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September 24, 2018 HIGHLIGHTS

- The FCC issued the [agenda](#) for its September 26, 2018 Open Meeting. The FCC will hear a presentation on the recent results of the CAF Phase II auction and will consider eight items, including: a [Declaratory Ruling and Report and Order](#) on state and local approvals for the deployment of small wireless facilities; a [Report and Order](#) to allow for use of auctions to assign certain toll-free numbers and to modernize the administration and assignment of toll-free numbers; and an [NPRM](#) addressing calls to 911 made from multi-line telephone systems, etc.
- Applications for Review were filed by [WTA](#) and [NTCA](#) of the [Network Performance Testing Order](#). Petitions for Reconsideration and/or Clarification were filed by [USTelecom](#), [ITTA](#), and [WISPA](#), [Hughes](#), [MTC](#) and [Viasat](#).
- WTA, et al. [discussed](#) the USF high-cost budget for RLECs and the speed and latency performance testing framework for certain recipients of high-cost support. Great Plains, et al. [suggested](#) that allocating an additional \$66 million annually to increase A-CAM funding up to \$200 per location is an appropriate, measured step towards advancing the FCC's goal to close the digital divide in rural areas. ITTA [urged](#) the FCC to fully fund separate budgets for the A-CAM program and legacy support mechanisms and expressed support for the FCC commencing the Remote Areas Fund auction.
- The August 15, 2018 [Rural Call Completion Order is effective](#) October 19, 2018, except for 64.2115, which requires OMB approval. PRA comments [are due](#) November 19, 2018, on a new information collection to establish an intermediate provider registry.
- [Comments were filed](#) on the [14th Broadband Deployment Report NOI](#). Replies due October 1, 2018.
- Oppositions [are due](#) October 4, 2018, to Public Knowledge's [Petition for Reconsideration](#) of the section 214(a) service discontinuance rules promulgated in the June 8, 2018 [Report and Order](#). Replies to oppositions are due October 15, 2018.
- O1 and Teliix [discussed](#) CenturyLink's Petition for Forbearance on the VoIP symmetry rule.
- Aureon filed a [Petition for Review](#) with the D.C. Circuit Court of the [Order](#) concluding the investigation of Aureon's tariff. Aureon also filed a [Petition for Review](#) of [two Orders](#) regarding CEA service.
- [Aureon](#) and [a group of CLECs](#) opposed AT&T's [Petition for Reconsideration](#) of the [Order](#) that concluded the investigation into Aureon's tariff. Replies are due September 26, 2018. [Public Notice](#)

Other Key Upcoming Dates

- Sept. 24 - Comments due to refresh the record on the Call Blocking NPRM and NOI on additional criteria voice providers could use to identify and block illegal calls. Replies due October 8, 2018. [Public Notice](#)
- Oct. 1 - Replies due on the [8YY Access Charge Reform FNPRM](#).
- Oct. 5 - Comments due on [NECA's 2019 Modification of the Average Schedule Universal Service HCL Support Formula](#). Replies are due October 22, 2018. [Public Notice](#)

USF Reform

- Applications for Review of the [Network Performance Testing Order](#) were filed on September 19, 2018. [WTA](#) asked the Commission to postpone the scheduled Third and Fourth Quarter 2019 commencement of testing, at least for RLECs, (e.g., for two years or so) to permit RLEC-compatible testing equipment to become more available and affordable and to allow qualified third-party vendors to determine whether they will offer testing services for RLECs. WTA also asked the Commission to order the Bureaus to work with the RLEC industry during that time to develop a new or revised broadband performance testing framework for RLECs that is suitable for the needs and concerns of rural customers and congruent with RLEC operations and resources. [NTCA](#) requested modification and/or clarification of: requirements for ISPs to test portions of the network over which they have no control; testing obligations in the absence of suitable equipment in the marketplace; the number of locations to be tested; which carriers are required to test; and the composition of the sample pools. NTCA also seeks clarification of the relationship between subscribed, advertised, and required speeds, and requested the Commission confirm which rural providers are required to participate and to clarify that the same pool of test locations can be used for both speed and latency testing.
- Petitions for Reconsideration and/or Clarification of the [Network Performance Testing Order](#) were filed on September 19, 2018. [USTelecom, ITTA and WISPA](#) requested reconsideration of: the establishment of separate testing frameworks for speed and latency; and the compliance framework, which they claimed is too stringent and could impede, rather than advance, broadband deployment in rural CAF-supported areas. They suggested the Commission deem a compliance percentage score of 100 percent as equal to full compliance; but recommended non-compliance of five percent or less should result in only a quarterly reporting obligation and no withholding of funding. They asked the Commission to clarify that it intends to measure compliance with the CAF speed requirements based on whether speed test results meet or exceed the applicable CAF-mandated minimum service speed, not by comparing any given test result to the advertised speed. They requested the Bureaus clarify that testing to a remote server may include either an on-net server controlled by the ETC or an IXP server in an "FCC-designated market," and clarify that ETCs are still permitted to use "the nearest Internet access point," which may not be located in one of the Bureaus' specified locations." They also asked the Bureaus to clarify that the same subscribers used by recipients for speed testing can also be used for latency testing, and clarify that recipients are afforded certain flexibility in satisfying their obligations to complete hourly tests during the peak period window. [Micronesian Telecommunications](#) seeks reconsideration of the requirement to test at least five subscriber locations per CAF-required service tier offering. MTC said it and other similarly situated small recipients of CAF funding are unable to comply with the rule as written because the requirement fails to account for small providers that do not have the requisite number of customers, particularly in higher service tiers. MTC said given the burdens of obtaining customer consent to serve as a test case, providers with fewer than 50 customers in any given service tier should not be required to test more than 10 percent of their customers in the tier, with a minimum of one customer per tier with customers. [Hughes Network Systems](#) requested clarification that the "conversational-opinion test" for demonstrating compliance with the requirement that high-latency bidders show a voice-quality Mean Opinion Score of four or higher, as required in the Metrics Order, does not apply to CAF support distributed through the New NY York Broadband Program. In the alternative, Hughes seeks reconsideration of the application of the conversational-opinion test requirement to recipients of support through the NY Program. [Viasat](#) requested reconsideration of the third-party MOS testing requirement and the requirement for "real world" latency testing using ITU Rec. P.800. [All PFRs available to date.](#)
- CC Communications, Arvig Communications, Nex-Tech, Shawnee Communications, and WTA [met with](#) Commissioner O'Rielly's staff on September 12, 2018, to discuss the USF high-cost budget for RLECs and the speed and latency performance testing framework for certain recipients of high-cost support. The carriers expressed the need for an early decision on pending budget revision issues and for the sufficient, stable, and predictable support flows required to extend, upgrade, and operate their broadband networks, expressing particular concern that the budget control mechanisms have become operational again as of July 1, 2018. They claimed the testing framework adopted in the Network Testing Order was not designed with RLECs in mind, and imposes unnecessary burdens, practical

