May 8, 2017 HIGHLIGHTS

- Chairman Pai gave a speech and issued a statement on FCC actions during his first 100-days as Chairman.

- House members requested the FCC ensure sufficient resources are made available to the USF High Cost Program in order to ensure support for broadband deployment in remote and unserved areas.

- NTCA and WTA asked the FCC to address certain high-cost USF issues including concerns with the rate floor; structure of the operating expense cap; elimination of the requirement for carriers to impute ARCs for the number of standalone broadband connections, among other things.

- Comments were filed on CenturyLink’s 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. Replies are due May 11, 2017. Public Notice

- Comments were filed on whether rules adopted in 2001 – 2004 should be continued without change, or should be amended or rescinded, consistent with section 610 of the Regulatory Flexibility Act.

- The D.C. Circuit Court issued an Order denying six petitions for rehearing of its Open Internet decision. Chairman Pai and Commissioner O’Rielly issued statements.

- Nine Senators introduced a bill entitled Restoring the Internet Freedom Act, which would nullify the 2015 Open Internet Order and prohibit the FCC from issuing a similar ruling in the future.

- USTelecom member companies sent a letter to Chairman Pai on the digital divide and net neutrality.

- The FCC announced oppositions to Petitions for Reconsideration of the Mobility Fund Phase II Order are due May 16, 2017, and replies are due May 26, 2017.

- Oppositions to petitions filed by Hughes Network Systems and the Pennsylvania PUC of the CAF Phase II Auction Order are due May 18, 2017; replies are due May 30, 2017.

- The rules in the Part 32 Report and Order are effective January 1, 2018, except for the amendments to sections 1.1409 and 32.1. The FCC issued an Erratum to the Report and Order.

- NECA filed 2017 Further Modification of Average Schedules, which contains a minor revision to the Common Line formula in the December 22, 2016 filing.

- USAC filed Federal Universal Service Support Mechanisms Fund Size Projections for the Third Quarter 2017. (Appendices available on USACs website).

Other Key Upcoming Dates

- May 11 - Replies due on the Mobility Fund Phase II challenge process for determining eligibility of geographic areas for support. Order, FNPRM | Notice
- May 24 - Comments due on refreshing the record on separations reform. Replies due June 8, 2017. Public Notice

Editor: Teresa Evert | Assistant Editor: Shawn O’Brien
May 8, 2017 • Page 2

USF Reform

- Rep. Kevin Cramer (R- N.D.) issued a press release on May 1, 2017, announcing he, along with 101 other House members, sent a letter to Chairman Pai and Commissioners O’Rielly and Clyburn, requesting that sufficient resources are made available to the USF High Cost Program in order to ensure support for broadband deployment in remote and unserved areas of rural America. House members asked the FCC to continue modernizing the USF program by cutting red-tape and making it easier for small businesses to utilize USF provisions such as the ability to administer broadband-only service to customers without also forcing them to also have a landline telephone. The letter is not yet available.

- NTCA and WTA met with Legal Advisors to Commissioners O’Rielly and Clyburn on April 27, 2017, to ask the FCC to address certain high-cost USF issues. They urged the FCC to address concerns with the rate floor, and the structure of the operating expense cap adopted in last year’s reforms. They also urged the FCC to eliminate the requirement for carriers to impute ARCs for the number of standalone broadband connections that a carrier can show it served as of September 30, 2011, and to resolve issues raised in their petitions for reconsideration on how competitive overlap will be validated. They also asked the FCC to dispel uncertainty and ambiguity with respect to which certain expenses are recoverable via USF and/or regulated rates and to provide reasonable guidance as to how such expenses may be recovered. NTCA and WTA also met with Chairman Pai’s Legal Advisor on May 2, 2017, to discuss the same issues.

- NTCA also spoke with Chairman Pai’s Senior Counsel, and Legal Advisors to Commissioners Clyburn and O’Rielly on May 2, 2017, to discuss the need for prompt action with respect to the rate floor policy and the potential for action on other USF reform measures.

