

NECA's Weekly Federal Regulatory Summary

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September 9, 2019 HIGHLIGHTS

- The FCC issued a [tentative agenda](#) for its September 26, 2019 Open Meeting. The FCC will consider five items, including: a [report and order and modification of section 214 authorizations](#) that would adopt reforms to eliminate access arbitrage schemes, and a [report and order and order on reconsideration](#) that would allocate \$950 million in fixed and mobile high-cost universal service support for stage 2 of the Uniendo a Puerto Rico Fund and the Connect USVI Fund in Puerto Rico and the U.S. Virgin Islands, and disposes two petitions related to these two funds.
- The Wireline Competition Bureau [announced](#) tariff review plans for use by rate-of-return carriers that have elected incentive regulation for their business data services offerings pursuant to the 2018 [RoR BDS order](#) have been posted on the [FCC's website](#).
- USTelecom [offered suggestions](#) on HUBB portal reporting on when USAC should treat a change to a reported location's geocoding as a "modification" as opposed to a "deletion."
- The Senate Subcommittee on Communications, Technology, Innovation, and the Internet held a [field hearing](#) on rural broadband in Sioux Falls, South Dakota. [Commissioner Carr](#) was one of the witnesses.
- The House Communications and Technology Subcommittee will hold a [hearing](#) on September 11, 2019, on broadband mapping.
- Two broadband mapping bills were [introduced](#) in Congress: the [Broadband Deployment Accuracy and Technological Availability \(DATA\) Act](#); and the [Mapping Accuracy Promotes Services \(MAPS\) Act](#).
- NTCA [discussed](#) the definition of access stimulation as described in the June 2018 [NPRM](#).
- [WTA](#) filed comments in support of 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. [all comments available](#)

Other Key Upcoming Dates

- Sept. 20 - Comments due on the [NPRM](#) proposing to establish a new Rural Digital Opportunity Fund. Replies are due October 21, 2019. [FR](#)
- Sept. 23 - Comments due on the [FNPRM](#) on enhancing the new Digital Opportunity Data Collection. Replies are due October 7, 2019.

USF Reform

- USTelecom filed a [letter](#) on September 4, 2019, on High Cost Universal Broadband portal reporting. It provided a recommendation for when USAC should treat a change to a reported location's geocoding as a "modification" as opposed to a "deletion." USTelecom asserted a change to the fourth digit of a geocoded decimal (representing a change in accuracy of about 10 meters) would be a workable demarcation point for determining a change that required a deletion (versus a modification). USTelecom, said, however, the FCC should be aware that USTelecom members anticipate a substantial number of corrected geocodes will qualify as "deletions" under this approach. USTelecom urged the FCC to address this issue quickly so that carriers can begin updating the HUBB data in batch format.
- The Enforcement Bureau issued two notices of apparent liability for forfeiture on September 6, 2019, to [AT&T](#) and [AMG Technology Investment Group](#), for apparently repeatedly engaging in prohibited communications during the FCC's CAF Phase II auction, and their failure to timely report such prohibited communications. The Bureau proposed a forfeiture of \$100,000 against AMG and a forfeiture of \$75,000 against AT&T.

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Broadband

- The Senate Subcommittee on Communications, Technology, Innovation, and the Internet, held a [field hearing](#) on rural broadband in South Dakota on September 5, 2019. [Commissioner Carr](#) was one of the witnesses and discussed FCC efforts to close the digital divide. Carr said the FCC updated its wireless infrastructure rules and identified more than a billion dollars in upfront fees and other federal regulatory charges that were increasing the cost and slowing down the build out of small cells and other next-gen infrastructure. Carr also said the FCC reformed its rules on wireline service and said the universal service program's new way of awarding funding gives broadband builders incentives to provide the most efficient service to the most customers. He said the FCC's reforms are already delivering results and the digital divide narrowed by almost 20 percent last year and internet speeds across the country are up nearly 40 percent.
- The FCC issued a [news release](#) on September 3, 2019, announcing Commissioner Carr will join Sen. John Thune (R S.D.) for a [field hearing](#) on rural broadband in Sioux Falls, South Dakota on September 5, 2019. Prior to the hearing, Carr will meet with representatives of the Oglala Lakota Nation to discuss broadband deployment on tribal land and how Internet connections are being used for healthcare and education on the Pine Ridge Reservation.
- The House Communications and Technology Subcommittee will hold a [hearing](#) on September 11, 2019, entitled "Legislating to Connect America: Improving the Nation's Broadband Maps." The witness list is not yet available.
- Reps. Dave Loebsack (D-Iowa) and Bob Latta (R-Ohio) [introduced](#) legislation on September 6, 2019, entitled the [Broadband Deployment Accuracy and Technological Availability \(DATA\) Act](#). The bill requires the FCC to collect granular service availability data from wired, fixed wireless, and satellite broadband providers. It also requires strong parameters for service availability data collected from mobile broadband providers to ensure accuracy, and asks the FCC to consider whether to collect verified coverage data from state, local, and tribal governments, as well as from other entities. A bill [was also introduced](#) by Rep. Bill Long (R-Mo.) and Donald McEachin (D- Va.), entitled the [Mapping Accuracy Promotes Services \(MAPS\) Act](#), which holds broadband providers accountable by making it against the law to knowingly provide inaccurate data to the FCC.
- Chairman Pai [announced](#) staff changes to the Rural Broadband Auctions Task Force and the Office of Economics and Analytics on September 6, 2019. Michael Janson will serve as the director of the RBTF and acting assistant chief of the Office of Economics and Analytics. Chelsea Fallon, who previously

