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October 22, 2018 HIGHLIGHTS

- The FCC issued the [agenda](#) for its October 23, 2018 Open Meeting. The FCC will consider seven items, including a [Report and Order](#) that will allow rate-of-return carriers that receive fixed USF support to elect incentive regulation for their business data services, an FNPRM proposing to eliminate ex ante pricing regulation of price cap carriers' TDM-based transport services, and an FNPRM on the regulatory treatment of electing RoR carriers' TDM-based transport services.
- The FCC issued a [Report and Order](#) allowing all carriers to use the simpler jurisdictional separations processes previously reserved for smaller carriers, by harmonizing its Part 36 rules with the FCC's previous amendments to its Part 32 accounting rules.
- NTCA filed [reply comments](#) on the Applications for Review of the Network Performance Testing [Order](#) filed by [WTA](#) and [NTCA](#).
- NTCA, ITTA, USTelecom, and WTA [discussed](#) the USF high-cost budget proposals contained in their [letter](#). NTCA [discussed](#) the sufficiency and predictability of high-cost USF support. Nortex, Wilson, Etex, Totelcom, and NTCA also [discussed](#) USF budget reform proposals in the association [letter](#). [Hargray](#) and [Golden West](#) supported the proposals set forth in the [association letter](#).
- ITTA [discussed](#) the March 2018 [NPRM](#) on high-cost RoR USF Reform, including A-CAM funding needs and attendant deployment obligations. Clarity Telecom, Hamilton County Telephone, and Grand River Mutual Telephone [requested](#) grant of their Petitions for Reconsideration of the March 2018 [Order](#) by including additional A-CAM funding for locations incorrectly omitted due to Form 477 errors.
- [USTelecom, et al.](#) and [Leonid Goldstein](#) filed briefs in support of the FCC in the D.C. Circuit Court case hearing the appeal of the Restoring Internet Freedom [Order](#). A number of [Amicus Curiae briefs](#) were also filed in support of the FCC. ACA, USTelecom, et al. filed a [complaint](#) in Vermont District Court challenging a state [bill](#) and [Executive Order](#) regulating the provision of broadband internet service.
- The Minnesota PUC filed a [Petition for Rehearing](#) on the Eighth Circuit Court's [decision](#) affirming the Minnesota district court's ruling that Charter's VoIP service is an information service. Responses to the Petition [are due](#) October 29, 2018.
- NECA [discussed](#) its administrative efforts that would be required to implement the proposed BDS offerings in the draft BDS [Report and Order](#). [ITTA](#) and [AT&T](#) also discussed the draft BDS Order.
- The FCC issued an [NPRM and Interim Waiver Order](#) seeking comment on eliminating certain outdated tariff filing rules for price cap carriers.
- [Comments were filed](#) on the [Public Notice](#) on promoting broadband internet access service for veterans. Replies are due October 29, 2018.
- The FCC [announced](#) [Petitions for Reconsideration](#) of the [Order and Declaratory Ruling](#) on wireless infrastructure deployment were filed. Opposition and reply due dates are not yet set.

Other Key Upcoming Dates

- Oct. 22 - Replies due on [NECA's 2019 Modification of the Average Schedule Universal Service HCL Support Formula](#). [Public Notice](#)

