

NECA's Weekly Federal Regulatory Summary

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June 1, 2020 HIGHLIGHTS

- The U.S. Court of Appeals for the Fifth Circuit [affirmed](#) a district court's orders in the IntraMTA litigation on the ability to impose terminating access charges on intraMTA calls. The court remanded the issue on the ability of price cap carriers to continue to impose terminating access charges on intraMTA traffic.
- NTCA [discussed](#) concerns about the impacts of the budget control mechanism on RLECs receiving cost-based CAF-BLS and/or High Cost Loop Support.
- [Replies](#) were filed on petitions for reconsideration of the RDOF [report and order](#) by [Vermont DPS](#), the [Illinois Office of Broadband](#) and [Premier Communications](#).
- State attorneys general sent a [letter](#) to congressional leaders, urging Congress to include funding to close the digital divide in future pandemic relief legislation.
- Reps. Fred Upton (R-Mich.) and James E. Clyburn (D-S.C.) [introduced](#) legislation requiring the FCC to accelerate the deployment of funds to RDOF bidders that commit to build a gigabit tier broadband network, begin construction within 6 months, and provide service within a year. [bill summary](#)
- NTCA and NRECA sent a [letter](#) to the Rural Utilities Service, recommending modifications to the ReConnect rules to sustain broadband deployment during the pandemic.
- The FCC and CISA [asked](#) the nation's governors to provide necessary access and resources to the communications workers helping to keep Americans connected during the pandemic. [news release](#)
- [Reply comments](#) were filed on the [state of competition](#) in the communications marketplace.
- [Reply comments](#) were filed on the [FNPRM](#) on additional measures to combat illegal spoofing.
- USTelecom filed a [letter of intent](#) to serve as the Registered Traceback Consortium.

Other Key Upcoming Dates

- June 25 - Comments due on the [NPRM](#) on establishing the 5G fund for rural America. Replies are due July 27, 2020. [FR](#)

USF Reform

- NTCA [spoke with](#) Chairman Pai's rural broadband advisor on May 22, 2020, to express concerns about the impacts of the resurgent budget control mechanism on RLECs receiving cost-based CAF-BLS and/or High Cost Loop Support. NTCA said USAC recently published a revised estimate of the 2020-2021 budget control mechanism, in which NTCA claimed will reduce by nearly \$40 million over the next 12-month period the amount of universal service support to be received by several hundred small rural companies. NTCA requested that the effectiveness of the budget control be suspended for the pendency of the pandemic, and urged the Commission to act upon the pending rulemaking related to the BCM.
- The Rural Broadband Auctions Task Force, the Wireline Competition Bureau and the Office of Economics and Analytics issued a [public notice](#) on May 26, 2020, announcing the comment dates on the [NPRM](#) on establishing a 5G Fund for rural America. The NPRM was published in the [Federal Register](#) on May 26, 2020. Comments are due June 25, 2020; replies are due July 27, 2020.
- Replies were filed on May 26, 2020, on petitions for reconsideration by [Vermont DPS](#), the [Illinois Office of Broadband](#), and [Premier Communications](#) of the RDOF [report and order](#). [Premier](#) said it is not seeking any change to decisions made regarding the Phase I auction for the RDOF and urged the FCC to clarify that it has not definitively resolved the question of what areas will be included in the RDOF Phase II auction. [NTCA](#) filed in support of Premier, stating the RDOF order appears to leave open the question of who will be eligible to participate in Phase II of the RDOF. The [Vermont DPS](#) responded to [WISPA's](#) opposition and claimed it incorrectly asserted the Commission addressed its notice obligations under the APA. The DPS asserted the Commission did not provide adequate notice it was considering excluding from RDOF those census blocks that receive state subsidies. The [Illinois Office of Broadband](#) responded to [Hughes'](#) and [WISPA's](#) oppositions to IOB's arguments on federal-state coordination on broadband deployment and the 25/3 Mbps minimum speed tier. [USTelecom](#) supported Premier's petition and said the FCC should clarify incumbent providers are not categorically foreclosed from participation in Phase II of the RDOF. [The Iowa Communications Alliance, et al.](#) also filed in support of Premier, and asserted the petition presents the Commission with an opportunity to avoid or reverse an unnecessary prejudgment that could strand existing investments and jeopardize future investments in rural networks. [all replies available](#) | [public notice](#) | [FR](#)
- USTelecom, AT&T, CenturyLink, Consolidated, Frontier, Windstream, and Verizon [spoke with](#) legal advisors to Commissioners Rosenworcel and Starks on May 26, 2020, to express support for the [draft RDOF auction procedures](#). They opposed any proposals that would delay or fundamentally change the rules at this stage, such as combining the short and long form applications and/or removing certain eligible census blocks from the auction before it starts in October. They also discussed the current challenge process for the auction and suggested the Commission to look with skepticism on filings that are not sufficiently supported or based on previously reported Form 477 data.
- Pacific Network Holdings [spoke with](#) Chairman Pai's rural broadband advisor on May 27, 2020, and requested the FCC consider removing the Hawaiian Homelands areas from the preliminary list of areas eligible for the RDOF auction, claiming that the reasons given by the Commission to include the Hawaiian Homelands will no longer apply by the time the auction takes place.
- Frontier filed a [letter](#) on May 23, 2020, asserting while it has made its FCC Form 477 and RDOF filings consistent with FCC requirements, its filings have triggered questions from third parties. Frontier clarified it would welcome the inclusion into the RDOF auction the challenged census blocks where Frontier provides service at speeds of 25/3 Mbps and greater.
- Frontier filed a [letter](#) on May 26, 2020, to respond to certain parties that expressed concerns with its challenge to the list of census blocks deemed initially eligible in the RDOF Phase I auction. Frontier asserted responses to its challenge are in effect untimely petitions for reconsideration of the Commission's determination that only census blocks that are wholly unserved with broadband at speeds of 25/3 Mbps based on the most recent Form 477 data are eligible for Phase I of RDOF.

