

NECA's Weekly Federal Regulatory Summary

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September 16, 2019 HIGHLIGHTS

- The Wireline Competition and Wireless Telecommunications Bureaus and Office of Engineering and Technology [addressed](#) certain, but not all, issues raised in the petitions for reconsideration of the network testing [order](#) filed by [ViaSat](#) and [Hughes Network Systems](#).
- The FCC [authorized](#) CAF Phase II support for 1,031 winning bids identified in attachment A of the public notice.
- The Office of Economics and Analytics, the WCB, and the WTB [announced](#) the release of updated data on fixed broadband deployment and mobile voice and broadband deployment as of June 30, 2018, based on Form 477 data.
- The House Communications and Technology Subcommittee held a [hearing](#) on broadband mapping.
- The FCC [announced](#) the proposed universal service contribution factor for the fourth quarter of 2019 will be 25 percent, up from the previous quarter's 24.4 percent.
- Consolidated Communications of Pennsylvania and Consolidated of Maine [requested a waiver](#) of the all-or-nothing rule to permit the companies to continue operating under bifurcated interstate access charge regulation following their proposed mergers.
- The FCC filed its [respondent's brief](#) with the D.C. Circuit Court of Appeals in the case considering the Irregularators' [petition for review](#) of the separations freeze [order](#).
- NTCA, et al. [suggested](#) modifications to the [draft report and order](#) on eliminating access arbitrage schemes.

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

- The Wireline Competition and Wireless Telecommunications Bureaus and Office of Engineering and Technology issued an [order on reconsideration](#) on September 12, 2019, addressing certain issues raised in the petitions for reconsideration of the network testing [order](#) filed by [ViaSat](#) and [Hughes Network Systems](#). The order refines the requirements for the Mean Opinion Score testing and allows for substantially equivalent testing methodologies; and rejects arguments that the performance measures order's clarifications regarding testing are inapplicable to CAF Phase II support recipients awarded support in conjunction with New York State through its New NY Broadband Program. The Commission did not address issues raised in the petitions for reconsideration filed by [USTelecom](#), [ITTA and WISPA](#) and the [Micronesian Telecommunications Corporation](#) such as: including the availability of testing options; the number of locations to be tested; the timing for testing; the test measurement span; testing standards; and the support reductions for non-compliance.
- The Wireline Competition Bureau, Rural Broadband Auctions Task Force, and Office of Economics and Analytics issued a [public notice](#) on September 12, 2019, authorizing CAF Phase II Auction 903 support for 1,031 winning bids identified in attachment A of the 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 \$112 million in funding and will expand broadband to 48,000 unserved rural homes and businesses in 9 states, representing the fifth wave of support. The FCC authorized the first four waves of funding in [May](#), [June](#), [July](#), and [August](#) 2019.
- Consolidated Communications Networks filed a [supplement](#) on September 11, 2019, to its [expedited request](#) for a waiver of the requirement that a recipient of rural broadband experiment funding must certify that it completed its build-out obligation to the full 100 percent of the locations that were derived from the CAM model in order for the recipient to be alleviated from keeping its irrevocable letter of credit open. Consolidated provided additional information that was requested by the Wireline Bureau on how Consolidated determined it had fewer locations in the funded census blocks than what the CAM cost model had calculated.