USF Reform

- NTCA filed [reply comments](#) on October 15, 2018, on the Applications for Review of the Network Performance Testing [Order](#) filed by [WTA](#) and [NTCA](#). NTCA noted no party filed in opposition to its Application, and WISPA filed comments in support of positions argued by NTCA. NTCA has requested the Commission modify requirements to: limit testing to network segments over which small providers exert reasonable control or, in the alternative, provide a "safe harbor" or designation of additional Internet Exchange Points; defer testing requirements until such time as equipment that enables rural providers to complete testing in an economically reasonable and administratively efficient manner is available; reduce the number of locations at which small providers must test; and clarify several other issues. NTCA urged the Commission to grant the relief requested. [Public Notice](#)
- NTCA, ITTA, USTelecom, and WTA [met with](#) Chairman Pai's Advisors on October 17, 2018, to discuss how best to address ongoing concerns over the sufficiency and predictability of high-cost USF support, including proposals contained in the October 1, 2018 [letter](#) submitted by the associations. The associations encouraged action by the Commission on these issues by year-end.
- NTCA [met with](#) Chairman Pai and his special counsel on October 16, 2018, to discuss the sufficiency and predictability of high-cost USF support. NTCA noted the support from stakeholders and among policymakers for longer-term funding to promote universal service in rural areas. NTCA said consistent with [the letter](#) recently submitted by it and other rural advocates, NTCA encouraged the FCC to adopt and implement a straightforward set of reforms that will provide support that is both sufficient and predictable for each of the already-existing USF mechanisms and continue to promote effective and responsible use of USF resources. NTCA also encouraged action by the Commission with respect to other issues, such as elimination of the outdated rate floor policy.
- NTCA [met with](#) Commissioner O'Rielly and his Legal Advisor on October 18, 2018, to encourage the Commission to adopt and implement a straightforward set of reforms that will provide high-cost USF support that is both sufficient and predictable for each of the already-existing USF mechanisms and continue to promote effective and responsible use of USF resources going forward. It also encouraged action by the Commission to eliminate the outdated local service rate floor policy.
- Nortex Communications, Wilson Communications, Etex Telephone, Totelcom, and NTCA [met separately with](#) Advisors to Commissioners O'Rielly and Rosenworcel on October 11, 2018, to discuss USF budget concerns and to urge the Commission to take action consistent with the recent [letter](#) filed by NTCA and other stakeholders detailing a roadmap for reforms.
- Hargray Communications [met with](#) Wireline Competition Bureau staff on October 11, 2018, to encourage the Commission to adopt the proposals set forth in the [Unity Letter](#) that was jointly submitted on October 1, 2018, by NTCA, USTelecom, ITTA, and WTA. It said the Unity Letter represents a clear consensus path in the record to address the unpredictable support by: increasing the overall high-cost USF budget to an amount not less than \$2.4 billion for 2018; applying an inflation adjustment factor to the entire high-cost budget; providing a sufficient "floor" of support for rate-of-return carriers; and holding off on a new model offer until already-existing mechanisms are sufficiently funded.
- Golden West Telecommunications [spoke with](#) Commissioner Carr and his Chief of Staff on October 12, 2018, to encourage the FCC to resolve USF budget concerns by year end and to express support for [the letter](#) filed by a group of rural associations proposing ways to address the USF budget concerns.
- ITTA [spoke with](#) Wireline Competition Bureau staff on October 15, 2018, to discuss the March 23, 2018 [NPRM](#) on high-cost RoR USF Reform, including A-CAM funding needs and attendant deployment obligations.
- Clarity Telecom, Hamilton County Telephone, and Grand River Mutual Telephone filed [a letter](#) on October 16, 2018, requesting immediate grant of their Petitions for Reconsideration of the March 23, 2018 RoR [Order](#) by including additional funding for locations incorrectly omitted due to Form 477. They

claimed the 5,358 locations were “abandoned” due to inaccurate Form 477 data and they represent no more than \$5.525 million in annual A-CAM funding. Alternatively, they suggested including this funding as the Commission evaluates the overall high-cost budget for RoR carriers.

- Home Tel and GVNW [met separately with](#) Advisors to Commissioners O’Rielly and Rosenworcel on October 10, 2018, to discuss ways to improve the competitive overlap process. They suggested the burdensome aspects of the current process could be eliminated by replacing the Form 499 trigger with a “substantiated assertion and associated data submission from a purported unsubsidized competitor.” They said in a study area identified as being 100 percent overlapped, if the unsubsidized voice and broadband competitor does not file supporting data in the initial comment round of the proceeding, no further action need be taken by the incumbent, and the lack of filing of such data shall automatically trigger the final determination by the Commission that the tentatively identified overlap is null and void for that proceeding.
- Smith Bagley filed an [Informal Request](#) for Commission action on October 18, 2018, submitting drive test results that it claimed expose the inaccuracies of 4G LTE coverage claims in SBI’s service areas, as shown on the Commission’s publicly-available Mobility Fund II coverage maps in areas that SBI believes to be Verizon’s service areas. SBI claimed to demonstrate there are reasons to suspect that data supplied by Verizon overstates 5 Mbps coverage in areas in which SBI plans to use MF-II support to deploy and extend broadband service. It urged the Commission to investigate Verizon’s coverage claims and examine the methodologies that were used to produce Verizon’s representations concerning the extent of its 5 Mbps coverage.

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ICC

- The FCC issued an [NPRM and Interim Waiver Order](#) on October 18, 2018, seeking comment on eliminating certain outdated tariff filing rules for price cap carriers. The FCC said in light of the public’s ability to access online all tariffs filed with the FCC through ETFS, the FCC proposes to amend its cross-referencing rule to allow a carrier to refer to its own tariff and the tariffs of its affiliated companies in its tariff publication. The FCC also proposes to eliminate the provision in its rules requiring price cap ILECs to file short form tariff review plans 90 days before their access tariffs are due. The FCC granted waiver requests filed by carriers seeking to be allowed to cross reference their own tariff filings and provided all carriers an interim waiver of the cross-referencing rule pending resolution of the cross-referencing rule proposal in this NPRM. Comments are due 30 days after publication of this NPRM in the Federal Register; replies are due 45 days after FR.
- South Dakota Network [met with](#) Wireline Competition Bureau staff on October 10, 2018, to discuss the proposal to prohibit LECs engaged in access stimulation from utilizing a CEA tandem as a tandem provider. SDN claimed because CEA tandem providers aggregate traffic for a number of rural LECs and charge an averaged rate, this provides an opportunity for arbitrage for providers seeking such loop holes. SDN also discussed the Commission’s legal authority to make such a prohibition.
- South Dakota Network [met with](#) Wireline Competition Bureau staff on October 10, 2018, to discuss aspects of the October 1, 2018 [Order](#) that suspended for one day revisions to SDN’s centralized equal access service rate. SDN explained its use of NECA tariff rates to determine an equal access component of its benchmark rate. SDN asserted: the FCC’s Aureon Rate Order was a carrier-specific proceeding; the Commission explicitly stated SDN’s provision of equal access is not relevant to Aureon; and the Commission explicitly declined to address the equal access issues raised by SDN in that proceeding.
- Hargray Communications, Cincinnati Bell, and ITTA [met with](#) Commissioner Rosenworcel’s Legal Advisor on October 10, 2018, to reiterate that the Commission should take targeted actions to address any 8YY arbitrage and abuses, rather than implement the FNPRM’s overreaching proposals. They said, in the alternative, the Commission could take the limited but meaningful step of reforming 8YY database query charges, and they would support the FNPRM’s proposal to allow only one database query charge per 8YY call. If the Commission does adopt a transition of 8YY originating access to bill-

