

[USF Reform](#) [Open Internet](#) [Broadband](#) [IP Transition](#) [USF](#) [Call Completion](#) [Misc.](#) [Upcoming Events](#)

### October 3, 2016 HIGHLIGHTS

- At its September 29, 2016 [Open Meeting](#), the FCC adopted: a [Report and Order and Further Notice](#) on improving wireless emergency alert content, delivery and testing; a [Report and Order](#) that extends to broadcast licensees the same streamlined rules and procedures that common carrier wireless licensees use to seek approval for foreign ownership; and an [NPRM](#) on the distribution of independent and diverse programming to consumers. The Report and Order on set-top-boxes remains [under consideration](#) by the Commissioners.
- The Wireline Competition Bureau [announced](#) the OMB approved the revised FCC Forms 507 (CAF–BLS Line Count Report), 508 (CAF–BLS Projected Annual Cost and Revenues), and 509 (CAF–BLS Actual Annual Cost and Revenues). Rate-of-return carriers must file Form 508 with USAC by October 3 to receive CAF-BLS support based on forecasted consumer broadband-only loop costs and revenues for the first six months of 2017.
- The WCB [released a spreadsheet](#) to assist carriers deciding whether to elect model-based support, and [released an updated](#) version of the study area deployment figure for each individual RoR carrier.
- The WCB [announced](#) [USAC published](#) resources to aid RoR carriers in determining their Capital Investment Allowance.
- The FCC issued a [Supplemental Small Entity Compliance Guide](#) to help small entities comply with the revised rules adopted in the RoR USF Reform Order.
- NTCA [discussed](#) implementation of the high-cost USF reforms adopted this year, the need for accurate and timely data to enable meaningful evaluation of the choices for support, and reporting and regulatory burdens.
- Minnesota, Wisconsin and Iowa rural LECs [discussed](#) their concerns that the present A-CAM eligibility criteria may be changed in some manner at some future date to exclude currently eligible entities. Northwest Telephone and Ayrshire Farmers Mutual Telephone [asked](#) the FCC to reexamine the data used to determine the amount of eligible A-CAM model-based support. Grand River Mutual Telephone filed an [Emergency Request for Expedited Treatment](#) for a waiver of the deadline to submit updated Form 477 data for use in the A-CAM.
- USTelecom [discussed](#) the need to adopt CAF II obligations for Alaska Communications Systems so that it can begin building to unserved customers as soon as possible.
- Arctic Slope Telephone, Copper Valley Telephone, and GVNW [discussed](#) the [Alaska Plan Order](#).
- The [CFC](#), [NRECA](#), and the [UTC](#) supported Lake Region Electric's [Application for Review](#) of the [Order](#) denying its request that the CFC be eligible to issue letters of credit for Rural Broadband Experiments.
- The Consumer and Governmental Affairs Bureau [clarified](#) the blocking of unwanted robocalls.
- NTCA [opposed](#) Comcast's [Petition for Limited Waiver](#) of its rural call completion retention and reporting obligations. Replies are due Oct. 5. [Public Notice](#)
- The OMB [approved](#) the information collection associated with certain rules adopted in the Third Lifeline Reform [Order](#). The WCB [provided](#) guidance to entities seeking designation as Lifeline Broadband Providers.
- The House [amended and passed](#) S. 253, The Communications Act Update of 2016. The amendments to the bill include [H.R. 2566, Improving Rural Call Quality and Reliability](#), and [H.R. 2669, the Anti-Spoofing Act of 2016](#).

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#### Other Key Upcoming Dates

- Oct. 3 - Responses [due](#) to [petitions for rehearing](#) of the Open Internet [decision](#).
- Oct. 14 - Comments due on FairPoint's [Petition for Waiver](#) of the requirement for a carrier intending to file its own CL tariff notify NECA by March 1 of the year in which the tariff will become effective. Replies are due October 31.
- Oct. 17 - Replies due on NECA's 2017 [Modification](#) of the Average Schedule Universal Service HCLS Formula.

Editor: [Teresa Evert](#) | Assistant Editor: [Shawn O'Brien](#)

