The Wireline Competition Bureau provided instructions to rate-of-return ILECs regarding access charge tariff filings introducing Consumer Broadband-only Loop service. The Bureau said because the A-CAM carriers support list will not be finalized before the December filing, all RoR LECs wishing to introduce CBOL service should prepare and file tariff information assuming they will be receiving CAF BLS, rather than model-based support, as of January 1, 2017.

USTelecom discussed oversubscription of the A-CAM, and reiterated its call to fully fund the USF program and A-CAM in particular. Home Telephone said glidepath A-CAM adopters reduce overall funds needed to support high-cost areas and therefore the FCC should lock in all glide path A-CAM adopters to both obligations and support levels of the initial model run.

The Report and Order requiring broadband ISPs to protect the privacy of their customers is effective January 3, 2017, except for sections 64.2003, 64.2004, 64.2006, and 64.2011(b), which require OMB approval. Section 64.2005 (Data Security) is effective March 2, 2017.

Comments were filed on AT&T’s Petition for forbearance from certain tariffing rules. Replies due December 19. Public Notice

The FCC released its sixth Measuring Broadband America Report. The WCB issued its Internet Access Services Report, which summarizes information about Internet access connections as of December 31, 2015, and it also issued its Voice Telephone Services Report.

NECA filed 2016 Interim Modification of Average Schedules, which contains proposed interim revisions to formulas used for average schedule interstate settlement disbursements.

Sen. John Thune (R-S.D.) sent a letter to Chairman Wheeler to suggest the FCC avoid directing its attention and resources in the coming months to complex, partisan, or otherwise controversial items that the new Congress and new Administration will have an interest in reviewing.

USAC filed its 1Q 2017 Federal Universal Service Support Mechanism Quarterly Contribution Base.

The WCB partially granted and denied 10 requests for waiver of the effective dates of the eligibility rules in the 2016 Lifeline Order.

The WCB issued a Public Notice announcing USAC has submitted the Draft Lifeline National Verifier Plan, and beginning December 5, 2016, will accept comments, questions, and feedback.

NTCA discussed its (and WTA’s) Petition for a temporary waiver from the requirement in the Lifeline Modernization Order that compels high-cost support recipients to develop and offer a standalone broadband product to USF Lifeline-eligible consumers. NTCA and WTA discussed the same issue, and suggested a temporary waiver of this Lifeline requirement is warranted.

CCA, WISPA, ACA, and NTCA discussed extending the exemption for small BIAS providers from the enhanced transparency requirements established by the 2015 Open Internet Order.

Other Key Upcoming Dates
• Dec. 5 - Comments due on the 2016 biennial review. Replies due January 3. Public Notice
• Dec. 6 - Comments due on the FNPRM on eliminating duplicative high-cost funding in areas where more than one carrier is receiving support for the provision of 4G LTE service. Replies due January 5. FR

Editor: Teresa Evert  |  Assistant Editor: Shawn O'Brien
USF Reform

- The Wireline Competition Bureau issued a Public Notice on December 1, 2016, providing instructions to rate-of-return ILECs regarding access charge tariff filings introducing Consumer Broadband-only Loop service. RoR LECs choosing to offer CBOL service beginning January 3, 2017, whether on a tariffed or detariffed basis, are required to file pertinent access charge tariffs and/or Tariff Review Plan worksheets on December 19, 2016, or December 27, 2016, depending on the type of changes proposed. The Bureau said because the list of carriers to be authorized to receive A-CAM support will not be finalized in time to prepare for the December filing, all RoR LECs that wish to introduce CBOL service, including those that elected the initial offer of A-CAM support, should prepare and file information assuming they will be receiving CAF BLS rather than model-based support as of January 1, 2017. The Bureau said further detail regarding implementation of any requirements for such carriers will be provided once those carriers are authorized to receive such support.

- USTelecom met with Commissioners Clyburn and Pai’s Legal Advisors on November 28, 2016, to discuss the issue of the oversubscription of the A-CAM. USTelecom reiterated its call to fully fund the USF program, and in particular the need to fully fund the A-CAM.

