

[Broadband](#)[Net  
Neutrality](#)[ICC](#)[State ICC](#)[USF](#)[TRS](#)[MISC](#)[Upcoming  
Events](#)**August 2, 2010 HIGHLIGHTS**

- The FCC issued the [Agenda](#) for its August 5 Open Meeting. The Commission will consider a NPRM and NOI on removing regulatory barriers to the use of spectrum for wireless backhaul and other point-to-point and point-to-multipoint communications.
- Chairman Genachowski [spoke](#) at OPASTCO's 47th Annual Summer Convention and at the 72nd Communications Workers of America Conference last week. In both cases, the Chairman discussed modernizing USF for broadband and defended the FCC's 4 Mbps target.
- The House [approved](#) a fiscal year 2010 supplemental appropriations measure (HR 4899) (already passed by the Senate), which eliminated previous House amendments that would have rescinded \$302 million in funding for NTIA's BTOP broadband grant program and \$300 million in funding for RUS's BIP broadband loan program. Awaiting President Obama's signature.
- Ex Partes/items filed on broadband deployment: NTCA [responded](#) to Blair Levin's [letter](#) in the Washington Post on broadband for education. OPASTCO, *et al.* [discussed](#) how the loss of revenues from USF support and ICC would harm broadband investment and adoption in their territories. Great Plains and Parrino Strategic Consulting [discussed](#) the NBP and USF reform with several state commissioners. WITA [expressed](#) concern on the effects the NBP may have on its members' ability to meet their CoLR obligations and their ability to finance ongoing investments. MTA [discussed](#) the USF and rural health care proposed rulemakings. ATN and Commnet Wireless [discussed](#) Commnet's initiatives on Tribal lands. Windstream [said](#) any broadband speed and performance measurements regime should include a clear, standalone assessment of speed and performance offered within each broadband provider's network.
- The FCC's [Office of General Counsel](#) released a [memorandum](#) on July 16, 2010, advising that a [petition for review](#) of the FCC's [Order](#) addressing high-cost USF support for non-rural carriers had been filed by the Vermont PSB and Maine PUC in the DC Circuit.
- [Public Notice](#) seeks comment on UTEX's renewed [petition for preemption](#) of the jurisdiction of the Texas PUC. UTEX asks the FCC to arbitrate the pending interconnection disputes between UTEX and AT&T. Comments due Aug. 12, 2010; replies due Aug. 23.
- [Public Notice](#) seeks comment on CRC and TWC's [petition](#) requesting the Commission preempt the Maine PUC's finding that until the rural exemption in section 251(f) is terminated, RLECs are not required to negotiate interconnection agreements with CLECs under section 251, and that such requests are not subject to arbitration under section 252. Comments due Aug. 30; replies due Sept. 13.
- The FCC's [Office of General Counsel](#) released a [memorandum](#) on July 7, 2010, advising that a [petition for review](#) of the FCC's June 28, 2010 TRS [Declaratory Ruling](#) has been filed by Sorenson Communications in the 10<sup>th</sup> Circuit.

**Other Key Upcoming Dates:**

- ✓ Comments due today, Aug 2<sup>nd</sup>, on applying service outage reporting rules to interconnected VoIP and ISPs.
- ✓ Replies due Aug. 11<sup>th</sup> on the USF Reform [NOI and NPRM](#).
- ✓ Replies due Aug. 12<sup>th</sup> on the [NOI](#) on proposals to regulate Broadband Internet Access service.
- ✓ Comments due Aug. 13<sup>th</sup> on the WCB's collection, use and dissemination of data.

