

NECA's Weekly Federal Regulatory Summary

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July 22, 2019 HIGHLIGHTS

- The FCC [authorized](#) a third round of CAF Phase II Auction 903 support for winning bids, and [announced](#) this authorization is \$524 million in funding to expand broadband over ten years in 23 states. The FCC authorized the first two waves of funding in [May](#) and [June](#) 2019.
- The FCC [authorized](#) over \$39.2 million in CAF funding over the next decade to expand broadband in rural New York in partnership with the state's New NY Broadband program.
- [Comments were filed](#) on approaches to identifying and resolving apparent discrepancies between the number of model-determined funded locations that A-CAM I and II support recipients are expected to serve and the actual number of locations that support recipients can serve. [Public Notice](#)
- Sacred Wind filed a [Petition](#) seeking a waiver and extension of the July 17, 2019 election deadline for offers of A-CAM II support so the FCC may consider evidence of additional eligible locations and revise Sacred Wind's A-CAM II offer.
- The Wireline Competition Bureau [announced](#) the beginning of the two week quiet period relating to USTelecom's [Petition](#) for Forbearance from certain regulatory mandates applicable only to LECs.
- The Wireline Competition Bureau [proposed](#) to publicly release the list of common language location identification codes for price cap ILEC wire centers that have alternative fiber within a half mile.
- Legislation was introduced in the Senate, entitled the "Defending America's 5G Future Act," that would codify the recent [Executive Order](#) prohibiting any transactions involving information and communications technology or services designed, developed, manufactured or supplied by persons owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary.
- House Energy and Commerce Committee Chair Rep. Frank Pallone, Jr. (D-N.J.) [announced](#) the *Stopping Bad Robocalls Act*, [H.R. 3375](#), was favorably reported, as amended, to the full House of Representatives by a vote of 48-0.
- NTCA and Golden West Telecommunications [discussed](#) how the FCC can facilitate RLECs' full participation in the SHAKEN/STIR caller-ID spoofing mitigation framework.
- [Replies were filed](#) on Central Texas Telephone, et al.'s [petition](#) for a rulemaking to prohibit the use of USF funds for special construction of fiber networks that overbuild existing fiber networks.
- [Comments are due](#) August 16, 2019, on the [NPRM](#) proposing a permanent E-rate category two budget. Replies are due September 3, 2019.

Other Key Upcoming Dates

- July 25 - Replies [due](#) on Iowa Companies' [Petition for Clarification or Declaratory Ruling](#) on the definition of locations under the A-CAM for residences that also serve as businesses.
- July 29 - Comments due on the [NPRM](#) on establishing a cap on the USF. Replies due August 26, 2019. [Order](#)

