

NECA's Weekly Federal Regulatory Summary

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August 17, 2020 HIGHLIGHTS

- The Ninth Circuit issued an [opinion](#) that denied in part, [petitions for review](#) of the several orders on wireless infrastructure.
- Thirty members of Congress sent a [letter](#) to Congressional leaders, urging that CARES Act funds be eligible for permanent rural broadband infrastructure and Congress provide additional time for the buildout of new infrastructure.
- The Wireline Competition Bureau [seeks nominations](#) for six board member positions on the USAC board of directors, for a three year term. Nominations are due October 13, 2020.
- The Wireline Bureau [updated](#) a report showing the legacy support amounts associated with CETCs offering service to fixed locations.
- The Wireline Bureau [announced](#) the proposed North American Numbering Plan Administration fund size estimate and contribution factor for Fiscal Year 2021.

Other Key Upcoming Dates

- Aug. 31 - Comments due on the [FNPRM](#) on robocalls. Replies due September 29. [FR](#)

USF Reform

- The Wireline Competition Bureau issued a [public notice](#) on August 14, 2020, providing an updated report showing the legacy support amounts associated with competitive ETCs offering service to fixed locations. As of June 1, 2019, fixed CETCs began receiving legacy support at a reduced level. The Bureau said one such fixed CETC, AT&T (SAC 549004) in California, was inadvertently omitted from the previous version of the [report](#), and the report now includes this carrier.
- ACAM Broadband Coalition members TDS, Great Plains Communications, Arvig, Consolidated Companies, Ritter Communications, Farmers Mutual, and NEIT spoke with legal advisors to [Chairman Pai](#) and Commissioners [O'Rielly](#), [Starks](#), [Carr](#), and [Rosenworcel](#) on August 10-12, 2020, regarding the operation of the ACAM program. They addressed the status of the program, its track record of bringing broadband to unserved geographic areas, and ideas for ensuring its continued viability.

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ICC

- The United States Court of Appeals for the D.C. Circuit reissued an [opinion](#) on August 13, 2020, addressing petitions for review filed by Aureon Network Services and AT&T on access charges. The court granted in part and denied in part the petitions and remanded the case to the FCC. The reissued version now includes previously-sealed information in the original [opinion](#).
- Lingo Communications of Kentucky [filed a letter](#) on August 12, 2020, attaching information in connection with the proposed revisions to Lingo's Tariff F.C.C. No. 1 – Access Services, which were [suspended](#) by the Commission on July 30, 2020. In response to a request from Commission staff, Lingo provided a: description of Lingo Kentucky's history, operations, and relationship to affiliated entities; description of Lingo Kentucky's service area; and verification from an officer of Lingo Kentucky confirming the company does not serve any nonrural customers based on the criteria specified in section 61.26.

Broadband

- The United States Court of Appeals for the Ninth Circuit issued an [opinion](#) on August 12, 2020, which denied in part, [petitions for review](#) of the [2018 Small Cell Order](#), the [Moratoria Order](#), and the [One Touch Make-Ready Order](#). The court held that, given the deference owed to the agency in interpreting and enforcing the Act, the Small Cell and Moratoria orders were, with the exception of one provision, in accord with the congressional directive in the Act, and not otherwise arbitrary, capricious, or contrary to law. The exception was the Small Cell Order provision dealing with the authority of local governments in the area of aesthetic regulations, and the court vacated those portions of the rule and remanded them to the FCC. The court upheld the OTMR Order, concluding the FCC reasonably interpreted section 224 as a matter of law, and the order was not otherwise arbitrary or capricious. [Chairman Pai](#) and Commissioner [Carr](#) issued statements.
- Reps. Robert Aderholt (R- Ala.), Peter Welch (D-Vt.) and 28 other members of Congress sent a [letter](#) to Reps. Nancy Pelosi (D-Calif.) and Kevin McCarthy (R-Calif.), and Sens. Mitch McConnell (R-Ky.) and Chuck Schumer (D-N.Y.) on August 7, 2020, urging that CARES Act funds be eligible for permanent rural broadband infrastructure and that Congress provide additional time for the buildout of new infrastructure. [press release](#)
- The Wireline Competition Bureau issued an [order](#) on August 13, 2020, granting the [motion](#) by Edison Electric Institute, et al. for an extension of time for filing comments and replies on NCTA's [petition](#) for declaratory ruling on pole attachments. Comments are due September 2, 2020; reply comments are due September 17, 2020. [public notice](#)
- Duke Energy, El Paso Electric Company, et al. [spoke with](#) Wireline Competition Bureau staff on August 11, 2020, to express support for the [motion](#) by Edison Electric Institute, et al. requesting the