## USF Reform

- The Wireline Competition Bureau released a [Public Notice](#) on September 26, 2016, announcing the OMB has approved the revised FCC Forms 507 (CAF–BLS Line Count Report), 508 (CAF–BLS Projected Annual Cost and Revenues), and 509 (CAF–BLS Actual Annual Cost and Revenues) and instructions. Rate-of-return carriers must file FCC Form 508 with USAC by October 3, 2016, to receive CAF-BLS support based on forecasted consumer broadband-only loop costs and revenues for the first six months of 2017. Forms 507 and 509 must be filed pursuant to the schedule established in section 54.903 of the Commission's rules. Copies of the revised FCC Forms may be obtained from USAC's High Cost Web Page (<http://www.usac.org/hc/tools/forms.aspx>).
- The Wireline Competition Bureau [announced](#) on September 30, 2016, the release of [a spreadsheet](#) to assist carriers deciding whether to elect model-based support that provides the following information for each incumbent rate-of-return study area: census blocks where an unsubsidized competitor reports the deployment of voice and broadband Internet access service of 10/1 Mbps; the name of the unsubsidized competitor(s) reporting deployment in that block; the technology used by each competitor; the percent of the census block covered by the incumbent RoR carrier; and the land area within the census block in the carrier's study area. The Bureau also [released an updated](#) version of the study area deployment figure for each individual RoR carrier, [correcting deployment figures](#) for a small number of carriers since the September 19, 2016 [version](#). The Bureau said it will be making further updates based on corrections to FCC Form 477 deployment figures received by October 7, 2016, but said any additional changes to deployment figures based on corrected FCC Form 477 data will not be incorporated in the operating expense limitation for 2017, capital investment allowance for 2017, or the broadband deployment obligations.
- The Wireline Competition Bureau [announced](#) on September 30, 2016, that [USAC published](#) resources to aid rate-of-return carriers in determining their Capital Investment Allowance, which sets a maximum for capital investment expenses that a rate-of-return carrier may include for purposes of calculating HCLS and CAF BLS.
- The FCC issued a [Supplemental Small Entity Compliance Guide](#) on September 27, 2016, intended to help small entities comply with the revised rules adopted in the March 30, 2016 RoR USF Reform Order. It describes the service and reporting obligations for rate-of-return carriers that voluntarily elect, on a state-level basis, to receive CAF A-CAM model-based support or that choose to remain on legacy mechanisms. The guide details various performance, deployment, and reporting obligations for all RoR carriers receiving high-cost support, including speed, latency, data usage, buildout, reporting, certification, recordkeeping, interconnection, and pricing.
- Chairman Wheeler sent [letters](#) to Senators Maria Cantwell (D-Wash.), Martin Heinrich (D-N.M.), Amy Klobuchar (D-Minn.), Patty Murray (D-Wash.), Jon Tester (D-Mont.), and Tom Udall (D-N.M.) on September 14, 2016, in response to their [letter](#) urging the Commission to undertake reforms to bridge the digital divide in Tribal lands. Chairman Wheeler said the Commission took two separate actions this past March that will help bridge the digital divide: it adopted a Lifeline Modernization Order to support broadband, which will allow low-income residents of Tribal lands to apply up to \$34.25 per month toward the cost of broadband service; and it adopted a FNPRM specifically seeking comment on additional reforms to further promote broadband investment and deployment on unserved and underserved Tribal lands. He also noted the Commission's initiatives to drive investment in mobile broadband on Tribal lands and the Tribal Broadband, Telecom, and Broadcast Training and Consultation workshops conducted by the FCC's Office of Native Affairs and Policy.
- Chairman Wheeler sent [letters](#) to 26 U.S. Senators on September 14, 2016, in response to their [letter](#) on the importance of mobile broadband networks to support agriculture and rural America and Mobility Fund Phase II. Chairman Wheeler said in the Mobility Fund Phase I, the Commission set aside \$300 million in one-time support to immediately accelerate deployment of networks for mobile voice and broadband services in unserved areas. He said as the Commission considers a Mobility Fund Phase II, the FCC will look how best to maximize limited resources and promote mobile voice and broadband in

areas, including rural communities with agricultural activity, where it might not otherwise be sustained or extended without federal support.

- The Wireless Telecommunications Bureau released a [report](#) entitled “Working Toward Mobility Fund II: Mobile Broadband Coverage Data and Analysis” on September 30, 2016. The Report reflects Commission staff work toward answering a number of threshold MF-II questions, and analyzes data on mobile broadband coverage based on Form 477 submissions. The staff analysis is focused on identifying the specific areas that may require USF support in order to have 4G LTE coverage and identifies areas within census blocks that do not today have unsubsidized 4G LTE coverage.
- NTCA [met with](#) Commissioner O’Rielly and his staff on September 26, 2016, at NTCA’s Fall Conference. NTCA members described how their networks are essential not only for the purpose of fulfilling the USF High Cost program’s mission, but also to ensure the availability of fixed and mobile wireless services and to fulfill the USF missions of the Schools and Libraries and Low-Income programs. They discussed implementation of the high-cost USF reforms adopted earlier this year, and identified the need for accurate and timely data to enable meaningful evaluation of the choices for support. They also discussed reporting and regulatory burdens and encouraged continued review of ways to ensure a balance between the need to collect data that inform the operation of Commission programs and the effects of such requirements on small businesses in particular. NTCA also [spoke via telephone with](#) Suzanne Yelen of the Wireline Competition Bureau on September 29, 2016, to discuss implementation of USF reforms, including the need for timely publication of information related to various aspects of those reforms and the regulatory treatment and support of standalone broadband services.
- The Wireline Competition Bureau issued a [Public Notice](#) on September 29, 2016, seeking comments on FairPoint’s [Petition for Waiver](#) of the requirement in section 69.3(e)(9) for a carrier intending to file its own Carrier Common Line tariff notify NECA by March 1 of the year in which the tariff will become effective. FairPoint maintains that its rate-of-return ILECs are regulated similarly to carriers that elect the A-CAM in that they no longer receive cost-based support for carrier common-line elements, yet remain under rate-of-return rules for traffic-sensitive elements. FairPoint seeks this waiver so it may withdraw its RoR ILECs from the NECA Common Line pool simultaneously with such carriers electing the A-CAM, and requests a waiver of any other rules as necessary to effectuate its withdrawal from the NECA Common Line pool. Comments are due October 14; replies are due October 31, 2016.
- Sens. Shelley Moore Capito (R-W.Va.) and Kirsten Gillibrand (D-N.Y.) introduced the [Broadband Connections for Rural Opportunities Program Act](#) on September 28, 2016. The bill would allow for federal grants of up to 50 percent of a project’s cost, and up to 75 percent for remote, high-need areas, to be awarded in combination with loan funding already available through the Department of Agriculture’s Rural Utilities Service. The legislation also doubles the authorized funding for RUS’ Broadband programs to \$50 million per fiscal year. (Bill not yet available)
- Comments were filed on September 28, 2016, on Lake Region Electric Cooperative’s [Application for Review](#) of the Wireline Competition Bureau’s [Order](#) denying Lake Region’s request that the National Rural Utilities Cooperative Finance Corporation be eligible to issue a letter of credit in support of its provisionally accepted Rural Broadband Experiments bid. The National Rural Utilities Cooperative Finance Corporation [supported](#) Lake Region’s AFR, arguing the Commission concluded in May 2016 that it was in the public interest that CFC be eligible to issue LOCs for the CAF Phase II auction, and stated in footnote 262 of the CAF II Order that its decision to allow CFC to issue LOCs for the CAF II auction would also apply to the RBE. CFC claimed the Bureau’s August 2016 denial of Lake Region’s petition was not only contrary to the FCC’s rules, but also stands in stark contrast to the Commission’s strongly articulated policy rationales in the CAF II Order. The National Rural Electric Cooperative Association [supported](#) Lake Region’s AFR, arguing in May 2016 the Commission concluded it was in the public interest that CFC be eligible to issue LOCs to winning bidders under the CAF Phase II reverse auction and the RBEs. NRECA said the Bureau’s waiver Order also implicates the Commission’s policies and interests in extending broadband opportunities to Tribal lands. The Utilities Technology Council also [supported](#) Lake Region, saying the Bureau’s Order conflicts with the Commission’s decision to recognize CFC as a qualified bank under the CAF, and, as such, the

Bureau's decision is contrary to law and policy, as well as arbitrary and capricious, and the Commission should reverse it.