and-keep, they suggested it implement measures to mitigate the attendant consumer and carrier harms, and described different access revenue recovery mechanisms.

- HD Tandem filed a [letter](#) on October 17, 2018, providing a more detailed summary of its [meeting](#) with Wireline Competition Bureau staff on September 13, 2018, on eliminating opportunities for arbitrage within the intercarrier compensation system and advancing the IP transition. HD Tandem expressed concern with various one-sided proposals that could result in different regulatory treatment based on different kinds of traffic, suggesting bill-and-keep is best understood as a relationship between two carriers and cautioning against defining bill-and-keep based on traffic types. It urged the adoption of a truly reciprocal and symmetrical bill-and-keep end state whereby each carrier pays for the expense of their own network to facilitate a mutual exchange of traffic.
- Aureon Network Services and JSI [spoke with](#) Wireline Competition Bureau staff on October 17, 2018, about the FCC's investigation of Aureon's tariff rate. Aureon answered questions from Bureau staff regarding the cost support materials Aureon submitted with Tariff Transmittal No. 38. Aureon confirmed, in response to Bureau staff questions, that the information Aureon submitted to support its fair market value calculations was public information and did not need to be treated as confidential.

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Open Internet

- [USTelecom, et al.](#) and [Leonid Goldstein](#), both intervenors for respondents, filed briefs in the D.C. Circuit Court on October 18, 2018, in the case hearing the appeal of the Restoring Internet Freedom Order. [USTelecom, et al.](#) argued the Commission reasonably classified broadband as a non-common-carrier service and federal law preempts state and local regulation of broadband. [Leonid Goldstein](#) argued the [2015 Order](#) was unconstitutional, claiming it violated First Amendment rights of internet users.
- Amicus Curiae briefs were filed on October 18, 2018, in the D.C. Circuit Court in support of respondents by: [Tech Knowledge](#), [Georgetown Center for Business and Public Policy et al](#), [ITIF](#), [States of Texas, Arkansas and Nebraska](#), [Roslyn Layton](#), [Richard Bennett et al](#), [Phoenix Center](#), [International Center for Law and Economics et al](#), [National Association of Manufacturers et al](#), [Technology Policy Institute](#), [MMTC](#), [Washington Legal Foundation and Southeastern Legal Foundation](#), and [Christopher Yoo](#).
- The American Cable Association, CTIA, NCTA, the New England Cable & Telecommunications Association, and USTelecom filed a [complaint](#) on October 18, 2018, in Vermont District Court challenging a state [bill](#) and [Executive Order](#) regulating net neutrality and the provision of broadband internet service. ACA, et al. argued the bill and Executive Order impose broad obligations that the FCC's Restoring Internet Freedom Order prohibit states from imposing and are unconstitutional because they regulate outside the borders of the State of Vermont. They asked the Court to determine the bill and Executive Order are preempted by federal law, violate the Commerce Clause, and to permanently enjoin defendants from enforcement or giving effect to the bill and Executive Order.

Broadband

- In addition to comments listed in a previous edition of REGScan, comments were filed on October 12, 2018, on the FCC's [Public Notice](#) on promoting broadband internet access service for veterans. [Verizon](#) said the Commission is already helping to provide veterans in unserved rural areas with access to fixed broadband networks with the CAF and should move forward with other USF initiatives that will further support the deployment of broadband networks in unserved rural areas. Verizon said the Commission should advance the deployment of 4G LTE services in unserved areas by holding the Mobility Fund auction as soon as possible, and finish developing the rules for the Remote Areas Fund, among other things. [Comcast](#) said it is critical that the Commission address barriers to the adoption and use of broadband among veterans, suggesting these programs incorporate experience from the military community and address topics relevant to that population. Comcast also said in addition to the VA, other agencies can play an important role, and inter-agency coordination is essential to ensure

that efforts are aligned and not duplicated. The [National Lifeline Association](#) said the FCC should work with Lifeline service providers and stakeholders to strengthen the Lifeline program to help meet its telehealth goals and to meet the obligations imposed on the Commission by Congress in section 504 to serve low-income and rural veterans. [TracFone](#) said the FCC should promote broadband adoption among veterans by making connectivity more affordable and accessible and continue to allow non-facilities-based providers to participate in the Lifeline program, as well as address complications arising from implementation of the National Verifier. Replies are due October 29, 2018. [All comments available to date.](#)