- Home Telephone filed a letter on November 29, 2016, claiming the facts now show that rather than creating a budget shortage problem, glidepath A-CAM adopters reduce the overall funds needed to support high-cost areas served by rate-of-return companies and allow for additional connections to be funded by the model winners. It suggested the Commission should lock in all glide path adopters to both obligations and support levels of the initial model run. Home Tel said if sufficient funding is not possible, the Commission should resolve the budget issues while adhering to four specific objectives, including not forcing glidepath carriers back to RoR while not allowing their full legacy support to follow them, not disqualifying any company from A-CAM, and ensuring that if A-CAM support is reduced, obligations for A-CAM electors remain consistence with model output at the lower funding level.

- Mukluk Telephone filed a letter on December 1, 2016, providing supplemental comments related to its election of the Alaska Plan and request for information regarding Mukluk's revised performance obligations submitted by the Alaska Telephone Association. Mukluk said it revised its preliminary projections for year five and ten related to performance obligations dependent on fiber middle mile, due to its interpretation of paragraphs 24 and 25 of the Order noting the limitations of satellite backhaul and the process for updating performance obligations as changes in middle mile transport access and reasonable costs becoming commercially available.

- ViaSat and WISPA met with Legal Advisors to Commissioners O’Rielly, Pai, and Clyburn on November 29 and 30, 2016, discuss concerns with the Petition for Expedited Waiver filed by 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. ViaSat and WISPA claimed the Petition seeks to claim funds in advance of the nationwide reverse auction, in a manner that contravenes the auction framework adopted in the CAF II Report and Order.

ICC

- Comments due on AT&T’s Petition for forbearance from certain tariffing rules. Replies due December 19. Public Notice Comments were filed on December 2, 2016, on AT&T’s Petition asking the FCC to forbear from the tariffing of access charges for tandem switching and tandem-switched transport for all LECs, including intermediate LECs, on all calls to or from LECs engaged in access stimulation. NTCA opposed the Petition and said a forbearance petition should not be the vehicle to avoid either a pending rulemaking or currently available regulatory processes. WTA and ERTA asserted the FCC should dismiss or deny AT&T’s petition as an improper and unauthorized attempt to invoke the section 10 forbearance process by an access customer rather than a carrier. Windstream opposed AT&T’s Petition in part and asserted forbearance is not the appropriate remedy to address AT&T’s concerns.
Verizon supported the Petition and claimed arbitrageurs continue to exploit originating access and tandem switching and transport and 8YY database query charges. List of all available comments to date. Replies are due December 19. Public Notice

- The Wireline Competition Bureau issued an Order on December 2, 2016, terminating the investigation of tariff revisions filed by Pacific Bell Telephone and Southwestern Bell Telephone (collectively AT&T). The Bureau said on August 15, 2016, AT&T made compliance filings that addressed the shortfall and early termination penalty issues identified in the Tariff Investigation Order by decreasing the penalty amounts to the lowest available Price Cap Zone 1 Channel Termination rate for both PBTC and SWBT. The Bureau said based on AT&T’s compliance filings and revisions to the tariffs that became effective on August 30, 2016, further investigation is not required.

Back to Highlights

Broadband

- The FCC published in the Federal Register on December 2, 2016, the Report and Order containing rules requiring broadband ISPs to protect the privacy of their customers. The rules separate the use and sharing of information into three categories: opt-in, opt-out, and exceptions to consent requirements. The Order is effective January 3, 2017, except for sections 64.2003 (Notice Requirements for Telecommunications Carriers), 64.2004 (Customer Approval), 64.2006 (Data Breach Notification), and 64.2011(b) (BIAS Offers Conditioned on Waiver of Privacy Rights), which contain information collection requirements that have not yet been approved by the OMB. Section 64.2005 (Data Security) is effective March 2, 2017.

