

NECA's Weekly Federal Regulatory Summary

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

October 21, 2019 HIGHLIGHTS

- The FCC issued the [agenda](#) for its October 25, 2019 Open Meeting. The FCC will consider seven items, including an [order on reconsideration](#) on CAF testing procedures and performance measures that provides flexibility for smaller carriers by making targeted modifications to the testing procedures carriers must use to show their networks perform at the Commission's speed and latency standards. The order also addresses several petitions for reconsideration and applications for review of the [2018 Performance Measures Order](#).
- The State Members of the Federal-State Joint Board on Universal Service released a [recommended decision](#) on revising the contribution mechanism for federal universal service programs. They recommended the FCC expand the contribution base to include broadband internet access service and adopt a connections-based assessment on residential services and an expanded revenues-based assessment on business services, among other things.
- [NTCA, WTA](#), and [ITTA, USTelecom, WISPA, et al.](#) offered suggestions on the [draft order on reconsideration](#) on network testing.
- NTCA, et al. [expressed support](#) for West River's [petition for waiver](#) of the July 17, 2019 due date for providing notification to the FCC regarding A-CAM II elections.
- PRA comments [due](#) December 16, 2019, on a revision of a currently approved information collection associated with the [urban rates survey](#).

Other Key Upcoming Dates

- Oct. 23 - Comments [due](#) on TrioTel's [petition](#) for waiver to implement the merger of affiliated RoR study areas by modifying its 2011 interstate switched access revenue requirement and 2011 RoR carrier Base Period Revenue. Replies are due November 4, 2019.

USF Reform

- NTCA [met with](#) advisors to Chairman Pai and Commissioners Rosenworcel and Starks on October 16, 2019, to discuss the [draft order on reconsideration](#) on network testing. NTCA urged the Commission to provide reasonable flexibility and recognize the concerns faced by smaller providers as it defines what it means to test to Commission-designated IXPs. NTCA said the draft order assesses a penalty for not building a location and then adds another penalty for the same location as if the non-existing location failed to meet performance obligations. NTCA suggested a revision to ensure that a single location, whether built or unbuilt, will not be subject to multiple sets of penalty. NTCA also discussed consumer consent issues.
- WTA [met with](#) Commissioner O’Rielly’s chief of staff on October 16, 2019, to discuss the [draft order on reconsideration](#) on network testing. WTA asserted the draft order rejects most of the small carrier alternatives that had been advanced, including those regarding testing end points, daily and quarterly testing, and the number of testing locations. WTA discussed the unfairness of being subjected to potential loss of CAF support due to problems and shortcomings regarding customer premises equipment and middle mile routes for which rural LECs receive no CAF support and over which they have no control, among other things.
- ITTA, USTelecom, WISPA, et al. [spoke with](#) Commissioner Rosenworcel’s chief of staff and senior legal advisor on October 11, 2019, regarding the [draft order on reconsideration](#) on network testing. They proposed changes to the draft order’s process requiring carriers to upgrade the speeds of subscribers who purchase service at a USF supported location but purchase a lesser speed tier than the USF-supported deployment. They also asked the FCC to seek further comment on the section of the order that clarified any failure to meet the speed and latency requirements will be considered a failure to deploy. Additionally, they discussed the frequency of latency testing, and suggested the FCC allow CAF Phase II model participants and RBE participants the option of using either once-per-minute testing or once-per-hour testing. They also spoke with advisors to [Chairman Pai](#) and Commissioners [Carr](#), [Starks](#), and [O’Rielly](#), and Wireline Competition Bureau and Office of Economics and Analytics [staff](#) on October 10, 2019, to discuss the same issues.
- ITTA, USTelecom, and WISPA filed a [letter](#) on October 18, 2019, to supplement their [advocacy](#) related to the [draft order on reconsideration](#)’s proposed remedies for broadband performance testing misses. They said certain language in the draft order appears to suggest that in evaluating a provider’s compliance with speed and latency performance requirements, the FCC will analyze the provider’s aggregate statewide performance in addition to the performance of each individual location within the test sample. They suggested the FCC clarify that the approach delineated in the July 2018 network testing order still applies, and that the broadband performance measurements compliance framework is based on latency and speed compliance percentages measured separately and statewide, not by individual location.
- Hughes Network Systems filed a [letter](#) on October 18, 2019, to provide further information on its [withdrawal of its petition for reconsideration](#) of the July 2018 order on network performance testing. Hughes said in affirming its ability to achieve a mean opinion score of 4 under the revised testing framework, Hughes took account of the ITU planning tool. Hughes asserted that as the September 2019 [order on reconsideration](#) observed, that planning tool is merely a prediction, and is not based on actual subjective tests conducted using current satellite networks under the revised parameters established by Commission staff.
- NTCA, West River Telecommunications Cooperative, the Broadband Association of North Dakota, and Consortia Consulting [met with](#) Chairman Pai’s rural broadband advisor and Wireline Competition Bureau staff on October 17, 2019, to express support for West River’s [petition for waiver](#) of the July 17, 2019 due date for providing notification directly to the FCC regarding A-CAM II elections. They asserted receipt of model-based support would enable WRT to provide consumers with access to robust and affordable voice and broadband services, and how a grant of relief would have no effect on any other recipients of support.