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Broadband

- The Office of Economics and Analytics, the Wireline Competition Bureau, and the Wireless Telecommunications Bureau issued a [public notice](#) on September 10, 2019, announcing the release of updated data on fixed broadband deployment and mobile voice and broadband deployment as of June 30, 2018, based on Form 477 data. Fixed deployment data, including revisions made by filers through August 28, 2019, is available [here](#) and mobile deployment data, including revisions made by filers through April 8, 2019, is available [here](#).
- The House Communications and Technology Subcommittee held a [hearing](#) on September 11, 2019, on broadband mapping. Witnesses included: [Shirley Bloomfield - NTCA](#); [Dana J. Floberg - Free Press](#); [Jonathan Spalter - USTelecom](#); [Grant B. Spellmeyer - US Cellular](#); [James W. Stageman - CostQuest](#); and [James Assey - NCTA](#). The subcommittee also discussed the following bills: [HR 2643](#), the Broadband Mapping After Public Scrutiny Act of 2019; [HR 3162](#), the Broadband Data Improvement Act of 2019; [HR 4128](#), the Map Improvement Act of 2019; [HR 4229](#), the Broadband Deployment Accuracy and Technological Availability Act; and [HR 4227](#), the Mapping Accuracy Promotion Services Act.
- The Wireless Telecommunications and Wireline Competition Bureaus issued a [public notice](#) on September 13, 2019, seeking comment on the Wireless Infrastructure Association's petitions for [rulemaking](#) and [declaratory ruling](#) regarding section 6409(a) of the Spectrum Act of 2012. The Bureaus also seek comment on CTIA's [petition for declaratory ruling](#) regarding section 6409 and the rules

implementing section 224 of the Communications Act. Comments are due October 15, 2019; reply comments are due October 30, 2019.

- CTIA filed a [petition](#) on September 6, 2019, asking the FCC to clarify which deployments qualify for streamlined processing and the remedies available under 6409(a) of the 2012 Spectrum Act. CTIA asked the FCC to clarify, among other things, that the term concealment element in its rules applies only to a stealth facility or design element and that concealment requirements may not be used to disqualify an application as an eligible facilities request. CTIA also requested the FCC affirm utilities may not impose blanket prohibitions on access to any portions of their poles, and declare utilities cannot ask providers to accept terms and conditions that are inconsistent with FCC rules, among other things.
- The Fiber Broadband Association filed a [letter](#) on September 12, 2019, to provide results of a study by the consulting firm Cartesian, which explores the costs associated with deploying all-fiber networks to all households across the entire United States. FBA said the study found that between reasonable actions by Congress, the Commission, and other government agencies, coupled with the efforts of private broadband providers, all-fiber networks can be deployed to 90% of households in the next decade.
- Southern Communications Services d/b/a Southern Linc, Georgia Power, and Southern Company Services [met separately with](#) Commissioner O’Rielly and his legal advisor and legal advisors to Chairman Pai and Commissioners Starks, Carr, and Rosenworcel on September 4 and 5, 2019. They discussed the Commission’s efforts to promote the deployment of infrastructure for 5G and other wireless services. They discussed how certain electric utilities have been voluntarily implementing programs and partnerships to proactively facilitate the colocation of small cells and other wireless communications facilities on utility-owned assets such as streetlights, transmission facilities, and other structures.

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- NTCA, Golden West Telecommunications, Premier Communications, Hargray Communications, and Rebekah Goodheart [met with](#) Wireline Competition Bureau and Office of Economics and Analytics staff on September 9, 2019, to discuss the [draft report and order](#) that would adopt reforms to eliminate access arbitrage schemes. They suggested modifications to the order, including adopting a rebuttable presumption that will enable carriers to show they are not access stimulators under a revised definition and make clear LECs deemed to be access stimulators are only financially responsible for tandem switching and transport they choose for purposes of subtending an end office. They also asserted RLECs should be subject to a different access stimulation definition given the structural disincentives for such practices, and the Commission should periodically review any changes to the definition of access stimulation.
- T-Mobile [spoke with](#) Wireline Competition Bureau staff on September 10, 2019, to discuss the [draft report and order](#) on access arbitrage. T-Mobile suggested the draft order clarify that manipulating traffic flows to defeat the purpose of the 6:1 terminating-to-originating ratio will not be permitted, and the Commission will consider the actual beginning and end point of calls to determine the ratio of terminating-to-originating traffic and whether its 6:1 ratio has been exceeded.
- Wide Voice [met separately with](#) Commissioner O’Rielly’s Advisor, Commissioner Rosenworcel’s Advisor and, Wireline Competition Bureau and Office of Economic Analysis staff and on September 10 and 11, 2019, to discuss access arbitrage. Wide Voice recommended the Commission level rates by replacing revenue share with mileage as a primary trigger. Wide Voice also said if the Commission proceeds with a stand-alone secondary trigger based on traffic profile, it must ensure that IXCs are not unable to influence LECs return traffic in order to inhibit compliance. Wide Voice [also met with](#) Commissioner Carr’s Advisor to discuss the same issues.