implementation difficulties, and excessive costs that will impair their ability to deploy and upgrade their broadband services.

- Great Plains Communications, Consolidated Companies, and Matthey Consulting [met separately with](#) Advisors to Commissioners O’Rielly, Carr, and Rosenworcel on September 18, 2018, to suggested that allocating an additional \$66 million annually to increase A-CAM funding up to \$200 per location is an appropriate, measured step towards advancing the Commission’s goal to close the digital divide in rural areas, while having a minimal impact on consumers that support universal service. They claimed the overall burden of USF contributions to support high-cost areas has declined 14% since the original high-cost budget was established and the impact of increasing A-CAM funding up to \$200/eligible location is about two cents per month on residential bills.
- Clarity Telecom, dba Vast Broadband, and JSI [met with](#) Advisors to Chairman Pai and Commissioners O’Rielly, Rosenworcel, and Carr and Wireline Competition Bureau staff on September 13, 2018, to discuss Clarity’s pending [Petition for Reconsideration](#) of the FCC’s March 23, 2018 Order that provided an additional \$36.5 million in A-CAM funding for those RoR carriers that elected A-CAM in 2016. Clarity’s Petition seeks additional A-CAM funding for 2,167 rural locations in the company’s South Dakota study area that were prevented from receiving any high cost support due to an inadvertent clerical error in its June 2015 FCC Form 477 data. They urged the Commission to include a mechanism for funding Clarity’s “abandoned” locations in the forthcoming USF budget Order.
- ITTA [met with](#) Commissioner O’Reilly’s staff on September 20, 2018, to introduce them to ITTA. It urged the Commission to fully fund separate budgets for the A-CAM program and legacy support mechanisms and expressed support for the Commission commencing the Remote Areas Fund auction. ITTA urged the Commission to maintain the status quo with respect to 8YY access charges, and discussed ITTA’s position that the Commission should adopt policies and rules leveling the playing field for ILEC provision of broadband, voice, and video services. ITTA also noted the pendency of ITTA’s Petition for Declaratory Ruling that it is and always has been permissible for a carrier recovering TRS Fund contributions via an end user cost recovery fee line item on customers’ bills to include TRS, among other references, in the line item description.

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ICC

- O1 Communications and Teliix [spoke with](#) Wireline Competition Bureau staff on September 18, 2018, to discuss CenturyLink’s Petition for Forbearance on the VoIP symmetry rule. They asserted over-the-top VoIP providers and their CLEC partners perform the same functions as cable TV operators do for facilities-based VoIP services and as TDM voice providers do for traditional voice services. They claimed providers of a broadband connection do not perform the functions necessary to offer voice services but merely transports packets. They asked the Commission to confirm its previous holding that end office switched access charges apply to over-the-top VoIP calls when a LEC or its VoIP partner performs the end office functions.
- Aureon Network Services filed a [Petition for Review](#) with the D.C. Circuit Court on September 19, 2018, of the [Memorandum Opinion and Order](#) that concluded the investigation into Tariff F.C.C. No. 1 of Aureon Network Services. Aureon claimed that, as a consequence of the Order, Aureon is now the only carrier in the entire nation that is subject to dual ILEC/CLEC and dual dominant/non-dominant rate regulation for a single rate for a single service. Aureon asserted the Order exceeded the FCC’s jurisdiction and authority and asked the court to hold unlawful, vacate, enjoin, and set aside the Order.
- Aureon Network Services filed a [Petition for Review](#) with the D.C. Circuit Court on September 18, 2018, of a [2017 Order](#) that granted AT&T’s complaint against Aureon for charging AT&T for centralized equal access service on traffic destined for CLECs engaged in access stimulation and of the [Order](#) that partially granted Aureon’s Petition for Reconsideration of the 2017 Order. Aureon argued, among other things, the Orders exceeded the FCC’s jurisdiction and authority, and asked the court to uphold its deemed lawful 2013 tariff rate and hold unlawful, vacate, enjoin, and set aside those portions of the

Orders that hold Aureon is a CLEC and apply rules for non-dominant CLECs to Aureon's dominant carrier service, invalidate Aureon's 2013 tariff rate, and hold that Aureon's 2013 tariff rate is void *ab initio*.

