

NECA's Weekly Federal Regulatory Summary

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August 12, 2019 HIGHLIGHTS

- The FCC [authorized](#) CAF Phase II support for 593 winning bids identified in attachment A of the notice.
- NTCA filed [comments](#) on a [new information collection](#) regarding network performance testing, asserting the time per response estimated in the notice appears to underestimate the actual anticipated burden. ITTA, et al. [discussed](#) the July 2018 [order](#) on network performance testing, petitions for reconsideration and applications for review of it, and responsive pleadings, and urged the FCC to afford providers flexibility on the random selection of test subjects.
- NEIT and WITA [discussed](#) their [petition](#) for a declaratory ruling on the definition of locations under the A-CAM for home-based businesses, and the WCB's [guidance](#) on A-CAM final deployment obligations.
- The FCC [granted](#) a petition filed by Sunset Digital, a winning bidder in the CAF Phase II auction, for a waiver of a Part 54 rule to allow it to make a major modification to its long-form application. The FCC also [granted](#) LTD Broadband's petition for waiver of the deadline for filing audited financial statements for the CAF Phase II auction.
- The FCC released the [report and order and second FNPRM](#) on establishing a new digital opportunity data collection, which was adopted at the August Open Meeting. Comments are due 30 days after publication in the Federal Register; replies due 45 days after the FR publication.
- Sandhill Communications [discussed](#) the broadband mapping initiative in the [report and order and second FNPRM](#), and said the crowdsourcing proposal may impose additional burdens on rural operators. Public Knowledge also [offered](#) suggestions on the FCC's collection of broadband data.
- The FCC [announced](#) the filing deadline for Form 477 data as of June 30, 2019, is September 3, 2019.
- The D.C. Circuit [granted](#) in part petitions for review of the [order](#) on small cell deployment, vacating the order's removal of small cells from the FCC's limited approval authority.
- The [report and order on remand](#) that granted price cap carriers relief from ex ante pricing regulation of their lower speed TDM transport business data services nationwide [is effective](#) September 6, 2019.
- The FCC released the [second report and order](#) that amended the Truth in Caller ID rules to implement the anti-spoofing provisions of the RAY BAUM'S Act, which was adopted at its August Open Meeting.
- [RWA and NTCA](#) and [WISPA](#) asked the FCC to seek comment on the proposed merger of Sprint and T-Mobile in light of new developments, including bringing Dish Network into the proposed merger and [recent commitments](#) in exchange for approving the merger.
- The FCC [announced](#) AT&T filed a [formal complaint](#) against LEC-MI and/or Prime Circuits, alleging they improperly billed AT&T in end office access charges on aggregated 8YY traffic that AT&T paid.

Other Key Upcoming Dates

- Aug. 23 - Replies [due](#) on the [FNPRM](#) on revisions to FCC rules implementing the TCPA and on implementation of SHAKEN/STIR.
- Aug. 26 - Replies [due](#) on the [NPRM](#) on establishing a cap on the USF.