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**BROADBAND**

- The FCC issued the [agenda](#) for its August 5 Open Meeting. The Commission will consider a NPRM and NOI seeking to remove regulatory barriers to the use of spectrum for wireless backhaul and other point-to-point and point-to-multipoint communications in order to lower the cost of backhaul services and accelerate investment in broadband networks throughout the nation. The Commission will also consider an Order and FNPRM that enables consumers with hearing loss to enjoy the benefits offered by modern advanced telephone voice communication devices.
- Chairman Genachowski [spoke](#) at the 47<sup>th</sup> Annual OPASTCO Summer Convention and Trade Show. The Chairman said it was unacceptable that up to 24 million Americans lack access to robust broadband service, mostly in rural areas, and a key driver of rural broadband deployment will be the Universal Service Fund. He stated USF reform is necessary and will be difficult. He enunciated five principles to guide reform: universal service policies must be based on the future, not the past; the Universal Service Fund must deliver universal broadband; no flash cuts; fiscal responsibility; and the reform process must be transparent, fact-based and data-driven.
- Chairman Genachowski [spoke](#) at the 72nd Communications Workers of America Conference on July 26, 2010. The Chairman discussed modernizing USF, from supporting yesterday's telephone service to tomorrow's broadband access service, and said the FCC targets an initial minimum speed of 4 Mbps for USF funding, but expects that 4 Mbps standard to evolve over time.
- Chairman Genachowski [responded](#) to [Questions](#) for the Record following his appearance at a National Broadband Plan Hearing on April 14, 2010 before the Senate Commerce, Science and Transportation Committee. Chairman Genachowski also [responded](#) on July 1, 2010 to [Questions](#) for the Record following a National Broadband Hearing before the House Subcommittee on Communications, Technology and the Internet on March 25, 2010.
- The House [approved](#) a fiscal year 2010 supplemental appropriations measure (HR 4899) (already passed by the Senate), which eliminated previous House amendments that would have rescinded \$302 million in funding for NTIA's Broadband Technology Opportunities Program (BTOP) and \$300 million in funding for RUS's Broadband Initiatives Program (BIP). Awaiting President Obama's signature.
- NTCA [responded](#) to Blair Levin's [letter](#) in the Washington Post Op-Ed section. Levin discussed how broadband can change education, but indicated that America is not grasping the opportunity that broadband presents. He claims debate focuses too much on how our networks compare with those in other countries, and less on how to use those networks in America. NTCA said the NBP proposes to bring 100 Mbps service to 100 million Americans, while the remainder, most living in less populated, geographically remote areas, would only receive 4 Mbps. NTCA said if implemented, the plan could prevent rural Americans from reaping the myriad benefits that broadband offers now and in the future.
- OPASTCO, Pioneer Communications, OmniTel Communications, Sebastian, Waitsfield and Champlain Valley Telecom, Smithville Communications, and TDS Telecom [met with](#) WCB staff on July 27, 2010 to discuss the unique characteristics of their rural service territories and their business plans for broadband deployment and upgrades. They explained how the loss of revenues from universal service support and intercarrier compensation would harm broadband investment and adoption in their territories. They said the uncertainty created by the universal service

recommendations in the National Broadband Plan has led one of the companies to reject a \$38 million loan award from the RUS's Broadband Initiatives Program (BIP).

- Great Plains and Parrino Strategic Consulting Group [met with](#) State Commissioners Ray Baum (Oregon), Larry Landis (Indiana), and James Cawley (Pennsylvania) to discuss the National Broadband Plan and USF reform. They provided them with a summary of the Nebraska Companies' comments filed on the USF Reform NOI/NPRM. Great Plains also [met with](#) State Commissioner John Burke (Vermont) to discuss the same issues.
- WITA [met with](#) Carol Matthey of the WCB on July 26, 2010 to respond to questions Carol Matthey had on WITA's comments filed on the USF Reform NOI/NPRM. WITA expressed concern on the possible effects the NBP may have on their members' ability to meet their obligations as carriers of last resort and their ability to finance ongoing investments in an uncertain environment.
- The Montana Telecommunications Association (MTA) [met with](#) Christine Kurth, Legal Advisor Commissioner McDowell, on July 27, 2010 to discuss the USF and rural health care proposed rulemakings. MTA said freezing the size of the overall USF while expanding uses for universal service support will put such pressure on the High Cost Fund that the statutory mandates for comparable rates and services, and predictable, sustainable support will be compromised.. MTA commended certain recommendations in the rural health care proposed rulemaking for increased due diligence mechanisms which would require applicants to justify building new infrastructure rather than leveraging existing network facilities. MTA said, however, the proposed due diligence measures fall short and need to be strengthened.
- Atlantic Tele-Network (ATN) and Commnet Wireless [met with](#) CGB and WTB staff on July 28, 2010 to discuss Commnet's initiatives on Tribal lands throughout the western and southwestern areas of the United States. ATN and Commnet said they could do more in underserved and unserved areas if universal service reform measures recognize the capabilities of wholesale carriers, consider separately tribal and territorial areas, and include areas with very few resident populations.
- Windstream [spoke with](#) OET and OSPP staff on July 23, 2010 to discuss broadband speed and performance measurements. Windstream said any broadband speed and performance measurements regime should include a clear, standalone assessment of speed and performance offered within each broadband provider's network. Windstream said this assessment, which is consistent with the NBP's approach toward measuring "actual speed," would give the FCC the information it needs to ensure that broadband providers appropriately design their own networks to offer their customers the speeds and performance advertised to them. Windstream said relying exclusively on aggregate data collected from servers located in urban areas likely would make rural broadband providers' networks look like they perform worse than their primarily urban-based competitors merely because the rural providers mainly serve locales far from the urban-based servers.
- CTIA [met with](#) Rick Kaplan and Jennifer Flynn, Legal Advisors to Chairman Genachowski, on July 28, 2010 to discuss the state of the wireless ecosystem and its contributions to the economy. CTIA also detailed a list of pending FCC proceedings of interest to the wireless industry.
- Public Knowledge [met with](#) John Giusti, Chief of Staff and Legal Advisor for Commissioner Copps, on July 27, 2010 to discuss wireless transmission. PK argued that, in the forthcoming Notice of Inquiry on wireless backhaul, the Commission should solicit comment as to whether it

should modify the “first in time, first in right” rule by adopting a requirement similar to that used in the 3.65 GHz rules that licensees must try to accommodate new entrants. PK suggested the Commission solicit comment regarding how to facilitate the creation of ad hoc networks. PK noted that the 101 rules are not necessarily easy to use for individuals making networks with a non-standard architecture.