- New Ulm Telecom, BEVCOMM, and nine other Minnesota, Wisconsin and Iowa rural LECs [met with](#) Legal Advisors to Commissioners [Pai](#), [Clyburn](#), and [O'Rielly](#) and [Wireline Competition Bureau staff](#) on September 23, 2016, to discuss their interest in participating in the A-CAM mechanism and their concerns that the present A-CAM eligibility criteria may be changed in some manner at some future date to exclude currently eligible entities. They expressed concern with the language in the Bureau's August 3, 2016 [Public Notice](#) indicating that it might "prioritize" among electing carriers on the basis of one or more of three different potential criteria, and said they interpreted this language as an indication the Bureau may be contemplating changing the A-CAM eligibility standard in some presently unknown manner that might significantly decrease the number of entities eligible to participate on the A-CAM path. The MN-WI-IA companies strenuously oppose any "prioritization" or other changes in A-CAM eligibility criteria that would bar substantial numbers of entities making the November 1 election for A-CAM participation, and said they would view that as an arbitrary and unfair change of the A-CAM eligibility rules in the middle of the process.
- Northwest Telephone Cooperative Association and Ayrshire Farmers Mutual Telephone Company filed a [letter](#) on September 30, 2016, to request that the Commission reexamine the data used to determine the amount of A-CAM model-based support for which the companies are eligible. The companies said they have reviewed the Commission's support determinations and are concerned that the Wireline Competition Bureau may have used incorrect data to determine the amount of the companies' model-based support. They requested that the Commission confirm the accuracy of the data used to ensure there is no error in the support determination should the companies elect to receive model-based support, explaining such confirmation is needed to ensure that if they accept the offers of model-based support, the companies will not be at risk of losing or repaying support funds should the Commission later determine that the companies were actually ineligible for model-based support, or only eligible for reduced support amounts, due to errors in the A-CAM model.
- Grand River Mutual Telephone filed an [Emergency Request for Expedited Treatment](#) on September 23, 2016, for a waiver of the deadline to submit updated Form 477 data for use in the A-CAM. GRM said a clerical error consisting solely of census blocks being reported as served by both fiber and copper, when in reality they are only served with copper, has made these census blocks ineligible for A-CAM funding, even though GRM had intended to utilize A-CAM funding to deploy fiber in these blocks. It said it revised its June 2015 Form 477 data on September 21, 2016, to correct this error and seeks waiver of the March 30 timeframe to allow the revised Form 477 data for its Missouri study area to replace the incorrect data in A-CAM v2.3.
- Coon Creek Telephone filed a [letter](#) on September 20, 2016, indicating it has been filing corrected Form 477s, including June 2015 and December 2015, because prior 477 filings overstated the companies' ability to deliver broadband. It said if the FCC does amend participation criteria for the model by reducing the 90% broadband availability threshold, it hopes the Commission will look favorably upon a waiver requesting CCT's accurate and newly-filed Form 477 data be used to make model eligibility decisions.
- Walter B. McCormick, Jr., President and CEO of USTelecom, [spoke by telephone with](#) Commissioner O'Rielly on September 28, 2016, to discuss the need to adopt CAF II obligations for Alaska Communications Systems so that it can move forward with building to unserved customers as soon as possible, in particular prior to the close of the building season in Alaska.
- Arctic Slope Telephone Association Cooperative, Copper Valley Telephone, and GVNW [met with](#) Commissioners O'Rielly and Rosenworcel's Legal Advisors and staff from Chairman Wheeler's office on September 22 and 23, 2016, to review the August 31, 2016 [Alaska Plan Order](#). They discussed the performance obligations required of an Alaskan carrier to qualify for the Alaska Plan. They also claimed middle mile is the step after the implementation is initiated for the Alaska Plan, which relates to the last mile costs, and provided an update from the nearly completed Alaska Network Services analysis, which they said revealed the cost of extending the middle mile network across Alaska



exceeds \$2 billion. They also discussed the circumstances attached to the ASTAC Wireless [Application for Review](#) filed September 7, 2016.

- The Empire State Development agency and the Washington D.C. Office of N.Y. Governor Andrew Cuomo [spoke by conference call](#) with Chairman Wheeler's Legal Advisor and Wireline Competition Bureau staff on September 23, 2016, to discuss approaches that would allow broadband providers in affected states to "step into the shoes" of the carriers that previously declined the CAF funding and access that funding if certain conditions are met. They suggested this approach would encourage states to commit their own funds for broadband deployment, minimizing additional burdens on the federal USF and increasing the likelihood of bringing broadband to affected states.
- Hughes Network Systems [met with](#) Wireline Competition Bureau and the Wireless Telecommunication Bureau staff on September 29, 2016, to discuss the CAF Phase II competitive bidding process. Hughes explained its recommendations for the design of the weighting process to be used in the CAF II auction.

[Back to Highlights](#)

## ICC

- West Kentucky and Tennessee Telecommunications Cooperative [met with](#) Commissioner Pai's Legal Advisor on September 22, 2016, to request support for its pending Petition for Waiver of section 51.917(b)(7)(ii) to correct its ICC Base Period Revenue. It said grant of a waiver that ensures an accurate BPR based on actual service provided during FY 2011, and which includes undisputed revenues that were billed and collected for such service and which would have been received by March 31, 2012 but for a billing error, would be consistent with the Commission's intent in establishing the rule. It also indicated a grant of the waiver, over four years after March 31, 2012, would not lead to additional "me too" waivers given that the industry practice for back billing uncollected revenues is limited to a 24 month window. West Kentucky and Tennessee Telecommunications Cooperative and JSI also [met with](#) Commissioner O'Rielly and his Wireline Legal Advisor on September 26, 2016, to discuss the same issues.