- The FCC issued a Public Notice on May 1, 2017, announcing oppositions to Petitions for Reconsideration of the Mobility Fund Phase II Order will be due May 16, 2017, and replies will be due May 26, 2017. The FCC altered the timing to file oppositions, claiming many of the arguments in the petitions may be relevant to the FNPRM accompanying the Order that seeks comment on the challenge process to determine areas that are eligible for Mobility Fund Phase II support. The FCC noted the comment cycle for the FNPRM closes on May 11, 2017, and said an expedited schedule will give the Commission an opportunity to address any related issues at the same time it releases an order finalizing the challenge process.

- CTIA, AT&T, Verizon, et al. met with staff from the FCC’s Rural Broadband Task Force, Wireless Telecommunications Bureau, Wireline Competition Bureau, and Office of Strategic Planning & Policy Analysis on May 1, 2017, to discuss CTIA’s comments on the FNPRM on the challenge process for areas that will be eligible for Mobility Fund Phase II support. CTIA reviewed an approach to identify rural areas that should be eligible for MF-II support.

- The FCC published in the Federal Register on May 3, 2017, the Public Notice announcing Petitions for Reconsideration of the CAF Phase II Auction Order were filed by Hughes Network Systems and the Pennsylvania PUC and the Pennsylvania Department of Community and Economic Development. Opposotions to the petitions are due May 18, 2017; replies to oppositions are due May 30, 2017.

- The Wireline Competition Bureau issued a Public Notice on May 3, 2017, announcing it has posted answers to Frequently Asked Questions regarding the allocation of Connect America Phase II support in partnership with New York State’s New NY Broadband program. The Bureau said the FAQs will be updated as it receives additional inquiries.

- NCTA filed comments on May 4, 2017, 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. NCTA asserted rather than requiring broadband providers that did not receive CAF Phase I support to spend potentially significant amounts of time and resources to identify the status of their deployments in these areas from four years ago, the Commission should instead examine Form 477
data to ascertain whether these areas are eligible for the CAF Phase I support that FairPoint is seeking. Replies are due May 19, 2017. Public Notice

- ViaSat and Auctionomics met with Wireline Competition Bureau staff on April 28, 2017, to discuss suggestions for structuring the upcoming CAF II reverse auction.

- Liberty Cablevision of Puerto Rico met with Wireline Competition Bureau staff on April 27, 2017, to discuss the FCC’s decision to permit PRTC to elect to receive frozen CAF support for CAF Phase II in lieu of the offer of model-based support. Liberty asserted the Bureau has yet to develop any specific service obligations for PRTC even though it elected to receive frozen CAF support over two years ago. Liberty asserted CAF support in Puerto Rico should only be provided for census blocks where there is no provider of broadband service of at least 10/1 Mbps, and claimed it would be contrary to the public interest to discourage broadband investment by subsidizing a provider unnecessarily to serve an area that has or will have unsubsidized broadband service.

- PRTC filed comments on April 28, 2017, on its Petition for Declaratory Ruling on whether section 54.320(d)(2) applies to recipients of CAF Phase I Round 2 support. PRTC asserted the FCC should grant its request and clarify that upon notification that an ETC receiving CAF Phase I Round 2 funding has not met a final buildout milestone, the ETC will receive the same grace period for buildout available to CAF Phase II recipients. Replies are due May 15, 2017. Public Notice