- The FCC issued a [Public Notice](#) on October 18, 2018, announcing Petitions for Reconsideration of the August 3, 2018 [Order and Declaratory Ruling](#) that concluded section 253(a) prohibits state and local moratoria on telecommunications facilities deployment were filed. Petitions were filed by: the [County Road Association of Michigan](#); the [Smart Communities and Special Districts Coalition](#); the [City of New York](#); and the [Coalition of Concerned Utilities](#). Oppositions to the petitions are due 15 days from the date of publication of this Public Notice in the Federal Register; replies are due 10 days after the time for filing oppositions has expired.
- The Arizona Public Service Company, Berkshire Hathaway Energy, Eversource, Exelon Corporation, FirstEnergy, South Carolina Electric & Gas, and the AES Corporation filed a [Petition for Reconsideration](#) of the August 3, 2018 [Report and Order and Declaratory Ruling](#) that allowed one-touch make-ready for most pole attachments and made further reforms to the pole attachment process, and concluded section 253(a) prohibits state and local moratoria on telecommunications facilities deployment. They requested that the joint-use attachment rate rules be modified to level the playing field and opposed the provision allowing electric space self-help, among other things.
- USTelecom released a [report](#) on October 17, 2018, entitled *U.S. Broadband Investment Rebounded in 2017*. The report found U.S. broadband providers invested approximately \$76.3 billion in network infrastructure in 2017, up from approximately \$74.8 billion in 2016. USTelecom said its data show the decline in broadband providers' capital expenditures started in 2015, accelerated in 2016, and returned to growth in 2017. USTelecom said a return to growth in 2017, when the FCC had indicated its intention to repeal the Title II classification, suggests that expectations regarding common carrier regulation may have been a factor and warrants further investigation and analysis. Chairman Pai issued a [statement](#) on the report.
- Public Knowledge filed a [Reply](#) on October 15, 2018, to oppositions to its [Petition for Reconsideration](#) of the section 214(a) service discontinuance rules promulgated in the June 8, 2018 [Report and Order](#). PK asserted the oppositions filed by Verizon, CenturyLink, and USTelecom all mischaracterize the nature and weight of the letter sent by [NTIA](#). PK claimed the NTIA letter specifically calls portions of the Report and Order into question, including the potential to affect remote or rural federal agencies facing the transition of networks and the need for more specific processes and metrics within the adequate replacement test. [FR](#)
- USTelecom, Verizon, and AT&T [met with](#) staff from the Wireline Competition Bureau, Consumer and Governmental Affairs Bureau, and the Office of Native Affairs and Policy on October 10, 2018, to discuss the companies' processes for notifying Tribal Nations in areas affected by a proposed service discontinuance, and asked whether staff was aware of databases or other resources that companies seeking discontinuance authority could use to more efficiently identify appropriate addresses and contacts for Tribal Nations.
- AT&T [met with](#) Wireline Competition Bureau staff on October 10, 2018, to discuss Form 477 reporting. AT&T summarized the challenges providers face when trying to report address or location specific data, and claimed the quality and completeness of the data available for rural areas lags dramatically behind what is available for urban and suburban areas. AT&T proposed a four-step process to overcome the lack of consistent address and geocoding data: collecting street address information; standardized address harmonization and geocoding; database augmentation/crowdsourcing; and reporting broadband service availability. AT&T filed an [erratum](#) to its [ex parte](#) filed on October 12, 2018. The erratum added an attachment that was referenced in footnote 3 of the ex parte but was inadvertently omitted.