USF Reform

- The Wireline Competition Bureau, Rural Broadband Auctions Task Force, and Office of Economics and Analytics issued a [public notice](#) on August 12, 2019, authorizing CAF Phase II Auction 903 support for 593 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](#), with details on the support and obligations. The FCC also issued a [news release](#) announcing this authorization is over \$121 million in funding and will expand broadband to 36,579 unserved rural homes and businesses in 16 states, representing the fourth wave of support. The FCC authorized the first three waves of funding in [May](#), [June](#), and [July](#) 2019.
- NTCA filed [comments](#) on August 6, 2019, on the June 7, 2019 Federal Register [notice](#) that sought PRA comments on the new information collection requiring high-cost USF recipients to test their broadband networks for compliance with speed and latency metrics and certify to and report the results to USAC on an annual basis. NTCA asserted the time per response as estimated in the notice appears to underestimate the actual anticipated burden. NTCA suggested the FCC reassess the estimated hourly burden per response and to offer OMB an estimate that will enable a more accurate assessment of the proposed information collection. NTCA said the FCC should account for the labor hours involved in testing, delivering and deploying equipment, as well as other functions relating to provider compliance with the performance measurement obligations.
- ITTA, Great Plains, CenturyLink, Consolidated Communications, and TDS Telecom [spoke with](#) Wireline Competition Bureau staff on August 2, 2019, to discuss the July 2018 [Network Performance Testing Order](#), pending petitions for reconsideration and applications for review of it, and responsive pleadings. They discussed the random selection of test subjects and urged the Commission to afford providers maximum flexibility to use randomization tools and conventions to generate their own lists of test samples subject to submitting a description of these tools and conventions to FCC staff. They expressed concern regarding the delays and costs associated with having to work with selected test subjects who have modems incompatible with testing systems. They also discussed concerns with the prospect of having to temporarily upgrade speeds of test subjects who choose to subscribe to advertised speeds lower than those which the carrier was required to deploy.
- Northeast Iowa Telephone and Western Iowa Telephone Association [met with](#) Commissioner O’Rielly’s Legal Advisor on August 5, 2019, to discuss their [petition for declaratory ruling](#) on the definition of locations under the A-CAM for home-based businesses and the Wireline Competition Bureau’s [guidance](#) regarding A-CAM final deployment obligations. They reiterated the need to treat home-based businesses as eligible locations under A-CAM so long as a carrier provides service to such business within 10 business days, pursuant to FCC rules. They also reiterated that time is of the essence for the FCC to instruct USAC to correct its FAQs regarding the treatment of home-based businesses because existing A-CAM recipients are making investments and actively working toward their goal of providing service to all eligible locations within their own service territories.
- The Wireline Competition Bureau, the Rural Broadband Auctions Task Force, and the Office of Economics and Analytics issued an [order](#) on August 6, 2019, granting a petition filed by Sunset Digital Communications, a winning bidder in the CAF Phase II auction, for a waiver of section 54.315(b)(6)(iv) to allow SDC to make a major modification to its long-form application. This rule prohibits major modifications, including ownership changes that constitute an assignment or change of control or the identity of the applicant, to a post-auction long-form application. The FCC said the public interest will be served by the grant of the waiver, allowing the consummation of a transfer of control transaction approved by the WCB to continue without the application being subject to denial on that basis.
- The Wireline Competition Bureau, the Rural Broadband Auctions Task Force and the Office of Economics and Analytics issued an [order](#) on August 9, 2019, granting LTD Broadband’s petition for waiver of the February 25, 2019 deadline for filing audited financial statements for the CAF Phase II auction (Auction 903).