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## NET NEUTRALITY

- Congressmen Gene Green (D-TX) and Fred Upton (R-MI) introduced a concurrent resolution that directs the FCC “to wait for Congress to enact a law prior to issuing rules, regulations, or orders concerning additional regulation of broadband Internet service. ([article](#))
- NARUC [filed a NARUC Resolution](#) on the broadband regulatory framework July 26, 2010 which was passed at NARUC’s Summer Board of Directors meeting. NARUC said the resolution will be the basis for NARUC to file reply comments on the NOI on the Regulatory Framework for Broadband Internet Service. The resolution said if the FCC chooses a “Third Way” approach to regulating Internet connectivity service, it should apply a “functional-focus” model of jurisdiction that allocates State and Federal regulatory responsibility over communications services, and be very clear that the rationale does not prejudice in any way States’ authority reserved under Section 253. The resolution also said the FCC should not forbear from applying Title II, which reserves authority to the States.
- The Open Internet Coalition, Washington Telecom and Media Counsel, Google, Skype, Verizon, AT&T, and NCTA [met with](#) Edward Lazarus, Chief of Staff to the Chairman, Zachary Katz, Deputy Chief, OSPP, Bruce Gottlieb, Chief Counsel to the Chairman, Paul De Sa, Chief, OSPP, and Doug Sicker, Chief Technology Officer, on July 28, 2010 to discuss details regarding prospective legislation relating to Open Internet principles. They discussed prohibitions on blocking legal content and interfering with attachment of nonharmful devices, possible legislative language for a nondiscrimination principle, treatment of specialized services, transparency of broadband Internet service performance and network management practices, an enforcement regime to protect consumers, and the applicability of the principles to wireless platforms.
- AT&T [met with](#) Ed Lazarus, Chief of Staff to Chairman Genachowski, and Zachary Katz, Deputy Chief, OSPP, on July 27, 2010 to discuss potential legislation concerning a regulatory framework for promoting Internet openness. AT&T discussed prohibitions against blocking lawful Internet content and standards for preventing unreasonable discrimination that harms consumers or competition. AT&T also discussed the treatment of broadband IP-based services other than Internet access services. AT&T also [had a telephone call with](#) Commissioner McDowell on July 29, 2010 to discuss the same issues.
- The Computer & Communications Industry Association, XO Communications, Dish Network, *et al.* [met with](#) Ed Lazarus, Chief of Staff to Chairman Genachowski, on July 27, 2010 to discuss the sound legal basis on which the FCC would rest in holding that the transmission component of broadband Internet access service is a telecommunications service. CCIA, *et al.* said Title II routinely has applied to the transmission component of broadband services and present market circumstances support applying the same classification to broadband Internet access. CCIA, *et al.* also attached a paper showing companies supporting the “Third Way” approach.

- Minority Media and Telecommunications Council and thirteen civil rights organizations sent a [letter](#) to Chairman Genachowski and the FCC Commissioners on July 28, 2010 to respond to Free Press' request, which asked the FCC to adopt a version of its fifth proposed net neutrality rule. MMTC claims Free Press' request would prevent businesses from entering into voluntary agreements with broadband providers and represents a significant step backward for consumers, many minority and women business enterprises, and socially and economically disadvantaged businesses. MMTC said voluntary agreements with broadband providers are beneficial to disadvantaged businesses, and allow businesses to offer cutting edge and innovative online offerings that require specialized or enhanced handling.
- Free Press sent a [letter](#) to Chairman Genachowski and the FCC Commissioners on July 28, 2010 to respond to the Thirteen National Civil Rights Organizations' letter stating Free Press was urging the Commission "to adopt a version of its fifth proposed net neutrality rule that would prevent businesses" from purchasing content delivery network services (CDNs) from Internet access providers. Free Press said this is an inaccurate interpretation of Free Press' opposition to paid prioritization, and Free Press has never, and does not currently oppose these forms of "geographic" prioritization. Free Press and the Open Internet Coalition also [met with](#) General Counsel Office and WCB staff on July 29, 2010 to discuss the proceeding regarding a regulatory framework for broadband Internet service. They emphasized that broadband transmission is functionally separate from other information services offered by broadband Internet service providers. They also argued that classifying broadband Internet connectivity as a telecommunications service would not lead to onerous or extensive regulation across the Internet ecosystem, and emphasized that Title II classification as proposed in the "Third Way" approach would not have a meaningful impact on investment.
- The Recording Industry Association of America (RIAA) [met with](#) Josh Gottheimer, Senior Counselor to Chairman Genachowski, on July 27, 2010 to discuss the nature of online piracy as it is evolving and strategies for addressing it, the role of voluntary arrangements between network operators and content providers to protect content online from copyright infringement, how the proposed network neutrality rules may impact such arrangements, and the FCC's function in connection therewith.
- The American Libraries Association, *et al.* [met with](#) Ed Lazarus, Chief of Staff to Chairman Genachowski, and Zachary Katz, Deputy Chief, OSPP, on July 26, 2010 to discuss the proposed classification of broadband Internet access services and "net neutrality." They said public institutions dedicated to public access, education and research have a large stake in the outcome of the FCC's deliberations on the classification of broadband Internet access services. They support the adoption of enforceable policies to preserve an open Internet, and support the goal of the National Broadband Plan to ensure that all anchor institutions in every community have at least a 1 Gbps connection.
- Chairman Genachowski [testified](#) before the Senate Committee on Commerce, Science & Transportation at a hearing on protecting online privacy.