- USTelecom, CenturyLink, AT&T, Frontier, Windstream, and Verizon [spoke with](#) Commissioner O'Reilly's Legal Advisor on October 15, 2018, to discuss the FCC Form 477. They expressed support for the FCC's efforts to identify unserved areas through the collection and mapping of data from the existing FCC Form 477 and discussed the challenges presented by various types of reporting methods. They said fixed broadband providers agree that the FCC's August 2017 sub-census block proposals seeking to achieve more granular reporting are not technically feasible and would result in inaccurate data. They said this geocoding process, while mostly accurate in urban and suburban areas, does not work well for rural America because the available data is less robust. They said the Commission should instead create a database of all locations in the United States and then ask carriers to identify which of those locations they serve.
- USTelecom, CenturyLink, AT&T, Frontier, Windstream and Verizon [spoke with](#) Chairman Pai's Special Counsel on October 18, 2018, to discuss the FCC Form 477. They discussed their proposal to confidentially provide to the FCC all known addresses that they have in their databases. They suggested the Commission then geocode those addresses using a consistent methodology and use the resulting database as the basis for carrier reporting of service availability. They asserted this is where the FCC should be focusing its resources rather than attempting to collect some other form of marginally more granular data that will not produce the type of data needed to both identify and solve the rural broadband problem.
- AT&T [met with](#) Wireline Competition Bureau staff on October 12, 2018, to inform the Commission of AT&T's plans to begin discussions with wholesale customers on a proposed commercial product to replace DS0 unbundled loops, in the event the Commission grants USTelecom's [Petition for Forbearance](#) from certain regulatory obligations imposed on ILECs. AT&T said its proposed commercial product will provide functionality comparable to the 2-wire and 4-wire DS0 level capable loops; offer simplified loop options and simplified regional pricing; and allow customers to use the same ordering systems and processes they use to order unbundled loops today.
- Sonic Telecom [met with](#) Wireline Competition Bureau staff on October 11, 2018, to discuss Sonic's opposition to USTelecom's [Petition for Forbearance](#) from certain regulatory obligations imposed on ILECs. Sonic said its business model and its ability to deploy fiber rely on the availability of UNEs, asserting the existing UNE requirements provide exactly the right incentives for both CLECs like Sonic and ILECs to invest in fiber networks.
- WorldNet Telecommunications filed [a letter](#) on October 19, 2018, in response to Puerto Rico Telephone's [reply comments](#) on USTelecom's Petition for Forbearance from certain obligations imposed on ILECs. WorldNet said PRTC's arguments that Puerto Rico telecommunications markets are competitive are contradicted by every other commenter from Puerto Rico, and argued that PRTC has offered no promise of increasing investment in next generation facilities if UNEs and resale obligations are eliminated. It claimed the result PRTC urges would provide greater market power to a foreign-owned historical monopoly.
- NASUCA filed a [letter](#) on October 12, 2018, on USTelecom's [Petition for Forbearance](#) from certain regulatory obligations imposed on ILECs. NASUCA asserted that, in the current state of markets, doing away with unbundling and resale will harm competition and consumers. NASUCA claimed neither USTelecom nor its supporters, individually or collectively, meet their burden under section 160(c) to show that forbearance is allowed.
- AT&T filed a [letter](#) on October 18, 2018, to say it agrees with the Commission that access to broadband is critical to ensure that veterans can fully and meaningfully participate in American society and obtain the information and resources they need to connect with healthcare services, find jobs, and obtain military benefits. AT&T discussed the various things it has done to make this happen, and said it continues to look for new ways to promote broadband among veterans.

Universal Service

- Chairman Pai [spoke at](#) the Connected Health Conference in Boston on October 18, 2018, to discuss connected health issues and closing the digital divide. He discussed steps the Commission has taken, including: awarding \$1.5 billion through the Connect America Fund to bring fixed broadband to 700,000 unserved homes and businesses; investing \$4.53 billion through the Mobility Fund to deploy 4G LTE service to rural Americans; and increasing the annual rural health care funding cap from \$400 million to \$571 million for funding year 2017.
- Puerto Rico Telephone Company [met with](#) Wireline Competition Bureau staff on October 10, 2018, to explain progress PRTC has made rebuilding its network and restoring service to customers and the challenges that remain. PRTC suggested the Commission increase the Stage 2 budget for fixed providers, and discussed the benefits of offering the right-of-first-refusal to PRTC and how the Commission might structure an alternative competitive request for proposal process, if necessary. PRTC suggested the Commission can use the CAM model to allocate support on a census-block level but award aggregated census block support at the municipality level. PRTC also filed a [letter](#) on its proposal to adopt an additional annual budget for fixed providers of \$62 million above the existing legacy frozen support for a total of \$98 million per year and its analysis of the CAM.
- West River Telecom filed a [letter](#) on October 15, 2018, to provide the FCC with the list of census blocks impacted by the requested study area waiver for boundary changes from CenturyLink exchanges to West River in North Dakota. It filed a [second letter](#) on the same day.
- TracFone Wireless filed a [letter](#) on October 16, 2018, attaching a report entitled *Competition in Wireless Telecommunications: The Role of MVNOs and Cable's Entry into Wireless*. TracFone said the report is relevant to the ongoing Lifeline proceeding, claiming that it makes a persuasive case that mobile virtual network operators are an integral part of the wireless services market, and their participation in that market should be considered by the Commission in assessing the competitiveness of that market. TracFone also asserted the report should serve as a reminder to the Commission that the Lifeline minimum standards regulation needs to be revisited or at least applied in a flexible manner such that Lifeline consumers, rather than the Commission, determine how best to use their Lifeline-supported services.
- Sage Telecom Communications, d/b/a TruConnect, filed an amended [Petition](#) seeking ETC designation on October 16, 2018. TruConnect said this amended petition both replaces the original petitions filed in 2013 and combines them into one document for efficiency and ease of review, with no change in requested service area, except to clarify the exclusion of tribal lands.
- Broadband VI filed a [Petition](#) on October 18, 2018, seeking a temporary waiver of the minimum speed standard for Lifeline-supported services. It said the special circumstances affecting fixed broadband service delivery in the U.S. Virgin Island, which is still recovering from hurricanes in 2017, warrant relief from the required minimum service speed standard for a limited period of time through December 1, 2019.
- The New England Health Consortium and Connections Telehealth Consortium [met separately](#) with Advisors to Chairman Pai and Commissioners O'Reilly and Rosenworcel and Wireline Competition Bureau staff on October 10 and 11, 2018, to provide a general update regarding NETC and to discuss the pending [NPRM](#) on telehealth, its [Joint Petition](#) for waiver of funding commitment deadlines for funding year 2017, and a USAC matter.
- The Southern Ohio Health Care Network [met separately](#) with Advisors to Chairman Pai and Commissioners O'Reilly and Rosenworcel and Wireline Competition Bureau staff on October 12, 2018, to review SOHCN's success in utilizing Rural Health Care program funding to meet the healthcare and broadband access needs in rural southeastern Ohio, and to offer analysis and suggestions for modifications to the Commission's definition of "rural" in the current program.