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Broadband

- The FCC released the [report and order and second FNPRM](#) on August 6, 2019, establishing a new Digital Opportunity Data Collection, which was adopted at the August 1, 2019 Open Meeting. This new data collection will collect geospatial broadband availability data from fixed providers and use a crowdsourcing process on the accuracy of the maps. The order also made targeted changes to the existing Form 477 to reduce filing burdens. The FNPRM seeks comment on enhancing the new data collection, incorporating mobile voice and broadband, and improving satellite broadband reporting. Comments will be due 30 days after publication in the Federal Register; replies due 45 days after the FR publication.
- The Office of Economics and Analytics issued a [public notice](#) on August 9, 2019, announcing the filing deadline for FCC Form 477 data as of June 30, 2019, is September 3, 2019. The FCC's Form 477 filing interface is available [here](#) and is now accepting data, and information on how to file Form 477 can be found [here](#).
- Chairman Pai sent letters to [Sens. Chuck Grassley \(R-Iowa\), Joni Ernst \(R-Iowa\), Rep. Doug Collins \(R-Ga.\), Sen. Shelley Moore Capito \(R-W.Va.\), Sen. Brian Schatz \(D-Hawaii\), Sen. Jerry Moran \(R-Kan.\), Sen. Jon Tester \(D-Mont.\) and Rep. Tom O'Halleran \(D-Ariz.\)](#) on July 31, 2019 and August 1, 2019, in response to their letters expressing concern with broadband mapping. Pai agreed that updated and accurate broadband deployment data is critical to bridging the digital divide and said the FCC will consider an order at the FCC's August Open Meeting that would result in more granular and more accurate broadband maps through the creation of the Digital Opportunity Data Collection. Pai said these updated maps would be used to focus funding to expand broadband through future initiatives such as the second phase of the proposed Rural Digital Opportunity Fund.
- Sandhill Communications [met with](#) Chairman Pai's Special Counsel, and Legal Advisors to Commissioners [Carr](#) and [O'Rielly](#) on August 6, 2019, to discuss the broadband mapping initiative in the Digital Opportunity Data Collection proceeding. Sandhill discussed the potential drawbacks of the crowdsourcing proposal in rural communities, claiming that such a process may impose additional burdens on rural operators. It also urged the FCC to use the data collected by USAC and the FCC to ensure that federal funds are not used to overbuild existing fiber networks constructed with USF dollars, and said eliminating overbuild in the E-rate program or other federal funding programs should be a top priority of the Commission and USAC as part of this proceeding.
- Public Knowledge filed a [letter](#) on August 7, 2019, offering suggestions on improving the FCC's collection of broadband data. PK suggested the new data collection method should collect broadband service data at the address level instead of the census block level, and that the FCC should collect information on the actual speeds experienced by customers, data on the price of broadband, and information on data caps, network security and resiliency, outages, and service denials. PK also said the FCC should direct broadband providers to only report data for the areas they actually serve, not areas they could hypothetically serve.
- The U.S. Court of Appeals for the D.C. Circuit issued a [decision](#) on August 9, 2019, granting in part petitions for review of the March 2018 [second report and order](#) that adopted new rules to streamline the wireless infrastructure siting review process. The court found the FCC failed to justify its determination that it was not in the public interest to require review of small cell deployments and remanded to the FCC. The court, however, denied requests to vacate the order's changes to Tribal involvement in section 106 review and to vacate the order in its entirety. Commissioner Carr issued a [statement](#) on the decision.

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Robocalls

- The FCC released the [second report and order](#) on August 5, 2019, that amends the Truth in Caller ID rules to implement the anti-spoofing provisions of the RAY BAUM'S Act, which was adopted at its

August 1, 2019 Open Meeting. The FCC revised its caller ID spoofing rules to cover communications originating outside the United States directed at recipients within the United States, expanded the scope of communications covered by its caller ID spoofing rules, and adopted a number of definitions, including “text message,” “text messaging service,” and “voice service,” among other things.

ICC

- The Enforcement Bureau issued a [notice of formal complaint](#) on August 7, 2019, announcing AT&T filed a [formal complaint](#) on August 5, 2019, against 123.Net d/b/a Local Exchange Carriers of Michigan and/or Prime Circuits (LEC- MI), which alleged LEC-MI improperly billed AT&T at least \$1,054,897 in end office access charges on aggregated 8YY traffic that AT&T paid. AT&T claimed it is owed a refund of that amount, plus interest. The FCC’s notice details the procedural rules and establishes a schedule for the proceeding.

Universal Service

- The FCC’s [order](#) creating a Fraud Division within its Enforcement Bureau was published in the [Federal Register](#) on August 12, 2019. The FCC said this new division will investigate and prosecute fraud in the Universal Service Fund and will work with the FCC’s Office of Inspector General, the U.S. Department of Justice, and other law enforcement agencies to prosecute unlawful conduct. The order is effective August 13, 2019.
- Barry County Telephone and Consortia Consulting [spoke with](#) Commissioner O’Rielly’s Advisor on August 7, 2019, to express concern about the potential waste of E-rate program funding being used to overbuild existing broadband networks that have already been constructed with USF support. They discussed the [petition for rulemaking](#) filed by Texas carriers regarding the E-rate competitive bidding requirement. They also discussed the [Digital Opportunity Data Collection Report and Order/FNPRM](#), urging the FCC to focus on the elimination of overbuild and waste in the E-rate program or other federal funding programs as part of data collection proceeding.
- Thirteen Senators sent a [letter](#) to Chairman Pai on July 30, 2019, asking the FCC to postpone consideration of the draft Rural Health Care [Order](#), which was adopted at the FCC’s August 1, 2019 Open Meeting. They said the Order neither provides sufficient guidance to applicants nor addresses several of the program’s key issues. They asserted while the Commission increased the RHC funding cap, it is still not sufficient, and combined with a lack of program rules concerning its allocation, the cap has led to substantial delays for rural health care providers seeking to increase their telemedicine capabilities.
- TracFone [spoke with](#) Chairman Pai’s Senior Counsel on August 5, 2019, to discuss the National Verifier, minimum service standards for the Lifeline program, and its [petition](#) seeking to expand its ETC designation to include Tribal lands in six states. TracFone reiterated the importance of incorporating into the launch of the National Verifier Application Programming Interfaces to allow two-way communication between the National Verifier and entities such as Lifeline providers. TracFone expressed support for CTIA, et al.’s [petition](#) for a pause in implementation of Lifeline service changes, and its concerns with the implementation of new minimum service standards anticipated in December 2019. TracFone also discussed the [second amendment](#) to its [petition](#) and asserted if granted, it would significantly enhance competition on those Tribal lands.
- Sunset Digital Communications, Inc. filed a [supplement](#) on August 8, 2019, to its [petition](#) for ETC designation in Tennessee and Virginia. It requested the FCC substitute SDC LLC for SDC Inc as the ETC applicant and issue the ETC designation in SDC LLC’s name.