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## ICC

- [Public Notice](#) seeks comment on UTEX's renewed [petition for preemption](#) of the jurisdiction of the Texas PUC. UTEX asks the FCC to arbitrate the pending interconnection disputes between

UTEX and AT&T. UTEX's renewed petition claims the "PUCT has failed to resolve the arbitration by the deadline established by the Commission." The FCC set a deadline of July 9, 2010 - nine months after the FCC denied the original petition. The PUC indicated that PUC arbitrators working on the interconnection arbitration expect to complete the proposal for award by August 13, 2010. UTEX's original preemption petition was denied on October 9, 2009. Comments due Aug. 12, 2010; replies due Aug. 23.

- [Public Notice](#) seeks comment on a [petition](#) filed by CRC Communications of Maine and Time Warner Cable requesting that the Commission issue an order preempting the Maine PUC's conclusion that until the rural exemption in section 251(f) is terminated, RLECs are not required to negotiate agreements with competitive carriers under sections 251(a) and 251(b), and that such requests are not subject to arbitration under section 252. The petitioners said the Maine PUC denied CRC's basic right to interconnect and exchange traffic and, in turn, blocked CRC from offering wholesale telecommunications services and TWC from offering its interconnected VoIP services in certain rural areas of Maine. Comments are due Aug. 30; replies due Sept. 13.
- ITTA [met with](#) WCB staff on July 29, 2010 to ask the FCC to implement measures to address phantom traffic, access stimulation, and obligations of VoIP providers to pay access for calls terminated on the PSTN. ITTA said immediate action will reduce incentives for arbitrage, strengthen provider stability by enabling proper cost recovery, and serve as a reasoned prelude to further comprehensive reform.
- NECA [met with](#) Edward Lazarus, Chief of Staff to Chairman Genachowski, on July 28, 2010 to discuss its position on a petition filed by Sandwich Isles, which is seeking to have certain costs included in the NECA traffic sensitive pools.
- NECA [had a telephone conversation with](#) WCB staff on July 27, 2010 to discuss the applicability of a 1986 FCC Order regarding special access to the Sandwich Isles Communications' Petition for Declaratory Ruling. NECA said it did not think this 1986 Order added anything to the "used and useful" standard as described in NECA's pleadings. NECA said this standard is widely used in the rate-setting process to determine inclusion of costs in the rate base. NECA also noted that while the 1986 Order refers to another FCC "used and useful" decision in 1975, NECA believes this Order was not applicable to this case.
- Sandwich Isles Communications (SIC) filed a [letter](#) on July 30, 2010 claiming that a recent Hawaiian undersea cable service interruption shows that NECA was wrong in its assertions as to the availability and adequacy of capacity on the Hawaiian Telcom and Wavecom undersea cables serving Hawaii. SIC attached an article detailing the interruption of service on the Wavecom undersea cable (one of three serving Hawaii) on July 27, 2010, and its effect on one-third of Hawaii's population. SIC claims this incident shows SIC's concerns as to quality and reliability of those undersea cables have been substantiated, and NECA's refusal to find the Paniolo Cable "used and useful" and include SIC's costs in the NECA pool is contrary to the public interest. SIC said neither Hawaii nor SIC should continue to be held hostage by NECA's erroneous position in this case.
- Verizon Wireless and Verizon [met with](#) the WCB and WTB on July 27, 2010 to discuss the impact of the *North County Communications* Order on compensation arrangements between wireless providers and CLECs for intraMTA traffic. Verizon emphasized that prompt, decisive action from the Commission is necessary to close the potentially large new arbitrage loophole for intraMTA CMRS-originated traffic terminated by CLECs.