- No comments were filed on 10 petitions seeking ETC designation for the purpose of becoming eligible to receive CAF Phase II auction support. Replies are due October 24, 2018. [Public Notice](#)

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Misc.

- The FCC issued the [agenda](#) on October 16, 2018, for its October 23, 2018 Open Meeting. The FCC will consider a [Report and Order](#) that will allow rate-of-return carriers that receive fixed USF support to elect incentive regulation for their business data services and two FNPRMs on eliminating ex ante pricing regulation for lower capacity TDM services offered by RoR carriers receiving fixed support and eliminating ex ante pricing regulation for TDM transport services offered by price cap carriers. The FCC will also consider: an [NPRM](#) that promotes the use of mid-band spectrum for broadband by allowing new unlicensed uses of the 5.925-7.125 GHz band; a [Report and Order](#) that would make limited changes to the Citizens Broadband Radio Service in 3.5 GHz band to increase incentives for innovation and investment, including for mobile 5G services; a [Report and Order and Order](#) opening up new channels in the 800 MHz Private Land Mobile Radio band and update rules; an [FNPRM and Report and Order](#) to modernize cable television rate regulations; a [Report and Order](#) that would eliminate the requirement for broadcast stations to file paper copies of contracts and other documents with the FCC; and an enforcement action. The FCC said because of the closure of the FCC headquarters on October 15, 2018, it delayed for one day the onset of the sunshine period prohibition, which will now begin at 11:59 PM, October 17, 2018.
- The Minnesota PUC filed a [Petition for Rehearing](#) with the Eighth Circuit Court of Appeals on September 21, 2018, of the court's September 17, 2018 [decision](#) affirming the Minnesota district court's ruling that Charter's VoIP service is an information service under the Telecommunications Act. The Minnesota PUC said given that Charter Phone's VoIP service provides telephone services to customers at a fixed location that requires only a standard phone, plugged into a wall jack, and given that Charter can and does determine whether customer calls are intrastate or interstate, the question is should this service be treated the same as a traditional wire-based telecommunications service under the plain language of the 1996 Act, and therefore subject to state regulation? It noted Judge Grasz's dissenting opinion that the decision reached by the panel majority is inconsistent with the 1996 Act, and the PUC argued it is also in conflict with this Court's prior opinion in the FCC's *USF Order*, this Court's decision in *Vonage III*, as well as the Supreme Court decision in *Brand X*. It said the issue in this case is a difficult and novel issue of exceptional importance that would benefit from the careful consideration and well-reasoned analysis that would result from *en banc* consideration by this Court. The Eighth Circuit Court issued [an Order](#) on October 17, 2018, setting October 29, 2018, as the deadline for filing a response on the Petition.
- The FCC issued a [Report and Order](#) on October 17, 2018, allowing all carriers to use the simpler jurisdictional separations processes previously reserved for smaller carriers, by harmonizing its Part 36 rules with the Commission's previous amendments to its Part 32 accounting rules. The FCC removed from its Part 36 rules references to Class A accounts, because carriers are no longer required to keep such accounts. The FCC deleted references to Class A accounts and the phrase "Class B accounts" in Part 36 rules that contain parallel references to Class A accounts and the Class B accounts into which they roll up; deleted references to current-year account balances and modified references to Class A carriers in other Part 36 rules; and deleted references to Class A accounts in sections 36.501 and 36.505. The FCC also amended section 36.112 to allow former Class A carriers to select between the legacy Class A and Class B procedures in apportioning their general support facilities costs. The FCC said January 1, 2019, will be the effective date of the rule changes adopted in this Order.
- NECA [spoke with](#) Wireline Competition Bureau staff on October 16, 2018, to discuss the draft BDS [Report and Order](#), which will be considered at the October 23, 2018 Open Meeting. NECA discussed its administrative efforts that would be required to implement the proposed BDS offerings in the draft

Report and Order, including the timing of cost studies, processes for setting initial BDS rates for current pool participants, and issues related to participation in NECA's Traffic Sensitive Tariff.