- Comments were filed on September 19, 2018, on AT&T's [Petition for Reconsideration](#) of the [Order](#) that concluded the investigation into Aureon Network Services' tariff. [Aureon](#) opposed AT&T's Petition, arguing it is a dominant carrier subject to section 61.38 and ILEC rate regulations. Aureon claimed reconsidering the Commission's classification of Aureon as a CLEC is the most efficient and legally supportable solution to the controversy AT&T has raised over how to apply section 61.26(f) CLEC regulations to an ILEC-regulated service like CEA. [A group of CLECs](#) opposed AT&T's Petition, asserting AT&T has failed to provide the Commission with any new evidence, fact, or omission that could have been presented to the Commission before it determined Aureon's benchmark rate. The CLECs claimed the Commission correctly applied the CLEC benchmark system in the rate order. Replies are due September 26, 2018. [Public Notice](#)
- Sprint filed a [Motion](#) on September 19, 2018, joining AT&T's renewed [Motion](#) to amend the Protective Order in the Aureon tariff investigation [proceeding](#). Sprint requested that the Protective Order be amended to permit inside consultants' access to the confidential information in this proceeding. Sprint asserted that unlike AT&T, Sprint has had access to limited information and has had no ability to share that information with inside consultants.
- HD Tandem and Dentons [met separately with](#) Commissioner O'Rielly's Legal Advisor and Wireline Competition Bureau staff on September 13, 2018, to discuss the proceeding on eliminating access arbitrage in the intercarrier compensation system.

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Broadband

- In addition to comments listed in a previous edition of *REGScan*, comments were filed on September 10, 2018, on the [14th Broadband Deployment Report Notice of Inquiry](#), which initiated the next annual assessment of the availability of advanced telecommunications capability to all Americans in a reasonable and timely fashion. [ITTA](#) said the Commission should maintain the current speed benchmark of 25/3 Mbps for fixed broadband, and the Commission must continue its efforts to close the digital divide by allocating additional, sufficient funds to its USF high-cost program, particularly addressing in the near-term the shortfall in funding both for model-based and legacy rate-of-return support mechanisms. [USTelecom](#) said the FCC can continue to consider how it can increase targeted funding to rural broadband initiatives and avoid subsidized overbuilding, remove remaining barriers to investment, particularly with pole attachments, and incent additional investment via a level regulatory playing field. [AT&T](#) said the Commission should find that advanced telecommunications capability continues to be deployed to all Americans in a reasonable and timely fashion, and asserted mobile broadband is a functional substitute for fixed broadband. AT&T said the Commission can reduce the digital divide by continuing its efforts to remove unreasonable barriers to infrastructure deployment for wireline and wireless carriers. [Verizon](#) said the FCC should find, for purposes of its Communications Marketplace Report, that the mobile wireless marketplace continues to be robustly innovative and competitive. The [Mass. DTC](#) supported the FCC's proposal to evaluate fixed and mobile services using four categories, urged the FCC to incorporate affordability in its section 706 analyses, and said the Commission can speed deployment of next-generation facilities by more closely coordinating its efforts with those of state and local governments. The [Fiber Broadband Association](#) said the Commission should measure deployment progress and availability based on a more holistic broadband experience metric that includes service reliability and latency, and should focus its assessment on progress in deployment of all-fiber connectivity. The [Free State Foundation](#) supported the continued use of the 25/3 Mbps speeds for defining fixed broadband services and for using LTE coverage with minimum speeds of 5/1 Mbps for defining mobile broadband services. It also asserted mobile wireless and wireline services compete for consumers and are substitutable. [WISPA](#) said the Commission should continue to promote accelerated deployment of high quality broadband services by allocating additional fixed wireless spectrum, expediting the availability of this spectrum for the provision of new

service, and reducing existing and avoiding new regulatory burdens. [All comments available to date](#). Replies are due October 1, 2018. [Order](#)