**STATE ACTIVITY ON ICC**

- [Qwest](#), [Office of Consumer Advocate](#), [Sprint](#), and [AT&T](#) filed comments opposing Aventure's [revised tariff](#) filed with the Iowa Utilities Board. Qwest said the IUB should see this as nothing more than Aventure's latest attempt to legitimize traffic pumping, and should reject the proposed tariff.
- Verizon filed an "[exception](#)" with the PA PUC stating it has already refunded XO for disputed charges for interconnection facilities. XO had alleged Verizon unlawfully imposed dedicated tandem port charges for meet point billing trunks and therefore violated the terms of its tariffs and the parties' interconnection agreements. XO's "[reply exceptions](#)" said the state PUC should formally adopt the ALJ's recommendation in order to verify that it has been properly refunded, and ensure Verizon does not impose such charges again.
- The California PUC [dismissed](#) Qwest's [complaint](#) against CLECs alleging the CLECs have subjected Qwest to "unjust and unreasonable" rate discrimination in connection with the provision of intrastate switched access services. Qwest said the CLECs entered into unfiled, off-tariff individual case basis agreements with select interexchange carriers and failed to make those same rates, terms and conditions available to Qwest. The PUC said that Qwest failed to state a cause of action upon which relief may be granted.

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**USF**

- The FCC's [Office of General Counsel](#) released a [memorandum](#) on July 16, 2010, advising that a [petition for review](#) of the FCC's [Order](#) addressing high-cost USF support for non-rural carriers had been filed by the Vermont PSB and Maine PUC in the DC Circuit.
- Reply comments filed on issues referred to the Federal-State Joint Board on Lifeline/Link-Up eligibility, verification and outreach issues by [CTIA](#), [MDTC](#), [NASUCA](#), [Nexus Communications](#), [Pennsylvania PUC](#), [PR Wireless](#), [Sprint Nextel](#), [TracFone Wireless](#), [Verizon](#), and [YourTel America](#). [Public Notice](#)
- Replies filed on the [FNPRM](#) proposing that separately-priced firewall services, anti-virus software, wireless Internet access applications, and web hosting should not be eligible for funding from the E-Rate program by [CenturyLink](#), [EdLine and Epal](#), [California Dept of Education](#), and [State Consortium Group](#).
- Replies filed on the [NPRM](#) seeking comment on reforms aimed at cutting red tape in the E-Rate program by [Norlight Telecommunications](#), [SECA](#), [South Dakota Dept. of Education](#), [San Diego Unified School District](#), [Cisco](#), [AT&T](#), [Council of the Great City Schools](#), [City and County of San Francisco](#), [Schoolwires](#), [Internet2 K20 Initiative](#), [Montgomery County, MD](#), [E-Rate Central](#), [NATO et al.](#), [Blackboard](#), [Qualcomm](#), [Hispanic Information and Telecom Network](#), [Benton Foundation](#), [Philip B. Gieseler](#), [CTIA](#), [CWA](#), [Nevesem, Inc.](#), [ALA](#), [EdLine and Epals](#), [CenturyLink](#), [California Dept of Education](#), and [State Consortium Group](#)
- Verizon [spoke with](#) Edward Lazarus, Chief of Staff to Chairman Genachowski, on July 23, 2010 to discuss the Nebraska PSC and Kansas CC petition seeking to assess state universal service fees on the intrastate revenues of nomadic, interconnected VoIP providers. Verizon expressed concern about the impact a decision on the petition could have on the scope of the Vonage Order.

Verizon said regardless of the Commission's decision on the petition, it should ensure that VoIP service remain subject to exclusive federal jurisdiction. Verizon also discussed its positions on USF and intercarrier compensation reform and its support for most of the National Broadband Plan recommendations on these issues.