## Broadband

- Verizon [spoke with](#) Matt DelNero from the Wireline Competition Bureau on September 27, 2016, to discuss broadband privacy. Verizon asserted providers should be permitted to market their own services to their own customers without first obtaining opt-in or opt-out consent, and claimed this approach is consistent with how the Federal Trade Commission approaches first-party marketing. Verizon also argued providers should continue to be permitted to use customers' data to develop and improve their products and services and to develop or improve their offerings or marketing campaigns generally. Verizon said, to the extent customers do not themselves wish to receive marketing from their provider, they may opt out of receiving all solicitations by asking that they be added to the provider's existing do not call, do not email, and/or do not solicit list.
- The Center for Democracy and Technology [met with](#) Chairman Wheeler's and Wireline Competition Bureau staff on September 27, 2016, to discuss broadband privacy. CDT discussed de-identification, the categorization of data as sensitive or non-sensitive, pay-for-privacy models, and data security and data breach standards. CDT suggested clear definitions and standards for the de-identification of customer data, and argued the FCC should prohibit BIAS providers from coercing customers into consenting to the use and sharing of their personal information in exchange for affordable service.
- The New America's Open Technology Institute and the Institute for Public Representation at Georgetown Law [met with](#) Chairman Wheeler's staff and Wireline Competition Bureau staff on September 26, 2016, to discuss broadband privacy. They argued that supposedly de-identified customer information should only be regulated separately from customer proprietary information or individually identifiable customer proprietary network information if it meets the statutory definition of

aggregate customer information under section 222. They discussed support for the FCC's proposal to carefully limit the extent to which BIAS customers' information can be used for non-service-related purposes on an opt-out basis. They also claimed it would be inadministrable and unwise for the FCC to offer less protection to customer information it considers non-sensitive.

- The Voice on the Net Coalition and Vonage [met with](#) Legal Advisors to Chairman Wheeler and Commissioners Clyburn, Rosenworcel, Pai, and O'Rielly on September 26 and 27, 2016, to discuss the potential harmonization of any requirements adopted in the broadband privacy proceeding with privacy requirements already imposed on interconnected VoIP providers. They asserted the proposed requirements should not be applied to interconnected VoIP providers because the existing framework established under section 222 adequately protects VoIP customers. They claimed there have been few, if any, FCC enforcement actions against VoIP providers related to violations of the privacy rules, and claimed no party in this proceeding has advocated for additional privacy regulation for interconnected VoIP providers.
- Charter Communications [met with](#) Chairman Wheeler's Chief of Staff and Wireline Competition Bureau staff on September 23, 2016, to discuss broadband privacy. Charter urged the Commission to consider a privacy framework based on the sensitivity of the data rather than the type of data collected, similar to the approach that is used by the FTC. Charter said under this approach, only the use or sharing of sensitive information would require opt-in consent for marketing purposes. Charter also urged the Commission to allow for the use and disclosure of de-identified information using the FTC's three-part test.
- Free Press, 18MillionRising.org, the American Civil Liberties Union, *et al.* sent a [letter](#) to Chairman Wheeler and Commissioners Clyburn, Rosenworcel, Pai, and O'Reilly on September 28, 2016, to respond to advertising industry groups, ACA, *et al.*, and CTIA who oppose the FCC's proposed broadband privacy rules. Free Press, *et al.* claimed there is no truth to claims that the FTC somehow opposes the FCC's proposed implementation of the privacy mandates in section 222. They also asserted the advertising industry letter mischaracterizes the law when it comes to the FCC's authority to promulgate broadband privacy rules.
- The Information Technology Industry Council and the 21st Century Privacy Coalition sent a [letter](#) to Chairman Wheeler on September 26, 2016, to express concerns with the FCC's broadband privacy proposal. They claimed the FCC has proposed a series of burdensome privacy and data security requirements that are inconsistent with established law, policy, and practice in this area. They claimed there is no evidence to indicate that consumers have been ill-served under the traditional privacy framework currently administered by the FTC. They said consistent with the FTC's enforcement framework, the FCC should modify its consent requirements to take into consideration whether the information is sensitive, rather than focusing on the use of such information and the entity engaged in such use.
- Nokia [met with](#) Commissioner O'Rielly and his Legal Advisor and Commissioner Clyburn's Legal Advisor on September 21, 2016, to discuss the broadband privacy proceeding. Nokia discussed the FCC's recognition that its proposed rules would permit, without an opt-in requirement, the ability to: use, disclose, or permit access to customer information necessary to, or used in, the provision of the broadband service; use, disclose, or permit access to aggregate customer information; and use customer information to market other communications-related services. Nokia also expressed opposition to the Commission inserting itself into a decision by a consumer to allow use of his or her information in exchange for a discount or other value.
- Audience Partners [met with](#) Legal Advisors to Chairman Wheeler and Commissioners Clyburn, Rosenworcel, Pai, and O'Rielly on September 21, 2016, to discuss Audience Partners' comments on broadband privacy. Audience Partners suggested the Commission ensure that its resulting privacy regime promotes privacy-by-design technologies and the regime not be structured in a way that cedes online advertising to entities that use more invasive practices that are less respectful of consumer privacy. Audience Partners supported a broader, sensitivity-based opt-out framework and is willing to work with the Commission on the details of developing such a framework to promote commerce in a way that is respectful of consumer privacy.