ICC

- Comments were filed on May 3 and 4, 2017, on CenturyLink’s 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. Cincinnati Bell said the FCC should clarify how the Year 6/7 changes to tandem switching rates were intended to work and, if industry changes have led to different results than were expected, to change those rules. CBT said until such time, the FCC should grant CenturyLink’s request for a stay and any required changes to carriers’ tandem switching rates should be postponed. NCTA filed an Opposition, asserting CenturyLink has not made the case that a stay is warranted, and said rather than granting a stay of a transition process that has been scheduled since 2011, the FCC should focus on resolving the tandem transport issues that are still pending in this rulemaking. AT&T opposed CenturyLink’s petition, asserting CenturyLink’s characterization of its request for relief as a limited stay is inaccurate and inappropriate, and claimed the supposed ambiguity put forward by CenturyLink has already been addressed by the Commission. Sprint claimed CenturyLink’s petition is contrary to the public interest and is an untimely petition for reconsideration of an order adopted in 2011. West Telecom Services and Peerless Network said the FCC should grant CenturyLink’s petition and stay the effective dates of the rate reductions until it fully addresses questions about the interpretation and/or applicability concerning these rules. List of all comments available to date. Replies are due May 11, 2017. Public Notice

Open Internet

- The D.C. Circuit Court issued an Order on May 1, 2017, denying six petitions for rehearing of its Open Internet decision. Chairman Pai and Commissioner O’Rielly issued statements.

- Commissioner O’Rielly spoke at the American Legislative Exchange Council’s Spring Task Force Summit Annual Summit on May 5, 2017, to discuss net neutrality and broadband. He said a top priority of the Commission’s new leadership is addressing net neutrality, and said the item the Commission will consider at its May 2017 Open Meeting will initiate the process to undo the Title II common carrier designation for broadband Internet access service and treat it as an information service. He also said a host of barriers to broadband deployment have been enacted by some states over the years and these
barriers are preventing the deployment of broadband to the American people and, therefore, are targets for preemptive actions by the Commission unless sufficiently addressed.

- The FCC issued a News release on May 2, 2017, listing various statements from Congressional members that support Chairman Pai's proposed Internet plan. Senate Majority Leader Mitch McConnell and Speaker of the House Paul Ryan both expressed support for the plan, as did members of various Senate committees and other members of Congress.

- Sen. Mike Lee (R-Utah) issued a press release on May 1, 2017, announcing he, along with eight other Senators, introduced a bill entitled Restoring the Internet Freedom Act, which would nullify the FCC's 2015 Open Internet Order and prohibit the FCC from issuing a similar ruling in the future. Co-sponsors of this bill include Sens. John Cornyn (R-Texas), Tom Cotton (R-Ark.), Ted Cruz (R-Texas), Ron Johnson (R-Wis.), Rand Paul (R-Ky.), Thom Tillis (R-NC), Ben Sasse (R-Neb.), and James Inhofe (R-Oklahoma.). The text of the bill not yet available.

- The Internet Innovation Alliance sent a letter to Chairman Pai and Commissioners Clyburn and O'Rielly on April 28, 2017, in response to Chairman Pai's proposal to reclassify broadband Internet access services as Title I information services. IIA said it favors an open Internet, including core network neutrality requirements that assure the ability of internet users to access the content of their choosing without interference from ISPs. IIA also said Congress should enact bipartisan compromise legislation that gives legal certainty to network neutrality and reaffirms broadband is an information service. IIA also filed an opinion piece by Former Rep. Rick Boucher (D-Va.) on regulation of broadband.

- Oracle sent a letter to Chairman Pai on May 5, 2017, to express support for initiation of the Restoring Internet Freedom docket and release of the draft NPRM which will considered at the FCC's May 2017 Open Meeting. Oracle claimed reclassifying broadband internet access as an information service will eliminate unnecessary burdens on, and competitive imbalances for, ISPs while enhancing the consumer experience and driving investment.

- The Benton Foundation filed a letter on May 1, 2017, to urge the Commission to consider the circumstances of rural America as the FCC considers reclassifying broadband Internet access service and the 2015 Open Internet rules. Benton also provided a copy of an article which it says raises concerns about how the Commission's proposed approach to preserving and protecting an Open Internet could impact broadband subscribers in small, rural towns. Benton also filed a letter on May 2, 2017, to urge the Commission to consider how reclassifying broadband Internet access service and changes to Open Internet rules affect smaller digital media companies. Benton also provided a copy of an article claiming that rolling back the Open Internet rules gives Verizon and AT&T an advantage in digital media.