USF Reform

- The Wireline Competition Bureau, Rural Broadband Auctions Task Force, and Office of Economics and Analytics issued a [Public Notice](#) on July 15, 2019, authorizing CAF Phase II Auction 903 support for the winning bids identified in attachment A of this Public Notice. They indicated they will soon post a state-level summary under the Data tab on the [Auction 903 webpage](#), which will provide for each long-form applicant included in this Public Notice: the total support amount over 10 years and total number of locations the applicant is being authorized for in each state; the total number of locations to which the authorized support recipient must offer the required voice and broadband services for each performance tier and latency in each state; and the eligible census blocks included in the winning bids that are being authorized in each state. The FCC also issued a [news release](#) announcing today's authorization is \$524 million in funding to expand broadband in 23 states over the next decade. The FCC authorized the first two waves of funding in [May](#) and [June](#) 2019.
- The Wireline Competition Bureau issued a [Public Notice](#) on July 15, 2019, to announce it has authorized over \$39.2 million in CAF funding over the next decade to expand broadband to 15,442 unserved rural New York homes and businesses in partnership with the state's New NY Broadband program. The Bureau indicated to comply with FCC rules, providers must build out to 40% of the assigned homes and businesses in the areas won in New York within three years, and buildout must increase by 20% in each subsequent year until complete buildout is reached at the end of the sixth year. [News release](#)
- Comments were filed on July 19, 2019, on the portion of the June 5, 2019 [Public Notice](#) on approaches to identifying and resolving apparent discrepancies between the number of model-determined funded locations that A-CAM I and II support recipients are expected to serve and the actual number of locations that support recipients can serve. [NTCA](#) requested the FCC decline to adopt the pro rata approach to reducing support adopted in the CAF Phase II auction, which is based upon the number of locations that exist in the model as compared to facts on the ground. NTCA suggested the FCC instead consider the costs of deploying a network throughout the supported area in determining what, if any, reductions in support should be applied if facts reveal a different number of locations than the model estimated. [WTA](#) suggested A-CAM recipients not be penalized in any manner in connection with the correction of erroneous or out-of-date estimates of funded locations to reflect the actual number of locations in their funded service areas. WTA said A-CAM recipients should be permitted to request location adjustments at any time prior to the end of 2028. [ITTA](#) said A-CAM support recipients should have the flexibility to bring location discrepancies to the Commission when they are further along in their broadband deployment schedule. ITTA also suggested the Commission should study the impact of actual location discrepancies before deciding what measures are appropriate for A-CAM I and A-CAM II support recipients that experience location shortfalls. Comments were also filed by [TDS](#) and [GVNW](#).
- Sacred Wind Communications filed a [Petition](#) on July 18, 2019, seeking a limited waiver and extension of the July 17, 2019 election deadline for offers of A-CAM II support so that the Commission may direct the Wireline Competition Bureau to consider evidence of additional eligible locations and revise Sacred Wind's A-CAM II offer accordingly. Sacred Wind said it discovered a significant shortfall of funded locations relative to actual locations within its eligible census blocks, saying such locations are largely Navajo residential communities that are unserved or underserved and are not located within the study area of an unsubsidized competitor. Sacred Wind said the funded location shortfall is substantial, with over 4,700 locations excluded, and said but for the exclusion of these locations, it would have elected to receive A-CAM II support.
- Conexon [met with](#) Commissioner Starks' Acting Legal Advisor on July 18, 2019, to discuss the draft [NPRM](#) that proposes to establish a new Rural Digital Opportunity Fund, which will be considered at the August Open Meeting. Conexon suggested the FCC seek comment on taking consumer preferences into greater account in the competitive bidding process in the RDOF auction, in addition to the post-auction subscription approach detailed in the NPRM. Conexon offered an approach it says would not disturb the current FCC proposal, not affect the budget, and it would give rural communities the opportunity to express their preferences at the outset.