- Atomite filed a [letter](#) on September 26, 2016, to supplement its comments filed on the broadband privacy NPRM. Atomite suggested the FCC enable broadband providers to rely on industry best practices and utilize trusted third parties to implement certain elements thereof (e.g., consumer-facing privacy dashboards), and provide a regulatory safe harbor for those that do so properly.
- The DMA [met with](#) Wireline Competition Bureau staff on September 28, 2016, to discuss broadband privacy. The DMA discussed concerns with adopting an overly broad definition for the term “personally identifiable information” and with subjecting the use of non-sensitive data, such as data used for marketing purposes, to opt-in consent. The DMA asserted the FTC’s approach is the better framework to promote innovative uses of data that will be beneficial for consumers and the economy.

[Back to Highlights](#)

## Call Completion/Robocalls

- The Consumer and Governmental Affairs Bureau issued a [Public Notice](#) on September 30, 2016, clarifying that if a subscriber to a telephone number requests call blocking in order to prevent her telephone number from being spoofed, a voice service provider may block such calls so they do not reach the recipient consumer. The Bureau noted that in the 2015 Omnibus TCPA Order, the Commission clarified that nothing in the Communications Act prohibits voice service providers from offering their customers such blocking tools when the customer requests it. The Bureau said its clarification is narrow and does not disturb providers’ general obligation to complete calls, and said it expects providers to take all reasonable steps to ensure that calls are not mistakenly blocked for reasons that may include reassigned numbers.
- NTCA filed [comments](#) on September 26, 2016, opposing Comcast’s [Petition for Limited Waiver](#) of its rural call completion retention and reporting obligations. Comcast requested a *nunc pro tunc* waiver of its sections 64.2103 and 64.2105 obligations to record, retain, and report complete call completion information for the period up to and including June 30, 2016. NTCA asserted Comcast’s failure to recognize that it was not capturing all of the required data is not a special circumstance that should be waived, and said granting Comcast’s request would undermine an essential public policy objective and is not in the public interest. Replies are due October 5. [Public Notice](#)

## USF

- The FCC published a [Notice](#) in the Federal Register on September 30, 2016, announcing OMB approved the information collection requirements associated with certain rules adopted in the Third Lifeline Reform [Order](#). Sections 54.202(a)(6), (d), and (e)(additional requirements for FCC designation of ETCs), and 54.205(c) (relinquishment of universal service) will become effective October 3, 2016. Sections 54.101(supported services for rural, insular and high cost areas), 54.401(a)(2), (b), (c), (f)(Lifeline defined), 54.403(a)(Lifeline support amount), 54.405(e)(1), (e)(3) through (e)(5)(carrier obligation to offer Lifeline), 54.407(a), (c)(2), (d) (reimbursement for offering Lifeline), 54.408(minimum service standards), 54.409(a)(2)(consumer qualification for Lifeline), 54.410(b) through (e), (g) through (h)(subscriber eligibility determination and certification), 54.411(Lifeline benefit portability), 54.416(a)(3)(Annual certifications by ETCs), 54.420(b)(Low income program audits), and 54.422(b)(3)(Annual reporting for ETCs that receive low-income support) will become effective December 2, 2016 . The rule amendments to section 54.410(f) will become effective January 1, 2017; the rule amendments to section 54.400(l) are applicable October 3, 2016; and the rule amendments to section 54.400(f), (j), and (m) through (o) are applicable December 2, 2016.
- The Wireline Competition Bureau issued a [Public Notice](#) on September 30, 2016, to provide guidance to entities seeking designation as Lifeline Broadband Providers for the purpose of receiving reimbursement through the Lifeline program for qualifying broadband Internet access service provided to eligible low-income consumers. The Bureau also provided additional guidance regarding implementation of the FCC’s minimum service standards for Lifeline-supported BIAS, which is

applicable to Lifeline Broadband Providers and other ETCs seeking Lifeline reimbursement for BIAS provided to qualifying low-income consumers.

- The Wireline Competition Bureau released a [Public Notice](#) on September 30, 2016, granting, denying, and dismissing various petitions related to actions taken by USAC on E-rate, USF contributions, Lifeline, and Rural Healthcare. Petitions for reconsideration or applications for review of these decisions must be filed within 30 days of the Public Notice.
- The Wireline Competition Bureau issued a [Memorandum Opinion and Order](#) on September 26, 2016, granting American Teleconferencing Services' [Request for Review](#) of an [Order](#) that found ATS failed to demonstrate good cause for a waiver of the Commission's one-year revision deadline for the annual Telecommunications Reporting Worksheet. The Bureau said it treated ATS's request as a petition for reconsideration. The Bureau directed USAC to accept ATS's August 2013 revision to its 2012 FCC Form 499-A as if timely filed and adjust invoices and provide any refund as appropriate.
- NECA filed its [USF 2016 Submission of 2015 Study Results](#) on September 30, 2016, in compliance with section 54.1307 of the FCC's rules. ([link to FCC's webpage](#) on USF data)
- USAC filed its [Semi-Annual Audit Recovery Report](#) for the Schools and Libraries Program on September 30, 2016, which summarizes the status of all outstanding audit findings
- To date, no comments were filed on NECA's 2017 [Modification](#) of the Average Schedule Universal Service High Cost Loop Support Formula. Replies due October 17. [Public Notice](#)
- Consolidated Communications [met with](#) Commissioner Pai and his Legal Advisor, and [separately with](#) Commissioner O'Rielly's Legal Advisor, on September 27, 2016, to discuss its [Application for Review](#) (formerly known as SureWest Telephone) of the Wireline Competition Bureau's denial of its request for waiver of the filing deadlines for submission of state certification of federal high-cost support. It said granting the Application for Review and the requested waiver would benefit the public interest by permitting Consolidated to accelerate broadband deployment projects in California that had to be deferred due to the loss of two quarters' worth of support. It argued the Bureau relied on just such a public interest analysis in granting a similar waiver of a filing deadline for Smith Bagley's Petition for Waiver of section 54.809(c).
- ASTAC Wireless filed an [Application for Review](#) on September 7, 2016, of the Wireline Competition Bureau's Order on Reconsideration that denied ASTAC Wireless's request to reconsider the denial of its Petition for Waiver of high-cost support line count filing deadlines for the second and third quarters of 2015. ASTAC Wireless asks the Commission to reverse the Bureau's Order on Reconsideration solely with respect to the third quarter 2015 filing deadline, but not with respect to the later-discovered failure to meet the second quarter 2015 filing deadline. It said this would restore \$229,200 in high-cost support related to the third quarter 2015 line count filing, but continue to deny ASTAC Wireless \$91,000 in high-cost support related to the second quarter 2015 line count filing.
- Blue Jay Wireless [met with](#) Chairman Wheeler's Legal Advisors and Counselors, Legal Advisors to Commissioners Rosenworcel, Pai, Clyburn and O'Rielly, and Wireline Competition Bureau staff on September 26 and 27, 2016, to discuss its intention to file a Lifeline Broadband Provider ETC petition, and discussed Lifeline and non-Lifeline mobile broadband plans the company intends to offer on or after December 1, 2016.
- Nex-Tech Wireless filed a [letter](#) on September 26, 2016, to provide the Commission with information in response to questions from Wireline Competition Bureau staff regarding its recent [Request for Waiver](#) of the deadline for filing a correction to FCC Form 499-Q. NTW provided information regarding the impact on NTW's network deployment projects if its requested waiver is not granted and addressed staff's question regarding the amount of the additional contribution it would have to pay as a result of the error, as well as how it compares to the facts of previous cases that have resulted in a grant of a waiver.