- Replies are due October 21, 2019 on the [NPRM](#) proposing to establish a new Rural Digital Opportunity Fund, which would target support to areas that lack 25/3 Mbps broadband service and distribute \$20.4 billion in high-cost USF support over 10 years using a two-phase reverse auction framework. [FR](#)
- An FCC [notice](#) was published in the Federal Register on October 15, 2019, seeking Paperwork Reduction Act comments on a revision of a currently approved information collection associated with the [urban rates survey](#). The information collected in this survey will be used to help ensure that universal service support recipients offering fixed voice and broadband services do so at reasonably comparable rates to those in urban areas. PRA comments are due December 16, 2019.
- The Wireline Competition Bureau issued an [order](#) on October 18, 2019, designating Mid-Hudson Data as an ETC in eligible high-cost areas within the state of New York. The Bureau said designation is conditioned upon and limited to Mid-Hudson's authorization to receive CAF support awarded in coordination with New York's New NY Broadband Program.

[Back to Highlights](#)

Broadband

- Commissioner Starks [spoke at](#) the Schools, Health, & Libraries Broadband Coalition conference on October 17, 2019, regarding broadband data and maps. He asserted the FCC's broadband deployment data and maps are flawed, overstate service availability, and depict carrier-reported data without subjecting it to audits. He said the FCC started a process to fix its data and mapping problems, and noted the [Broadband Deployment Accuracy and Technological Availability \(DATA\) Act](#) was introduced in the House last month.
- PRA comments are due October 21, 2019, on the information collection requirements in the [FNPRM](#) on the new Digital Opportunity Data Collection.
- The USDA [announced](#) on October 18, 2019, it has invested \$2.85 million in high-speed broadband infrastructure to create or improve e-Connectivity for 347 rural households and one critical community facility spread over approximately 435 square miles in Tennessee. It said Forked Deer Electric Cooperative will use a ReConnect Program grant to deploy a fiber to the home broadband network capable of simultaneous transmission rates of 100 Mbps or greater.
- The National Tribal Telecommunications Association filed a [letter](#) on October 18, 2019, regarding the timing of the Tribal priority window that was adopted in a [July 2019 order](#). NTTA expressed support for Sen. Kyrsten Sinema's (D-Ariz.) [letter](#) to Chairman Pai that urged the FCC to open the priority window for Tribes for 180 days for education and application purposes. NTTA said adopting a Tribal priority window that provides entities 180 days to properly consider obtaining the 2.5 Ghz spectrum made available will help address the digital divide that currently exists between Tribal areas and the rest of the United States.

[Back to Highlights](#)

ICC

- The Pricing Policy Division of the Wireline Competition Bureau issued an [order](#) on October 17, 2019, rejecting Standard Tandem's Tariff Transmittal No. 1, filed on October 3, 2019. The PPD said among other defects, Standard's proposed tariff includes pricing provisions that violate the USF/ICC Transformation Order and related benchmarking rules, and dispute resolution provisions that would impose unjust and unreasonable terms on Standard's customers. The PPD ordered Standard to file a supplement within five business days from the release date of this order noting this proposed transmittal was rejected in its entirety by the FCC.
- FailSafe Communications [spoke with](#) staff from the Wireline Competition Bureau's Pricing and Policy Division, and the Office of Advocacy for the U.S. Small Business Administration on October 15, 2019,

regarding its September 13, 2019 [letter](#) that asked the FCC to reconsider its request on exemptions of emergency services and overflow traffic, with the purpose of differentiating FailSafe's emergency services from access stimulation traffic. FailSafe asserted there was general agreement the rules in this proceeding would not affect originating access traffic, such as outbound 8YY and 1+ traffic that traverses the FailSafe cloud or Web Call Controller.™ FailSafe also said the SBA brought up the Small Entity Compliance Guide, which is currently in draft form at the FCC, and whether some of FailSafe's concerns might be further memorialized there. FailSafe also filed [letter](#) on October 17, 2019, on its [request](#).