- U.S. Cellular [spoke with](#) Irene Flannery of the WCB on July 28, 2010 to encourage the Commission to grant its petition for agreement in redefining the service areas of Rural Telephone Companies in Nebraska. U.S. Cellular noted the ratio of wire centers to be served versus not served was much less than the 8:1 ratio the Commission approved in the 2004 *Virginia Cellular Order*.
- The Alliance of Rural CMRS Carriers (ARC) filed an [ex parte](#) on July 26, 2010, responding to the July 22, 2010 [ex parte](#) filed by Verizon Wireless, which discussed implementation of reductions to high cost universal service support for Verizon pursuant to the condition in the [Order](#) approving Verizon Wireless' acquisition of Alltel. ARC refuted Verizon's assertion that there is no principled basis for other CETCs to receive additional support under the interim cap on CETC high-cost support as a result of the phase-out of support to Verizon Wireless and Sprint.
- AT&T filed an [ex parte](#) on July 26, 2010 and provided a copy of a presentation it used during a Lifeline event which proposed ways to modernize the Lifeline program. AT&T said the program must be overhauled in order to expand it to support broadband. AT&T suggested streamlining consumer outreach and eligibility processes, establishing a secure national PIN database at USAC to administer Lifeline, having states perform any verification of consumers' continued eligibility, and establishing "Lifeline Provider" designation by the FCC.
- [Order](#) granted petitions for forbearance from the "own facilities" requirement for ETC status, for purposes of federal universal service support. To become an ETC, a common carrier must offer the supported services "either using its own facilities or a combination of its own facilities and resale of another carrier's services" to each customer in its designated service area. Head Start, Consumer Cellular, Midwestern, and Line Up may now seek ETC designation to offer discounted service to qualified low-income consumers through the universal service Lifeline program, and will be subject to the same conditions previously applied to TracFone Wireless, Virgin Mobile and i-wireless. The FCC also partially granted a similar petition filed by Midwestern Telecommunications.
- The Nebraska PSC sent a [letter](#) to Chairman Genachowski and FCC Commissioners on July 26, 2010, discussing the recent Rural Healthcare [NPRM](#). The PSC said the temporary grandfathering in of organizations affected by the change in definition of "rural" health care facilities was not included in the NPRM. The PSC said this allowed them to continue to receive funds to assist in the development of telehealth networks, and asked the FCC to make the grandfathering permanent.
- Sprint [met with](#) WCB staff on July 27, 2010 to discuss the provision of E-Rate support for wireless Internet Access service used off-campus and on buses, and for dark fiber. Sprint also attached a report evaluating Project K-Nect and the impact mobile learning has had on student achievement, engagement and retention.
- Qwest [had a telephone call with](#) WCB staff on July 27, 2010 to discuss Form 470 and the FCC's proposal to make leased dark fiber from any source eligible for E-Rate funding as a Priority 1 service.



- The Education and Library Networks Coalition (EdLiNC) held a [telephone conference](#) with the WCB on July 29, 2010 to discuss the need to raise the E-Rate's annual cap to reflect current unmet need, and indicated that the new proposed eligible services would severely burden the program.
- The Bill & Melinda Gates Foundation [met with](#) the WCB on July 27, 2010 to discuss proposed changes to the E-rate program. The Foundation is concerned with the sustainability of public access to technology at the public library and views E-rate as a critically important source of support. The Foundation is supportive of the FCC's efforts to streamline the application process and the proposal to make non-profit entities eligible for E-rate funds.
- Verizon [met with](#) WCB staff on July 29, 2010 to discuss proposed changes to the Schools and Libraries program. No further information provided.
- Comments filed on InContact's [application for review](#) of an order [denying](#) a request for review of a USAC decision. Replies due August 9. [Public Notice](#)
- Comments filed by [TracFone](#) and [Pennsylvania PUC](#) on Cricket Communications' [petition](#) seeking forbearance from Section 54.207. Replies due August 10. [Public Notice](#)
- The Wisconsin PSC is [asking](#) all ETCs to identify if they receive federal high-cost support and, if so, provide information regarding the support and its use. The PSC said it is in the process of updating its requirements for ETCs to make them align more closely with reporting requirements given as guidelines to states by the FCC.

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## TRS

- The FCC's [Office of General Counsel](#) released a [memorandum](#) on July 7, 2010, advising that a [petition for review](#) of the FCC's June 28, 2010 TRS [Declaratory Ruling](#) has been filed by Sorenson Communications in the 10<sup>th</sup> Circuit.
- Petitioners 4 VRS Providers filed a [motion](#) for extension of time to file comments on the [NOI on Video Relay Service \(VRS\) rules](#). Petitioners said the extension is necessary to allow the industry, consumer organizations, and other parties enough time to adequately address the complex policy and technical issues in the NOI. Comments are currently due Aug. 18; replies due Sept. 2.
- Hamilton Relay filed an [ex parte](#) on July 27, 2010, asking the FCC to take action regarding the January 28, 2009 [petition for declaratory ruling](#) concerning the continued functionality of VRS and E911 for customers waiting to port their local 10-digit number from one provider to another. Hamilton said the declaratory ruling is necessary in order to clarify informal advice provided by the TRS Administrator five years ago regarding compensation for calls using more than one Communications Assistant.
- TDI, *et al.* filed a [request for waiver](#) asking the Commission to extend for one year a temporary waiver granted to permit toll free numbers and ten-digit geographic numbers to be directed to the same Uniform Resource Identifier in the iTRS Directory. TDI, *et al.* said that the original waiver

was granted to allow the Commission time to consider CSDVRS' [petition](#) for reconsideration of the [Toll Free Clarification Public Notice](#) and iTRS toll free issues generally. TDI, *et al.* said since the Commission is still considering these issues, it would be in the public interest to extend the waiver until an NPRM can be adopted.

