

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

October 17, 2016 HIGHLIGHTS

- The Wireline Competition Bureau [seeks comments](#) on New York State's [Petition for Expedited Waiver](#) of the CAF Phase II auction rules to make available to New York the amount of Phase II model-based support that Verizon declined in the state. Comments are due October 24; replies due October 31.
- Kansas rural broadband providers and NTCA [discussed](#) concerns with implementation of the A-CAM and recommended the high-cost program be placed in regulatory parity with other USF programs when it comes to keeping pace with cost increases over time. They also suggested the Commission broaden the base of USF contributors, and discussed the burdens of FCC reporting obligations.
- 3 Rivers Communications, Wheat State Telephone, US Connect, and WTA [discussed](#) their consideration of the upcoming election between the A-CAM path and the RoR path for USF support, as well as broadband CPNI and security.
- Commissioner Pai and his Chief of Staff [visited](#) the Iowa Communications Alliance Board of Directors, discussing broadband deployment in rural Iowa and recent FCC data releases to be used in determining whether to elect the A-CAM model. Commissioner Pai also [spoke](#) at Think Big Partners, discussing how government can help spur more entrepreneurship and innovation, and his vision of a Digital Empowerment Agenda.
- The WCB [announced](#) modified procedures for state PUCs to access non-public FCC Form 477 subscription data.
- The FCC [announced](#) it will host another meeting of the Robocall Strike Force on October 26, 2016. The Strike Force is to report on its proposed action plan at the October 26 Open Meeting.
- [NTIA](#) and [NASUCA, the Maine Office of the Public Advocate, et al.](#) filed petitions for reconsideration of the [Technology Transitions Order](#) that updated the FCC's review and notice procedures governing the filing and processing of section 214 applications to discontinue, reduce, or impair service.

Other Key Upcoming Dates

- Oct. 17 - Replies due on NECA's 2017 [Modification](#) of the Average Schedule Universal Service HCLS Formula.
- Oct. 25 - Deadline for [urban rate surveys](#) for 2017.
- Oct. 31 - Replies 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.

USF Reform

- The Wireline Competition Bureau issued a [Public Notice](#) on October 13, 2016, seeking comment on New York State's [Petition for Expedited Waiver](#), filed October 12, 2016, of the CAF Phase II auction rules to make available to New York the amount of Phase II model-based support that Verizon declined in the state (approximately \$170.4 million). New York indicated it wants to allocate these funds as part of New York's upcoming competitive reverse auction to align the distribution of CAF funding with the State's broadband program. New York indicated its allocation of CAF funds would be undertaken in accordance with key Commission requirements and would not impose any additional financial burdens on the CAF. Comments are due October 24; replies due October 31.
- Kansas rural broadband providers and NTCA [met with](#) Commissioner Pai, his Chief of Staff, and Senator Pat Roberts (R-Kan.) and members of his staff on October 10, 2016, to ask the FCC to provide sufficient support to deploy, maintain, and upgrade broadband networks and make service available in rural America at reasonably comparable rates. They said the Commission should focus on supporting future-proof networks, and expressed a general consensus that fiber is the future. They expressed concern that implementation of the A-CAM not have unintended consequences on those carriers that choose not to elect, or are precluded from electing, model support. They also recommended the high-cost program be placed in regulatory parity with other USF programs when it comes to keeping pace with cost increases over time; action be taken to "broaden the base" of USF contributors; and discussed the burdens of FCC reporting obligations.
- 3 Rivers Communications, Wheat State Telephone, US Connect, and WTA [met with](#) Chairman Wheeler's Senior Legal Advisor on October 5, 2016, to discuss their consideration of the upcoming November 1, 2016 election between the A-CAM path and the RoR path for USF support, as well as broadband CPNI and security. The companies emphasized the difficulties of deploying additional broadband and operating their existing networks on the limited support from the A-CAM path or the RoR path, and asked the Commission not to impose unnecessary regulatory burdens and costs on them. WTA explained that RLECs typically do not use CPNI for marketing purposes, and urged that publicly available information that has not previously been included within the scope of section 222 not be included within the scope of new broadband privacy rules. WTA also expressed opposition to a requirement that carriers develop and make available "privacy dashboards," and expressed concern regarding the imposition of prescriptive data security requirements on small providers that lack the resources and IT teams of large providers. They also [met with](#) Commissioner Rosenworcel's Legal Advisor to discuss the same issues.
- Commissioner Pai and his Chief of Staff [visited](#) the Iowa Communications Alliance Board of Directors on October 12, 2016, to discuss broadband deployment in rural Iowa. They discussed the recent flurry of Commission data releases to be used by companies in determining whether to elect the A-CAM model and the challenges in analyzing all of this data prior to making elections by November 1st. The Alliance reported on the high cost of deploying broadband to unserved customers and the uncertainty related to the unknown budget control mechanisms that may significantly impact the decision on whether to elect model-based support. They also discussed the impact of the "parent trap" rule in preventing some rural LECs from obtaining either A-CAM or CACM funding for certain communities.
- To date, no comments were filed 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](#)
- St. Paul Cooperative Telephone Association filed an [Emergency Petition](#) for expedited waiver on October 12, 2016, of the timeframe by which RoR ILECs were to submit revisions to their June 2015 FCC Form 477 data in order for the revisions to be incorporated in the A-CAM. It said special circumstances warrant a deviation from this timeframe due to an inadvertent clerical error, which consisted solely of census blocks being reported as served by fiber, when in reality they are only served with copper. It said it had intended to utilize A-CAM funding to deploy fiber in these blocks.

