The FCC adopted an Order at its December Open Meeting, making changes to the CAF Phase II program for price cap carriers, as well as changes to the way that traditional USF support for small carriers is distributed. The Order, among other things, requires companies receiving CAF support for fixed broadband to serve consumers with speeds of at least 10 Mbps down/1 Mbps up. Order not yet released.

The FCC adopted an Order at its December Open Meeting, increasing the E-rate spending cap from $2.4 billion to $3.9 billion. Order not yet released.

The FCC seeks comment on a Petition for Declaratory Ruling filed by Bright House Networks, CenturyLink LECs, et al., asking the FCC to confirm that the "intraMTA rule" does not apply to LEC charges billed to an IXC when the IXC terminates traffic to or receives traffic from a LEC via tariffed switched access services. Comments are due February 9; replies due March 11.

USTelecom, ERTA and ITTA filed a proposal to address significant access revenue reductions for LECs that will result from the change in switched access rates for intrastate originating VoIP-PSTN traffic.

USTelecom responded to the ACA’s arguments, saying the CAM does not provide an appropriate level of support for price cap carriers to provide a 10/1 Mbps network throughout their eligible service areas over a five-year term. USTelecom also discussed the importance of including an adequate build-out period as part of a price cap carrier’s state-level commitment. AT&T said the FCC should include ETC reform in the CAF Phase II Order. NARUC discussed the Section 214 forbearance proposal in the draft CAF Phase II Order. CenturyLink discussed CAF Phase II issues and said it will cost between $5 billion and $6 billion in capital expenditures to deploy the network infrastructure to provide 10 Mbps in its service area. Frontier discussed expected capital and operational expenditures for CAF Phase II, and potential reporting obligations regarding such spending.

Mescalero Apache Telecom discussed the financial impacts and limitations the USF support caps have on borrowing, and the waiver process.

The Order on Reconsideration granting USTelecom and ITTA’s Petition for Reconsideration of the October 28, 2013 Rural Call Completion Order is effective January 9, 2015, except for the rules on the information collection requirements. The FCC seeks comment on Carolina West Wireless and its subsidiary Clear Stream’s Petition for Waiver of the call completion reporting rule that requires subscriber lines of affiliates to be counted toward the determination of whether a carrier must adhere to the reporting rules. Comments are due December 22; replies due December 31. CenturyLink discussed its progress implementing Safe Harbor policies for rural call completion.

Netflix responded to Commissioner Pai’s request to address allegations that Netflix has been working to effectively secure "fast lanes" for its own content on ISPs' networks. Verizon said if the FCC adopts rules for mobile broadband Internet access services it should provide substantial flexibility. COMPTEL said the FCC should consider Verizon’s statement that the FCC’s use of Title II would not impact the investment Verizon makes in either its wireline or wireless networks, and therefore should discount claims that network investment will decline if the FCC reclassifies broadband Internet access services. Verizon responded to COMPTEL’s letter.

Ex partes were filed on the “VoIP Symmetry” rule. Peerless Networks asked the FCC to rectify what it says are AT&T’s and Verizon’s refusals to pay access charges for interexchange calls that originate with a LEC and its VoIP partner(s). Level 3 and Bandwidth.com, maintained the FCC must apply its ruling from the time the Transformation Order took effect. Verizon asserted any new rule could only have a prospective effect.

Other Key Upcoming Dates

- Dec. 15 - PRA comments due on a revision to the rural call completion information collection.
- Dec. 15 - Replies due on the NPRM on streamlining Part 32 accounting rules. FR
- Dec. 22 - Comments due on measuring and reporting speed and latency performance to fixed locations.
- Dec. 22 - Replies due on USTelecom’s Forbearance Petition from certain rules that apply only to wireline ILECs.
USF/ICC Transformation Order

- The FCC adopted an Order at its December 11, 2014 Open Meeting, making changes to the CAF Phase II program for price cap carriers, as well as changes that will distribute traditional USF support for small carriers. The Order requires companies receiving CAF support for fixed broadband to serve consumers with speeds of at least 10 Mbps down/1 Mbps up, increased from the current 4 Mbps/1 Mbps requirement. The FCC also increased the term of support for price cap carriers from five years to six years, with an option for a seventh year in certain circumstances; provided increased flexibility in the build-out requirement; forbore from certain CAF obligations in low-cost census blocks where price cap carriers are not eligible to receive CAF support, as well as census blocks where the carriers face competition; and required recipients that decline CAF support in a state to continue to deliver voice service to high-cost census blocks until replaced through a competitive bidding process by another subsidized carrier. The Order has not yet been released. Statements: Wheeler, Clyburn, O’Rielly, Pai, and Rosenworcel.

- The Wireline Competition Bureau issued a Public Notice on December 10, 2014, seeking comment on a Petition for Declaratory Ruling filed by Bright House Networks, CenturyLink LECs, Consolidated Communications, Cox, FairPoint, Frontier, LIC (14 RLECs), Time Warner Cable, Windstream, 108 Iowa RLECs, and the Missouri RLEC Group, asking the FCC to confirm that the “intraMTA rule” does not apply to LEC charges billed to an IXC when the IXC terminates traffic to or receives traffic from a LEC via tariffed switched access services. Petitioners claim Sprint, Verizon, and Level 3 have misconstrued the FCC’s guidance and are unjustifiably attempting to avoid paying switched access charges for alleged intraMTA wireless traffic that they exchange with LECs over long-distance trunks. Petitioners argue the intraMTA rule, first adopted in the 1996 Local Competition First Report and Order, holds that wireless traffic is not subject to access charges “unless it is carried by an IXC.” Comments are due February 9; replies due March 11.