- Chairman Pai sent a [letter](#) to Rep. Alcee L. Hastings (D-Fla.) on September 7, 2018, in response to his [letter](#) on pole attachments and one-touch make-ready, and asking the FCC to give full consideration to line workers' contractual obligations under existing collective bargaining agreements. Pai said the August 3, 2018 [Report and Order](#) included safeguards to protect the public and worker safety and excluded from OTMR new attachments that are more complicated or above the "communications space" of a pole, where safety and reliability risks are greater. Pai also said the FCC respected existing collective bargaining agreements, allowing union labor to be present for survey and make-ready work and to conduct post-make-ready inspections through such contracts with existing attachers.
- The FCC [published](#) in the Federal Register on September 19, 2018, the [Public Notice](#) announcing Public Knowledge filed a [Petition for Reconsideration](#) on August 8, 2018, of the section 214(a) service discontinuance rules promulgated in the June 8, 2018 [Report and Order](#). Public Knowledge asserted the Commission should eliminate the alternative options test and rely solely on the adequate replacement test to determine whether to grant applications for service discontinuance and should reinstate the 180-day comment period for customers of discontinued services. Oppositions are due October 4, 2018; replies to oppositions are due October 15, 2018.
- U.S. TelePacific, Mpower Communications, and Arrival Communications, all d/b/a TPx Communications, [met with](#) Wireline Competition Bureau staff on September 18, 2018, to discuss USTelecom's [Petition for Forbearance](#) from certain regulatory obligations imposed on ILECs. TPx discussed the continued importance of UNEs and resale to competitive markets and the adverse impact forbearance from section 251(c) obligations would have on its customers. It urged the Commission to deny the Petition. TPx also [met with](#) Legal Advisors and Chiefs of Staff to Chairman Pai and Commissioners Carr, Rosenworcel, and [O'Rielly](#) to discuss the same issue.
- CCIA [met with](#) Commissioner Rosenworcel's Chief of Staff and Commissioner Carr's Legal Advisor on September 19, 2018, to express concern that, pursuant to the FNPRM on modernizing the Commission's Form 477 data collection, the Commission would eliminate its ability to assess the level of competition in the marketplace for Business Data Services. CCIA asserted the Commission should continue to collect data on BDS so it can properly address the lack of competition in this marketplace and practice reasoned decision making.
- NTCA [spoke with](#) Commissioner O'Rielly's Legal Advisor on September 18, 2018, to discuss the draft [Order](#) on streamlining wireless infrastructure deployment, which will be considered at the September 26, 2018 Open Meeting. NTCA indicated support for efforts to address barriers presented by excessive rates and fees for access to public rights-of-way. NTCA asserted the same logic that underpins the legal analysis and assessment of marketplace barriers stated in the Declaratory Ruling logically applies on a technology-neutral basis to deployment of wireline and wireless network facilities alike.
- Verizon [met with](#) Legal Advisors to Chairman Pai and Commissioners O'Reilly, Carr, and Rosenworcel and the Chief of the Wireless Telecommunications Bureau on September 17, 18, and 19, 2018, to discuss the draft [Order](#) on streamlining wireless infrastructure deployment, which will be considered at the September 26, 2018 Open Meeting. Verizon asked the Commission to adopt a "deemed granted" remedy when localities fail to act on applications before expiration of the relevant shot clock, and asked the Commission to clarify that the declaratory ruling also applies to terms in signed agreements that violate federal law. Verizon also discussed a safe harbor recurring fee limit well below the \$270 per small wireless facility per year.
- AT&T [spoke with](#) Commissioner Carr's Wireless Advisor on September 18, 2018, to discuss the draft [Order](#) on streamlining wireless infrastructure deployment. AT&T supported the Order with certain modifications, including: clarifying access to poles, ROW, and all municipally-owned infrastructure in the ROW; clarifying the application of the sections 253/332 standards to third parties standing in the shoes of the municipality; and clarifying that the fee standard applies to existing agreements.

- AT&T [spoke with](#) Commissioner Carr's Legal Advisor on September 19, 2018, to discuss the draft [Order](#) on streamlining wireless infrastructure deployment, which will be considered at the September 26, 2018 Open Meeting. AT&T recommended the Commission clarify several aspects of the draft [Order](#) and rule that any wireless siting application that is not acted upon with the section 332(c)(7) shot clock is "deemed granted." AT&T also discussed its use of small wireless facilities for existing services as well as 5G services.
- Cincinnati Bell filed a [letter](#) on September 17, 2018, on the draft [Order](#) on streamlining wireless infrastructure deployment, which will be considered at the September 26, 2018 Open Meeting. Cincinnati Bell said it is concerned the draft Order may inadvertently tilt the playing field towards wireless networks and not apply the same statutory principles to fiber deployments, including those fiber deployments necessary to support wireless broadband services. Cincinnati Bell urged the Commission to modify the draft Order to apply its section 253(a) and 253(c) guidance and rulings to state and local government regulation of wired broadband networks as well as small wireless facilities.
- The Coalition for Local Internet Choice filed a [letter](#) on September 18, 2018, attaching a letter from Blair Levin that reviewed the draft [Order](#) on streamlining wireless infrastructure deployment, which will be considered at the September 26, 2018 Open Meeting. The Coalition urged the Commission to consider Levin's comments on what they say are the flaws of the economic and financial assumptions underlying the Commission's proposed restrictions on the ability of state and local governments to manage and obtain fair compensation for sitings.
- Debbie Goldman, the Communications Workers of America's representative on the Broadband Deployment Advisory Committee's Model Code for Municipalities Working Group, filed a [letter](#) on September 18, 2018, to express concern with the FCC's draft [Order](#) on streamlining wireless infrastructure deployment, which will be considered at the September 26, 2018 Open Meeting. She claimed the draft Order is inconsistent with recommendations from the Model Code for Municipalities Working Group and is an overreach of federal authority. She also asserted the draft Order restricts the power and authority of local governments, curbs the efforts of local governments to close the digital divide, and undercuts the BDAC process by ignoring the views of critical stakeholders.
- Crown Castle [met with](#) Legal Advisors to Chairman Pai and Commissioners O'Rielly, Rosenworcel, and Carr on September 17 and 18, 2018, to discuss the draft [Order](#) on streamlining wireless infrastructure deployment. Crown Castle offered suggestions and requested clarification regarding aesthetic standards and shot clocks.
- The Wireless Infrastructure Association [spoke separately with](#) Commissioners Carr, Rosenworcel, and O'Rielly on September 12 and 13, 2018, to discuss the draft [Order](#) on streamlining wireless infrastructure deployment, which will be considered at the September 26, 2018 Open Meeting. WIA asked the Commissioners to support the Order and address the wireless infrastructure deployment issues raised in WIA's recent [ex parte](#). WIA also [met with](#) Commissioner Rosenworcel's Legal Advisor on September 19, 2018, to discuss the draft [Order](#).
- INCOMPAS [spoke with](#) Legal Advisors to Chairman Pai and Commissioners Carr, O'Rielly, and Rosenworcel on September 18 and 19, 2018, to discuss the draft [Order](#) on streamlining wireless infrastructure deployment. INCOMPAS said it supports the Commission actions in the draft Order to reduce certain fees to reasonable cost-based levels and the establishment of shot clocks for the deployment of small wireless facilities.
- Charter Communications, Comcast, Cox, and NCTA [met with](#) Legal Advisors to Chairman Pai and Commissioners O'Rielly, Rosenworcel, and Carr on September 18, 2018, to discuss the draft [Order](#) on streamlining wireless infrastructure deployment. They claimed the legal analysis of section 253 is applicable to any "commingled" facilities that are capable of providing telecommunications services, including many cable systems. They also proposed clarifying that strand-mounted micro wireless facilities should be excluded from the definition of "antenna" in the shot clock rules proposed in the draft Order.