[Back to Highlights](#)

## State Actions

- The California PUC issued an [Order](#) on September 27, 2016, seeking additional comments on issues raised in a workshop on rural call completion. The issues include: monitoring call completion failures; false disconnected messages; the inability to place calls over VoIP-based phone systems; dial tone and emergency access issues; and various questions from public participation hearings. Comments are due October 7.
- Sprint, Ontario Telephone, and Trumansburg Telephone filed a [letter](#) with the New York PSC on September 23, 2016, stating they have reached an agreement for settlement of a [case](#) where the latter two companies alleged Sprint refused to pay intrastate access charges. The parties said over the next couple of weeks, counsel will work to finalize the appropriate settlement agreement and asked that in order for this to happen, all proceedings and filings in this case, and any applicable filing dates, be suspended for a period of two weeks.

## Misc.

- At its September 29, 2016 [Open Meeting](#), the FCC adopted: a [Report and Order and Further Notice](#) on improving wireless emergency alert content, delivery and testing; a [Report and Order](#) that extends to broadcast licensees the same streamlined rules and procedures that common carrier wireless licensees use to seek approval for foreign ownership; and an [NPRM](#) on the distribution of independent and diverse programming to consumers. The FCC [removed](#) from the agenda a Report and Order to allow consumers to use a device of their choosing to access multichannel video programming instead of leasing devices from their cable or satellite providers. That item remains under consideration by the Commissioners. [Statement](#) issued by Chairman Wheeler and Commissioners Clyburn and Rosenworcel.
- The House [amended and passed](#) S. 253, The Communications Act Update of 2016, on September 27, 2016. The amendments to the bill include the following previously approved House bills: [H.R. 2566, Improving Rural Call Quality and Reliability](#); [H.R. 2669, Anti-Spoofing Act of 2016](#); [H.R. 2583, the Federal Communications Commission Process Reform Act](#); [H.R. 734, the Federal Communications Commission Consolidated Reporting Act](#); [H.R. 4596, the Small Business Broadband Deployment Act](#); and three other communications bills. This legislation moves to the Senate for consideration.
- Commissioner Pai issued a [statement](#) on September 28, 2016, on the House [passage](#) of S. 253, The Communications Act Update of 2016. Commissioner Pai asserted this bipartisan legislation would improve rural communications, crack down on robocalls, and protect public safety, including by promoting direct dial 911. He said he hopes the U.S. Senate will act quickly to send this bill to the President for his signature.
- Commissioner O'Rielly [spoke](#) at the TPRC 44: Research Conference on Communications, Information and Internet Policy on September 30, 2016, discussing cost-benefit analysis of proposed regulations. He noted OMB's 2015 Report to Congress showed that out of 14 major rules issued by the FCC from 2005 to 2014, none included information on benefits or costs. He agreed with the OMB's assessment that the absence of information on costs and benefits from independent agencies is a continued obstacle to transparency that can have adverse effects on public policy. He said if the FCC adopts policies after a full and fair consideration of the costs and benefits, the policies are likely to be better tailored to solve the problem at hand and less burdensome to companies and consumers.
- Chairman Wheeler sent a [letter](#) to nine members of Congress on September 14, 2016, to respond to their [letter](#), which asked that the final rule on business data services be based on accurate industry data and promote strong continued investment in broadband infrastructure. Chairman Wheeler said the Commission has worked with cable operators to obtain supplemental data, which has been included in the record.