- New York State held a [conference call](#) with Wireline Competition Bureau staff on October 6, 2016, to discuss approaches for allowing broadband providers to access the CAF funding that price cap carriers in certain states previously had declined. It claimed New York's ongoing broadband auction presents unique circumstances that justify Commission action to allow other providers to access CAF funding as soon as possible.
- Empire State Development and the Washington D.C. Office of New York Governor Andrew Cuomo [spoke by conference call](#) with Wireline Competition Bureau staff on October 4, 2016, to discuss approaches for allowing broadband providers to access the CAF funding that price cap carriers in certain states previously had declined. The New York representatives asserted allowing other providers to access the funding would promote the public interest by increasing the likelihood of bringing broadband to affected states and minimizing additional burdens on the federal USF, and would yield significant synergies that cannot be achieved under any of the alternative approaches proposed by the Commission.
- The Competitive Carriers Association and U.S. Cellular [met with](#) Chairman Wheeler and Wireline Competition Bureau staff on October 11, 2016, to discuss rural mobile broadband coverage in West Virginia and the Mobility Fund II. U.S. Cellular stressed the need for sufficient and predictable funding in any Mobility Fund II to provide LTE service to unserved and underserved areas, and urged the FCC to ensure any Mobility Fund II distribution mechanism be at least \$500 million per year and guarantee funding for very high cost areas such as West Virginia. They also noted that coverage in rural areas cannot be considered ubiquitous for consumers in areas served only by a CDMA carrier or a GSM carrier until carriers have universally implemented VoLTE roaming and all consumers have access to devices capable of receiving interoperable VoLTE service.
- Deere & Company filed [a letter](#) on October 11, 2016, to urge the Commission to adopt policies and rules for Mobility Fund Phase II that specifically recognize the need to promote 4G LTE deployment that will cover areas of agricultural operations. It said for many rural Americans, work is closely tied with the agricultural sector and MF II funds directed solely to roads or population centers will not adequately address the need for wireless coverage in croplands. Deere urged the Commission to base MF II funding and coverage on a weighted average of population and cropland acreage and to adjust construction milestones and coverage requirements to ensure that carriers construct networks that cover cropland, in addition to population centers.
- The Cherokee Nation filed [a letter](#) on September 20, 2016, to express support for Lake Region Electric Cooperative's efforts to bring broadband to Cherokee Tribal citizens.