headed the RBTF, will lead the implementation of the new Digital Opportunity Data Collection within the Data Division of OEA. Steve Rosenberg will serve as the FCC's acting chief data and analytics officer and acting chief of OEA's Data Division, where implementation of the OPEN Data Government Act will be housed.

- In addition to comments listed in a previous edition of *REGScan*, comments were filed on August 30, 2019, on the [NPRM](#) on issues that may affect the deployment of broadband to multiple tenant environments, including exclusive marketing and wiring arrangements, revenue sharing agreements, and state and local regulations. [CenturyLink](#) recommended the FCC prohibit providers from entering into revenue sharing and other access agreements that compensate the MTE owner beyond its actual cost of enabling service and performing any other contractual obligations on the provider's behalf. [INCOMPAS](#) said the FCC should encourage state and local governments to adopt or reform pro-competition mandatory access laws that can complement the FCC's own rules in seeking to close the digital divide. [T-Mobile](#) said the FCC should prohibit providers from entering into or enforcing agreements that limit other providers' ability to access a location, either to attach to existing infrastructure or to install their own. [The California PUC](#) recommended the FCC clarify whether its definition of MTE is intended to cover multifamily housing developments as residential premises occupied by multiple entities. It also said exclusivity agreements that limit access to building rooftops can impede the provision of high-speed broadband internet to low-income tenants in residential MTEs. Reply comments are due September 30, 2019. [public notice](#) | [all comments available](#).

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ICC

- NTCA [discussed](#) access arbitrage issues with Chairman Pai's legal advisors on August 30, 2019. NTCA said industry support for a Prong 1 approach as described in the [NPRM](#) had been expressly premised on retention of the existing definition of access stimulation. NTCA said if the Commission were to modify the definition of access stimulation, it should instead adopt the two-prong approach proposed in the NPRM, and any change to the definition should recognize that the revenue sharing component has been critical in enabling innocent small rural carriers that have no involvement in such activities to defend themselves against baseless assertions of access stimulation.
- Sprint [met with](#) Wireline Competition Bureau and Office of Economic Analysis staff on August 29, 2019, to discuss its efforts to address access stimulation. Sprint asserted the FCC should adopt Prong 1, and not Prong 2, modify the definition of access stimulation related to the revenue sharing component, and clarify that actions to avoid compliance with the FCC rules will not be tolerated. Sprint asserted Prong 1 would encourage the LEC engaged in access pumping to utilize an efficient, least-cost arrangement. Sprint also provided suggested rule modifications to the [NPRM](#) that it says would curtail access stimulation/arbitrage schemes.
- HD Tandem [spoke with](#) Wireline Competition Bureau and Office of Economics and Analysis staff on August 29, 2019, to discuss access stimulation. It asserted that reciprocal traffic exchanges remain the most effective and immediate path to a bill-and-keep end state, and claimed the very carriers complaining about high rates in the [NPRM](#) proceeding are simultaneously refusing to allow offsetting traffic onto their own networks. HD Tandem also discussed the current definition of access stimulation and how best to revise the current definition to accurately and effectively target harmful access stimulation practices.
- Inteliquent filed a [letter](#) on August 30, 2019, offering a proposal to address access arbitrage. Inteliquent suggested the FCC clarify that IXCs and intermediate providers that successfully hand off traffic to the tandem designated by the LEC in the LERG have met their call completion duties. It also suggested the FCC modify the current definition of access stimulation by incorporating a new mileage-related trigger before applying the revenue sharing and ratio/growth prongs of the current definition. Inteliquent also supported the FCC's proposal for access stimulating LECs to either bear the financial responsibility for the delivery of terminating traffic to their end office, or accept direct connections from either the IXC or an intermediate access provider of the IXC's choice. It said, however, the

determination of which option is implemented should be made by the IXC and not the access stimulating LEC.