Commission extend the deadline for filing comments and replies on the [public notice](#) seeking comment on NCTA's [petition](#) for declaratory ruling on pole attachments. Duke Energy, et al. said they are attempting to gather and aggregate data relevant to the issues raised in NCTA's petition and that this is a time-consuming process.

- The [POWER Coalition](#) and [Xcel Energy Services](#) filed letters on August 10, 2020, in support of the [motion](#) by Edison Electric Institute, *et al.* requesting the Commission extend the deadline for filing comments and replies on the [public notice](#) seeking comment on NCTA's [petition](#) for declaratory ruling on pole attachments.
- The Coalition of Concerned Utilities filed a [letter](#) on August 10, 2020, in support of the [motion](#) by Edison Electric Institute, et al. requesting the Commission extend the deadline for comments to September 16, 2020, and extend the deadline for reply comments to October, 14, 2020, on the [public notice](#) seeking comment on NCTA's [petition](#) for declaratory ruling on pole attachments. CCU asserted more time is needed to fully develop the record, claiming the petition seeks to expedite a decision that would overturn decades of Commission precedent and industry practice
- The FCC issued a [public notice](#) on August 13, 2020, announcing Chairman Pai appointed new members to the FCC's Intergovernmental Advisory Committee. Pai named Paul J. TenHaken, Mayor of Sioux Falls, SD, Chair of the IAC and Peter J. Larkin, Chairman of the Board of the Massachusetts Broadband Institute, as Vice-Chair.

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Robocalls

- Chairman Pai sent [letters](#) to Sens. Maggie Hassan (D.-N.H.) and Thomas R. Carper (D.-Del.) on August 6, 2020, in response to their letter that urged the Commission to take action against robocallers trying to use the COVID-19 pandemic to scam consumers. Pai said the Commission has partnered with various agencies to tackle COVID-19 robocall scams, as well as taking other actions including aggressive action by the Enforcement Bureau and tracking robocall complaints.

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Other Universal Service

- The Wireline Competition Bureau issued a [public notice](#) on August 13, 2020, seeking nominations for six board member positions on the USAC board of directors, for a three year term. The Bureau seeks nominations for representatives for: ILECs with \$40 million or less in annual revenues; CLECs; low-income consumers; interexchange carriers with \$3 billion or less in annual revenues; schools eligible to receive discounts; and rural health care providers eligible to receive supported services. Nominations are due October 13, 2020.
- Fifteen members of the House Energy and Commerce Committee sent a [letter](#) to Chairman Pai on August 13, 2020, to urge him to provide unlimited voice minutes and mobile data to Lifeline recipients, with a corresponding increase in the support amount to cover incremental costs, for the duration of the pandemic. [press release](#)
- A group of organizations sent a [letter](#) to Chairman Pai and Commissioners O'Rielly, Carr, Rosenworcel and Starks on August 10, 2020, requesting the Commission: extend certain Lifeline program rule waivers through the end of the year; fully restore Lifeline voice support to the \$9.25/month subsidy; and freeze the Lifeline minimum service standards for broadband service until the FCC completes a pending study on the program or increases the existing Lifeline benefit amount.
- TruConnect spoke with [Commissioner Starks' legal advisor](#) and the Wireline Competition Bureau [staff](#) on August 6 and 7, 2020, regarding the Commission's temporary waiver of Lifeline recertification, reverification and nonusage requirements. It also discussed the July 31, 2020 [public notice](#) setting the

December 1, 2020 mobile broadband minimum service standards at 11.75 GB per month, and Chairman Pai's press release regarding a draft order on the Lifeline mobile broadband MSS.