- ITTA [spoke with](#) Commissioner Rosenworcel's Legal Advisor on October 15, 2018, to discuss competitive conditions related to higher speed business data services, TDM transport, and TDM-based end user channel terminations and the draft BDS Order. It reiterated that RoR carriers eligible to voluntarily elect to transition their BDS offerings out of RoR regulation should be provided an annual transition opportunity, consistent with their longstanding ability to convert to price cap regulation at any time. It said to the extent the regulatory status of TDM transport remains undetermined by March 1, 2019, or could be determined by then but with insufficient time for carriers to evaluate whether to remain in the NECA pools for their BDS offerings, a mere one-time election would force carriers, for whom the status of TDM transport could be make-or-break, to make a decision by March 1st, the deadline to notify NECA regarding tariff participation, without the benefit of essential information.
- ITTA [spoke with](#) Advisors to Chairman Pai and Commissioner O'Rielly on October 17, 2018, to discuss the need of rate-of-return carriers eligible to voluntarily elect to transition their business data services offerings out of RoR regulation to be provided more than a one-time transition opportunity, contrary to the Draft BDS Order's proposal. It also discussed the rate of return that would apply to the BDS offerings of those carriers that do not elect to transition at the first opportunity.
- ITTA [met with](#) Commissioner O'Rielly's Legal Advisor on October 11, 2018, to discuss ITTA's comments on the Rate-of-Return Budget NPRM and to express support for the draft Business Data Services Order. It reiterated that RoR carriers eligible to voluntarily elect to transition their BDS offerings out of RoR regulation should be provided an annual transition opportunity consistent with their longstanding ability to convert to price cap regulation at any time, and urged the Commission to modify the draft BDS Order accordingly. It noted to the extent that the regulatory status of TDM transport will remain undetermined by March 1, 2019, or could be determined by then but with insufficient time for carriers to evaluate whether to remain in the NECA pool for their BDS offerings, a mere one-time election would force eligible carriers, to whom the status of TDM transport could be "make-or-break," to make a decision by March 1st without the benefit of essential information as this is the deadline to notify NECA regarding participation in NECA's tariff.
- AT&T [spoke with](#) Pamela Arluk, Chief of the Pricing and Policy Division of the Wireline Competition Bureau, on October 16, 2018, to discuss the implementation schedule for electing rate-of-return carriers outlined in the Draft BDS Order. AT&T said the Commission's establishment of a one-time opportunity for eligible carriers to elect the new price cap regime is reasonable, suggesting the Commission is poised to resolve the regulatory status of eligible carriers' low speed TDM transport and the issue does not mandate the opportunity for annual opt-in in perpetuity, particularly given the risks of gaming the Commission has identified.
- TDS Telecommunications left [voicemails](#) on October 15, 2018, with Advisors to Chairman Pai and Commissioners O'Rielly, Carr and Rosenworcel and spoke to the former two on October 16, 2018, to urge the Commission to afford eligible carriers an annual opportunity to elect the BDS incentive regulation offered in the draft BDS Order and not to adopt the contrary proposal that currently eligible carriers must opt in to incentive regulation by May 1, 2019, or not opt in at all. TDS said to the extent the Commission is concerned about gaming of later elections, it could make clear that it intends to review closely, and possibly investigate, the going-in BDS rates of carriers that opt in to incentive regulation after 2019.
- The FCC [published](#) in the Federal Register on October 17, 2018, the [Public Notice](#) requesting comments on whether certain docketed proceedings listed in the attachment to the Public Notice should be terminated as dormant. The Bureau said to the extent that a particular proceeding includes a petition addressing the merits or other pending pleadings, a party's failure to file comments in response to this Public Notice will be construed as consent to termination of that proceeding. A party aggrieved by a docket termination may file a petition for reconsideration with the CGB or an application for review with the full Commission. Comments are due November 16, 2018; replies due December 3, 2018. The

Consumer and Governmental Affairs Bureau released a [Public Notice](#) on October 18, 2018, announcing the due dates.