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Universal Service

- The FCC [announced](#) on September 4, 2019, Chairman Pai circulated a draft order that would provide approximately \$950 million in funding to storm-harden, improve, and expand broadband networks in Puerto Rico and the U.S. Virgin Islands, which were devastated by Hurricanes Irma and Maria in 2017. The draft order will be considered at FCC's September 26, 2019 Open Meeting.
- In addition to comments listed in a previous edition of *REGScan*, [WTA](#) filed comments on August 29, 2019, in support of 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. WTA said in most rural areas the price increase for upgrading from 18/2 Mbps to 20/3 Mbps will likely negate any benefit a customer received from the Lifeline support and a waiver of the rules would allow customers to choose the appropriate speed and level of service that meets their needs. Reply comments are due September 13, 2019. [public notice](#) | [all comments available](#)
- CTIA [met with](#) Chairman Pai's advisor on August 28, 2019, to discuss its [joint petition](#) asking the FCC to pause the December 1, 2019 implementation of an increase in the Lifeline minimum required broadband data usage allowance and the phasedown in Lifeline support for voice services.
- TracFone Wireless filed a [letter](#) on September 5, 2019, to express concerns with how USAC plans to implement the Lifeline Representative Accountability Database. TracFone made recommendations to the Commission to be incorporated into the RAD, including prohibiting agents from representing more than one Lifeline provider, requiring all agents compensated based on Lifeline enrollments to be registered with USAC, and requiring RAD registration of Lifeline enrollment agents in all states.
- NARUC [met separately with](#) advisors to Chairman Pai and Commissioners Rosenworcel, O'Rielly, Starks and Carr on August 3, 2019, to discuss Lifeline issues. NARUC urged the Commission to grant CTIA, et al.'s [petition](#) 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. NARUC also said the FCC should only continue to soft launch the National Verifier and temporarily suspend a hard launch either until December 31, 2019 or service provider APIs are established.
- Reply comments were filed on September 3, 2019, on the [NPRM](#) seeking comment on making the category two E-Rate budget approach permanent. The [E-Rate Management Professionals Association](#) supported commenters who advocated for the permanency of a five-year category two budget approach, the need for increased budget multipliers and building minimums, and the transition to a school district-wide or library system-wide budget, and the rejection of a transition year for FY2020. [EducationSuperHighway](#) supported the proposal to make the category two budget approach permanent, and supported comments calling for moving the budgeting structure from a per-site to per-applicant level, increasing the per-student budget and minimum budget, and making network security eligible for category two funding. The [State Educational Technology Directors Association](#) supported making the category two budget approach permanent, increasing the category two per-student formula to at least \$250 and raising the baseline budget for small rural applicants to at least \$25,000. [Funds for Learning](#) said higher budget factors will allow more funds per year in E-Rate disbursements to be invested in on-campus networks and services that enable, secure, and manage applicant local area networks should be eligible. [ALA](#) said content filtering should be made eligible for E-Rate discounts and encouraged the Commission to broaden the definition of E-Rate eligibility to include all segments of network security. [Kellogg & Sovereign Consulting](#) supported the combining category two sub-categories and expanding the eligible services list to include advanced firewall features and cybersecurity solutions. [FR](#) | [all comments available](#).