- CCIA [met with](#) Commissioner Rosenworcel's Chief of Staff and Commissioner Carr's Legal Advisor on September 19, 2018, to discuss the draft [Order](#) on streamlining wireless infrastructure deployment. CCIA supports portions of the draft Order wherein the Commission seeks to harmonize shot clocks at 60 days for small wireless facility collocations and 90 days for new small wireless facility siting requests that involve the construction of new facilities. CCIA suggested the Commission more clearly address situations where minimum spacing requirements, as applied to small cells and collocations, could also have the effect of prohibiting the deployment of next generation network technologies and diminish the utility, efficacy, and connectivity of small cell deployments.
- T-Mobile filed a [letter](#) on September 19, 2018, supporting the draft [Order](#) on streamlining wireless infrastructure deployment. T-Mobile asserted the item carefully balances interests and provides useful parameters for consideration of other requirements applicable to deployment.
- CTIA filed a [letter](#) on September 19, 2018, to express support for the draft [Order](#) on streamlining wireless infrastructure deployment. CTIA said establishing reasonable timelines for reviewing requests for deployment of small wireless facilities and adopting a deemed granted remedy will ensure the efficient provision of service to consumers. CTIA also said clarification of the standard for identifying prohibitions to wireless service will benefit providers and localities alike.
- American Tower [met with](#) Legal Advisors to Chairman Pai and Commissioners O'Reilly and Rosenworcel on September 18, 2018, to express its support for the draft [Order](#) on streamlining wireless infrastructure deployment. American Tower urged the Commission to adopt language in the Order to affirm the role of macro towers in the wireless ecosystem, and urged the Commission to next address issues that are impeding the ability of wireless providers to collocate on macro towers.
- NATOA, the National League of Cities, et al. filed a [letter](#) on September 19, 2018, urging the Commission to reject the draft [Order](#) on streamlining wireless infrastructure deployment. They claimed the Order establishes an unreasonable and unworkable standard of what constitutes an effective prohibition, which they say will impose costs on local governments and interfere with public safety and other local protections.
- Letters and ex partes on the draft [Order](#) on streamlining wireless infrastructure deployment were also filed by the following: [5G Americas](#); [CA Emerging Technologies Fund](#); [CCA](#); [Smart Communities and Special Districts Coalition](#); and [WATOA](#)
- NATOA filed a [Reply](#) on September 17, 2018, to oppositions by [CTIA](#) and [Sprint](#) to Petitions for Reconsideration filed by [NATOA](#), [PTA-FLA](#), as well as a number of individuals, of the [Second Report and Order](#) that amended and adopted new rules to streamline the wireless infrastructure siting review process. NATOA claimed neither opposition explains why the Commission's public interest analysis, and thus its new rules exempting small wireless facilities from NEPA and NHPA, is sound despite the deficiencies on which NATOA seeks reconsideration. [FR](#)
- Deloitte Consulting filed a [letter](#) on September 17, 2018, providing a link to its [white paper](#) entitled "5G: The chance to lead for a decade." Deloitte said: the U.S. should establish a light-touch policy framework to address 5G's inherent externalities that limit the value created by infrastructure investment from accruing to the carriers; private sector leadership is preferable to government intervention in the marketplace; and policymakers should actively target improvements to reduce the friction associated with deploying next generations of communication infrastructure at the state, local, and federal levels.
- Deloitte Consulting [met with](#) Chairman Pai, Commissioners O'Reilly, Carr, and Rosenworcel and their Legal Advisors on September 18, 2018, to discuss 5G. Deloitte suggested the U.S. establish a light-touch policy framework to address 5G's inherent externalities that limit the value created by infrastructure investment from accruing to the carriers, and said private sector leadership is preferable to government intervention in the marketplace. Deloitte also suggested policymakers should actively

target improvements to reduce the friction associated with deploying next generations of communication infrastructure at the state, local, and federal levels.