[Back to Highlights](#)

Broadband

- The Wireline Competition Bureau issued a [Public Notice](#) on October 13, 2016, announcing modified procedures for state PUCs to access non-public FCC Form 477 subscription data. The Bureau said each commission wishing to access, or to continue to access, shared data for its state must execute an updated data-sharing letter of agreement. A copy of the letter of agreement is attached to this Notice, and the procedures for submitting the agreement are available at: <https://www.fcc.gov/general/process-state-regulatory-commissions-obtain-state-specific-fcc-form-477-data>.
- Commissioner Pai [spoke](#) at Think Big Partners on October 11, 2016, to discuss how government can help spur more entrepreneurship and innovation, and set forth his vision of a Digital Empowerment Agenda. He said he asked Congress to create Gigabit Opportunity Zones, which will provide financial incentives for internet service providers to deploy gigabit broadband services in low-income neighborhoods. He also suggested the FCC: aggressively use its power to ensure local governments do not stand in the way of broadband deployment; reform its rules governing pole attachments; develop a model code for cities and towns to encourage broadband deployment and competitive entry; speed up the deployment of broadband on federal lands; and make "dig once" a central part of the nation's transportation policy.

- Chairman Wheeler sent [letters](#) to Reps. Steve Chabot (R- Ohio) and Nydia M. Velazquez (D- N.Y.) on October 4, 2016, in response to their letter claiming the FCC's broadband privacy NPRM will result in rules that have a negative economic impact on small broadband internet access service providers. Chairman Wheeler said the Commission continues to engage in a regulatory flexibility analysis for this proceeding, and said when final rules are adopted, the Commission's decision will incorporate consideration of the impacts of the rules on small BIAS providers and will include a Final Regulatory Flexibility Analysis that fulfills the requirements of the RFA.
- NTCA [met with](#) Legal Advisors to Commissioners Rosenworcel and Clyburn on October 11, 2016, to discuss broadband privacy. NTCA suggested that a consistent form of regulation should apply to all firms with access to substantively similar (if not identical) data, and said opt-in requirements should neither initiate nor perpetuate regulatory disparity. NTCA also said voluntary industry guidelines to address data security that incorporate scalability, flexibility, and technical and economic feasibility are best suited to respond effectively to evolving threats, and said that a sufficient deferral period should be established for small providers.
- The Competitive Carriers Association [met with](#) Wireline Competition Bureau staff on October 11, 2016, to discuss broadband privacy. CCA said small carriers should receive a two-year window to implement any privacy rules, including any requirement to comply with a reasonableness standard for data security measures, and should be allotted additional time to notify consumers, the FCC, FBI or Secret Service of any harmful data breach. CCA also explained that small providers should be granted flexibility or, where appropriate, relief from any prescriptive notice or format rules attached to privacy policies, and said they should not be required to assume liability for any attempts by third parties to re-identify data.
- Verizon [met with](#) Commissioner O'Reilly's Legal Advisor on October 11, 2016, to discuss what it says are the benefits of a sensitivity-based approach to broadband privacy and data security, and encouraged the FCC to follow the FTC's approach with respect to de-identified data. Verizon suggested broadband providers should be permitted to market their services to their own customers without first obtaining opt-in or opt-out consent. Verizon also encouraged the Commission to allow providers to share information with affiliates, provided such affiliates honor consumers' choices concerning use of their information.
- D.C. Attorney General Karl A. Racine sent a [letter](#) to Chairman Wheeler on October 12, 2016, to ask the FCC not to preempt the authority of State Attorneys General to protect the privacy of broadband consumers. He said it is crucial that State Attorneys General maintain their enforcement authority under their states' laws and that any preemption provisions, if enacted, be narrowly tailored. He also urged the FCC to draft rules that are consistent with privacy frameworks and standards that have already been put into place through enforcement efforts and policy statements by the FTC.
- The New America's Open Technology Institute and the Institute for Public Representation at the Georgetown University Law Center [met with](#) Legal Advisors to Commissioners Clyburn and Rosenworcel on October 11, 2016, to discuss broadband privacy. OTI said the FCC's broadband privacy rule should not distinguish between sensitive and non-sensitive information, and asserted if the FCC is going to draw distinctions between these categories of information, then MAC addresses should be categorized as sensitive. OTI also asserted source and destination IP addresses, traffic metadata, and web browsing and app usage histories are sensitive information.
- The Internet Commerce Coalition [met with](#) Commissioner Clyburn's Legal Advisor on October 11, 2016, to discuss broadband privacy. ICC asserted the categories of sensitive information under the draft final order are inconsistent with the definition established by the FTC and the White House. ICC also suggested the consent requirements for sensitive and non-sensitive data should track the conclusions in the FTC's privacy framework.
- EchoStar and Hughes Network Systems [met with](#) Commissioner Pai's Legal Advisor on October 16, 2016, to express concern with the design of the proposed layered privacy notices and reporting