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Broadband

- The Wireline Competition Bureau issued a [Public Notice](#) on July 16, 2019, announcing the beginning of the two week quiet period relating to USTelecom's [Petition](#) for Forbearance from certain regulatory mandates applicable only to LECs. The Bureau said the Commission has acted on certain portions of the petition, but other requests for relief remain pending. The quiet period began at 11:59 p.m. on July 19, 2019; the statutory deadline for Commission action on the petition is August 2, 2019; and all presentations to decision makers concerning the petition are prohibited beginning at this time.
- The Wireline Competition Bureau issued a [Public Notice](#) on July 15, 2019, to announce it proposes to publicly release the list of common language location identification codes for price cap ILEC wire centers that have alternative fiber within a half mile. This list of CLLI codes is based on an analysis of highly confidential information submitted in response to the Commission's 2015 special access data collection, which has been incorporated into the record of the proceeding on USTelecom's Petition for Forbearance. Affected parties had 10 business days from the date of release of this notice to file objections.
- Sens. Tom Cotton (R-Ark.), Chris Van Hollen (D-Md.), Marco Rubio (R-Fla.), Mark Warner (D-Va.), Richard Blumenthal (D-Conn.) and Mitt Romney (R-Utah) [introduced](#) legislation on July 16, 2019, entitled the "Defending America's 5G Future Act." The bill would codify the recent [executive order](#) prohibiting any transactions involving information and communications technology or services designed, developed, manufactured or supplied by persons owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary. The bill would also prohibit the removal of Huawei from the Commerce Department's entity list without an act of Congress and empower Congress to disallow waivers that any Administration might grant to U.S. companies engaged in commerce with Huawei. Text of the bill is not yet available.
- GRTyree Consulting, Gila River Telecommunications, Wamego Telecommunications, and Alexicon [spoke separately](#) with Chairman Pai's Advisor and Advisors to Commissioners Starks and Rosenworcel on July 15, 16, and 18, 2019, to discuss broadband mapping issues. They presented the idea of allowing small broadband providers to report deployment subject to a certain margin of error, which should provide a reasonable balance between the accuracy needed and the burden placed on those reporting. They also said the method presented would be compatible with the broadband coverage polygon filing method contemplated in the [draft Report and Order](#), and would overlay easily with any location-based method considered.
- NCTA, Comcast, and Charter Communications [met with](#) Commissioner Carr and his Chief of Staff on July 16, 2019, to express support for the draft [report and order and second FNPRM](#) that would establish a new Digital Opportunity Data Collection, which will be considered at the August Open Meeting. NCTA, et al. said moving to a reporting regime based on polygon shapefiles would address the overstatement of coverage that results under the FCC's current census block approach in a manner that providers and the Commission should be able to implement in a timely manner. They also expressed support for the proposal to incorporate crowdsourcing to supplement the review of Form 477 filings by Commission staff and the proposal to further study and seek additional comment on the Broadband Mapping Consortium's proposal to create a broadband location fabric that can be used as a background for displaying broadband availability data.
- Granite Telecommunications, MetTel, Access One, and INCOMPAS [met separately with](#) Advisors to Commissioners Carr, Rosenworcel, O'Rielly and Starks on July 11, 2019, to urge the Commission to deny forbearance for avoided-cost resale of TDM-based telephone services provided via copper loops and voice-grade copper loop unbundled network elements. They said if the Commission grants forbearance for resale and VGCL UNEs, the order should not take effect for: five years and three years for existing lines serving government and business customers, respectively; and four years and 18 months for newly ordered lines serving government and business customers, respectively.

- CCA filed a [letter](#) on July 12, 2019, to update the record in the wireline and wireless broadband infrastructure proceedings. CCA expressed support for Commission efforts to promote the infrastructure reform necessary for the United States to lead the world in 5G development, but also said certain obstacles continue to impede important upgrades and construction. CCA said the Commission can help address these remaining barriers by clarifying certain provisions of Section 6409 of the Middle-Class Tax Relief and Job Creation Act of 2012 and the Commission's implementing regulations and by modernizing other regulations through further targeted action.

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Robocalls

- House Energy and Commerce Committee Chair Rep. Frank Pallone, Jr. (D-N.J.) released a [statement](#) on July 17, 2019, announcing the *Stopping Bad Robocalls Act*, [H.R. 3375](#), was favorably reported, as amended, to the full House of Representatives by a vote of 48-0. The bill would, among other things, require the FCC to adopt critical consumer protections; require all carriers, over time, to implement a new technology to make sure that caller-ID information is appropriately authenticated with no additional line item charge for consumers on their bill; allow the blocking of calls in a reasonable manner without an extra charge; and allow the FCC to assess an additional \$10,000 penalty for a violation if the offender acted with intent to cause the violation.
- NTCA and Golden West Telecommunications [spoke with](#) Chairman Pai's Senior Counsel and Wireline Advisor on July 16, 2019, to discuss how the FCC can facilitate RLECs' full participation in the SHAKEN/STIR caller-ID "spoofing" mitigation framework. They said SHAKEN/STIR is not compatible with TDM switching facilities and expressed concern with how smaller rural carriers will be able to interconnect with other voice providers for the passage and exchange of SHAKEN/STIR certificates absent further FCC action. They suggested if the FCC wishes to see STIR/SHAKEN solutions implemented in rural America, it needs to adopt something analogous to the "rural transport rule" that it has previously utilized when policy changes risked shifting transport charges upon small carriers and the rural customers they serve.