- Starry [spoke with](#) Commissioner Carr's Legal Advisor on September 18, 2018, to discuss modernizing the Over-the-Air Reception Devices rule to apply to all fixed wireless transmitters and receivers, so long as the equipment meets the existing size restrictions for customer-end equipment. Starry echoed the comments filed by WISPA that a simple and transparent modification to OTARD would have meaningful impact in accelerating the deployment of competitive broadband services across the country – while still maintaining existing size limits and exceptions for safety and historical purposes. Starry suggested the Commission propose this rule change in its next decision in the wireless infrastructure deployment proceeding.
- The Rainbow Push Coalition filed a [letter](#) on September 20, 2018, to express support for Commission efforts to address barriers impeding the development of wireless and wireline next-generation broadband services. It asserted that ensuring regulatory review fees are cost-based and applications are acted on in a timely manner will encourage the investment needed to ensure that 5G systems are built everywhere.

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Call Completion

- The FCC issued [a Notice](#) in the Federal Register on September 19, 2018, publishing the August 15, 2018 [Rural Call Completion Order](#) that adopted rules to: establish a registry for intermediate providers; require intermediate providers to register with the Commission before offering to transmit covered voice communications; require covered providers to use only registered intermediate providers to transmit covered voice communications; and require covered providers to maintain the capability to disclose the identities of any intermediate providers relied on in the call path to the Commission. The rules are effective October 19, 2018, except for 64.2115, which requires OMB approval.
- The FCC published a [Notice](#) in the Federal Register on September 18, 2018, seeking PRA comments on a new information collection to establish an intermediate provider registry. The Improving Rural Call Quality and Reliability Act of 2017 requires the Commission to establish a registry for intermediate providers and requires intermediate providers to register with the Commission before offering to transmit covered voice communications. PRA comments are due November 19, 2018.

Open Internet

- The U.S. District Court for the District of Columbia [granted in part](#) a motion for summary judgment in a [lawsuit](#) that sought to compel the Commission to release information relating to potential fraudulent comments received in the Restoring Internet Freedom proceeding. The court [ordered](#) the parties to meet and confer and file a joint status report on or before October 15, 2018, and to include: a proposed briefing and document production schedule regarding the Defendant GSA's constructive denial of plaintiff's FOIA requests; the adequacy of Defendant FCC's search for documents responsive to Plaintiff's FOIA request for API keys and associated information; and the FCC's response to plaintiff's request for .CSV files.
- Chairman Pai [spoke at](#) Hillsdale College on September 20, 2018, to discuss net neutrality, spectrum, and 5G. He said the Commission has restored the bipartisan, well-established rules that will both protect consumers and promote infrastructure investment. He said part of its approach is to require transparency and another part is empowering the Federal Trade Commission to target any broadband provider that behaves anti-competitively. He said on spectrum, the Commission is working hard to get more licensed and unlicensed airwaves into the marketplace, and on 5G, said all major wireless carriers are moving forward with 5G rollout plans.

Universal Service

- In addition to reply comments reported in a previous edition of *REGScan*, replies were filed on NTCA's [Petition](#) that seeks a temporary waiver of the updated minimum service speed standard applicable to fixed wireline broadband internet access service eligible for support by the Lifeline program. [Q Link Wireless](#) supported Commission action to either set aside Lifeline minimum service standards, or to clarify that ETCs can satisfy those standards by offering "units" plans that put consumers in control of determining their voice and broadband usage needs. [New America's OTI and the National Hispanic Media Coalition](#) asserted NTCA does not make a persuasive case for why a blanket waiver of the 18/2 Mbps minimum standard for its members is necessary or in the public interest, but the FCC should consider waiving the minimum standards if there is evidence that providers will exit the market on a widespread basis without such relief. [All replies available to date](#). [Public Notice](#)
- Reply comments were filed on September 14, 2018, on TracFone's [Motion](#) to renew its November 2017 [Petition](#) seeking an emergency waiver of section 54.408(b) or declaratory ruling that the rule enables TracFone to comply with the minimum service standards for Lifeline service by providing its Lifeline customers with a specified quantity of units per month that could be used either for voice service, mobile broadband internet access service, or both. [Q Link](#) supported Commission action to either set aside Lifeline minimum service standards, or to clarify that ETCs can satisfy those standards by offering "units" plans that put consumers in control of determining their voice and broadband usage needs. [TruConnect](#) said the Commission should eliminate service standards and allow consumers to determine for themselves what services they desire and can afford. As an alternative to elimination, it supported TracFone's "units" proposal. [TracFone](#) reiterated its opposition to the imposition of minimum service standards, but said should the Commission decide to do so, it should revise the minimum service standards regime so that it reflects the realities of the Lifeline marketplace and maximizes choices available to consumers. [Public Notice](#)
- Assist Wireless, the National Lifeline Association, Boomerang Wireless, Easy Wireless, and Stand Up Wireless [met with](#) Chairman Pai and his Legal Advisor on September 17, 2018, to discuss pending Lifeline issues. They asserted the record does not support banning resellers from the Lifeline program, claiming it would upend the states' role in designating ETCs. They also said the Commission should restore consumers' ability to choose the most affordable service packages that best meet their needs, and should prevent price increases on Lifeline subscribers by eliminating or freezing prescriptive service level standards and reversing the phase-out of support for essential voice service. They [also met with](#) Commissioner O'Rielly's Legal Advisor to discuss the same issues.
- Smith Bagley filed a [letter](#) on September 18, 2018, asking the Commission to withdraw its [Petition](#) for a waiver of the deadline for implementation of electronic versions of standard Lifeline certification forms. SBI said it incorporated the new standard Lifeline certification forms into its electronic systems and processes and put them into use on or before the deadline of July 1, 2018.
- USTelecom [met with](#) Chairman Pai's Special Counsel on September 18, 2018, to discuss the [NPRM](#) on supply chain security, and to express support for an ongoing federal risk management effort to identify supply chain risks and devise appropriate remedial measures. USTelecom urged the FCC to closely coordinate with its federal government counterparts as it develops and considers the record in this proceeding.
- Layer2 Licensing filed a [Request for Review](#) of a USAC decision that rejected its revised amended 2017 FCC Form 499-A filing. Layer2 said the revised filing corrected an inadvertent clerical error. It also asked the Commission to waive the one-year revision deadline to allow it to resubmit its Form 499-A correction to correct the error.
- NTUA Wireless filed a [Petition](#) on September 21, 2018, seeking ETC designation on the Navajo Nation for the purpose of receiving CAF Phase II support. NTUA was awarded the support via Auction 903, and requested expedited action to conform to the requirement that winning bidders obtain ETC designation.