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Universal Service

- The FCC Office of Managing Director released a [Public Notice](#) on September 12, 2019, announcing the proposed universal service contribution factor for the fourth quarter of 2019 will be 25 percent, up from the previous quarters' 24.4 percent.
- NTCA filed [reply comments](#) on September 13, 2019, on its [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. NTCA said commenters universally supported the petition and asked the Commission to grant the relief requested. [public notice](#)
- ITTA, CenturyLink, and Blackfoot [met with](#) Commissioner O'Rielly's legal advisor on September 9, 2019, to discuss a Lifeline item that was [circulated](#) on August 19, 2019. They said to the extent press reports indicate that the item addresses the Lifeline Representative Accountability Database, they discussed concerns regarding the potential impacts of implementation of the RAD on the privacy and security of ITTA members' employees' personally identifiable information (PII). They asserted the scope of who may have to register with the RAD and what information they may have to provide is overbroad. They suggested the FCC exempt company employees from the RAD registration requirement and said if company employees are deemed subject to RAD registration requirements, only those employees directly interfacing with the NLAD and/or National Verifier should be required to register, and company employees should not be required to submit any PII as part of the registration process.
- The Central Texas Telephone Cooperative [spoke with](#) Commissioner Starks and his advisor on September 10, 2019, to discuss its [petition](#) urging the Commission to initiate a rulemaking proceeding to consider amending the E-Rate program competitive bidding requirements, to include safeguards which would discourage overbuilding of existing federally supported fiber networks.
- In addition to comments listed in a previous edition of *REGScan*, Cox Communications filed [comments](#) on September 9, 2019, on the proposed E-Rate eligible services list for funding year 2020. It urged the Commission to include equipment and services to prevent and recover from cyberattacks, and recommended the Commission clarify that E-Rate should provide support for equipment and services which perform cybersecurity asset protection and restoration functions. Replies are due September 18, 2019. [public notice](#) [All comments available](#)
- The Consortium for School Networking [met with](#) Commissioner Rosenworcel and her legal advisor on September 9, 2019, to discuss its reply comments on the [NPRM](#) on making the category two E-Rate budget approach permanent. CoSN highlighted the rising number of cyberattacks on school districts and urged changes to the E-rate category two rules to make cybersecurity an eligible use. It also discussed other recommendations in its reply comments, such as increasing the category two per-pupil funding amount and funding floor for small applicants, enabling district-wide budgets, and permitting investments in Wi-Fi systems for school buses.
- Funds for Learning [met with](#) staff from the Office of the Managing Director on September 9, 2019, to discuss the E-Rate category two budget system. It asserted the category two budget system is a success and a huge improvement over the previous "priority" system, and said over the past five years, the category two budget approach system has allowed schools and libraries to invest billions of dollars in on-campus broadband.
- Aruba, a Hewlett Packard Enterprise [met separately with](#) Chairman Pai's advisor and Wireline Competition Bureau staff on September 4, 2019, to discuss the need for inclusion of advanced network security for schools in the E-Rate program. It urged the Commission to update the Funding Year 2020 eligible services list to include modern network security.

- Comments are due September 16, 2019, 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](#)
- Viya [met separately with](#) Chairman Pai's advisor and Wireline Competition Bureau staff on September 9, 2019, to discuss the [draft order](#) 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. Viya discussed: strengthening resiliency and redundancy requirements; providing for a more thorough review to ensure parties making proposals can actually perform; and, clarifying things such as buried cable, leased facilities, network diversity and backhaul mileage.