- Northwest Colorado Broadband filed a [letter](#) on May 26, 2020, on Zirkel's challenge to the list of census blocks deemed initially eligible in the RDOF Phase I auction. NCB urged the FCC to reject Zirkel Wireless' challenge and retain RDOF eligibility for all 545 contested census blocks in northwest Colorado.
- WISPA [spoke with](#) Chairman Pai's advisor on May 20, 2020, to discuss the draft RDOF auction procedures [public notice](#). WISPA expressed support for several proposed decisions in the public notice, including the proposal to permit an applicant to select the Gigabit performance tier in its application if it intends to use fixed wireless technologies for meeting its Auction 904 public interest obligations.

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ICC

- The U.S. Court of Appeals for the Fifth Circuit issued a [decision](#) on May 27, 2020, in the case addressing claims that certain LECs improperly billed Verizon and Sprint for switched access charges for intraMTA wireless calls and the LECs' related claims and counterclaims. The court affirmed the district court's [dismissal](#) of Sprint and Verizon's claims for damages, finding that because the LECs filed access charge tariffs with the FCC and state regulators, the filed-rate doctrine requires Sprint, Verizon, and Level 3 to pay those charges. The court, for the same reasons, also affirmed the district court's [summary judgment](#) on the LECs' claims and counterclaims. The court also ruled Sprint and Verizon could be entitled to declaratory relief as to at least some of the LECs that are price cap carriers and vacated and remanded the dismissal of their claim for declaratory relief to the district court.
- Northern Valley Communications filed responses on May 22, 2020, to oppositions to its [direct case](#) filed by [T-Mobile](#), [SDN](#), [Verizon](#) and [AT&T](#) in the [proceeding](#) investigating the lawfulness of its [tariff revisions](#). Northern Valley [asserted](#) oppositions by T-Mobile, SDN, and Verizon do not change the conclusion that its actions are the result of efficient choices that promote competition in the delivery of traffic to its exchanges. In [response](#) to AT&T's opposition, NVC asserted AT&T's arguments are at odds with the access stimulation order and inconsistent with AT&T's prior positions regarding implementation of bill-and-keep.
- Verizon filed a [letter](#) on May 28, 2020, to respond to Northern Valley's [response](#) on its [direct case](#). Verizon asserted NV offered no new lawful justification for its selection of James Valley as its intermediate access provide and instead confirms NV's tariff filing conflicts with the access arbitrage [order](#).