Back to Highlights

Broadband

- Chairman Pai spoke at the American Enterprise Institute on May 5, 2017, on the first 100-days as his tenure as FCC Chairman. Pai stated the FCC has taken measures to help close the digital divide by: adopting new Mobility Fund Phase II rules that provide up to $4.53 billion in universal service support; creating the Broadband Deployment Advisory Committee; and launching a proceeding to lower the cost and speed the deployment of wired broadband infrastructure, among other things. He also discussed FCC actions to modernize rules and eliminate unnecessary regulatory burdens, increase FCC transparency and reform FCC process, and protect consumers. Pai also issued a statement.

- GVTC, Smithville Communications, and other USTelecom member companies, sent a letter to Chairman Pai on May 4, 2017, on closing the digital divide. They asserted a key to this effort is the initiative Chairman Pai began to ensure broadband companies can continue to invest vigorously in faster networks for consumers, free from Title II regulation. They said rural America urgently needs a
modern framework to accomplish clear, unequivocal net neutrality protections for consumers and regulatory certainty for companies.

- WTA met with Chairman Pai's Acting Wireline Advisor on May 2, 2017, to request the FCC clarify the status of CPNI rules that were eliminated in the Broadband Privacy Order and that may have been resurrected by the Congressional Review Act action. WTA also noted the FCC's CPNI framework differs from the FTC's guidance on consumer privacy. WTA also discussed the proposal to retain broadband as a supported service in the Lifeline program and progress regarding implementation of the National Verifier.

- ACT - The App Association met with Legal Advisors to Chairman Pai and Commissioner Clyburn and with Commissioner O'Rielly and his Legal Advisor on April 26, 2017, to suggest the Commission reduce barriers for deploying new infrastructure as well as supporting innovative and more efficient ways to use wireless spectrum. It also discussed the privacy of customers of broadband and other telecommunications services, and said if the Commission moves forward to promulgate new privacy rules, such rules be aligned as closely as possible with the approach the FTC takes in protecting consumer privacy. It also attached its annually-released State of the App Economy report.

Call Completion/Robocalls

- The Alliance for Telecommunications Industry Solutions met with Chairman Pai's Legal Advisors on May 3, 2017, to discuss industry efforts to combat unlawful robocalling. ATIS provided an update on finalizing the Signature-based Handling of Asserted information using toKENs (SHAKEN) framework, and discussed further refining the roles and functions of the Secure Telephone Identify governance authority and STI policy administrator. ATIS also met with Wireline Competition Bureau staff to discuss the same issues.

USF

- Commissioner O'Rielly issued a statement on May 4, 2017, on the resignation of USAC's CEO. O'Rielly said “[t]he departure of its CEO presents an opportunity for the Universal Service Administrative Company (USAC) to clean up its act. USAC as it has been managed is not sufficiently accountable to the Commission.”

- USAC filed Federal Universal Service Support Mechanisms Fund Size Projections for the Third Quarter 2017 on May 3, 2017. The High Cost Support Mechanism funding requirements are projected to be $1.125 billion. (Appendices available on USACs website).

- The State Educational Technology Directors Association sent a letter to Chairman Pai on April 28, 2017, to express concern with the questionnaire USAC sent to over 100 districts that applied for funding to support special construction for fiber installation. SETDA said it is especially concerned about the timing of the questionnaire and the level of detail of the questions. SETDA claimed many of the questions would be incredibly difficult to answer for special construction applicants who rely on providers who know the full scope of the work and said the requirement to complete this questionnaire is so late in the process and could potentially deny the funds after these applicants have followed all the rules.

- XO Communications and TDS Metrocom filed Applications for Review of the Order denying Requests for Review on whether certain revenues associated with specific mixed-use special access lines should be considered interstate for the purpose of assessing USF contributions. TDS claimed the Order applies the 10 percent rule in violation of Commission precedent, and asserted the Order mistakenly presumes all intrastate private lines are mixed use and connected to the Internet. TDS also asserted the Order violates the APA by adopting a new burden of proof and production without notice and comment. XO claimed the Bureau's interpretation of the 10 percent rule is inconsistent with
Commission precedent showing a presumption of intrastate jurisdiction absent evidence to the contrary.