Universal Service

- Replies were filed on July 16, 2019, on Central Texas Telephone, et al.'s [petition](#) for a rulemaking to prohibit the use of USF funds for special construction of fiber networks that overbuild existing fiber networks. [NTCA](#) supported a rulemaking proceeding to consider whether the E-rate competitive bidding rules are producing unintended consequences that warrant changes. It also said the circumstances as laid out by the Texas carriers demonstrate that, at the very least, the Commission should be concerned the E-rate competitive bidding rules might not be functioning as effectively as they could to ensure program funds are always spent in the most cost-effective manner possible. [E-mpa](#) opposed the petition and what it claimed is the Texas carriers attempt to circumvent the competitive bidding process and increase the burden on the program administrator, as well as the Universal Service Fund itself. [EducationSuperHighway](#) also opposed the petition, saying it requests anti-competitive changes and the requested rule changes would increase costs for schools and delay progress and connectivity. The [Central Texas Telephone Cooperative, Peoples Telephone Cooperative, and Totelcom Communications](#) said the record clearly demonstrates E-rate waste through overbuilding is a nationwide problem and the comments filed in opposition to the petition fail to explain how allowing such waste and overbuilding benefits the schools and libraries, or USAC. The [Texas Statewide Telephone Cooperative](#) urged the FCC to open the requested rulemaking to review the potential abuses to the program created by the overbuilding and duplication of rural networks with federally-supported funds. [INCOMPAS](#) said the Texas Carriers have not met their burden of showing that a rulemaking is necessary, and argued the concerns expressed about the competitive bidding process in the E-rate program would be better resolved through the existing structures established in the E-Rate Modernization Order. [Public Notice List of all replies available to date](#)
- The Wireline Competition Bureau issued a [Public Notice](#) on July 17, 2019, to announce there is sufficient funding available to fully meet USAC's estimated demand for Category One and Category Two requests for E-Rate supported services for funding year 2019. The Bureau directed USAC to fully

fund eligible Category One and Category Two E-rate requests.

- The FCC published a [notice](#) in the Federal Register on July 17, 2019, to announce comment and reply dates on the [NPRM](#) proposing a permanent E-rate category two budget. Comments are due August 16, 2019; replies are due September 3, 2019.
- Telcel Communications met separately with [Commissioner Carr](#) and his Advisor and [Commissioner O’Rielly’s](#) Advisor on July 11, 2019, to discuss the [joint petition](#) it filed with Central Texas Telephone Cooperative and Peoples Telephone Cooperative to prohibit the use of USF funds for special construction of fiber networks that overbuild existing fiber networks. It requested the Commission release an NPRM to address the overbuild and waste concerns described in the petition.
- A group of Texas organizations and entities representing Texas public schools, education service centers, superintendents, school leaders, educators and parents filed a [letter](#) on July 15, 2019, to express concern with the Texas carriers’ [petition](#) for a rulemaking to prohibit the use of USF funds for special construction of fiber networks that overbuild existing fiber networks. They asserted it would undermine state and local education agency leadership on their critical work in school connectivity, compromise the cornerstone principles of equity and competition within the E-rate program, and use federal policy to establish monopolistic protections for incumbent providers.
- The Schools Health & Libraries Broadband Coalition [spoke by phone](#) with Commissioner Starks’ Advisor on July 12, 2019, to discuss several USF issues, including the Texas carriers’ E-rate Petition and the rural health care proceeding. SHLB asserted the Texas carriers proposed reforms to the E-rate competitive bidding process would result in higher costs for schools and libraries and a higher amount of E-rate funding for services that could be inferior to those being provided by the winning bidder in the competitive bidding process. SHLB said it is still examining the draft Rural Health Care Order and has potential concerns about the complexity of how to determine the urban and rural rates.
- The FCC released an [Erratum](#) on July 17, 2019, to its recent [NPRM](#) on Promoting Telehealth for Rural Consumers. The Erratum removed paragraph 114 regarding the Congressional Review Act and renumbered the remaining paragraphs accordingly.
- GCI filed a [request for review](#) of a USAC decision and a petition for waiver on July 15, 2019. GCI requested review of a USAC decision and of USAC’s policy of preventing overlapping funding commitment requests, asserting USAC’s policy: inevitably leads to gaps in funding due to installation delays; discriminates against health care providers in Alaska where such delays are common; and is not in accordance with Commission rules that allow health care providers to upgrade circuits and to obtain multiple connections if needed for health care purposes. GCI also seeks a waiver of sections 54.719(a), 54.720(b) and 54.675 and such other rules as may be necessary to grant relief.
- GCI [spoke by phone](#) with Commissioner Starks’ Advisor and left a voicemail for Chairman Pai’s Special Counsel on July 15, 2019, to discuss the draft Rural Health Care [Order](#). GCI asserted with respect to the competitive bidding rules and bid evaluation processes, the core provisions regarding the determination of comparable rural and urban rates are difficult to evaluate. GCI also said an erroneous determination of the rural rate for a similar service in a comparable rural area will likely mean that services necessary to support telemedicine do not get built or upgraded in high cost rural areas, particularly when there are no other entities in that rural community buying services similar to the rural healthcare provider.
- The Tanana Chiefs Conference [met with](#) Wireline Competition Bureau staff on July 12, 2019, to discuss its request for review and reversal of a USAC decision denying TCC’s request to file three FCC Forms 466 outside of the USAC-imposed filing windows for the Rural Health Care program for funding year 2016. TCC said USAC’s decision prevented it from obtaining funding it requires to provide telehealth services for three rural health care providers that are part of TCC’s consortium. TCC asked the Commission for expedited action on its request.
- The Minnesota School Boards Association sent a [letter](#) to Chairman Pai and Commissioners O’Reilly, Carr, Rosenworcel, and Starks on July 15, 2019, to urge the Commission not to establish an overall