[Back to Highlights](#)

Robocalls

- Securus Technologies [met separately with](#) staff from the Consumer and Governmental Affairs, Wireline Competition Bureau, and advisors to Chairman Pai and Commissioners Carr, Starks, O’Rielly and Rosenworcel on October 15 and 16, 2019, to express concern that inmate calls could be swept up in call-blocking programs. Securus suggested the FCC require notice to consumers about the consequences of opt-out call blocking programs state that some legitimate calls, including inmate calling service calls, may be blocked through these programs. It also suggested that the Commission should not allow providers to rely solely on the SHAKEN/STIR Framework to justify blocking calls.

Universal Service

- The State Members of the Federal-State Joint Board on Universal Service sent a [recommended decision](#) to the FCC Commissioners on October 15, 2019, on revising the contribution mechanism for federal universal service programs. The State Members recommended the FCC expand the contribution base to include broadband internet access service and adopt a connections-based assessment on residential services and an expanded revenues-based assessment on business services. They also recommended the FCC establish a firm budget for each of the four USF programs with those budgets not growing any more than the Consumer Price Index for any given year, and that the FCC take steps to assure the continued viability of state universal service mechanisms.
- An FCC [notice](#) was published in the Federal Register on October 18, 2019, announcing the establishment of a computer matching program the FCC and USAC will conduct with agencies from the States of South Carolina, Virginia, and Washington to verify the eligibility of applicants to and subscribers of the Lifeline program. Comments are due November 18, 2019. This program will begin on November 18, 2019, unless written comments are received that require a contrary determination, and will conclude on April 19, 2021.
- Public Knowledge, New America’s Open Technology Institute, et al. [met separately with](#) advisors to Commissioners Carr and Starks on October 9, 2019, to discuss the proposal to cap the USF fund. They asserted imposing an arbitrary limit on the USF would make it even more difficult to increase adoption rates among low-income households. They also said each of the four universal service programs already has a mechanism in place to control costs and recommended the Commission abandon this proceeding and focus its attention on strengthening the USF. They also [met separately with](#) advisors to Chairman Pai and Commissioner Rosenworcel and Wireline Competition Bureau staff on October 10 and 11, 2019, to discuss the same issues.
- The Georgia PSC filed a [petition](#) on October 16, 2019, seeking a waiver of implementation of the Lifeline National Verifier. The asked the FCC to waive the hard launch until the National Verifier’s connection with state databases is complete. The PSC said Georgia anticipates executing “computer matching agreements” with USAC by February 1, 2020.
- The Nebraska PSC filed a [petition](#) on October 18, 2019, seeking a six-month waiver of the October 23, 2019 date for implementation of the National Lifeline Verifier. The NPSC said a temporary waiver of the hard launch date in Nebraska will serve the public interest because it will prevent current qualified

Lifeline consumers from being de-enrolled and continue to allow qualified low-income consumers to access Lifeline benefits while the NPSC and USAC work on a state database sharing agreement.