- The FCC issued a News Release on December 1, 2016, announcing it released its sixth Measuring Broadband America Report. The FCC said the report shows that broadband speed offerings to the average consumer continue to increase at a rapid pace, and broadband service providers generally are delivering actual speeds that meet or exceed advertised speeds, although results are not uniform across technologies. The FCC said the Report found a growing disparity in advertised download speeds between many DSL-based broadband services and most cable- and fiber-based broadband services, and average DSL speeds have increased only slightly over the past five years, while satellite speeds have remained constant.

- The Wireline Competition Bureau issued its Internet Access Services Report on November 30, 2016, which summarizes information about Internet access connections in the United States as of December 31, 2015, as collected by FCC Form 477. The Report stated Internet connections increased by 11 percent between December 2014 and December 2015 to 355 million, and most of the growth in total Internet connections is attributable to increased mobile Internet access subscribership. Mobile Internet connections increased 13 percent year-over-year to 253 million in December 2015, while the number of fixed connections grew to 102 million, up 4 percent from December 2014.

- Mid-Rivers Telephone filed a letter on December 1, 2016, to notify the FCC that it intends to cease offering broadband only internet transmission service as a separate component of its broadband internet access service effective February 1, 2017. It noted the FCC made clear in the March 2016 RoR Reform Order that in making the offering in this way, the revenues associated with broadband only internet transmission would no longer be subject to federal USF assessments. Blackfoot Telephone and its subsidiary, Fremont Telcom, filed a similar letter, with a service change effective date of January 1, 2017.

Open Internet

- The Competitive Carriers Association, WISPA, ACA, and NTCA met separately with Legal Advisors to Commissioners O’Rielly and Clyburn on November 29, 2016, to discuss extending the exemption for small broadband internet access service providers from the enhanced transparency requirements established by the 2015 Open Internet Order. They asserted that until the Commission or Congress
comprehensively addresses the future of the small provider exemption, it is of paramount importance
the Commission act in the near term to prevent small BIAS providers from having to comply with
additional, unnecessary obligations merely because the current exemption expired. They urged the
Commission to grant small BIAS providers a waiver, as contemplated, before the exemption expires on
December 15, 2016.

USF

- The Wireline Competition Bureau released an Order on December 1, 2016, addressing 10 requests for
waiver of effective dates of certain rules in the 2016 Lifeline Order. The Bureau partially granted the
requests for waiver of the effective date of the eligibility rules in: California, Maryland, Michigan, New
York, Utah, Vermont, Washington, and Wisconsin, to give the states and Lifeline providers more time
to implement the Commission’s amended Lifeline eligibility rules, but declined to waive the effective
date of inclusion of the Veterans and Survivors Pension Benefit Program as a qualifying program. The
Bureau denied USTelecom’s request for waiver of the eligibility rules’ effective date in the remaining
states and territories, saying requests from the Missouri PSC and the New Mexico PRC did not provide
sufficient cause to justify delay of implementation of the eligibility rules. The Bureau also granted the
petitions of California and Oregon requesting a waiver of the port freeze effective date.

- The Wireline Competition Bureau issued a Public Notice on December 1, 2016, announcing USAC has
submitted the Draft Lifeline National Verifier Plan to the Bureau and OMD on November 30, 2016. The
draft plan can be viewed at http://www.usac.org/li/tools/national-verifier/default.aspx or in Commission
dockets 11-42, 09-197, or 10-90. The Bureau said beginning December 5, 2016, USAC will accept
comments, questions, and feedback, and while feedback is welcome throughout the implementation of
the National Verifier, stakeholders are encouraged to provide comments by December 30, 2016, on
the National Verifier Plan. USAC will accept feedback through the comments feature available at:

- The Wireline Competition Bureau released an Order on December 1, 2016, conditionally designating
Spot On Networks, Boomerang Wireless, KonaTel, and STS Media as Lifeline Broadband Providers,
eligible to receive Lifeline Broadband Internet Access Service support solely in the designated service
areas described in each respective petition.