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Broadband

- State attorneys general sent a [letter](#) to Sens. Mitch McConnell (R-Ky.) and Charles Schumer (D-N.Y.) and Reps. Nancy Pelosi (D-Calif.) and Kevin McCarthy (R-Calif.) on May 21, 2020, to urge Congress to close the digital divide and help ensure all Americans have home internet connectivity necessary to participate in telemedicine, teleschooling, and telework as part of any additional legislation related to addressing the COVID-19 pandemic. They requested Congress provide adequate and flexible funding to state, territorial, and local governments to expand broadband internet access and to increase funding to the FCC's Universal Service Fund.
- Reps. Fred Upton (R-Mich.) and James E. Clyburn (D-S.C.) [introduced](#), the *Rural Broadband Acceleration Act* on May 28, 2020, which directs the FCC to fund shovel-ready, high-speed internet projects immediately, so consumers can access broadband within a year. The proposed bill requires the FCC to accelerate the deployment of funds to RDOF bidders that commit to build a gigabit tier

broadband network, begin construction within 6 months, and provide service within a year. [bill summary](#)

- NTCA and NRECA sent a [letter](#) to Chad Rupe, Administrator, Rural Utilities Service, on May 28, 2020, recommending modifications to the ReConnect rules to sustain broadband deployment during the COVID-19 pandemic. They said for those ReConnect awards that are 100% grants, they recommended RUS waive the requirement for providers to spend matching funds in full prior to drawing down any grant funds. They also recommended the terms of 100% ReConnect grant awards be modified such that recipients need not have the full amount of matching funds in cash-on-hand prior to award. Additionally, they suggested providers be permitted to draw down loan and grant funds proportionately rather than compelling providers to utilize all loan funding prior to receipt of any grant resources.
- Chairman Pai and Cybersecurity and Infrastructure Security Agency Director Christopher Krebs sent [letters](#) to the nation's governors on May 26, 2020, encouraging them to provide necessary access and resources to the communications workers helping to keep Americans connected during the COVID-19 pandemic. They encouraged industry and government to work together to prioritize and complete communications infrastructure and next generation 911 projects, among other things. [news release](#)
- Reply comments were filed on May 28, 2020, on the state of competition in the communications marketplace for the FCC's second communications marketplace report. [NCTA](#) asserted the record demonstrates that the vast majority of Americans have multiple options for purchasing broadband service and that the marketplace is likely to become even more competitive in the future. [Hughes Network Systems](#) asserted the Commission should conclude that the voice and broadband markets are robustly competitive, and to recognize the crucial role that satellite broadband providers play in these markets, particularly in rural areas. [New America's OTI](#) said the Commission should ensure it is using the most accurate data possible to serve as the basis for its findings for this report. OTI also asserted the FCC should take into account the policies that can catalyze competition and improve the state of broadband access and adoption such as empowering localities to pursue community networks and public-private partnerships as well as opening up unlicensed spectrum. [Common Cause and NHMC](#) said fixed and mobile broadband connections should be seen as complementary products that the Commission measures separately for the purposes of assessing competition. They asserted the pandemic has highlighted the importance of the Commission continuing to view fixed and mobile services as complementary products. [Dr. Timothy J. Tardiff](#) provided deployment data and an analysis of the change in broadband services. The [American Economic Liberties Project and Open Markets Institute](#) asserted that deconcentrated and dispersed markets are valuable and the FCC should seek to measure and describe market structures, specifically the size and practices of corporations. [public notice](#) | [all replies available](#)
- The Competitive Carriers Association [spoke with](#) Wireless Telecommunications Bureau, Wireline Competition Bureau, and Office of Economics and Analytics staff on May 26, 2020, regarding ways the Commission can ensure the data it collects regarding mobile broadband availability will more reliably reflect on-the-ground coverage. CCA asserted the Commission can move immediately to adopt the provisions of the Broadband DATA Act, but likely will need to seek comment on additional parameters to improve the reliability of maps.
- The FCC issued a [news release](#) on May 29, 2020, announcing the Wireless Bureau has granted an emergency Special Temporary Authority request filed by the Makah Tribe to use unassigned spectrum in the 2.5 GHz band to provide wireless broadband service over its reservation as part of its emergency COVID-19 pandemic response. The temporary grant of authority is effective for 60 days.
- NATOA, the National League of Cities, et al. sent a [letter](#) to Chairman Pai and Commissioners O'Rielly, Carr, Rosenworcel and Starks on May 22, 2020, to urge the Commission to delay consideration of the [draft declaratory ruling and NPRM](#). They asserted the proposed item would dramatically impact the way that local governments across the nation manage their eligible facilities request applications and require major changes to stealth or screening requirements for wireless deployments. They claimed that because the item did not arise out of a rulemaking proceeding, the Commission has not had the benefit of local government input into the proposal.