- Public Knowledge, Common Cause, Common Sense Media, et al. [spoke with](#) Chairman Pai's advisors and Wireline Competition Bureau staff on August 7, 2020, to urge Commission action on a number of Lifeline issues, including extending the current pandemic-related Lifeline waivers through the end of the year, and pausing pending minimum service standards until it issues its 2021 State of Lifeline Marketplace report.
- CTIA [spoke with](#) legal advisors to Chairman Pai and Commissioners O'Rielly, Carr, Rosenworcel, and Starks, and Wireline Competition Bureau staff on August 12-14, 2020, regarding Lifeline minimum service standards. CTIA asserted the current formula for annually updating the minimum service standard for mobile wireless broadband is flawed. CTIA also expressed concern that the order under consideration would require another increase in the minimum service standards for mobile wireless broadband without a thorough analysis of the Lifeline marketplace and the impact of this change on the affordability of Lifeline services.
- The FCC issued an [order](#) on August 11, 2020, cancelling a 2016 [notice of apparent liability of forfeiture](#) issued to AT&T for apparently failing to charge two Florida school districts the lowest corresponding price for telecommunications services it provided under the E-Rate program. The Commission said because it is required to issue an NAL within one year of a violation and these apparent violations occurred more than one year prior to the issuance of the NAL, it is canceling the NAL and proposed forfeiture.
- The American Library Association sent a [letter](#) to Chairman Pai and Kris Monteith, Chief, Wireline Competition Bureau on August 14, 2020, to express support for letters filed by [SHLB, et al.](#) that asked the Commission to extend the [previously-granted waiver](#) of E-Rate and rural health care gift rules. ALA also expressed support for [SECA's](#) request for increased funding for E-Rate connectivity.
- XO Communications filed a [letter](#) on August 11, 2020, on the order on circulation addressing its [application for review](#) of the [order](#) denying its request for review on whether certain revenues associated with private lines should be considered interstate for the purpose of assessing USF contributions. XO asserted the chart it provided compares how the private line order deviates from the July 1989 separations order. XO Communications also [spoke with](#) legal advisors to Commissioners Carr and Starks on August 7, 2020, and [with](#) legal advisors to Chairman Pai and Commissioner Rosenworcel on August 11, 2020, regarding the same issues.
- TDS Metrocom [spoke with](#) Commissioner O'Rielly's legal advisor on August 11, 2020, regarding the [order](#) on private lines. TDS asserted the order is the first time the Bureau adopted an affirmative production requirement for classifying the jurisdiction of physically intrastate private lines and that the ten percent rule is a separations rule that does not apply to competitive local exchange carriers. TDS said if the Commission does not reverse the order, it should, at a minimum, apply it only prospectively.
- 3 Rivers Telephone, Siyeh Communications, and Moss Adams [spoke with](#) Wireline Competition Bureau and Office of Native Affairs and Policy staff on August 5 and 6, 2020, regarding their [joint petition](#) for a study area waiver on the transfer of the Browning, Montana exchange from 3 Rivers to SiyCom. They asserted the transaction would promote the public interest by granting economic self-determination to the Blackfeet Tribe in its provision of broadband on the Blackfeet reservation and claimed the impact on the USF would be minimal.

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Misc.