- Chairman Wheeler sent letters to Sens. Joni Ernst (R-Iowa) and Charles Grassley (R-Iowa) and Reps.
Rod Blum (R-Iowa) and Steve King (R-Iowa) on November 17, 2016, in response to their letter asking
the Commission to expedite the resolution of Butler-Bremer Communications’ request for a study area
waiver. Chairman Wheeler said Commission staff are working to resolve this petition for waiver as
quickly and equitably as possible.

- Chairman Wheeler responded to a letter from Sen. Tom Udall (D-N.M.) on November 17, 2016, urging
the Commission to take additional steps to close the homework gap and asking the Commission to use
its existing authority to allow E-Rate to support school bus Wi-Fi service. Chairman Wheeler said the
E-rate Order took steps to modernize the E-rate program, and noted the Commission has also sought
comment on petitions regarding eligibility of off-campus use of E-rate supported services for
educational purposes. He said he expects the record in response to the Bureau Notice will touch on
issues relevant to Wi-Fi on buses.

- USAC filed its Federal Universal Service Support Mechanism Quarterly Contribution Base for First
Quarter 2017 on December 2, 2016. The total projected collected interstate and international end-user
revenue base to be used in determining the contribution factor for the USF Support Mechanisms for
first quarter 2017 is $13,971,514,032, down from $14,218,125,939 in the previous quarter.
The Wireline Competition Bureau released a Public Notice on November 30, 2016, granting, denying, and dismissing various petitions related to actions taken by USAC on E-rate and USF contributions. Petitions for reconsideration or applications for review of these decisions must be filed within 30 days of the Public Notice.

The FCC issued a Notice of Apparent Liability for Forfeiture on December 2, 2016, proposing a $392,930 fine against NECC Telecom for apparently charging excessive and unlawful universal service fees to its customers. The FCC said the Enforcement Bureau’s investigation showed NECC profited from overcharges labeled as USF-related fees imposed upon its international service customers despite being exempt from any USF contribution obligation. The FCC also alleged NECC failed to pay over $80,000 in mandatory regulatory fees and transferred its authorizations to provide telecommunications services without FCC approval.

NTCA and WTA filed a letter on November 29, 2016, to highlight an incongruity between implementation of the RoR Reform Order and the provision in the Lifeline Modernization Order that requires high-cost support recipients to offer a standalone broadband service to Lifeline-eligible consumers. They said it will still be more costly for rural consumers in many cases to purchase standalone broadband Internet access service than a bundle of voice and broadband service due to the structure of high-cost support mechanisms and budgetary constraints that limit support. They suggested a temporary waiver of this Lifeline requirement is thus warranted, and, at the very least, the Commission should grant a waiver to RLECs that certify that the price of the standalone broadband offering would be equal to or in excess of that of a bundled voice and broadband offering from the same RLEC.

NTCA spoke with Chairman Wheeler’s Legal Advisor on November 30, 2016, to discuss its (and WTA’s) Petition for a temporary waiver from the requirement in the Lifeline Modernization Order that compels high-cost support recipients to develop and offer a standalone broadband product to USF Lifeline-eligible consumers. NTCA urged the Commission to temporarily waive the requirement to establish a standalone broadband offering for low-income consumers only until such time as the issues raised by its Petition for Reconsideration of the RoR Reform Order are resolved, such that the rates for standalone broadband are more reasonable.

Requests/Notifications seeking forbearance from the requirement for Lifeline-only ETCs to offer Lifeline-supported BIAS services were filed.

The New Mexico Public Regulation Commission filed a Petition on November 28, 2016, seeking a temporary waiver of the revised federal Lifeline eligibility rules relating to IRS gross income, qualifying assistance programs, consumer qualification for Lifeline, and those sections of the Lifeline Order that prohibit Lifeline providers from continuing to enroll consumers in the federal Lifeline program based on state-specific program and income eligibility criteria, which are scheduled to go into effect December 2, 2016. The NMPRC seeks a temporary waiver until June 2, 2017, stating the Commission, its Lifeline payment administrator, Solix, and the Lifeline providers need more time to make technical, administrative, and operational changes.