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Call Completion

- The Illinois district court [ordered](#) on May 27, 2020, the filing of a joint status report by July 21, 2020, in the case addressing a [complaint](#) by Craigville Telephone and Consolidated Telephone that alleged T-Mobile's provision of false ring tones resulted in lost opportunities to seek intercarrier compensation. The court said the report should address: the progress of discovery; the status of briefing on any unresolved motions; and whether the parties believe a hearing is necessary in the immediate future, and, if so, the issue(s) that warrants discussion, among other things.

Robocalls

- Reply comments were filed on May 29, 2020, on the [FNPRM](#) on additional measures to combat illegal spoofing, including further implementation of the TRACED Act. [NTCA](#) said the Commission should declare existing meet points and transport responsibilities will serve as the default for the exchange of IP voice traffic between IP-enabled RLECs and other operators. NTCA also urged the Commission to adopt compliance timeframes for IP-enabled RLECs tied to their ability to obtain, and integrate into operating budgets, vendor solutions for implementing STIR/SHAKEN. [Vantage Point Solutions/GVNW Consulting](#) asserted the STIR/SHAKEN standards require end-to-end IP connectivity between every provider in a call path, which creates significant implementation challenges for RLECs. VP said there two primary considerations to be STIR/SHAKEN ready - network readiness and IP connectivity to all other service providers. The [NY RLECS](#) expressed support for NTCA's position that STIR/SHAKEN will place undue hardship on the smaller RLECs related to the cost these carriers will incur to implement the standard within their own networks. [all replies available](#)
- USTelecom filed a [letter of intent](#) on May 21, 2020, to serve as the Registered Traceback Consortium. It asserted it meets the requirements established in the [TRACED Act](#) and adopted in the [order](#) establishing rules for the selection of the consortium.

Other Universal Service Programs

- Senators Brian Schatz (D-Hawaii), Lisa Murkowski (R-Alaska), John Boozman (R-Ark.), Angus King (I-Maine), Gary Peters (D-Mich.), Dan Sullivan (R-Alaska), Kevin Cramer (R-N.D.), and Ed Markey (D-Mass.) [introduced](#) the *Health Care Broadband Expansion During COVID-19 Act* on May 22, 2020, which would provide \$2 billion to help health care providers increase their broadband capacity and expand telehealth services. The bill, among other things, increases the subsidy rate for RHC Health Care Connect Fund participants during the pandemic, enables mobile and non-rural health care facilities to engage in telehealth, and delays the implementation of rural health care rules for one year. This bill is a companion to a bill [recently introduced](#) in the House.
- The FCC [announced](#) on May 28, 2020, it approved an eighth set of COVID-19 telehealth program applications in the amount of \$18.22 million for providers in Texas, New York, Nevada, Kansas, Maine, Massachusetts, Wisconsin, South Carolina, Indiana, Ohio, Missouri, Connecticut, Alabama, Maryland, Louisiana, Mississippi, Minnesota, North Carolina, New Jersey, Oregon, Florida, Pennsylvania, California, Michigan and Georgia.
- Chairman Pai sent a [letter](#) to Reps. Mike Doyle (D-Pa.) and Anna Eshoo (D-Calif.) on May 15, 2020, to respond to their letter that urged the Commission to loosen rural health care restrictions and expand eligibility to all healthcare facilities nationwide during the COVID-19 pandemic. Pai said the Commission's [order](#) establishing the COVID-19 telehealth program provides immediate support to eligible providers.