- Neustar [met separately with](#) Advisors to Chairman Pai and Commissioners O’Rielly and Rosenworcel, FCC attorneys and the Chief Technology Officer on October 10 and 11, 2018, to discuss its Information Analytics solutions and its commitment to combatting illegal robocalling and protecting consumers from illegal calls. Neustar said the Commission should rely upon and establish a safe harbor for customers that use existing commercial solutions rather than establishing a government database for disconnected or reassigned numbers.
- ZipDX filed [ex parte comments](#) on October 18, 2018, on robocalls and 8YY calls, suggesting efforts on illegal robocalls can also address 8YY traffic pumping. It said there are a set of actions the FCC should immediately take to catalyze the traceback process, including: advising all providers that they must participate in industry traceback efforts; requesting USTelecom, as the coordinator of the Industry Traceback Group, to submit each month to the Commission (and into the public record) a report covering traceback efforts during the previous month; and stipulating that call originators may not use a Caller-ID belonging to another party except with the permission of that party. ZipDX also drew analogies between the rural call completion problem and illegal robocalls.
- The Wireline Competition Bureau issued a [Public Notice](#) on October 19, 2018, seeking comments on applications filed by Townes Telecommunications, Tatum Telephone Company, Electra Telephone Company, and Hilliary Acquisition Corp requesting Commission approval for the transfer of control of TTI’s direct subsidiaries, Tatum and Electra, to Hilliary. Comments are due November 2, 2018, and replies are due November 9, 2018.
- Townes Telecommunications, Electra Telephone, Tatum Telephone, and Hilliary Acquisition Corp. filed a [Supplement](#) on October 18, 2018, to their [Applications](#) for [Transfer of Control](#) filed on October 2, 2018, which seek approval for the transfer of control of Electra and Tatum, and the domestic 214 authorizations held by Electra and Tatum, from Townes to Hilliary. They said this Supplement provides additional information in response to questions from staff of the Wireline Competition Bureau.
- The FCC [announced](#) on October 16, 2018, the selection of Somos as the North American Numbering Plan Administrator and Pooling Administrator, under separate one-year bridge contracts. The FCC said Somos will undertake the NANPA and PA functions under separate one-year interim bridge contracts while the Commission works to consolidate the NANPA and PA functions into a single entity under a new long-term contract via a competitive bidding process.
- The Wireline Competition Bureau issued a [Public Notice](#) on October 16, 2018, seeking comments on Electric Lightwave, d/b/a Allstream’s application for interconnected VoIP numbering authorization. Comments are due October 31, 2018.
- The FCC issued a [Public Notice](#) on October 17, 2018, to announce that due to water damage, which closed Commission headquarters on October 15, 2018, all paper and electronic filings that were due on that date will now be due October 16, 2018, with the exception of Network Outage Reporting System notifications and reports and filings that are subject to statutory deadlines.
- Chairman Pai [announced](#) on October 16, 2018, the appointment of his Special Counsel, Nirali Patel, as his Wireline Advisor. She will replace Dr. Jay Schwartz, who is returning to the FCC’s Office of Strategic Planning & Policy Analysis. Pai also announced Preston Wise is joining his office as an acting special counsel.

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Upcoming Filing Dates

- Oct. 22 - Replies due on [NECA’s 2019 Modification of the Average Schedule Universal Service High Cost Loop Support Formula](#). [Public Notice](#)

- Oct. 24 - Replies due on 10 petitions seeking ETC designation for the purpose of becoming eligible to receive CAF Phase II auction support. [Public Notice](#)
- Oct. 29 - Comments due on whether the rules adopted in 2005-2006 should be continued without change, amended, or rescinded, consistent with the stated objective of section 610 of the Regulatory Flexibility Act. [Public Notice](#) | [Federal Register](#)
- Oct. 29 - Replies due for the FCC's report on promoting broadband internet access service for veterans. [Public Notice](#)
- Oct. 29 - Comments due on proposed approaches to identifying and resolving apparent discrepancies between the number of model-determined funded locations that Phase II auction support recipients are expected to serve and the actual number of locations that support recipients can serve. Reply comments are due November 13, 2018. [Public Notice FR](#)
- Oct. 31 - Comments due on Electric Lightwave, d/b/a Allstream's application for interconnected VoIP numbering authorization. [Public Notice](#)
- Nov. 2 – Comments due on applications filed by Townes Telecommunications, Tatum Telephone Company, Electra Telephone Company, and Hilliary Acquisition Corp requesting Commission approval for the transfer of control of TTI's direct subsidiaries, Tatum and Electra, to Hilliary. Reply comments are due November 9, 2018. [Public Notice](#)
- Nov. 9 - Replies due on applications filed by Townes Telecommunications, Tatum Telephone Company, Electra Telephone Company, and Hilliary Acquisition Corp requesting Commission approval for the transfer of control of TTI's direct subsidiaries, Tatum and Electra, to Hilliary. [Public Notice](#)
- Nov. 13 - Reply comments due on proposed approaches to identifying and resolving apparent discrepancies between the number of model-determined funded locations that Phase II auction support recipients are expected to serve and the actual number of locations that support recipients can serve. [Public Notice FR](#)
- Nov. 14 - PRA comments due on revisions to currently approved information collections associated with sections 214, 222(e) and 251. [FR](#)
- Nov. 16 - Comments due on the [Public Notice](#) requesting comments on whether certain docketed proceedings listed in the attachment to the Public Notice should be terminated as dormant. Replies due December 3, 2018. [FR](#)
- Nov. 19 - PRA comments due on a new information collection to establish an intermediate provider registry. [Notice](#)
- Dec. 3 - PRA comments due on an extension of a currently approved information collection associated with FCC Forms 492 and 492-A, Rate-of-Return Monitoring Reports. [Notice](#)
- Dec. 3 - Replies due on the [Public Notice](#) requesting comments on whether certain docketed proceedings listed in the attachment to the Public Notice should be terminated as dormant. [FR](#)
- Dec. 10 - PRA comments due on an extension of a currently approved information collection associated with Part 64 pay-per-call rules. [Notice](#)

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