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Misc.

- The [report and order on remand](#) issued on July 12, 2019, that granted price cap carriers relief from ex ante pricing regulation of their lower speed TDM transport business data services nationwide was published in the [Federal Register](#) on August 7, 2019. The Order is effective September 6, 2019.
- The Rural Wireless Association and NTCA filed an [informal request for Commission action](#) on August 5, 2019, on the applications of Sprint and T-Mobile US that seek consent for the transfer of control of certain licenses, authorizations, and spectrum leases from Sprint to T-Mobile. RWA and NTCA requested the FCC issue a public notice seeking additional comment on the proposed merger between T-Mobile and Sprint in light of a consent decree filed on July 26, 2019, in the U.S. District Court for the District of Columbia, which brings a third party, Dish Network, into this proposed merger.
- WISPA filed a [letter](#) on August 8, 2019, to ask the FCC to issue a public notice seeking comment on new developments in the T-Mobile/Sprint merger proceeding, to ensure the Commission has a full and complete record to determine whether the transaction is consistent with the public interest. WISPA noted T-Mobile and Sprint [recently committed](#) to a number of conditions in exchange for approval of the merger, including proposing changes to the rural broadband marketplace that WISPA says could affect competition with smaller fixed broadband providers and eligibility for universal service high-cost funding.
- The FCC issued a [public notice](#) on August 7, 2019, announcing Attorneys General for Indiana and Texas filed notices to review submissions in the T-Mobile and Sprint merger docket that contain NRUF and LNP data in connection with their investigations into the proposed merger of the two companies. The FCC said this notice is to inform carriers of the requests of the Attorneys General to allow carriers the opportunity to contact those Offices of Attorney General or to take any other action they may deem appropriate if they have concerns or oppose disclosure.
- No replies were filed on a 214 application filed by Absaraka Cooperative Telephone and Inter-Community Telephone requesting approval for the transfer of certain assets owned by Absaraka to ICTC. [public notice](#)
- The FCC published a [notice](#) in the Federal Register on August 7, 2019, seeking PRA comments on a new information collection associated with participation in the 833 code toll free number auction. The FCC seeks emergency review and approval for new FCC Form 833 that applicants will use to submit the required disclosures and certifications, and will be used to determine if an applicant is qualified to bid in the auction. PRA comments are due September 6, 2019. A separate [notice](#) on toll free number auctions also seeks PRA comments on letters of authorization in order to verify the relationship between the responsible organization and the potential subscriber, and on collecting data on secondary market transactions. PRA comments are due October 7, 2019.
- No comments were filed on CallWorks' application for authorization to obtain NANP telephone numbers directly from the Numbering Administrators for its iVoIP service. [public notice](#)
- The FCC issued a [public notice](#) on August 9, 2019, announcing FY 2019 Interstate Telecommunications Service Providers and Commercial Mobile Radio Services data are available for viewing on the FCC's electronic filing and payment system (Fee Filer). ITSP and CMRS providers can access the Fee Filer system at www.fcc.gov/feefiler with the appropriate FRN and password.
- The Consumer and Governmental Affairs Bureau issued an [order](#) on August 5, 2019, granting a complaint alleging Telplex Communications changed complainant's telecommunications service providers without obtaining authorization and verification from the complainant in violation of the Commission's rules. The Bureau said the complainant is entitled to absolution for the charges incurred during the first 30 days after the unauthorized change occurred and Telplex may not pursue any collection for those charges. The Bureau issued [similar orders](#) on August 8, 2019, also granting complaints against Telplex Communications, as well as [Tele Circuit Network](#).

