure that all IP-based BDS providers offer just, reasonable, and non-discriminatory terms and conditions. NCTA said the Commission should reject Starry's attempt to impose unwarranted obligations on competitive BDS providers as Starry's concerns are wholly speculative. NCTA also claimed there is no legal or policy basis for adopting Starry's recommendation to impose Title II-like rate regulation on private carriers.
- Cox Communications filed a [letter](#) on April 13, 2017, to address the scope of the grandfathering provisions for detariffing in the draft BDS [Order](#). Cox is concerned that the proposed grandfathering rule could be interpreted to exclude tariffed term plans that may not fall within the category of contract-based tariffs, and asked the Commission to clarify that all tariffed term plans be grandfathered.
- Inteliquent filed a [letter](#) on April 12, 2017, to assert the draft BDS Order's analysis of competition in the transport market focuses entirely on the market for interoffice facilities and does not address at all the market conditions applicable to multiplexing services, which are provided within an incumbent LEC's central office, and therefore are not subject to the same competitive pressures as interoffice transport. Inteliquent urged the Commission to exclude multiplexing from any finding of competitive conditions in the transport market, and instead to retain tariffing and price cap regulation for multiplexing.
- The U.S. Small Business Administration Office of Advocacy [spoke with](#) Wireline Competition Bureau staff on April 13, 2017, to express concern with the draft [BDS Order](#). It said it is imperative that small businesses keep the same level of service at the same or lower prices, and, as written, the competitive market test in the draft Order relies on product substitutions that could diminish the quality of service small businesses receive if an ILEC were to raise prices significantly. SBA asked the Commission to delay voting on the draft final Order so that stakeholders can have additional time to raise and resolve their concerns with the Commission, and to delay the effective date of any final Order that is adopted to allow for an adjustment period.
- BT [spoke with](#) Chairman Pai and Commissioner O'Rielly on April 12 and 13, 2017, to express concerns with what it claims is the lack of competition in the business data services market and the proposed actions in the Commission's draft BDS [Order](#). BT said if the FCC moves forward, it should put into place at least a three-year period before the Order would take effect to allow businesses and

all players in the market to plan and adapt prior to implementation. BT also met with Legal Advisors to [Chairman Pai](#) and [Commissioner Clyburn](#) to discuss the same issues.

- Uniti Fiber filed a [letter](#) on April 13, 2017, to express concern that language in the draft BDS [Order](#) could be misconstrued to suggest that BDS should be classified as private carriage. It suggested the FCC clarify that competitive fiber providers remain free to offer BDS as a telecommunications service on a common carrier basis if they choose to do so, regardless of the classification of other providers' BDS offerings.
- TechNet sent a [letter](#) to Chairman Pai on April 13, 2017, to express support for the draft BDS [Order](#), and said the Order's focus on modernizing BDS regulations to better reflect emerging technologies, existing marketplace competition, and changing business demands is the correct course of action. TechNet urged the Commission to keep its regulatory focus on incentivizing investment in the country's broadband infrastructure.
- The FCC published a [notice](#) in the Federal Register on April 13, 2017, seeking PRA comments on an extension of a currently approved collection for Part 32, Uniform System of Accounts. The FCC noted in 2004 it adopted the Joint Conference's recommendations to reinstate a list of Part 32 accounts, and it established a recordkeeping requirement that Class A ILECs maintain subsidiary record categories for unbundled network element revenues, resale revenues, reciprocal compensation revenues, and other interconnection revenues in the accounts in which these revenues are currently recorded. The FCC said the use of subsidiary record categories for interconnection revenue does not require massive changes to the ILECs' accounting systems and is a far less burdensome alternative than the creation of new accounts and/or subaccounts. Comments are due June 12, 2017.
- Terral Telephone [met with](#) Chairman Pai's Legal Advisor on April 11, 2017, to discuss its [Waiver Petition](#) on the frozen category relationships in Part 36 of the FCC's rules, filed on August 29, 2012, and its [ex parte letter](#) filed on March 8, 2013. Terral renewed its request for the Commission to act promptly to grant its long-pending waiver request.
- Sandwich Isles Communications filed an [Objection](#) on April 13, 2017, to the disclosure of any information filed by SIC with USAC or the Commission relating to the USAC audit of SIC that is the basis for the Commission's December 5, 2016 [Order](#) to any third-party until SIC's pending [Motion to Revise Protective Order](#) is adjudicated.
- The FCC issued a [News Release](#) on April 13, 2017, announcing the current Bureau Chief of the Consumer and Governmental Affairs Bureau, Alison Kutler, has decided to leave the agency and Chairman Pai intends to appoint Patrick Webre as her replacement. Mr. Webre has most recently worked at Jenner & Block in Washington, D.C., and has worked for the FCC in the past.

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Upcoming Filing Dates

- 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. 26 - Comments due on the Mobility Fund Phase II challenge process for determining eligibility of geographic areas for support. Reply comments due May 11, 2017. [Order](#), [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 1 - 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](#), [Notice](#)
- May 4 - Comments due on FairPoint's [Petition for Waiver](#) of section 54.312(c) to permit it to submit the locations and census blocks in which FairPoint deployed broadband, but for which FairPoint was not authorized, in order to meet the requirements for receipt of CAF Phase I Round 2 support. Replies are due May 19, 2017. [Public 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 8 - Comments due on iconectiv's [request](#) for the FCC to approve certain modifications to the LNP Administrator Code of Conduct and to the voting trust agreement. Replies due May 23. [Public Notice](#)
- May 11- Replies due on the Mobility Fund Phase II challenge process for determining eligibility of geographic areas for support. [Order](#), [FNPRM](#) | [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 19 - Replies due on FairPoint's [Petition for Waiver](#) of section 54.312(c) to permit it to submit the locations and census blocks in which FairPoint deployed broadband, but for which FairPoint was not

authorized, in order to meet the requirements for receipt of CAF Phase I Round 2 support. [Public Notice](#)

- May 23 - Replies due on iconectiv's [request](#) for the FCC to approve certain modifications to the LNP Administrator Code of Conduct and to the voting trust agreement. [Public 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](#)
- June 12 - PRA comments due on an extension of a currently approved collection for Part 32, Uniform System of Accounts. [notice](#)
- June 23 - Petitions due on 2017 annual access charge tariffs made on 15 days' notice; replies due June 27, 2017. [Order](#)

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