requirements for broadband providers. Hughes suggested that rather than requiring layered privacy notices, the FCC should require broadband providers to provide customers with a minimum level of information and allow providers to develop a clear disclosure format.

- iconectiv filed a [letter](#) on October 13, 2016, to assert the proposals in the broadband privacy NPRM on permission-less use and sharing of CPNI and customer proprietary information were, in some instances, ambiguous, and neither the FCC Fact Sheet nor the FCC blog by Chairman Wheeler appear to resolve these ambiguities. iconectiv said while it supports the permission-less sharing of CPNI and CPI for the purposes described in the FCC's proposal, it believes that Congressional intent, consumer expectations, and consumer protection require the FCC to remove all ambiguities that could prevent carriers from using or disclosing any data protected by section 222 in order to prevent customer account takeover and other fraudulent practices.
- Free Press filed a [letter](#) on October 7, 2016, to respond to Google's [letter](#) that supported the privacy approach of the FTC and asserted the FCC's proposal to require a consumer's opt-in consent before ISPs share any of their customers' web browsing history was unjustified. Free Press claimed the type of distinction Google supports is contrary to the clear statutory mandate in section 222, and asserted such a scheme would be impracticable. Free Press claimed the FCC has recognized that broadband users deserve the dignity of choosing for themselves how their private information can be shared with third parties and used to market back to them.
- Free Press [met with](#) Commissioner Rosenworcel and her Senior Legal Advisor on October 6, 2016, to discuss its recent filings [responding](#) to arguments made by Google on broadband privacy and [asking](#) the FCC to apply rate regulation in markets where Ethernet and TDM-based services are not subject to competition. Free Press claimed suggestions by Google and others on sensitive/non-sensitive data distinctions are impracticable schemes that contravene the statutory mandate in section 222. Free Press also asserted the [summary](#) of Chairman Wheeler's proposal for a BDS Order suggests the Commission might fail to regulate non-competitive packet-based BDS services – opting instead for continued monitoring alone.
- The American Association of Advertising Agencies, American Advertising Federation, et al. filed a [letter](#) on October 11, 2016, to express concern with a broadband privacy rule contained in Chairman Wheeler's [fact sheet](#) that would require opt-in consent to use and share "sensitive data," a term the Commission would expand to include web browsing and application use history when linked to a device alone. They claimed this proposal would upend the thriving internet economy, which relies on the support of data-driven advertising, and asserted the proposal has been introduced late in the Commission's process, with little opportunity for public review and comment.
- WISPA [met with](#) Commissioner Rosenworcel's Senior Legal Advisor on October 6, 2016, to discuss the burdens enhanced privacy regulations will have on small broadband providers and consumers, and expressed support for a delayed compliance implementation schedule. WISPA claimed the proposed rules cannot be looked at in a vacuum, as small providers are or may be subject to Title II regulation, enhanced transparency rules, outage reporting requirements, and the proposed privacy rules. WISPA also expressed support for adoption of rules based on the FTC's approach and an opt-out regime for non-sensitive personally identifiable information.
- The Center for Digital Democracy filed a [letter](#) on October 11, 2016, to provide an update on the data-driven, cross-device tracking, and advertising targeting activities of BIAS providers. The CDD highlighted AT&T's efforts in this area, and claimed this information underscores the importance of including in the rule's definition of sensitive information any data elements, such as persistent, unique device identifiers, that allow ISPs to link devices to the same user, and the importance of safeguards against any unauthorized attempts to re-link data to the same individual or devices in the future. The CDD asserted the FCC's rules must give ISP customers control over their data, and said before companies can proceed with targeted advertising, they must obtain an opt-in consent from their customers.
- The Government Accountability Office issued a [report](#) on October 12, 2016, addressing the relationship between broadband use and the use of the U.S. Postal Service's mail services, package

and shipping services, and post offices, particularly in rural areas. The GAO found e-commerce continues to have a strong effect on USPS package and shipping volumes, and households in rural areas made greater use of package and shipping services. The GAO said while USPS' package business will grow in the short term, USPS is likely to face longer-term challenges, such as increased competition in the delivery market.