- AT&T filed a [letter](#) on September 23, 2016, to express support for the competitive market test [proposed](#) by Drs. Israel, Rubinfeld, and Woroch. AT&T claimed the only approach supported by the 2013 data collection is a test based on where competitors have deployed fiber facilities, and it supports a test in which a census tract is competitive if there are at least two providers that have deployed network facilities within 2,000 feet of the census tract.
- AT&T filed a [letter](#) on September 23, 2016, submitting a declaration prepared by Drs. Mark Israel, Daniel Rubinfeld, and Glenn Woroch, claiming business density data cannot be used to address the serious “endogeneity” problems that make it impossible to draw any reliable conclusions about ILEC market power from the regression analyses conducted by [Prof. Rysman](#) and [Commission staff](#). In the declaration, they also discussed why business density data from Dun & Bradstreet cannot be used to fix the endogeneity.
- Frontier [spoke with](#) Matt DelNero, Chief of the Wireline Competition Bureau, on September 22, 2016, to urge the Commission to fully consider what it says are the disparate impacts that would occur if the Commission instituted a uniform rate reduction for BDS services across providers with differing business models and revenue streams, particularly those ILECs that lack wireless or significant CLEC operations. Frontier discussed the economic impact the BDS proposals could potentially have on the company, its customers, and employees.
- Frontier and the International Brotherhood of Electrical Workers [met with](#) Commissioner Clyburn’s Legal Advisor on September 26, 2016, to discuss what they say are the significant repercussions that new price regulation would have on good, middle-class jobs and broadband investment. They claimed that if the FCC imposes BDS price cuts it would undermine investment, hurt competition, and ultimately put thousands of union jobs at risk.
- Verizon and INCOMPAS [met with](#) Commissioner Clyburn and her Legal Advisor on September 27, 2016, to discuss their proposed business data services [framework](#), which they said reflects a balanced approach, including in rural areas, that will resolve a long-standing issue overhanging the industry and promote investment needed for 5G deployment.
- Verizon filed a [letter](#) on September 27, 2016, to respond to Comcast’s [claims](#) that there is no sound policy justification for expanding rate regulation of incumbent providers or new entrants in the BDS marketplace. Verizon asserted Comcast’s proposal to create a different set of rules for cable providers and other providers who claim not to be common carriers conflicts with the Commission’s goal of a technology-neutral, provider-neutral approach that ensures reasonably priced business data services. Verizon asserted all BDS providers are common carriers. Verizon also said its [proposal](#) with INCOMPAS proposes a light-touch approach to Ethernet, and proposes to exempt new entrants from the benchmarks initially, but it suggested the Commission should not indefinitely single out ILEC Ethernet services for disparate regulation.
- CenturyLink filed a [letter](#) on September 27, 2016, to discuss the potential one-time and ongoing reductions in rates for DSn and Ethernet services being considered by the Commission. CenturyLink asserted it and AT&T have shown there is no credible record evidence to support significant one-time or ongoing reductions in DSn rates, and when considering mandated reductions to DSn (and potentially Ethernet) rates, the Commission must assure that those reductions will not drive prices below applicable cost floors and sap incentives for investment, especially in rural areas. CenturyLink also submitted an appended declaration of Peter B. Copeland, analyzing CenturyLink’s current interstate DS1 rates in legacy CenturyTel areas.
- CenturyLink [met with](#) Wireline Competition Bureau and General Counsel staff on September 27, 2016, to assert the proposed business data services rule changes would have far-reaching operational and procedural impacts, broadly affecting business systems, regulatory procedures, and compliance efforts, necessitating an appropriate implementation glide-path. CenturyLink also said experience associated with other complex rulemakings, such as the USF/ICC transformation, shows that transitions from one regime to another tend to take substantially longer than expected and the

Commission must consider all of these issues when developing new rules to govern the business data services marketplace.

- CenturyLink [met with](#) Legal Advisors to Chairman Wheeler and Commissioners Clyburn and Rosenworcel on September 28, 2016, to discuss business data services. CenturyLink said it spends roughly \$3 billion a year on capital expenditures and the current business data services proceeding could limit its efforts to improve and expand broadband service for customers. CenturyLink also asserted the Verizon/INCOMPAS proposal will have negative impacts on investment, jobs, and broadband deployment in some of the most difficult to serve territories in the country.
- Sprint filed a [letter](#) on September 30, 2016, to respond to AT&T's claims that the record provides no legitimate economic or evidentiary basis for the proposal that BDS at or below 50 (or 100) Mbps be presumed non-competitive. Sprint argued the marketplace for lower-bandwidth BDS offerings is far from competitive and the Commission therefore should adopt a presumption that this market is non-competitive. Sprint also said the Commission can address the possibility that the marketplace for such services in a particular area is effectively competitive by adopting a "safety valve" that would exempt from pricing regulation those few buildings where competition obviates the need for such constraints.
- Sprint filed a [letter](#) on September 28, 2016, to express support for the Verizon/INCOMPAS BDS [proposal](#). Sprint claimed the proposal represents the best path forward to accomplish the Commission's goals, and submitted a summary of what it says is the evidence in support of the Verizon/INCOMPAS proposal.
- Level 3 [met with](#) Legal Advisors to Commissioners Clyburn and Rosenworcel on September 27 and 28, 2016, to express support for comprehensive BDS reform. Level 3 asserted the Commission should analyze the market by assessing the likelihood that a reasonably efficient competitor can deploy a connection to a customer location, and said it is reasonable for the Commission to use census blocks as the geographic area for the competition test for mid-bandwidth services. Level 3 also recommended the FCC's framework provide that only a single leading competitor be subject to ex ante rate regulation in relevant markets classified as non-competitive, and expressed support for the Verizon/INCOMPAS [proposal](#).
- Comcast [met with](#) Chairman Wheeler's Legal Advisor, FCC General Counsel, and Wireline Competition Bureau staff on September 26, 2016, to discuss the September 14, 2016 [letter](#) filed by seven economists that claimed rate regulation imposes significant costs, typically obstructs innovation, and acts as a disincentive to investment. Comcast asserted the FCC should adopt [NCTA's framework](#) to impose rate regulation only where monopoly conditions are present and where future entry and investment are unlikely. Comcast also said if the Commission determines that a regulatory backstop is necessary to ensure the availability of wholesale BDS from private carriers, it could establish a regime [described](#) by Comcast.
- NCTA filed a [letter](#) on September 27, 2016, to respond to Level 3's September 9, 2016 [letter](#), which challenged findings by Drs. Michael Katz and Bryan Keating in their August 9th [reply declaration](#), filed on NCTA's behalf. NCTA claimed Level 3 attempts to rebut several conclusions reached by Drs. Katz and Keating, but said it never addresses the central finding of their declaration, which is that the regulatory proponents have ignored the costs of regulation and therefore have proposed a framework that would lead to unwarranted and counterproductive regulation.
- NCTA, Charter, Cox, and Mediacom [met with](#) Wireline Competition Bureau and General Counsel staff on September 24, 2016, to discuss NCTA's September 14, 2016 [letter](#) expressing concern with the Verizon/INCOMPAS [proposal](#) for business data services and in which NCTA presented an alternate proposal. NCTA asserted there is no basis on which the Commission could adopt the Verizon/INCOMPAS proposal, which would find that BDS is noncompetitive in 99 percent of the country. NCTA said its proposal attempts to identify areas where there is no investment or competition today, and where future investment and competition are unlikely to emerge, and claimed it is fully consistent with decades of Commission precedent and well-established economic principles.