- No comments were filed on Haefele TV's [Petition](#) seeking ETC designation in New York in all areas in which it has been awarded CAF Phase II support via the New NY Broadband Program. Replies are due October 1, 2018. [Public Notice](#)

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Misc.

- The FCC issued the [agenda](#) on September 19, 2018, for its September 26, 2018 Open Meeting. The Commission will hear a presentation on the recent results of the CAF Phase II auction and will consider: a [Declaratory Ruling and Report and Order](#) that will clarify the scope and meaning of sections 253 and 332(c)(7), establish shot clocks for state and local approvals for the deployment of small wireless facilities, and provide guidance on streamlining state and local requirements on wireless infrastructure deployment; an [NPRM](#) addressing calls to 911; a [Second FNPRM](#) addressing issues raised by a remand from the Sixth Circuit concerning how local franchising authorities may regulate incumbent cable operators and cable television services; a [Report and Order](#) that will eliminate the Form 325 Annual Report of Cable Television Systems filing requirement; a [Report and Order](#) to allow for use of auctions to assign certain toll-free numbers and to modernize the administration and assignment of toll-free numbers; an [action](#) to facilitate the deployment of and harmonize the rules concerning three types of fixed-satellite service earth stations authorized to transmit while in motion; and two enforcement actions.
- NARUC [met with](#) Commissioner O'Rielly's Legal Advisors on September 14, 2018, to discuss the Lifeline proceeding, the Separations proceeding, and the draft 911 NPRM. NARUC said the FCC has recognized that changes to the Part 36 rules require, as a pre-requisite, a recommendation from the Federal State Joint Board on Separations, and asserted no comment offered a legal rationale for bypassing the statutory requirements nor did the FNPRM articulate a basis for bypassing the statutory mandate. It maintained the proposals to modify the separations rules to allow one time or periodic freezes of the category relations are squarely within the scope of the existing referral, and a recommendation by the Joint Board on this issue is not just probable, but likely in a relatively short time frame. NARUC also said the FCC should affirm that States' role in ETC designations cannot, *ab initio*, be bypassed, and suggested the FCC reject the NPRM's proposal to eliminate non-facilities-based resellers from the Lifeline Program.
- Pioneer Telephone filed [a letter](#) on September 20, 2018, to provide additional information for the Separations Freeze proceeding. It said because [NARUC's statutory argument](#) regarding the need to refer this matter to the Joint Board must be taken seriously by the Commission, there is a strong possibility that action on the FNPRM cannot occur in the near future. It noted such a delay would include delaying the proposal for an "opt-out" option for rate-of-return carriers with frozen separations categories, and suggested this potential delay provides additional justification for Pioneer's request that the Commission proceed promptly to grant its waiver petition.
- To date, no comments were filed on an [application](#) filed by United Communications request for Commission approval to transfer control of UCH, and its subsidiaries to MTE Holdings. Replies are due September 28, 2018. [Public Notice](#)
- Chairman Pai sent letters to Reps. [Ken Buck](#) (R-CO), [David McKinley](#) (R-WV), and [Lee Zeldin](#) (R-NY) on September 7, 2018, in response to their letters ([Buck](#), [McKinley](#), [Zeldin](#)) on the FCC's efforts to update and enforce the Telephone Consumer Protection Act. Pai noted the FCC has leveled over \$200 million in proposed fines against illegal robocallers and has authorized carriers to stop certain robocalls at the source while it pursues creation of a reassigned numbers database and a robust call-authentication framework. Pai said in light of the D.C. Court of Appeals' decision in *ACA International v. FCC*, which struck down much of the FCC's 2015 TCPA Declaratory Ruling and Order, the Commission sought comment on May 14, 2018, on the definition of an "automatic telephone dialing system," the treatment of calls to reassigned numbers, and the scope of a consumer's right to revoke

prior express consent to receive robocalls. The FCC also sought renewed comment on reconsidering the *Broadnet* decision and the 2016 Federal Debt Collection Rules, as well as the interplay between the *Broadnet* decision and the Budget Act amendments.