- The Wireline Competition Bureau issued a [public notice](#) on August 10, 2020, to announce the proposed North American Numbering Plan Administration fund size estimate and contribution factor for Fiscal Year 2021. The Bureau said the proposed fund size will be \$14,502,652, which includes \$6,000,000 for the Reassigned Numbers Database creation costs, and the proposed overall

contribution factor is 0.0001267.

- Sens. Ron Johnson (R-Wis.) and Gary Peters (D-Mich.) [announced](#) on August 11, 2020, they introduced a bill entitled the “Ensuring Network Security Act”, which seeks to help safeguard American telecommunications networks against cyber threats from untrusted foreign equipment suppliers. The bill proposes to expand access to federal rip and replace funding for telecommunications providers and educational institutions for the removal and replacement of prohibited telecommunications equipment from dangerous sources, including Huawei and ZTE.
- No oppositions were filed on ZTE’s [petition for reconsideration](#) of the [order](#) formally designating it as a covered company for the purpose of the November 2019 [ban](#) on the use of universal service support to purchase equipment or services from companies posing a national security threat. Replies are due August 17, 2020. [public notice](#)
- To date, no oppositions were filed on Huawei’s [application for review](#) of the [order](#) formally designating it as a covered company for the purpose of the November 2019 [ban](#) on the use of universal service support to purchase equipment or services from companies posing a national security threat. Replies due August 24, 2020. [public notice](#)
- The Fiber Broadband Association filed a [letter](#) on August 13, 2020, on unbundling. It asserted the Commission should find that ILECs should no longer have to unbundle dark fiber facilities. It also asserted while the Commission should provide for an appropriate transition for competitive providers that currently access dark fiber UNEs, it would undermine incentives to invest in fiber facilities for that transition to have no end.
- The FCC issued a [public notice](#) on August 11, 2020, announcing the next meeting of the Consumer Advisory Committee will be held on September 25, 2020. At this meeting, the Committee will receive briefings from FCC staff on recent Commission activities and will discuss upcoming developments of interest to consumers. This meeting is open to members of the general public and has been moved to a wholly electronic format due to the pandemic, and can be viewed at <http://www.fcc.gov/live>
- The Wireline Competition Bureau issued [a public notice](#) on August 11, 2020, seeking comment on a section 214 application filed by Patterson Telephone Company, Pattersonville Telephone Company d/b/a/ PTC Connect, Wayne S. Thomas, Linda B. Thomas, and Tammy T. Krisher, requesting approval to transfer control of Pattersonville and PTC Connect from Mr. Thomas and Ms. Thomas to Ms. Krisher. Comments are due August 25, 2020; reply comments are due September 1, 2020.
- Reply comments were filed by [CTIA and USTelecom](#) on August 10, 2020, on their [petition](#) for rulemaking and declaratory ruling to simplify filing requirements for *pro forma* assignment and transfer of control applications. They claimed commenters agreed the Commission’s patchwork of pro forma requirements are unnecessarily burdensome on licensees and Commission staff and divert resources from licensees’ efforts to compete in the market. [public notice](#)
- Reply comments were filed on August 13, 2020, on iconectiv’s [petition](#) asking the Commission to conduct a competitive procurement process to select the toll-free numbering administrator. [USTelecom](#) asserted the record supports the Commission moving forward with examining the petition’s proposal for a competitive bidding processes for toll-free numbering. [iconectiv](#) asserted stakeholders in the toll-free ecosystem support the petition and recommended selecting the toll free numbering administrator via a competitive process. [Numeracle](#) said should the Commission proceed with a bid process, it should consider a detailed notice of inquiry so the Commission and interested parties can fully vet all possible effects of severely disrupting the toll-free industry. [Transaction Network Services](#) supported the petition and said the Commission should implement a competitive bidding process to select the TFNA. [800 Response Information Services](#) urged the Commission to reject the petition, asserting that any potential benefit of assigning the contract for SMS database administration to a different entity would not exceed the inherent risks. [public notice](#) | [all replies available](#)
- No comments were filed on 3 Billionaires’ application for authorization to obtain NANP telephone numbers directly from the numbering administrators for its iVoIP service. [public notice](#)