- Funds for Learning [met with](#) advisors to Chairman Pai and Commissioners Starks and Carr on August 27, 2019, to urge the FCC to make the category two E-Rate budget approach permanent. FFL also met with [Wireline Competition Bureau staff](#) and [Commissioner Rosenworcel's](#) advisor to discuss similar issues.
- Comments were filed on September 3, 2019, on the proposed eligible services list for the schools and libraries universal service support program for funding year 2020. [SECA](#) suggested making filtering an eligible service, and allowing applicants who have different schools on the same physical campus the choice to procure these connections through category one and or category two E-Rate funding. [Funds for Learning](#) said it sees no reason why a separate subcategory is necessary for some services whose eligibility is tied to specific pieces of equipment but not others, and that basic maintenance should be treated as a non-recurring service. [ApplianSys](#) asserted adopting the proposed eligible services list before a decision has been made on the category two [NPRM](#) would be a mistake that would make caching unavailable to many districts for purely clerical reasons. In separate comments, [ApplianSys](#) offers a number of recommendations, including making caching available for category one funding. Replies are due September 18, 2019. [public notice](#)
- Barry County Telephone [spoke with](#) Wireline Competition Bureau staff on August 29, 2019, to discuss concerns of potential waste and inefficient use of funds in the E-Rate program. It urged the Commission to focus on the elimination of overbuild and waste concerns within the E-Rate program. It also discussed the Texas Carrier's [petition](#) that asked the FCC to initiate a rulemaking proceeding to consider amending the E-rate program competitive bidding requirements.
- Pinpoint Communications filed a [letter](#) on September 3, 2019, to rescind its [notification](#) of forbearance from Lifeline-supported broadband internet access requirements in all of its census blocks within its ETC service areas. Pinpoint said it intends to offer Lifeline discounts on BIAS to any qualifying Lifeline customers immediately.
- Telegation filed a [request for review](#) on September 3, 2019, of a USAC decision to not allow it to revise its 2006 FCC Form 499-A after the deadline passed to revise the form. Telegation requested the Commission reverse any fees, overages, interest, and penalties invoiced by USAC as a result of this occurrence.

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Misc.

- The FCC issued a [tentative agenda](#) on September 5, 2019, for its September 26, 2019 Open Meeting. The FCC will consider a [report and order and modification of section 214 authorizations](#) that would adopt reforms to eliminate access arbitrage schemes, and a [report and order and order on reconsideration](#) that would allocate \$950 million in fixed and mobile high-cost universal service support for stage 2 of the Uniendo a Puerto Rico Fund and the Connect USVI Fund in Puerto Rico and the U.S. Virgin Islands, and disposes two petitions related to these two funds. The FCC will also consider: a [public notice](#) that would seek comment on procedures to be used for Auction 105, the auction of Priority Access Licenses in the 3550-3650 MHz band; a [further notice of proposed rulemaking](#) that would propose to modernize and simplify the written and on-air public notices broadcasters must provide upon the filing of certain applications; and a [report and order](#) that would align the Direct Broadcast Satellite licensing procedures with those of the geostationary orbit fixed-satellite service satellites.
- The Wireline Competition Bureau issued a [public notice](#) on September 6, 2019, announcing tariff review plans for use by rate-of-return carriers that have elected incentive regulation for their business data services offerings pursuant to the 2018 [RoR BDS order](#) have been posted on the [FCC's website](#). The 2019 TRP [order](#) required RoR carriers that have elected incentive regulation pursuant to the RoR BDS order to file TRPs reflecting any exogenous cost adjustment for TRS, NANPA, and regulatory fees in rates to be effective October 1, 2019. The Bureau also required the exogenous cost adjustment

for TRS to be grossed up to spread the entire adjustment over the remaining months in the tariff year. Links to [holding company BDS midcourse TRP](#) and [individual study area BDS midcourse TRP](#).

- The FCC released a [public notice](#) on September 5, 2019, announcing payment methods and procedures for FY 2019 regulatory fees, which are due September 24, 2019. The FCC said the Commission's automated filing and payment system is available for filing and viewing of FY 2019 regulatory fees and the use of the online fee filer system is mandatory. The FCC also announced fact sheets are available for [regulatory fee exemptions and procedures for filing waivers](#), [media services licensees](#), and [cable television systems](#).
- The Wireline Competition Bureau issued a [public notice](#) on August 4, 2019, granting an application filed by Absaraka Cooperative Telephone and Inter-Community Telephone, pursuant to section 214, to transfer of certain assets owned by Absaraka to ICTC.
- The Wireline Competition Bureau issued a [public notice](#) on September 5, 2019, seeking comments on an application filed by MLGC and Polar Telecom, pursuant to section 214, to transfer certain telecommunications assets of MLGC to Polar. MLGC is a wholly owned subsidiary of Griggs County Telephone Company (d/b/a MLGC). Comments are due September 19, 2019; replies are due September 26, 2019.
- The FCC issued a [notice of proposed rulemaking](#) on September 6, 2019, seeking comment on procedural changes that would streamline certain FCC administrative hearings. The FCC proposed: codifying and expanding the use of a process that would rely on written testimony and documentary evidence in lieu of live testimony and cross-examination; enabling Commission staff to act as a case manager that would supervise development of the written hearing record when the Commission designates itself as the presiding officer at a hearing; and dispensing with the preparation of an intermediate opinion whenever the record of a proceeding can be certified to the Commission for final decision. Comments are due 30 days after publication in the Federal Register; replies are due 45 days after publication.
- The Consumer and Governmental Affairs Bureau issued [two orders](#) on September 3, 2019, granting two complaints filed against Telplex Communications that alleged it changed complainants' telecommunications services without obtaining authorization and verification. The Bureau found Telplex's actions violated the Commission's slamming rules.
- The FCC issued a [news release](#) on September 3, 2019, to announce staff changes in the Office of General Counsel. David Gossett will serve as chief of staff, Ashley Boizelle will succeed Gossett as deputy general counsel for litigation, and Michael Carlson will succeed Boizelle as deputy general counsel for administrative law.