- Medicine Park Telephone filed a Petition for Waiver on April 28, 2017, of the study area boundary freeze rules in order to redefine its study area to include previously unserved territory within the State of Oklahoma which has been designated the Cookietown exchange. Medicine Park said the redefinition will reflect its expansion of facilities and service offerings into previously unserved and/or unassigned area within Oklahoma.

- i-wireless filed a letter on May 4, 2017, withdrawing its final proposed Lifeline compliance plan. It said it has terminated a joint venture formation agreement, which gave rise to the filing of the amended plan.

State Actions

- The U.S. District for the Northern District of Texas issued an Order on May 3, 2017, dismissing Sprint’s amended state-law claims in the multi-district intraMTA case. In its November 2015 Order, the court dismissed plaintiff IXCs’ federal law claims with prejudice, but permitted plaintiffs to replead their state-law claims. The court agreed with the Defendants that urged the court to dismiss Sprint’s amended claims because Sprint did not allege any state-law claims arising from state laws or state tariffs independent of federal law, but instead re-filed the same state-law claims (based on federal law) that the court previously dismissed.

Misc.

- Comments were filed on May 4, 2017, on whether rules adopted in 2001 – 2004 should be continued without change, or should be amended or rescinded, consistent with section 610 of the Regulatory Flexibility Act. NTCA said substantial rule changes should not be examined in isolation, but rather as part of a holistic, substantive review of the individual rules in question, making sure to capture all rule sections and the practical and policy implications of any change. The Small Company Coalition said changes need to be made to section 54.313’s annual ETC reporting requirements and suggested the FCC also consider revision or rescission of section 64.1310 payphone compensation rules. Nex-Tech recommended the FCC modify the safety valve support mechanism in section 54.305 so as to allow full cost recovery for companies investing in acquired exchanges. WTA proposed the elimination of certain subsections of section 54.313 and the associated portions of FCC Form 481, claiming they request information that is not being used and is not needed by the Commission to monitor its USF programs. WTA also proposed the elimination of the section 54.305 "parent trap" rule, and suggested how Part 32 accounts can be consolidated. The Professional Association for Customer Engagement suggested, among other things, the FCC define the term “called party”, as used in section 227(b)(1)(A), as “the expected recipient of the call at the time the call is placed.” List of all comments available to date.

- NECA filed 2017 Further Modification of Average Schedules on May 3, 2017, which contains a minor revision to the Common Line formula in the December 22, 2016 filing. NECA said this change is necessary to prevent undue increases in Common Line and CBOL settlements resulting from conversion of voice lines to broadband only. The proposed effective date for this formula modification is for the period July 1, 2017 through June 30, 2018.

- The FCC published in the Federal Register on May 4, 2017, the February 24, 2017 Report and Order that amended Part 32 Uniform System of Accounts rules. The rules in the Report and Order are effective January 1, 2018, except for the amendments to sections 1.1409 and 32.1, which shall become effective after publication in the Federal Register of a document announcing approval by OMB of these amendments.

• Commissioner Pai sent letters to Sens. Susan Collins (R-Maine) and Robert P. Casey, Jr. (D-Pa.) in response to their letter expressing support for the NPRM and NOI on robocalls. Chairman Pai said robocalls are a top consumer complaint to the FCC from the public, and the Commission is committed to helping industry and consumers stop illegal and unwanted robocalls, including by encouraging companies to adopt robocall blocking technologies and working to develop comprehensive solutions to prevent, detect, and filter unwanted robocalls.