- Cox [met with](#) Commissioner O’Rielly’s Legal Advisor on September 22, 2016, to discuss the proposals that could subject competitive fiber providers’ prices to regulation through application of benchmarks based on the ILECs’ costs and prices. Cox claimed this would harm CFPs and their efforts to build new fiber networks, including build-outs for mobile wireless networks, enterprise customers, and community institutions, such as schools and healthcare networks. Cox also said it provides BDS on a private-carriage basis and expressed concerns over the adoption of wholesale discounts based on avoided cost theories.
- BT Americas filed a [letter](#) on September 28, 2016, to provide information in support of its argument that minimum revenue commitments should be capped at 50 percent or less for contracts entered into with ILECs and/or their affiliates for the provision of dominant services provided by an ILEC within its ILEC territory and non-dominant services. BT asserted that in order to encourage wholesale competition, the Commission must adopt rules that limit the MRCs included in contracts for the sale of ILEC BDS, either from the ILEC itself or its affiliate.
- Lumos Networks [met with](#) Office of Strategic Planning and Policy Analysis and Wireline Competition Bureau staff on September 22, 2016, to discuss what it says are the obstacles benchmark pricing for BDS services would create and how such regulation of Lumos’ pricing would impede its ability to invest in its fiber network and continue bringing competitive fiber deployment to underserved and rural markets. Lumos also discussed the challenges in deploying fiber solutions for health care and social services providers that need customized routing to ensure their networks remain resilient.
- TeleQuality Communications sent a [letter](#) to Chairman Wheeler on September 26, 2016, to urge the FCC to adopt an Order that addresses what it says is the abuse of market power in the BDS market. It asserted Commission action is needed to increase competition, increase speeds, boost investment, and lower prices for consumers, especially rural healthcare providers. TeleQuality also expressed support for the Verizon/INCOMPAS BDS proposal, and said it will bring pricing relief and set a better path for more competition and fair access in the future.
- The Communications Workers of America [met with](#) Chairman Wheeler’s Legal Advisor on September 23, 2016, to suggest that a drastic rate cut for business data services would lead to reduced investment in broadband networks, especially in rural areas. CWA also asserted the FCC’s BDS proposal would effectively require unionized incumbent carriers to subsidize the input costs of low-wage, non-union competitive providers and wireless carriers, with negative consequences for workers’ living standards and jobs in the telecommunications sector.
- To date, no comments were filed on Flowroute’s application to obtain NANP telephone numbers directly from the Numbering Administrators for its iVoIP service. [Public Notice](#)

[Back to Highlights](#)

## Upcoming Filing Dates

- Oct. 3 - Deadline for carriers to file with USAC forecasted cost and revenue data associated with consumer broadband-only loops, in addition to the previously collected common line data, for the first six months of 2017. [Public Notice](#), [Public Notice](#)
- Oct. 3 - Response due to [petitions for rehearing](#) of the Open Internet [decision](#). [Order](#)
- Oct. 4 - Comments due on FracTel’s application to obtain NANP telephone numbers directly from the Numbering Administrators for its iVoIP service. [Public Notice](#)
- Oct. 5 - Replies due on Comcast’s [Petition for Limited Waiver](#) of its rural call completion retention and reporting obligations. [Public Notice](#)

- Oct. 14 - Comments due on FairPoint's [Petition for Waiver](#) of the requirement in section 69.3(e)(9) for a carrier intending to file its own Carrier Common Line tariff notify NECA by March 1 of the year in which the tariff will become effective. Replies are due October 31. [Public Notice](#)
- Oct. 17 - Replies due on NECA's 2017 [Modification](#) of the Average Schedule Universal Service High Cost Loop Support Formula. [Public Notice](#)
- Oct. 20 - Comments due on Warm Springs Telecom's [Petition](#) for an order declaring WST to be an incumbent LEC in the Warm Springs Wire Center and Wanapine Exchange. Replies due November 4. [Public Notice](#)
- Oct. 24 - Replies due on data and information on the state of competition in the delivery of video programming for the Commission's Eighteenth Report, and to update the information and metrics provided in the [Seventeenth Report](#). [Public Notice](#)
- Oct. 25 - Deadline for urban rate surveys for 2017. [Public Notice](#)
- Oct. 31 - PRA comments due on an extension of a currently approved collection associated with the FCC's Electronic Tariff Filing System. [Notice](#)
- Oct. 31 - Replies due on FairPoint's [Petition for Waiver](#) of the requirement in section 69.3(e)(9) for a carrier intending to file its own Carrier Common Line tariff notify NECA by March 1 of the year in which the tariff will become effective. [Public Notice](#)
- Nov. 3 - Comments due on petitions filed by [Microsoft, et al.](#) and the [Samuelson-Glushko Technology Law & Policy Clinic](#), requesting the FCC allow E-rate subsidized broadband networks to be accessed by students at home for educational purposes. Replies are due December 5. [Public Notice](#)
- Nov. 4 - Replies due on Warm Springs Telecom's [Petition](#) for an order declaring WST to be an incumbent LEC in the Warm Springs Wire Center and Wanapine Exchange. [Public Notice](#)
- Nov. 7 - Deadline for providers to notify CenturyLink they already serve the census blocks [identified](#) in CenturyLink's modified CAF Phase I Round 2 broadband deployment plans. [PN](#)

[Back to Highlights](#)

Editor: [Teresa Evert](#) | Assistant Editor: [Shawn O'Brien](#)