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Upcoming Filing Dates

- 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. 13 - Comments due on a section 214 application filed by Consolidated Communications of Northern New England (CCNE) and Terabyte Holdings, to transfer certain telecommunications assets of CCNE's operator service/directory assistance business to Terabyte. Replies due August 20, 2019. [public notice](#)
- Aug. 15 - Replies due on a [petition](#) filed by CTIA, et al., asking the FCC to pause the December 1, 2019 implementation of an increase in the Lifeline minimum required broadband data usage allowance and the phase-down in Lifeline support for voice services. [public notice](#)
- Aug. 16 - Comments due the [NPRM](#) seeking comment on the permanent E-rate category two budget. Replies are due September 3, 2019 [FR](#)
- Aug. 20 - Replies due on a section 214 application filed by Consolidated Communications of Northern New England (CCNE) and Terabyte Holdings, to transfer certain telecommunications assets of CCNE's operator service/directory assistance business to Terabyte. [public notice](#)
- 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 [NPRM](#) seeking comment on establishing an \$11.42 billion cap on the Universal Service Fund. [FR](#),
- Aug. 26 - Urban rate surveys due that will be used to develop voice and broadband reasonable comparability benchmarks that will be in place in 2020. [public notice](#)
- Aug. 28 - Comments are due on the establishment of a matching program the FCC will conduct with the Department of Health and Human Services, Centers for Medicare & Medicaid Services to verify the eligibility of applicants to and subscribers of the Lifeline program. [FR](#)
- Aug. 28 - PRA comments due on an extension of a currently approved information collection on telephone number portability. Comments are due August 28, 2019. [FR](#)
- Aug. 29 - Comments due on NTCA's [petition](#) for a waiver of the updated minimum service speed standard applicable to fixed wireline broadband internet access service eligible for support under the Lifeline program. Replies are due September 13, 2019. [public notice](#)
- Aug. 29 - Comments due on the [NPRM](#) proposing a connected care pilot. Replies are due September 30, 2019. [FR](#)
- Aug. 30 - Comments due on the [NPRM](#) on the deployment of broadband to multiple tenant environments, including exclusive marketing and wiring arrangements, revenue sharing agreements, and state and local regulations, among other things. Replies are due September 30, 2019. [PN](#)
- Sept. 3 - Replies due the [NPRM](#) seeking comment on the permanent E-rate category two budget. [FR](#)
- Sept. 3 - Comments due on the proposed eligible services list for the schools and libraries universal service support program for funding year 2020. Replies are due September 18, 2019. [public notice](#)
- Sept. 6 - PRA comments due Form 833 that will be used in the toll-free number auction. [notice](#)

- Sept. 13 - Replies due on NTCA's [petition](#) for a waiver of the updated minimum service speed standard applicable to fixed wireline broadband internet access service eligible for support under the Lifeline program. [public notice](#)
- Sept. 18 - Replies due on the proposed eligible services list for the schools and libraries universal service support program for funding year 2020. [public notice](#)
- Sept. 30 - Replies due on the [NPRM](#) proposing a connected care pilot. [FR](#)
- Sept 30 - Replies due on the [NPRM](#) on the deployment of broadband to multiple tenant environments, including exclusive marketing and wiring arrangements, revenue sharing agreements, and state and local regulations, among other things. [public notice](#)
- Oct. 7 - PRA comments due on letters of authorization in order to verify the relationship between the responsible organization and the potential subscriber, and on collecting data on secondary market transactions that will be used in toll free number auctions. [FR](#)

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