- The FCC [published](#) in the Federal Register on September 18, 2018, the [Report and Order](#) released on August 29, 2018, that adopted a schedule of regulatory fees to assess and collect \$322,035,000 in regulatory fees for fiscal year 2018. The Order is effective September 18, 2018, except the rules in accordance with the directives of the RAY BAUM'S Act regarding the collection of delinquent debts. This rule change will become effective on October 1, 2018. The regulatory fees for all payors are due September 25, 2018.
- The FCC Managing Director issued [an Order](#) on September 21, 2018, making non-substantive revisions to authority citations in Title 47 of the Code of Federal Regulations. It indicated the changes effected by this Order are intended only to bring the authority citations into conformance with ACFR regulations and Document Drafting Handbook of the Office of the Federal Register, and none of them should be construed to change the substantive requirements of the affected rules or the sources of Commission authority for those requirements.

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Upcoming Filing Dates

- Sept. 24 - PRA comments due on the proposed information collection requirements in the [NPRM](#) on how to determine how a toll-free subscriber should make clear its authorization to text-enable a toll-free number. [FR](#)
- Sept. 24 - Comments due on refreshing the record in response to the Call Blocking NPRM and NOI on additional criteria voice providers could use to identify and block illegal calls. Replies due October 8, 2018. [Public Notice](#)
- Sept. 26 - Replies due on AT&T's [Petition for Reconsideration](#) of the [Memorandum Opinion and Order](#) that concluded the investigation into Tariff F.C.C. No. 1 of Aureon Network Services. [Public Notice](#)
- Sept. 27 - Replies due on TracFone's emergency [Petition](#) seeking an Order directing USAC to alter the implementation of the National Verifier to optimize the automated and manual eligibility verification process. [Public Notice](#)
- Sept. 28 - Replies due on an [application](#) filed by United Communications request for Commission approval to transfer control of UCH, and its subsidiaries to MTE Holdings. [Public Notice](#)
- Sept. 28 - PRA comments due on a revision of a currently approved information collection associated with High-Cost Loop Support reporting to NECA. [Notice](#)
- Oct. 1 - Replies due on Haefele TV's [Petition](#) seeking ETC designation in New York in all areas in which it has been awarded CAF Phase II support via the New NY Broadband Program. [Public Notice](#)
- Oct. 1 - PRA comments due on a revision of a currently approved information collection associated with modifications to the rules applicable to section 214(a) discontinuance applications, which were made in the June 8, 2018 [Second Report and Order](#). [FR](#)
- Oct. 1 - Replies due on the [8YY Access Charge Reform FNPRM](#), in which the Commission proposes to migrate interstate and intrastate originating end office and tandem switching and transport charges for toll free (8YY) calls to bill-and-keep. [FR](#)

- Oct. 1 - PRA comments due on a revised information collection pursuant to new rules adopted in June 2018 concerning certain information collection requirements implemented under section 251(c)(5) pertaining to network change disclosures and notices of planned copper retirements. [FR](#)
- Oct. 1 - Replies due on the [14th Broadband Deployment Report Notice of Inquiry](#), initiating the next annual assessment of the availability of advanced telecommunications capability to all Americans in a reasonable and timely fashion. [Order](#)
- Oct. 4 - Oppositions due to Public Knowledge's [Petition for Reconsideration](#) of the section 214(a) service discontinuance rules promulgated in the June 8, 2018 [Report and Order](#). Replies to oppositions are due October 15, 2018. [FR](#)
- Oct. 5 - Comments due on [NECA's 2019 Modification of the Average Schedule Universal Service High Cost Loop Support Formula](#). Replies are due October 22, 2018. [Public Notice](#)
- Oct. 5 - Paperwork Reduction Act comments due on an extension of a currently approved information collection associated with FCC Form 498, Service Provider and Billed Entity Identification Number and Contact Information. [Notice](#)
- Oct. 8 - Replies due on refreshing the record in response to the Call Blocking NPRM and NOI on additional criteria voice providers could use to identify and block illegal calls. [Public Notice](#)
- Oct. 8 - Nominations due for six Board member positions on the USAC Board of Directors, for a three-year term. [Public Notice](#)
- Oct. 10 - Replies due on the [Notice of Inquiry](#) on creating a USF pilot program to promote the use of telehealth services among low-income Americans.
- Oct. 12 - Comments due for the FCC's report on promoting broadband internet access service for veterans. Replies are due October 29, 2018. [Public Notice](#)
- Oct. 15 - Replies to oppositions due to Public Knowledge's [Petition for Reconsideration](#) of the section 214(a) service discontinuance rules promulgated in the June 8, 2018 [Report and Order](#). [FR](#)
- Oct. 22 - Replies due on [NECA's 2019 Modification of the Average Schedule Universal Service High Cost Loop Support Formula](#). [Public Notice](#)
- Oct. 29 - Comments due on whether the rules adopted in 2005-2006 should be continued without change, amended, or rescinded, consistent with the stated objective of section 610 of the Regulatory Flexibility Act. [Public Notice](#) | [Federal Register](#)
- Oct. 29 - Replies due for the FCC's report on promoting broadband internet access service for veterans. [Public Notice](#)
- Nov. 19 - PRA comments due on a new information collection to establish an intermediate provider registry. [Notice](#)

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