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Misc.

- Consolidated Communications of Pennsylvania and Consolidated Communications of Maine filed a [petition for waiver](#) of sections 61.41(c)(2) and (c)(3) to the extent necessary to permit the companies to continue operating under bifurcated interstate access charge regulation, following the merger of Marianna and Scenery Hill Telephone Company and Bentleyville Communications Corp. with and into CCP, and the merger of Community Service Telephone Company with and into CCMC. Consolidated asserted operation of separate price cap and rate-of-return study areas within a single company, with all the safeguards that exist under FCC and state rules, will not disserve any Commission policy or threaten any harm to the public interest and permitting these operations under a single corporate entity will permit a significant administrative expense reduction.
- The FCC filed their [respondent's brief](#) with the D.C. Circuit Court of Appeals on September 12, 2019, in the case considering the Irregularators [petition for review](#) of the FCC's [order](#) that extended the separations freeze. The Commission said the petition should be dismissed because petitioners lack Article III standing and do not establish they are injured by the order. The Commission also said petitioners are not carriers subject to the FCC's separations rules and base their standing on their status as customers, but are only customers of either interstate price cap carriers or other service providers that were never subject to the separations rules.
- Cloud Communications Alliance [met separately with](#) Commissioner O'Rielly and his Advisor, Advisors to Commissioners Rosenworcel and Starks, and Wireline Competition Bureau and Consumer and Governmental Affairs staff on September 10, 2019, to reiterate its support for the Commission's efforts to combat illegal robocalls. CCA urged the Commission to ensure that standards and protocols are quickly finalized to enable enterprise service providers to attest to calls originating from their customers. CCA also emphasized the need for the Commission to require entities blocking calls to have mechanisms to quickly unblock legitimate calls.
- No comments were filed 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](#)
- The Wireline Competition Bureau issued a [public notice](#) on September 9, 2019, seeking comments on a section 214 application filed by E. Ritter & Company and Ritter Communications Ultimate Holdings, to transfer control of E. Ritter's direct subsidiary, E. Ritter Communications Holdings, and the wholly owned subsidiaries of Ritter Holdings: E. Ritter Telephone, Tri-County Telephone, Millington Telephone, E. Ritter Communications, and MTel Long Distance, to Ritter Ultimate. Comments are due September 23, 2019; replies are due September 30, 2019.
- In addition to fact sheets listed in a previous edition of *REGScan*, the FCC released four additional fact sheets for FY 2019 on September 9, 2019, for [interstate telecommunications service providers](#),

[international and satellite services licensees](#), [commercial wireless services](#), and [regulatory fees information look-up for media services](#).

- No comments were filed on Brightlink's 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

- 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 a section 214 application filed by E. Ritter & Company and Ritter Communications Ultimate Holdings, to transfer control of E. Ritter's direct subsidiary and wholly owned subsidiaries of Ritter Holdings, to Ritter Ultimate. Replies are due September 30, 2019. [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 - Replies due on a section 214 application filed by E. Ritter & Company and Ritter Communications Ultimate Holdings, to transfer control of E. Ritter's direct subsidiary and wholly owned subsidiaries of Ritter Holdings, to Ritter Ultimate. [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. 15 - Comments due on WIA's petitions for [rulemaking](#) and [declaratory ruling](#) regarding section 6409(a) of the Spectrum Act of 2012, and CTIA's [petition for declaratory ruling](#) regarding section 6409 and the rules implementing section 224 of the Communications Act. Reply comments are due October 30, 2019. [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.
- Oct. 30 - Replies due on WIA's petitions for [rulemaking](#) and [declaratory ruling](#) regarding section 6409(a) of the Spectrum Act of 2012, and CTIA's [petition for declaratory ruling](#) regarding section 6409 and the rules implementing section 224 of the Communications Act. [public notice](#)

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