• The Enforcement Bureau issued an Order on May 4, 2017, dismissing the proceeding addressing AT&T’s complaint against Great Lakes Comnet and Westphalia Telephone which alleged they charged AT&T unlawful tariffed rates for interstate access services. The parties advised the FCC they reached a voluntary settlement of their disputes and that settlement has been approved by the Bankruptcy Court. In 2015, the FCC granted Counts I and III of the complaint, finding GLC violated the FCCs rules for the tariffing of interstate services by a CLEC and the tariffs were therefore unlawful and that WTC unlawfully billed for services prior to May 2013 that GLC actually provided.

• The Wireline Competition Bureau issued a Public Notice on May 3, 2017, announcing PriceWaterhouseCoopers, LLP, the Transition Oversight Manager for the LNP Administrator transition, will host the 16th LNPA Transition Outreach and Education Plan webcast on May 17, 2017.

• The Wireline Competition Bureau issued a Public Notice on May 5, 2017, seeking comment on WTC Technologies application for authorization to obtain NANP telephone numbers directly from the Numbering Administrators for its iVoIP service. Comments are due May 22, 2017.

• No comments were filed on Megaphone’s application for authorization to obtain NANP telephone numbers directly from the Numbering Administrators for its iVoIP service. Public Notice

• The Centers for Disease Control and Prevention’s Division of Health Interview Statistics issued a report on wireless substitution. The DHIS said preliminary results from its July–December 2016 survey indicate that 50.8 percent of American homes did not have a landline telephone but did have at least one wireless telephone - an increase of 2.5 percentage points since the second 6 months of 2015.

Back to Highlights

Upcoming Filing Dates


• 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 11 - Replies due on CenturyLink’s Petition for Limited Stay of years six and seven of the ICC transition in the 2011 Transformation Order as it impacts tandem switching and transport charges. Public Notice

• May 15 - Replies due on PRTC’s Petition for Declaratory Ruling on whether section 54.320(d)(2) applies to recipients of CAF Phase I Round 2 support. Public Notice

• May 15 - Replies due on ACS’ Petition for Clarification or, in the alternative, petition for limited waiver of the requirement to provide geocoded location information for CAF Phase I deployments. PN
• May 16 - Oppositions due to Petitions for Reconsideration of the Mobility Fund Phase II Order. Replies to oppositions due May 26. Public Notice

• May 18 - Oppositions due to Petitions for Reconsideration of the CAF Phase II Auction Order filed by Hughes Network Systems and the Pennsylvania PUC and the Pennsylvania Department of Community and Economic Development. Replies to oppositions are due May 30, 2017. FR, 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. PN

• May 22 - Comments due on WTC Technologies application for authorization to obtain NANP telephone numbers directly from the Numbering Administrators for its iVoIP service. 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

• May 24 - Comments due on actions to accelerate adoption and accessibility of broadband-enabled health care solutions and advanced technologies. Replies are due June 8. Public Notice

• May 24 - Comments due on refreshing the record in the separations proceeding and on issues related to comprehensive, permanent separations reform. Replies are due June 8, 2017. Public Notice

• May 24 - Comments due on how reforms adopted in the February 24, 2017 Report and Order that streamlined and eliminated various Part 32 accounting requirements impacts Part 36 rules to ensure that jurisdictional separations rules are consistent. Replies are due June 8, 2017. Public Notice

• May 26 - Replies due to oppositions to Petitions for Reconsideration of the Mobility Fund Phase II Order. Public Notice

• May 30 - Replies due to oppositions to Petitions for Reconsideration of the CAF Phase II Auction Order filed by Hughes Network Systems and the Pennsylvania PUC and the Pennsylvania Department of Community and Economic Development. FR, 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 8 - Replies due on refreshing the record in the separations proceeding and on issues related to comprehensive, permanent separations reform. Public Notice

• June 8 - Replies due on how reforms adopted in the February 24, 2017 Report and Order that streamlined and eliminated various Part 32 accounting requirements impacts Part 36 rules to ensure that jurisdictional separations rules are consistent. Public Notice

• June 8 - Replies due on actions to accelerate adoption and accessibility of broadband-enabled health care solutions and advanced technologies. 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