[Back to Highlights](#)

Call Completion/Robocalls

- The FCC issued a [Public Notice](#) on October 13, 2016, announcing it will host another meeting of the Robocall Strike Force on October 26, 2016. Chairman Wheeler, Commissioners Clyburn, Rosenworcel, Pai, and O'Rielly, and AT&T CEO Randall Stephenson, the Chair of the Robocall Strike Force, are expected to give remarks. The Robocall Strike Force is an industry-led group which has been working for two months to develop comprehensive solutions to prevent, detect, and filter unwanted robocalls. The Strike Force is to report to the Commission on its proposed action plan at the October 26 Open Meeting.
- Chairman Wheeler sent a [letter](#) to Rep. John Kline (R-Minn.) on September 27, 2016, in response to his letter, which expressed concern that the Commission is implementing reforms to its robocall rules in a way that might be detrimental to taxpayers and student loan borrowers. Chairman Wheeler said the new rules limit the number of federal debt collection robocalls, including text messages, to three per month, and states that callers may make additional calls so long as they obtain the consent of the debtor or contact consumers without making a robocall. He said the new rules also allow robocalls concerning debts that are at imminent risk of delinquency to prevent borrowers from defaulting on their loans. Chairman Wheeler said the new rules appropriately implement Congress's directive while responding to thousands of comments from consumers expressing frustration with robocalls and urging clear, strong limits on debt collection calls.
- Neustar [met with](#) Consumer and Governmental Affairs Bureau staff on October 6, 2016, to explain that it has been active in both the IETF and ATIS forums that developed the STIR and SHAKEN standards to certify Caller ID. Neustar discussed its Trust Lab, a neutral interoperability test facility designed to assist service providers in jointly testing implementation of the certified Caller ID standards and other evolving technologies to counter fraud. Neustar also discussed the FCC's Broadband Privacy NPRM, saying an FCC mandated consumer opt-in for Directory Listings/Directory Assistance and Caller ID will materially diminish the utility of these services for consumers and for businesses.

IP Transition

- NTIA filed a [Petition for Reconsideration or Clarification](#) on October 12, 2016, of the [Technology Transitions Order](#) that updated the FCC's review and notice procedures governing the filing and processing of section 214 applications to discontinue, reduce, or impair service. NTIA requested the FCC: clarify whether services such as T1 and ISDN fall within the meaning of "legacy voice service;" reconsider its interoperability protection requirement to define a list of "low speed modems" and create a presumption that devices that use such modems are entitled to interoperability protection; prescribe limited testing requirements for small carriers; and use its public interest review of carriers' section 214 discontinuance applications to promote greater information exchange and more cooperative planning between carriers and their federal customers about network transitions.
- NASUCA, the Maine Office of the Public Advocate, the Maryland Office of People's Counsel, and the Utility Reform Network filed a [Petition for Reconsideration](#) on October 11, 2016, of the technical guidance in Appendix B of the [Technology Transitions Order](#) that updated the FCC's review and notice procedures governing the filing and processing of section 214 applications to discontinue, reduce, or impair service. Petitioners claimed the technical guidance is inconsistent with the rules and does not recognize that the PSTN is an end-to-end experience. They claimed the technical guidance ignores

what they say are the complications introduced when calls can be expected to traverse different technology platforms and the networks of multiple carriers.