- PC Telcom filed a [letter](#) on October 16, 2019, to notify the FCC it is availing itself of forbearance relief granted by the 2016 [order](#) from the obligation to offer Lifeline-supported broadband Internet access service. PC Telcom said it is electing forbearance relief for those census blocks in its study area that are not funded under A-CAM II, and said it does not receive high-cost support for those unfunded census blocks and is not subject to broadband public interest obligations in those blocks.
- LaHarpe Telephone filed a [letter](#) on October 11, 2019, to notify the FCC it is availing itself of forbearance relief granted by the [2016 order](#) from the obligation to offer Lifeline-supported broadband Internet access service. LaHarpe said it is electing forbearance relief for those census blocks in its study area that are not funded under A-CAM II, and said it does not receive high-cost support for those unfunded census blocks and is not subject to broadband public interest obligations in those blocks.
- No replies filed on NECA's [2020 Modification of the Average Schedule Universal Service High Cost Loop Support Formula. public notice](#)
- XO Communications filed a [request for review](#) on October 15, 2019, of a USAC audit decision that addressed the appropriate jurisdictional classification of XO's revenues derived from certain intrastate private lines. XO asked the Commission to reverse USAC's decision regarding the proper interpretation of the ten percent rule and applying new standards of evidence on remand. It asserted the Commission should reject the final determination letter as contrary to law, or, in the alternative, grant a waiver of the [Ten Percent Rule](#) as it applied to XO's 2007 private line services.
- Huawei filed an [ex parte](#) on October 11, 2019, to provide a report analyzing the impact of excluding Huawei from the U.S. market. It asserted the FCC's [proposed rule](#) (to ensure USF support is not used to purchase equipment or services from companies posing a national security threat to the integrity of communications networks or the communications supply chain) would prohibit Huawei from providing equipment or services to carriers who receive USF support and exclude them from the U.S. telecommunications infrastructure market entirely. Huawei claimed barring it from the U.S. market would harm the U.S. economy by delaying 5G deployment and impeding competition.

[Back to Highlights](#)

Misc.

- The FCC issued the [agenda](#) on October 18, 2019, for its October 25, 2019 Open Meeting. The FCC will consider an [order on reconsideration](#) on CAF testing procedures and performance measures that provides flexibility for smaller carriers by making targeted modifications to the testing procedures carriers must use to show their networks perform at the Commission's speed and latency standards. The order also addresses several petitions for reconsideration and applications for review of the [2018 Performance Measures Order](#). The FCC will also consider: a [declaratory ruling](#) that would clarify section 6(f)(1) of the New and Emerging Technologies 911 Improvement Act of 2008 and ensure regulatory parity in 911 fees between VoIP services and traditional telecommunications services; a [report and order](#) that would amend its tariffing rules to better align them with the reality of easy electronic access to tariff filings; an [NPRM](#) that would seek comment on whether the common antenna siting rules for FM and TV broadcaster applicants and licensees dating back to 1945 should be revised or eliminated given the current broadcasting marketplace; a [memorandum opinion and order](#) that would find that Charter faces effective competition from AT&T's online video streaming service in franchise areas in Massachusetts and Hawaii; and an [order and sixth FNPRM](#) that would streamline rules and procedures to expedite the successful completion of the 800 MHz band reconfiguration initiative, lower program costs and administrative burdens, and continue to alleviate interference to public safety licensees. The FCC will also consider a personnel action.
- Commissioners [Starks](#) and [Rosenworcel](#) released statements on October 16, 2019, on their vote against the T-Mobile/Sprint merger. Starks said going from four wireless carriers to three will hurt

competition. Rosenworcel said the merger will reduce competition, raise prices, lower quality, and slow innovation.

- Replies are due October 21, 2019, on Consolidated's petition for waiver of the all-or-nothing rule. [public notice](#)
- The Wireline Competition Bureau issued a [public notice](#) on October 18, 2019, granting a section 214 application filed by Lynch Telephone and CIBL, requesting consent to transfer control of Lynch's wholly owned subsidiaries, Bretton Woods Telephone and World Surfer, to CIBL.
- To date, no replies were filed on a section 214 application filed by Richard W. Ryan and Hunter Communications Holdings (Hunter Holdings), to transfer control of Hunter Communications from Mr. Ryan to Hunter Holdings. [public notice](#)
- An FCC [notice](#) was published in the Federal Register on October 15, 2019, seeking Paperwork Reduction Act comments on an extension of a currently approved information collection associated with section 69.123, density pricing zone plans. The FCC stated Tier 1 LECs are required to provide expanded opportunities for third party interconnection with their interstate special access facilities and must file and obtain approval of their pricing plans, which will be used by FCC staff to ensure that the rates are just, reasonable and nondiscriminatory. PRA comments are due December 16, 2019.
- An FCC [notice](#) was published in the Federal Register on October 15, 2019, seeking Paperwork Reduction Act comments on a new information collection associated with the 833 code toll-free number auction. The FCC seeks comment on the letters of authorization in order to verify the relationship between the responsible organization and the potential subscriber, and on collecting data on secondary market transactions. PRA comments are due November 14, 2019.
- Commissioner Carr [announced](#) on October 15, 2019, Ben Arden will join his office as acting legal advisor for media issues. Arden is currently the associate chief of the Media Bureau's Video Division.