cap for the Universal Service Fund or combine the cap of any USF program. It argued it is detrimental to the goal of universal service to put the various USF programs in direct competition for USF funds.

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Misc.

- The Wireline Competition Bureau issued a [Public Notice](#) on July 15, 2019, seeking comments on a 214 application filed by Absaraka Cooperative Telephone Company and Inter-Community Telephone Company requesting approval for the transfer of certain assets owned by Absaraka to ICTC. Comments are due July 29, 2019; replies are due August 15, 2019.
- Commissioner O’Rielly sent a [letter](#) to U.S. Virgin Islands Governor Albert Bryan, Jr. on July 17, 2019, to discuss diversion of 911 fees to other functions, including the Department of Health and Virgin Islands Fire Service. O’Rielly said such a funding diversion is an unacceptable breach of trust and responsibility, as the collection of this money is expressly authorized for a specific and critical purpose. He said he would find it extremely difficult to support providing additional USF funding to the Virgin Islands without a firm commitment and a timeline from the administration detailing how they are prepared to put an end to fee diversion practices once and for all.
- The Wireline Competition Bureau issued a [Public Notice](#) on July 19, 2019, granting a 214 application filed by InterCarrier Networks and Great Plains Communications that requested consent to transfer control of ICN to GP Communications.
- To date, no replies were filed on an application by Pinpoint Holdings and Wyverd Group requesting consent to transfer control of Accipiter Communications d/b/a Zona Communications from Pinpoint Holdings to Wyverd. [Public Notice](#)
- The Wireline Competition Bureau issued an [Erratum](#) on July 19, 2019, to the [Report and Order on Remand and Memorandum Opinion and Order](#) that granted price cap carriers relief from ex ante pricing regulation of their lower speed TDM transport business data services nationwide and partially granting USTelecom’s request for forbearance from DS1 and DS3 transport unbundling obligations for price cap carriers. The Erratum amended the Order by replacing “60 days” with “30 days,” in the last sentence of paragraph 47.
- The Wireline Competition Bureau issued an [Order](#) on July 19, 2019, granting, on its own motion, a waiver of the FCC’s telephone number aging rule (section 52.15(f)(ii)) to all companies that provide service in areas of Louisiana affected by Tropical Cyclone Barry. The aging rule states service providers may only age telephone numbers that have been disconnected for up to 90 days before assigning them to other customers. This waiver is in effect immediately and for a nine-month period, expiring on April 14, 2020, and will also apply to residential customers in other areas for which the President declares states of emergency due to post-Tropical Cyclone Barry.
- Commissioner Carr [announced](#) on July 19, 2019, Jamie Susskind, his Chief of Staff and Legal Advisor, is departing the FCC and Joseph Calascione will serve as his Acting Legal Advisor for wireline and consumer issues.