Open Internet

- Commissioner O’Rielly [spoke](#) before the Hudson Institute on October 13, 2016, discussing tenets of judicial review of FCC items and using the court review of the Commission’s Net Neutrality rules as a basis for examination. He suggested the court review of the Commission’s “work” both lacked the appropriate rigor necessary for the conclusion reached and established a host of precedents that will haunt communications policy and administrative law for years to come. He asserted the D.C. Circuit has granted virtually limitless authority to the Commission, unless undone by the Supreme Court or Congress.
- Nielsen Holdings [spoke with](#) Jon Wilkins, Chief of the Wireless Telecommunications Bureau, on October 11, 2016, to restate its view that the Commission should seek public comment on how best to implement a safe harbor for purposes of required mobile network performance disclosures.

USF

- Chairman Wheeler sent [letters](#) to Sen.s David Vitter (R-La.) and Bill Cassidy M.D. (R-La.) and Reps. Charles Boustany (R-La.) and Cedric Richmond (D-La.) on September 29, 2016, in response to their letter asking the FCC to assist those families using the Shelter at Home or the Manufactured Housing Units programs after the recent flooding in Louisiana. Chairman Wheeler said the FCC modified the Lifeline and Link Up program to subsidize mobile phones and mobile service for those victims living in temporary shelters or seeking interim housing who may have been without a permanent home for a period of time, and noted this year it extended the program to support internet access. He noted while an individual residing in a FEMA group site or participating in the Multi-Family Lease and Repair Program does not by itself make that household eligible for Lifeline, they will be eligible if they participate in any of the enumerated eligibility programs or if their income is at or below the 13.5 percent threshold. He said the Lifeline program is better than temporary Wi-Fi since it is already in place, functioning, and more widely accessible than a limited number of Wi-Fi hot spots.
- Consolidated Communications of California (formerly known as SureWest Telephone) sent [a letter](#) to Chairman Wheeler on October 11, 2016, to urge the Commission to grant its Application for Review of the Wireline Competition Bureau’s Order denying SureWest’s Petition for Waiver of section 54. 809(c) pertaining to the deadline for filing an ICLS compliance certificate. It explained the omission of the California PUC certification was an oversight by Consolidated following SureWest’s conversion from rate-of-return to price cap status in October 2012 as a result of its acquisition by Consolidated and the changes in the high-cost certification requirements resulting from the 2011 Transformation Order. It said strict application of the filing deadline would penalize its customers by denying funds needed to complete broadband expansion projects. It sent similar letters to Commissioners [O’Rielly](#) and [Clyburn](#).
- The Oklahoma Corporation Commission filed requests on October 13, 2016, asking the FCC to hold in abeyance the processing of applications for designation as Lifeline Broadband ETCs in Oklahoma and other jurisdictions filed by [i-wireless](#), [Karma Mobility](#), [Boomerang Wireless](#), [Assist Wireless](#), [Easy Telephone](#), [Q LINK WIRELESS](#), [TruConnect](#), [Blue Jay Wireless](#), and [Telrite](#). The OCC expressed concern about the potential negative impacts to the Lifeline market if the FCC grants ETC designations where it claims statutory authority does not exist and the loss of effective oversight by states, such as Oklahoma, of the ETCs participating in the Lifeline market.
- Kajeet filed a [Petition](#) on October 11, 2016, seeking designation as a Lifeline Broadband ETC in all 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands for the purpose of receiving Lifeline support for the provision of broadband internet access service. Kajeet said its application proposes to specifically target Lifeline funding to close the “homework gap,” consistent with key Commission policy goals.

- TracFone Wireless [met with](#) Commissioner Rosenworcel's Senior Legal Advisor on October 11, 2016, to discuss its pending motion for stay or deferral of the effective date of revised section 54.407(c)(2) that, when effective, will reduce from 60 days to 30 days the period for de-enrolling from the Lifeline program certain customers for non-usage.
- EducationSuperHighway [met with](#) Wireless Telecommunications Bureau staff on October 11, 2016, to discuss additional proposed reforms to the E-rate program. ESH expressed support for the proposals recently suggested by New Hampshire Governor Margaret Wood Hassan and New Mexico Governor Susana Martinez, and agreed the Commission should extend the suspension of USAC's amortization policy for non-recurring construction costs and increase the discount rate for non-recurring construction costs to bring fiber optic connections to schools without fiber when states provide matching funds.

[Back to Highlights](#)

Misc.