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## MISC.

- Chairman Genachowski sent a [letter](#) on June 30, 2010 to several members of Congress, to the Chairmen of the House and Senate Commerce Committees, and to the Senate Appropriations Committee to inform them the Commission was holding a hearing to discuss the analytical framework the FCC should use to assess the effectiveness of its special access rules on July 19, 2010.
- Public Knowledge [met with](#) WCB staff and Chief Economist, Jonathan Baker, on July 27, 2010 to argue that the 2010 Qwest forbearance Order provides a way for the Commission to determine whether special access market rates are “just and reasonable” under the Communications Act. Public Knowledge said the Commission should use the product market analysis and market power analysis in that Order to determine whether prices exceed the competitive rate, or whether discounts or other pricing arrangements create discrimination for a particular class of user.
- Sprint Nextel [met with](#) Jonathan Baker, Chief Economist, and NWCB staff on July 29, 2010 to discuss special access. Sprint Nextel discussed the FCC’s recent special access workshop and the need for the FCC promptly to collect the data needed to complete its analysis of special access.
- Chairman Genachowski sent a [letter](#) on July 2, 2010 to respond to [Congressman Stupak’s letter](#), saying he would welcome Congressional examination of the Sunshine Act. Congressman Stupak proposed allowing limited, private Commission discussion meetings as long as no voting took place and the subjects discussed were listed on the Commission website.
- Chairman Genachowski sent a [letter](#) on June 24, 2010 to Congresswoman Jo Ann Emerson of Missouri in which he pledged to consider her views about the retransmission consent process carefully. [Congresswoman Emerson](#) expressed concern that some of her district's smaller operators are paying significantly higher rates for programming than larger operators.
- [Order](#) granted a request from the American Cable Association, NTCA, WTA, and the Fair Access to Content & Telecommunications Coalition for a two week extension to file replies to Responses and Oppositions in the Comcast-NBC Universal merger proceeding. The parties argued that given the volume of the applicants’ opposition and the delay in obtaining access to it, additional time is required to fairly review and analyze the filing. The new reply deadline is Aug. 19. [Comcast](#) did not oppose the extension request.
- Comcast and NBC Universal [met with](#) WCB staff and Diane Owen of the Justice Department on July 28, 2010 to discuss their proposed merger. Discussion included analyses from Compass Lexecon and the University of California on the competitive effects of the proposed transaction, focusing on horizontal pricing theories, vertical pricing theories, and online foreclosure theories.
- Free Press, Media Access Project and Consumer Federation of America [met with](#) Media Bureau staff on July 28, 2010 to discuss their concerns with the proposed acquisition of NBC Universal

by Comcast Corp. The group emphasized the proposed transaction's adverse impact on competition in the MVPD, independent programming, local broadcast, and video markets.

- Time Warner Cable filed a [letter](#) on July 30, 2010 to respond to The Walt Disney Company's [letter](#) responding to economic papers prepared on TWC's behalf. TWC said a core premise in the Walt Disney Company reply is plainly false, and TWC said as it and other parties have explained, there is no "free market" for the negotiation of retransmission consent rights. TWC said, to the contrary, the retransmission consent regime is a wholly artificial regulatory construct, and the Commission's rules were intentionally skewed to favor broadcasters in light of the fundamentally different conditions that prevailed in 1992.
- Gannett [met with](#) Commissioner Clyburn and her Legal Advisor, Eloise Gore, on July 29, 2010 to discuss retransmission consent. Gannett said the retransmission consent marketplace was working and should not be changed. Gannett explained that retransmission consent revenues are necessary to help underwrite its investments in local journalism and high-quality programming generally.
- Reps Rick Boucher (D-VA) and Cliff Stearns (R-FL) introduced a [bill](#) entitled the Voluntary Incentive Auctions Act of 2010, which allows the FCC to conduct voluntary incentive auctions to free up spectrum for commercial wireless providers.
- Comments filed by [MetroPCS](#), [MSS ATC](#), [NTCA](#), [Rural Cellular Association](#), [Rural Telecom Group](#), and the [Satellite Industry Association](#) on the state of mobile wireless competition for the FCC's Fifteenth Annual Report. Replies due Aug. 16. [Public Notice](#)
- CenturyLink [spoke by telephone with](#) WCB staff on July 29, 2010 to discuss its petition seeking a limited waiver of the August 2, 2010 deadline for large companies to implement one-day porting. CenturyLink explained that the integration of CenturyTel and Embarq systems is proceeding smoothly and meeting or exceeding implementation timelines. As a result, CenturyLink said it is modifying its petition to seek a waiver only until the small-company deadline of February 2, 2011, instead of May 1, 2011 as originally requested.
- Puerto Rico Telephone [submitted](#) additional information on July 28, 2010 in support of its petition for a waiver of structural separations requirements. PRTC said the Commission should grant the petition because the structural separations requirements are not necessary to protect competition in Puerto Rico, and are not in the public interest. PRTC said it commits to implementing the same special access performance metrics as imposed on the RBOCs to prevent non-price discrimination in the provision of special access services, and offering certain calling plans to protect residential customers who make few long-distance calls.
- Replies filed on Qwest's and CenturyLink's [application](#) for Commission approval to transfer control of various licenses and authorizations held by Qwest and its subsidiaries from Qwest to CenturyLink. Replies filed by [NJ Division of Rate Counsel](#), [NASUCA](#), [Sprint](#), [Level 3](#), [New Edge Networks](#), and [ITTA](#). [Public Notice](#)
- The Senate Appropriations Committee's Subcommittee on Financial Services [approved](#) a fiscal year 2011 [spending bill](#) that includes \$355.5 million for the FCC. (mention how much the OIG is allocated) The Obama Administration had requested \$352.5 million for the FCC, up from the \$335.8 million it got in FY 2010, to help it implement the National Broadband Plan and broadband mapping, conduct a spectrum inventory, launch an Emergency Response