James Bradford Ramsay, NARUC General Counsel, filed a letter on November 29, 2016, stating he left voice mail for Chairman Wheeler’s Legal Advisor and Wireline Competition Bureau staff on November 28, 2016, and spoke with WCB staff to discuss NARUC’s letter that noted NARUC recently passed a resolution urging the FCC to grant requested waivers of the effective date of the federal Lifeline eligibility criteria to allow the parties to resolve the eligibility differences between State and federal Lifeline programs. NARUC expressed support for each of the State petitions, pointing out that any examination of those petitions makes clear that each of those petitions should be granted.

The Public Utility Division of the Oklahoma Corporation Commission filed a Request on November 28, 2016, for the FCC to hold in abeyance KonaTel’s Petition seeking streamlined designation as a Lifeline Broadband Provider. The PUD said there are two critical issues pending: whether or not the FCC has authority to preempt the states in this area and to issue its own ETC designations; and what role, if any, state regulatory agencies will have in monitoring the activities of these federally designated LBPs
and enforcing applicable state and federal Lifeline rules. The PUD asserted the Petition should be held in abeyance until these issues are resolved.

• Q LINK Wireless filed a reply on November 30, 2016, to the Public Utility Division of the Oklahoma Corporation Commission’s response to its supplement to its Petition seeking designation as a Lifeline Broadband Provider ETC. Q LINK said the PUD fails to articulate any legitimate basis for its assertion that Q LINK’s Petition should be removed from the 60-day streamlined designation process or to further delay action on Q LINK’s application.

• Applied Research Designs filed a Petition on November 30, 2016, seeking streamlined designation as a Lifeline Broadband Provider ETC in delineated non-rural, non-Tribal areas in the state of Illinois, specifically in three zip codes in the south side of Chicago.

• The Lifeline Connect Coalition spoke with Wireline Competition Bureau staff on November 23, 2016, to discuss its Petition for Waiver of certain new Lifeline rules and the status of Lifeline Broadband Provider applications. They argued in favor of streamlined processing for the LBP applications and requested that those applications that were removed from streamlined processing be reviewed as quickly as possible.

• TracFone Wireless met with Trent Harkrader of the Wireline Competition Bureau on December 2, 2016, to discuss TracFone’s plans for modernizing its SafeLink Wireless® Lifeline program and implementing the rule revisions in the May 2016 Lifeline Order.

• The Schools, Health & Libraries Broadband Coalition, et al. sent a letter to Chairman Wheeler and the FCC Commissioners on November 30, 2016, expressing concern that the Rural Health Care Program could hit the funding cap of $400 million this year. They claimed hitting the cap could mean flash cuts or reductions in support for many participants in the program with possible service interruptions to broadband connectivity used for healthcare. They asked the Commission to direct USAC to reallocate unused RHC funds that were committed in previous funding years to current applicants if the funding cap is reached in this funding year, asserting a nearly identical mechanism has been in place in the Schools and Libraries program since 2002.

• Neustar filed an Opposition on December 1, 2016, to Locus Telecommunications’ Request for Review of the rejection of its TRS, LNP and NANPA fee invoices. Locus had asked the FCC to direct the Program Administrators to recognize Locus as a private carrier, exempt from Title II program fees on private carriage revenue, and issue refunds for Title II program fees paid. Neustar claimed the request is procedurally defective because Locus failed to appeal in the first instance to USAC, and asserted Neustar cannot grant Locus the relief that it seeks.

Misc.

• NECA filed 2016 Interim Modification of Average Schedules on November 30, 2016, which contains proposed interim revisions to formulas used for average schedule interstate settlement disbursements. NECA stated these interim revisions are necessary for the implementation of CAF BLS support in compliance with the March 30, 2016 Report and Order. These average schedule formula revisions are proposed to become effective for a six-month period beginning on January 1, 2017.