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Upcoming Filing Dates

- July 24 - Comments are due on the [FNPRM](#) proposing revisions to FCC rules implementing the Telephone Consumer Protection Act and on issues pertaining to implementation of SHAKEN/STIR. Reply comments are August 23, 2019. [FR](#)
- July 25 - Replies due on Northeast Iowa Telephone and Western Iowa Telephone’s [Petition for Clarification or Declaratory Ruling](#) on the definition of locations under the A-CAM for residences that also serve as businesses. [Public Notice](#)

- July 29 - Comments due on the [Notice of Proposed Rulemaking](#) seeking comment on establishing an \$11.42 billion cap on the Universal Service Fund. Replies are due August 26, 2019. [FR](#), [Order](#)
- July 29 - Comments due on a 214 application filed by Absaraka Cooperative Telephone Company and Inter-Community Telephone Company requesting approval for the transfer of certain assets owned by Absaraka to ICTC. Replies are due August 15, 2019. [Public Notice](#)
- July 31- Comments due on a [petition](#) filed by CTIA, the National Hispanic Media Coalition, et al., asking the FCC to pause the December 1, 2019 implementation of two changes to Lifeline that would otherwise take effect: a five-fold increase in the minimum required broadband data usage allowance; and the phase-down in support for voice services. Replies are due August 15, 2019. [Public Notice](#)
- Aug. 1 - PRA comments due on a revision of a currently approved information collection associated with reforms to the universal service mechanisms that were adopted in the [March 2016](#) and [December 2018](#) RoR Reform Orders. [FR Notice](#)
- Aug. 1 - PRA comments due on an extension of a currently approved information collection associated with Form 502, Numbering Resource Optimization. [FR Notice](#)
- Aug. 5 - PRA comments due on a revised information collection pursuant to the requirement that certain carriers with high-cost reporting obligations must file information about their locations that meet their broadband deployment public interest obligations via USAC's electronic portal. [FCC Notice](#)
- Aug. 15 - Replies due on a [petition](#) filed by CTIA, the National Hispanic Media Coalition, et al., asking the FCC to pause the December 1, 2019 implementation of two changes to Lifeline that would otherwise take effect: a five-fold increase in the minimum required broadband data usage allowance; and the phase-down in support for voice services. [Public Notice](#)
- Aug. 15 - Replies due on a 214 application filed by Absaraka Cooperative Telephone Company and Inter-Community Telephone Company requesting approval for the transfer of certain assets owned by Absaraka to ICTC. [Public Notice](#)
- Aug. 13 - PRA comments due for information collection requirements for parts of sections 251 and 252 of the Telecommunications Act of 1996 that affect local competition. [FR](#)
- Aug. 16 - Comments are due the [NPRM](#) seeking comment on the permanent E-rate category two budget. Replies are due September 3, 2019 [FR](#)
- Aug. 23 - Replies are due on the [FNPRM](#) proposing revisions to FCC rules implementing the Telephone Consumer Protection Act and on issues pertaining to implementation of SHAKEN/STIR. [FR](#)
- Aug. 26 - Replies due on the [Notice of Proposed Rulemaking](#) seeking comment on establishing an \$11.42 billion cap on the Universal Service Fund. [FR](#), [Order](#)
- Sept. 3 - Replies are due the [NPRM](#) seeking comment on the permanent E-rate category two budget. [FR](#)

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