- The Iowa Utilities Board sent a [letter](#) to Chairman Wheeler on October 13, 2016, to urge the FCC to consider all facts in the record related to current levels of competition in the BDS and special access proceedings. The IUB said the Commission should include the information provided by the major cable operators earlier this year, and claimed doing so will ensure that competitive markets are accurately identified, resulting in appropriate application of regulation.
- Jack Markell, Governor of Delaware, sent [a letter](#) to Chairmen Wheeler on October 7, 2016, to stress the importance of utilizing accurate and comprehensive data in the BDS proceeding regarding pricing and availability of broadband within a given geographic area, and to ensure that private investment in broadband infrastructure remains strong. He urged the Chairman to ensure that future rules incentivize robust investments in expanding access to broadband communications.
- ITTA [participated](#) in an event on October 11, 2016, in Thomas, West Virginia on broadband connectivity that included Senator Joe Manchin (D–W. Va.), Chairman Wheeler, and Ryan Palmer, Chief of the Wireline Competition Bureau's Telecommunications Access Policy Division. ITTA said the action under consideration by the Commission in the BDS proceeding may have devastating effects on rural broadband, depriving rural ILECs of a reasonable return on their investment via drastic price cuts and dis-incenting them from deploying new backhaul connections on which 5G services will rely.
- Verizon filed a [letter](#) on October 14, 2016, stating the draft BDS Order does not mandate wholesale rate discounts for Ethernet service. Verizon asserted although Windstream and others continue to argue that the Commission should require a price differential between wholesale and retail business data services, there is no factual or legal basis for the Commission to do so. Verizon asserted that whatever concerns about the spread between wholesale and retail rates have existed until now, once the FCC adopts and implements an order that ensures just and reasonable prices for business data services, those concerns should dissipate.
- INCOMPAS [met with](#) Chairman Wheeler and Wireline Competition Bureau staff on October 5, 2016, to discuss its and Verizon's BDS reform proposal. INCOMPAS claimed there is overwhelming support for their proposal and asserted it unites both incumbents and competitors, wired and wireless providers, and public interest and consumer organizations.
- INCOMPAS [met separately](#) with Legal Advisors to Commissioners Clyburn and Rosenworcel on October 11 and 12, 2016, to suggest the Commission should ensure the rate decreases described in the Chairman's Fact Sheet occur as quickly as possible. INCOMPAS said it will be important for the Commission to preserve the protections afforded in the Technology Transitions [Order](#), and suggested, in the proposed complaint process for reviewing rates of providers offering packet-based services, the Commission make clear, as a backstop, that its proposed wholesale-retail comparison and comparison of other customers' rates will ensure no less than pricing parity for purchasers of last-mile inputs.