• Sen. John Thune (R-S.D.), Chairman of the Senate Commerce, Science and Transportation Committee, sent a letter to Chairman Wheeler on November 15, 2016, saying FCC leadership will soon change and any action taken by the FCC following November 8, 2016, will receive particular scrutiny. He suggested the FCC avoid directing its attention and resources in the coming months to complex, partisan, or otherwise controversial items that the new Congress and new Administration will have an interest in reviewing. He said there are many consensus and administrative matters on which the
Commission can instead focus its energies to conclude, including items that were on the agenda for the November Open Meeting.

- Chairman Wheeler sent letters to Reps. Gene Green (D-Texas) and Bill Flores (R-Texas) and Rep. G.K. Butterfield (D-N.C.) et al. on November 17, 2016, in response to their letters on special access. Chairman Wheeler said the Order currently circulating provides a new framework that strikes a balance between targeted regulation for legacy services and lighter-touch regulation for packet-based services. He also said the Order is grounded in the comprehensive record of this proceeding, including careful review of the sophisticated economic analyses presented by multiple parties as well as other record evidence, including developments since the 2013 data collection.

- The Wireline Competition Bureau issued its Voice Telephone Services Report on November 30, 2016, which summarizes the information collected about telephone services as of December 31, 2015. The Report noted in December 2015, there were 65 million end-user switched access lines in service, 59 million interconnected VoIP subscriptions, and 335 million mobile subscriptions in the United States. Over the three-year period, interconnected VoIP subscriptions increased at a compound annual growth rate of 12 percent, mobile voice subscriptions increased at a compound annual growth rate of 3 percent, and retail switched access lines declined at 12 percent per year.

- ITTA, CenturyLink and Frontier met with Enforcement Bureau and Office of Managing Director staff on November 30, 2016, to discuss what they say is the disproportionate regulatory fee burden borne by wireline voice providers and their customers. They expressed support for combining wireless voice providers into the ITSP regulatory fee category so that all voice providers pay regulatory fees associated with the work of the Wireline Competition Bureau on the same basis.

- The North American Portability Management filed a letter on November 29, 2016, to respond to Neustar’s letter that attached a Number Portability Administration Center Transition Status Report prepared by IT transition experts. NAPM asserted it is not reasonable for Neustar to file a report concluding the transition will not be completed until sometime in 2019 based on the fact that Neustar has not received certain information. NAPM claimed Neustar itself is solely to blame for its lack of access to that information, and asserted NAPM has sought for over one year to negotiate a non-disclosure agreement with Neustar.

- The North American Portability Management filed a letter on November 30, 2016, to provide a summary of the NAPM’s status updates to the FCC on the transition of the current LNPA, Neustar, to the new LNPA, Telcordia d/b/a/ Iconnectiv. NAPM said it will continue to file updates of this report with the FCC at the end of each month until the transition is complete.

- The LNP Alliance file a copy of a letter it sent to Betty Anne Kane, Chairman of the District of Columbia PSC, on November 30, 2016, asking for clarification of the role of the LNPA Working Group in the LNP Administrator transition. The Alliance said there must continue to be clear direction from the NANC that the LNPA Working Group is chartered with discussing and analyzing the broader set of technical requirements, including issues with system or carrier/vendor certification, operational requirements, testing process issues, successes and failures in the test process, transition intervals, and how such matters will be communicated to carriers and vendors.

Upcoming FilingDates

- 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. 5 - Replies 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. Public Notice

- Dec. 5 - Comments due on what rules should be modified or repealed as part of the 2016 biennial review. Replies due January 3, 2017. Public 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. 8 - Opposions due on Petitions for Reconsideration filed by NASUCA, et al. and NTIA of the IP 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. Replies due December 19. FR, Public Notice

- Dec. 9 - Comments due on proposed changes to the annual and quarterly Telecommunications Reporting Worksheets (FCC Forms 499-A, 499-Q) and accompanying instructions to be used in 2017 to report 2016 revenues. Public Notice

- Dec. 19 - Replies due to oppositions on Petitions for Reconsideration filed by NASUCA, et al. and NTIA of the IP 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. FR, Public Notice

- 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. 3 - Replies due on what rules should be modified or repealed as part of the 2016 biennial review. Public Notice

- 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