- The Wireline Competition Bureau released a [public notice](#) on May 29, 2020, granting, denying and dismissing various petitions related to actions taken by USAC on E-Rate and rural health care. Petitions for reconsideration or applications for review of these decisions must be filed within 30 days of the public notice.
- Viya and ATN International [spoke with](#) Wireline Competition Bureau staff on May 20, 2020, to urge the Commission to deny the PR-USVI Fund Coalition's [petition](#) seeking waiver of rules regarding the bank commitment letter and letter of credit requirements for applicants participating in the Stage 2 fixed competitive process of the Uniendo a Puerto Rico Fund and the Connect USVI Fund. They asserted the relief requested does not meet the waiver standard, petitioners failed to make a case justifying the requested relief; and the petition is actually an untimely petition for reconsideration of the Stage 2 [order](#).
- Siyeh Communications [spoke with](#) Suzanne Yelen, of the Wireline Competition Bureau on May 26, 2020, to ask the Commission to rule on its study area waiver [petition](#) in Montana by the end of July 2020, which is the expected timeframe for completion of the transfer of assets.

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Misc.

- An FCC [notice](#) was published in the Federal Register on May 29, 2020, seeking Paperwork Reduction Act comments on an extension of a currently approved information collection on national security through FCC programs. The information collection seeks to collect data from ETCs and other carriers to determine the extent of which potentially prohibited equipment exists in current networks and the costs associated with removing such equipment and replacing it with equivalent equipment. PRA comments are due June 29, 2020.
- The FCC issued a [public notice](#) on May 27, 2020, to announce the next two meetings of the North American Numbering Council will be held on July 14 and 28, 2020. At the July 14, 2020 meeting, NANC will consider and vote on recommendations on the billing and collection fund size projections and contributions factor and the analysis of the 833 toll free number auction. At the July 28, 2020 meeting, NANC will consider and vote on recommendations on an analysis of the IP local routing number solution and implementation of the database approach to determine whether an originating video call can be completed to a receiving device and service.
- The Wireline Competition Bureau issued a [public notice](#) on May 26, 2020, seeking comment on Piratel's application for authorization to obtain NANP telephone numbers directly from the numbering administrators for its iVoIP service. Comments are due June 10, 2020.
- The Wireline Competition Bureau issued a [public notice](#) on May 26, 2020, granting an application filed by 8x8 for authorization to obtain NANP telephone numbers directly from the numbering administrators for its iVoIP service.
- No comments were filed on an application filed by William Douglas DeVore and BHT Investments, requesting consent to transfer control of Bush-Tell from Mr. DeVore to BHTI. Reply comments are due June 2, 2020. [public notice](#)
- The [NPRM](#) on assessment and collection of regulatory fees for FY 2020 was published in the [Federal Register](#) on May 28, 2020. The NPRM proposes to collect \$339 million in regulatory fees for FY 2020. Comments are due June 12, 2020; replies are due June 29, 2020.
- The Managing Director issued an [order](#) on May 28, 2020, to amend the FCC rules to reflect the new address for filing hand-carried documents at the Commission's headquarters and establish a new closing time for accepting such filings. Hand-carried documents are to be filed at the Commission's

office in Annapolis Junction, Maryland, and once COVID-19 restrictions are lifted, this will be the only location where these filings will be accepted. The hours for filing acceptance will be 8:00 a.m. to 4:00 p.m., Monday through Friday.