[Back to Highlights](#)

Upcoming Filing Dates

- Oct. 22 - Comments due on Jive Communication's application for authorization to obtain NANP telephone numbers directly from the numbering administrators for its iVoIP service. [public notice](#)
- Oct. 23 - Comments due on TrioTel Communications [petition](#) seeking a waiver of sections 51.917(b)(1) and 51.917(b)(7) to recalculate for merged study areas the 2011 Interstate Switched Access Revenue Requirement and 2011 RoR Carrier Base Period Revenue necessary to determine CAF-ICC support. Replies are due November 4, 2019. [public notice](#)
- Oct. 23 - Comments due on a section 214 application filed by the estate of Jack Lee Barton, through its co-executors, and the non-exempt marital income trust U/W Jack Lee Barton and Lintel, requesting consent to transfer control of Hart Telephone and Hart Communications. Reply comments are due October 30, 2019. [public notice](#)
- Oct. 29 - Comments due on Southwest Arkansas Telephone Cooperative's [request](#) that the FCC to allow it include in its rate base the interstate portion of prepaid accumulated post-retirement benefits recorded in Account 1410, Other Noncurrent Assets, beginning with the date the prepayments were made. [public notice](#)
- Oct. 29 - Comments due on WIA's petitions for [rulemaking](#) and [declaratory ruling](#) regarding section 6409(a) of the Spectrum Act of 2012, and CTIA's [petition for declaratory ruling](#) regarding section 6409 and the rules implementing section 224 of the Communications Act. Reply comments are due November 13, 2019. [public notice](#), [order](#)

- Oct. 30 - Replies due on a section 214 application filed by the estate of Jack Lee Barton, through its co-executors, and the non-exempt marital income trust U/W Jack Lee Barton and Lintel, requesting consent to transfer control of Hart Telephone and Hart Communications. [public notice](#)
- Oct. 31 - Comments due on improving the FCC form 470 drop-down menu. Form 470 is used by E-Rate program applicants use to solicit bids from service providers for E-Rate eligible services. Replies are due November 15, 2019. [public notice](#)
- Nov. 4 - Replies due on TrioTel Communications [petition](#) seeking a waiver of sections 51.917(b)(1) and 51.917(b)(7) to recalculate for merged study areas the 2011 Interstate Switched Access Revenue Requirement and 2011 RoR Carrier Base Period Revenue necessary to determine CAF-ICC support. [public notice](#)
- Nov. 6 - Comments due on the [NPRM](#) proposing procedural changes that would streamline certain FCC administrative hearings. Replies are due November 21, 2019. [FR](#)
- Nov. 13 - Replies due on WIA's petitions for [rulemaking](#) and [declaratory ruling](#) regarding section 6409(a) of the Spectrum Act of 2012, and CTIA's [petition for declaratory ruling](#) regarding section 6409 and the rules implementing section 224 of the Communications Act. [public notice](#), [order](#)
- Nov. 14 - PRA comments due on a new information collection associated with the 833 code toll-free number auction. The FCC seeks comment on the letters of authorization in order to verify the relationship between the responsible organization and the potential subscriber, and on collecting data on secondary market transactions. [notice](#)
- Nov. 15 - Replies due on improving the FCC form 470 drop-down menu. Form 470 is used by E-Rate program applicants use to solicit bids from service providers for E-Rate eligible services. [public notice](#)
- Nov. 18 - Comments due on the establishment of a computer matching program the FCC and USAC will conduct with agencies from the States of South Carolina, Virginia, and Washington to verify the eligibility of applicants to and subscribers of the Lifeline program. [notice](#)
- Nov. 21 - Replies due on the [NPRM](#) proposing procedural changes that would streamline certain FCC administrative hearings. [FR](#)
- Dec. 16 - PRA comments due on a revision of a currently approved information collection associated with the [urban rates survey](#). [notice](#)
- Dec. 16 - PRA comments due on an extension of a currently approved information collection associated with section 69.123, density pricing zone plans. [notice](#)

[Back to Highlights](#)

Editor: [Shawn O'Brien](#) | Assistant Editor: [Libby Newson](#)