- Windstream and Sprint [spoke with](#) Wireline Competition Bureau staff on October 11, 2016, to discuss the mechanisms under which TDM services currently subject to pricing flexibility would be brought under price caps. They also discussed the need for mechanisms to ensure that, as Verizon-INCOMPAS proposed, actual price reductions occur.
- NCTA [met with](#) Commissioner O’Rielly’s Legal Advisor on October 11, 2016, to discuss business data services. NCTA claimed there is sufficient investment and competition occurring in the Ethernet marketplace to render rate regulation unnecessary, and asserted proposals in the record to impose such regulation would cause significant harm to future investment in fiber networks. NCTA suggested that any regulation of rates for TDM-based services should include a sunset date so as to encourage customers to transition to IP-based services. NCTA also said cable operators often provide business data services on a private carrier basis, and asserted the record does not provide a basis for a blanket conclusion that such services are, or should be, offered only on a common carrier basis.
- Mediacom [met with](#) Legal Advisors to Commissioners Clyburn, O’Rielly, Rosenworcel, and Pai on October 11 and 13, 2016, to discuss its BDS offerings, which it said are offered exclusively under private carriage arrangements. Mediacom asserted the classification of BDS as private or common carriage by every new entrant competitor would require a fact-specific analysis that cannot and should not be attempted by the FCC on the existing record. Mediacom also urged the FCC not to issue a new NPRM if it does not have specific new proposed rules on which to seek comment, and said any solicitation of input should instead be done through a Notice of Inquiry.
- AT&T, CenturyLink, and Verizon [met with](#) Wireline Competition Bureau staff on October 11, 2016, to suggest the FCC replace the Part 32 rules with Generally Accepted Accounting Principles accounting. They agreed maintaining the Part 32 account structure is a reasonable approach and recognizes the Commission will likely want to look at multiple years of data in the event it ever needs to review the accounting data. They also agreed that the possibility of increases in pole attachment rates resulting from the change from Part 32 rules to GAAP is an important concern on which the industry will follow up subsequently with Commission staff.
- NECA [spoke with](#) Pamela Arluk, Chief of the Pricing Policy Division, Wireline Competition Bureau, on October 13, 2016, to discuss the impact of continued inclusion of expenses related to the Paniolo lease in SIC’s cost study for which no payments were made and to urge prompt resolution of the outstanding issues in this proceeding.
- The FCC released the [agenda](#) for the Consumer Advisory Committee meeting on October 14, 2016. Topics to be discussed include Lifeline, the Technology Transition Order, 5G wireless, and a report and recommendation of the No Surprise Billing Task Force.
- The Wireline Competition Bureau issued a [Public Notice](#) on October 13, 2016, announcing upcoming Local Number Portability Administrator Transition outreach and education events to be held by PriceWaterhouseCoopers, the LNP Transition Oversight Manager. The Bureau announced the TOM will host the tenth LNPA Transition Outreach and Education Plan webcast on October 27, 2016. Interested parties may register for the webcast by visiting: <https://event.webcasts.com/starthere.jsp?ei=1113375>. The TOM will also make a presentation to the NARUC Staff Subcommittee on Telecommunications at the NARUC 128th Annual Meeting on November 13, 2016, in La Quinta, California. Event registration information may be found at: <http://www.naruc.org/annualmeeting/>.
- The FCC issued a [News Release](#) on October 11, 2016, announcing the Enforcement Bureau entered into a [Consent Decree](#) to resolve its investigation into whether Comcast improperly charged its subscribers for services or equipment they never requested, a practice known as “negative option billing.” The FCC said negative option billing burdens customers with the responsibility of contacting a cable company to dispute the charges and obtain refunds. Comcast must pay a \$2.3 million fine and implement a five-year compliance plan. Comcast must also offer customers, at no cost, the ability to block the addition of new services or equipment on their accounts, and is required to implement a

detailed program for redressing disputed charges in a standardized and expedient fashion and limits adverse action while a disputed charge is being investigated.

[Back to Highlights](#)

Upcoming Filing Dates

- 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. 21 - Comments due on USTelecom's [Petition](#) for a waiver to permit Lifeline providers to continue enrolling consumers in the federal Lifeline program based on state-specific program and income eligibility criteria in 27 states and territories. [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. 24 - Comments due on New York State's [Petition for Expedited Waiver](#) of the CAF Phase II auction rules to make available to New York the amount of Phase II model-based support that Verizon declined in the state. Replies due October 31. [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 New York State's [Petition for Expedited Waiver](#) of the CAF Phase II auction rules to make available to New York the amount of Phase II model-based support that Verizon declined in the state. [Public 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](#)
- Dec. 5 - PRA comments on a revision to a currently approved information collection associated with changes to notices of planned copper retirements, which were adopted in the August 2015 [Report and Order](#), and [revised](#) in July 2016. [Notice](#)
- Dec. 6 - Comments due on the [FNPRM](#) on the process to eliminate duplicative high-cost funding in areas where more than one carrier is receiving support for the provision of 4G LTE service. Replies are due January 5, 2017. [FR](#)

- Dec. 19 - Due date for broadband-only loop service tariffs made on 15-days' notice; petitions due Dec. 27; replies due Dec. 30. [Order](#)
- Dec. 27 - Due date for broadband-only loop service tariffs made on 7-days' notice; petitions due December 29; and replies due December 30. [Order](#)
- Jan. 5 - Replies due on the [FNPRM](#) on the process to eliminate duplicative high-cost funding in areas where more than one carrier is receiving support for the provision of 4G LTE service. [FR](#)

[Back to Highlights](#)

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