- The Consumer and Governmental Affairs Bureau issued an [order](#) on May 27, 2020, addressing a slamming complaint against City Communications. The Bureau found City's actions did not result in an unauthorized change in complainant's telecommunications service provider and denied the complaint.

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Upcoming Filing Dates

- June 2 - PRA comments due on extension of a currently approved collection on the FCC's Electronic Tariff Filing System. [notice](#)
- June 2 - Replies due on an application filed by William Douglas DeVore and BHT Investments, requesting consent to transfer control of Bush-Tell from Mr. DeVore to BHTI. [public notice](#)
- June 2 - PRA comments due on a revision of a currently approved collection on FCC Form 683, application for CAF Phase II and RDOF auction support. [notice](#)
- June 4 - Replies due on the applicability of section 4 of the Secure Networks Act to the Commission's rulemaking on protecting against national security threats to the communications supply chain. [public notice FR](#)
- June 5 - Comments due on letters of intent on traceback consortium. [public notice](#)
- June 8 - PRA comments due on an extension of a currently approved information collection on FCC Form 5625, which is used for the CAF Phase II auction in New York. [notice](#)
- June 8 - PRA comments due on a revision of a currently approved information collection on tariff review plans. ILECs file TRPs to support revisions to the rates in their interstate access service tariffs. [notice](#)
- June 8 - Oppositions due to petitions for reconsideration of the COVID-19 telehealth [report and order](#) filed by the [American Hospital Association](#) and the [American Dental Association](#). Replies are due June 16, 2020. [public notice](#) | [Federal Register](#)
- June 10 - Comments due on Piratel's application for authorization to obtain NANP telephone numbers directly from the numbering administrators for its iVoIP service. [public notice](#)
- June 12 - Comments due on the [NPRM](#) proposing to collect \$339,000,000 in regulatory fees for FY 2020. Reply comments are due June 29, 2020.
- June 12 - Comments due on the establishment of a matching computer program the FCC and USAC will conduct with agencies from Nevada to verify the eligibility of applicants to and subscribers of the Lifeline program. [notice](#)
- June 12 - PRA comments due on a revision of a currently approved information collection associated with rate-of-return carrier universal service reporting requirements filed on FCC Forms 507, 508 and 509. [notice](#)
- June 12 - PRA comments due on a revision of a currently approved information collection associated with high-cost universal service support filed on FCC Form 481. [notice](#)

- June 16 - Replies due to oppositions due to petitions for reconsideration of the COVID-19 telehealth [report and order](#) filed by the [American Hospital Association](#) and the [American Dental Association](#). [public notice](#) | [Federal Register](#)
- June 19 - PRA comments due on a new information collection (Form 5634) for the Stage 2 competitive proposal process of the Uniendo a Puerto Rico Fund and the Connect USVI Fund. [notice](#)
- June 19 – Comments due on the [NPRM](#) on implementing the TRACED Act's requirements to further protect consumers from one-ring scams was published in the on May 20, 2020. Replies are due July 6, 2020. [FR](#)
- June 25 - Comments due on the 5G Fund [NPRM](#). Replies are due July 27, 2020. [FR](#)
- June 29 - Replies due on the [NPRM](#) proposing to collect \$339,000,000 in regulatory fees for FY 2020.
- June 29 - PRA comments on an extension of a currently approved information collection on the extent of which potentially prohibited equipment exists in current networks and the costs associated with removing such equipment and replacing it with equivalent equipment. [notice](#)
- July 6 - Replies due on the [NPRM](#) on implementing the TRACED Act's requirements to further protect consumers from one-ring scams was published in the on May 20, 2020. [FR](#)
- July 6 - Comments due on the [NPRM](#) on detariffing telephone access charges. Reply comments are due August 4, 2020. [FR](#)
- July 13 - PRA comments due on an extension of a currently approved information collection associated with the 2017 [business data services order](#). [notice](#)
- July 27 - Replies due on the 5G Fund [NPRM](#). [FR](#)
- Aug. 4 - Replies due on the [NPRM](#) on detariffing telephone access charges. [Federal Register](#)

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