Interoperability Center, and achieve other goals. The House Appropriations Committee also approved the bill. ([Table](#))

- The FCC [launched](#) a new web-based consumer help website. The new portal at [www.fcc.gov/consumers](http://www.fcc.gov/consumers) will allow consumers to learn about different issues in telecommunications, make it easy for consumers to find out what's going on at the FCC, get tips for making the best choices in purchasing communications devices and services, have their voices heard by filing comments on issues that interest them, and file a complaint when there are problems.  
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## UPCOMING EVENTS

- Comments due today, Aug. 2<sup>nd</sup>, on whether the current FCC service disruption reporting rules should apply to broadband Internet service providers and interconnected VoIP providers. Replies due Aug. 16, 2010. [Public Notice](#)
- FCC Open Meeting on Aug. 5.
- Replies due Aug. 6<sup>th</sup> on Brennan Lynch LLP's [petition](#) for declaratory ruling or rulemaking asking for the establishment of a USF safe harbor for audio bridging providers and integrated teleconferencing providers. [Public Notice](#)
- Replies due Aug. 9<sup>th</sup> on InContact's [application for review](#) of an order [denying](#) a request for review of a USAC decision. [Public Notice](#)
- Replies due Aug. 10<sup>th</sup> on Cricket Communications' [petition](#) seeking forbearance from Section 54.207. [Public Notice](#)
- Replies due Aug. 11<sup>th</sup> on the [NOI and NPRM](#) seeking comment on the use of a forward-looking economic cost model to determine efficient and targeted support levels for broadband deployment in high-cost areas, and proposals to cap the existing high-cost fund and cut legacy high-cost programs.
- Replies due Aug. 12<sup>th</sup> on the [Notice of Inquiry](#) on proposals to regulate broadband Internet access service.
- Comments due Aug. 12<sup>th</sup> on UTEX's renewed petition for preemption of the jurisdiction of the Texas PUC. Replies due Aug. 23. [Public Notice](#)
- Comments due Aug. 13<sup>th</sup> on the WCB's collection, use and dissemination of data. Replies due Sept. 13. [Public Notice](#)
- Comments due Aug. 16<sup>th</sup> on the [FNPRM](#) on revising pole attachment rates to make them as low and as close to uniform as possible, and reducing the disparity between current telecom and cable rates. Replies due Sept. 13.
- Replies due Aug. 16<sup>th</sup> on the state of mobile wireless competition for the FCC's Fifteenth Annual Report. [Public Notice](#)

- Comments due Aug. 18<sup>th</sup> on the [NOI](#) seeking comment Video Relay Service (VRS) rules. Replies due Sept. 2.
- Replies to responses on comments on the Comcast - NBC Universal merger due Aug. 19. [Order](#)
- Comments due Aug. 23<sup>rd</sup> on the [Public Notice](#) seeking comment on the application of the analytical framework used in the *Qwest Order* (rejecting Qwest's request for relief in the Phoenix MSA from certain wholesale and retail regulations) to other, similar requests for regulatory relief. Replies due Sept. 22.
- Comments due Aug. 30<sup>th</sup> on CRC and TWC's [petition](#) requesting the FCC preempt the Maine PUC's order on the rural exemption. Replies due Sept. 13. [Public Notice](#)
- Replies due Sept. 3 on the [Notice of Inquiry](#) on survivability in broadband networks and measures to reduce network vulnerability in natural disasters, pandemics, and other disasters.
- Replies due Sept. 8<sup>th</sup> on the [Notice of Inquiry](#) on whether the FCC should establish a voluntary Cyber Security Certification Program.

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