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Upcoming Filing Dates

- 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. 13 - Comments due on an application filed by Arcadia Telephone, Monarc Technologies, Westside Independent Telephone, and BTC, pursuant to section 214, to transfer telecommunications assets of Arcadia and Monarc to Westside and BTC, respectively. Replies are due September 20, 2019. [public notice](#)
- Sept. 13 - Comments due on Brightlink's application for authorization to obtain NANP telephone numbers directly from the numbering administrators for its iVoIP service. [public notice](#)

- Sept. 16 - Comments due on Network Communications International's [petition](#) for forbearance from the application of USF contribution requirements with respect to the provision of interstate and international inmate calling services. Replies are due October 1, 2019. [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. 19 - Comments due on an application filed by MLGC and Polar Telecom, pursuant to section 214, to transfer certain telecommunications assets of MLGC to Polar. Replies are due September 26, 2019. [public notice](#)
- Sept. 20 - Comments due on the [NPRM](#) proposing to establish a new Rural Digital Opportunity Fund, which would target support to areas that lack 25/3 Mbps broadband service and distribute \$20.4 billion in high-cost USF support over 10 years using a two-phase reverse auction framework. Replies due October 21, 2019. [FR](#)
- Sept. 20 - Comments due on Hood Canal Communications and CenturyLink's [petition](#) for a study area waiver to permit CenturyLink to remove an area that is originally within its Washington study area and for the same area to be recognized as part of HCC's Washington study area. Replies are due October 7, 2019. [public notice](#)
- Sept. 20 - Replies due on an application filed by Arcadia Telephone, Monarc Technologies, Westside Independent Telephone, and BTC, pursuant to section 214, to transfer telecommunications assets of Arcadia and Monarc to Westside and BTC, respectively. [public notice](#)
- Sept. 23 - Comments due on the [FNPRM](#) on enhancing the new Digital Opportunity Data Collection, incorporating mobile voice and broadband, and improving satellite broadband reporting. Replies are due October 7, 2019.
- Sept. 23 - PRA comments due on an extension of a currently approved collection associated with sections 251 and 252 that affect local competition. [notice](#)
- Sept. 26 - Replies due on an application filed by MLGC and Polar Telecom, pursuant to section 214, to transfer certain telecommunications assets of MLGC to Polar. [public notice](#)
- Sept. 30 - Comments due on NECA's [2020 Modification of the Average Schedule Universal Service High Cost Loop Support Formula](#). Replies due October 15, 2019. [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. 1 - Replies due on Network Communications International's [petition](#) for forbearance from the application of USF contribution requirements with respect to the provision of interstate and international inmate calling services. [public notice](#)
- Oct. 7 - Replies due on the [FNPRM](#) on enhancing the new Digital Opportunity Data Collection, incorporating mobile voice and broadband, and improving satellite broadband reporting.
- 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](#)

- Oct. 7 - Replies due on Hood Canal Communications and CenturyLink's [petition](#) for a study area waiver to permit CenturyLink to remove an area that is originally within its Washington study area and for the same area to be recognized as part of HCC's Washington study area. [public notice](#)
- Oct. 15 - Replies due on NECA's [2020 Modification of the Average Schedule Universal Service High Cost Loop Support Formula](#). [public notice](#)
- Oct. 21 - Replies due on the [NPRM](#) proposing to establish a new Rural Digital Opportunity Fund, which would target support to areas that lack 25/3 Mbps broadband service and distribute \$20.4 billion in high-cost USF support over 10 years using a two-phase reverse auction framework. [FR](#)
- Oct. 21 - PRA comments due on the information collection requirements in the [FNPRM](#) on the new Digital Opportunity Data Collection.

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