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Upcoming Filing Dates

- Aug. 18 - Comments due on a section 214 application requesting approval to transfer control of the ETS Licensees from ACME to Radiate. Replies due August 25, 2020. [public notice](#)
- Aug. 20 - Replies due on whether 515 proceedings should be terminated as dormant. [public notice](#) | [FR](#)
- Aug. 20 - Comments due on the proposed E-rate eligible services list for funding year 2021. Replies are due September 4, 2020. [public notice](#)
- Aug 21 - Comments due on Noble Systems application for authorization to obtain NANP telephone numbers directly from the numbering administrators for its iVoIP service. [public notice](#)
- Aug 21 - Comments due on Star2Star Communications application for authorization to obtain NANP telephone numbers directly from the numbering administrators for its iVoIP service. [public notice](#)
- Aug. 24 - Replies to oppositions due on Huawei's [application for review](#) of the [order](#) formally designating it as a covered company for the purpose of the November 2019 [ban](#) on the use of universal service support to purchase equipment or services from companies posing a national security threat. [public notice](#)
- Aug. 25 - Comments due on a section 214 application filed by Patterson Telephone, Pattersonville Telephone d/b/a/ PTC Connect, Wayne S. Thomas, Linda B. Thomas, and Tammy T. Krisher, requesting approval to transfer control of Pattersonville and PTC Connect from Mr. Thomas and Ms. Thomas to Ms. Krisher. Replies are due September 1, 2020. [public notice](#)
- Aug 25 - Replies due on a section 214 application requesting approval to transfer control of the ETS Licensees from ACME to Radiate. [public notice](#)
- Aug. 31 - PRA comments due on a new information collection on the CAF II eligible locations adjustment process. [notice](#)
- Aug 31 - Comments due on the [FNPRM](#) that integrates provisions of the Secure Networks Act into the FCC's existing supply chain proceeding. Replies due September 14, 2020. [FR](#)
- Aug. 31 - Comments due on additional steps to further protect consumers from robocalls and inform them about provider blocking efforts. Replies due September 29, 2020. [FNPRM](#) | [FR](#)
- Sept. 1 - Replies due on a section 214 application filed by Patterson Telephone, Pattersonville Telephone d/b/a/ PTC Connect, Wayne S. Thomas, Linda B. Thomas, and Tammy T. Krisher, requesting approval to transfer control of Pattersonville and PTC Connect from Mr. Thomas and Ms. Thomas to Ms. Krisher. [public notice](#)
- Sept. 2 - Comments due on NCTA's [petition](#) requesting the FCC clarify it is unjust and unreasonable for pole owners to shift the entire cost of a pole replacement to a new attacher. Replies due September 17, 2020. [public notice](#)
- Sept. 4 - Replies due on the proposed E-rate eligible services list for funding year 2021. [public notice](#)
- Sept. 4 - PRA comments due on an extension of a currently approved information collection associated with FCC Forms 499-A and 499-Q, annual and quarterly telecommunications reporting worksheets.

- Sept. 9 - PRA comments due on a new information collection on Alaska Plan end of term commitments. [FR](#)
- Sept. 14 - Replies due on the [FNPRM](#) that integrates provisions of the Secure Networks Act into the FCC's existing supply chain proceeding. [FR](#)
- Sept. 17 - Replies due on NCTA's [petition](#) requesting the FCC clarify it is unjust and unreasonable for pole owners to shift the entire cost of a pole replacement to a new attacher. [public notice](#)
- Sept. 21 - PRA comments due on a revision of a currently approved collection associated with Part 32 accounting requirements. [FR](#)
- Sept. 29 - Replies due on additional steps to further protect consumers from robocalls and inform them about provider blocking efforts. [FNPRM](#) | [FR](#)

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