- USTelecom, ERTA and ITTA filed an ex parte letter on December 11, 2014, presenting a proposal to address significant access revenue reductions for many local exchange carriers that will result from the requirement to change the switched access rates for intrastate originating VoIP-PSTN traffic. Their proposal contains proposed rule changes that would provide both price cap and rate-of-return regulated LECs with a method for cost recovery in the same manner the FCC has allowed cost recovery for the lost terminating switched access revenues that resulted from reducing intrastate and interstate terminating access rates following the USF/ICC Transformation Order.

- USTelecom filed a letter on December 4, 2014, in response to the American Cable Association’s arguments on CAF Phase II issues. USTelecom said ACA’s argument that the price cap carriers do not have additional costs or do not need additional time to serve locations in eligible census blocks with the higher 10 Mbps service requirement is wrong, and there is no basis for concluding that the CAM provides an appropriate level of support for price cap carriers to provide a 10/1 Mbps network throughout their eligible service areas over a five-year term. USTelecom also opposed ACA’s suggestion that the FCC remove from the statewide commitment any census block where a Rural Broadband Experiment proposal was made for the first two categories of funding, even where the proposal does not receive RBE support.

- USTelecom spoke with Commissioner Clyburn’s Legal Advisor on December 4, 2014, to discuss the CAF Phase II program. USTelecom emphasized the importance of including an adequate build-out period as part of a price cap carrier’s state-level commitment in order to achieve the program’s objectives of bringing robust broadband to over 4 million locations in rural America.

- AT&T met with Legal Advisors to Commissioners O’Reilly and Clyburn on December 3, 2014, to discuss the importance of including ETC reform in any Order adopting CAF Phase II rules. AT&T explained how ETC obligations impose significant costs on providers and that AT&T recently quantified those costs using the FCC’s own cost model. AT&T said while state commissions are statutorily required to permit an ETC to relinquish its designation in areas served by another ETC, there is no deadline for state commission action on an ETC’s relinquishment notice. AT&T also discussed how the FCC could ensure that CAF Phase II is treated in a tax efficient manner, as well as related reporting
requirements that AT&T and other price cap carriers recently proposed.

- NARUC filed an ex parte on December 11, 2014, after Commissioner Clyburn’s Legal Advisor contacted NARUC to ask if NARUC had a position on the Section 214 forbearance proposal in the draft CAF Phase II Order. NARUC said it was not familiar with the scope of the forbearance proposal, but asserted: AT&T incorrectly argues elsewhere that FCC forbearance of section 214(e) necessarily preempts State COLR requirements; the FCC should clarify it is not preempting any State COLRs; and any forbearance granted should be narrowly tailored to meet the FCC’s goals.

- CenturyLink spoke with Chairman Wheeler’s Legal Advisor on December 4, 2014, to discuss the draft CAF Phase II Order, which is to be considered at the December 11, 2014, Open Meeting. CenturyLink discussed the economic impacts and trade-offs between potential CAF Phase II network speed requirements, build-out obligations, construction periods, after-tax funding and deployment flexibility. CenturyLink said these factors each impact the economic feasibility of CAF II offers of support in ways that have been fully developed in the record. CenturyLink also said it estimated it will cost between $5 billion and $6 billion in capital expenditure to deploy the incremental network infrastructure to provide 10 Mbps in its service area.

- Frontier met with Commissioner Pai’s Legal Advisor on December 8, 2014, to discuss expected capital and operational expenditures in the context of CAF Phase II, and potential reporting obligations regarding such spending. Frontier clarified that such data could be tracked and discussed the reporting implications.

- Frontier Communications met with Legal Advisors to Commissioners Pai and O’Rielly on December 3, 2014, to discuss potential changes to CAF Phase II. Frontier asserted if the Commission is considering increasing the CAF Phase II obligations, then it must also consider adjusting other terms associated with the program, including increasing the term of support beyond five years to complete the CAF Phase II broadband build-out. Frontier said an extended term is essential because capital investment in high speed infrastructure in rural America is a costly investment. Frontier also spoke with Commissioner Clyburn to discuss similar issues.

- Mescalero Apache Telecom met with Consumer and Governmental Affairs and Wireline Competition Bureau staff on December 3, 2014, to discuss the effects of the USF support caps contained within the FCC’s Transformation Order, the financial impacts and limitations the caps have on borrowing, and the waiver process. It attached a position paper, which was discussed at the meeting.

- Declaration Networks Group, a bidder in the Rural Broadband Experiments, filed a Petition for Waiver on December 10, 2014, of the requirement to provide three years of audited financial statements. DNG said since it has not been in business for three years, it requests the FCC grant a waiver of the requirement.

- The Utilities Telecom Council met with Commissioner O’Rielly on December 3, 2014, to discuss the FCC’s proposal to open areas to competitive bidding for CAF support and remove them from the right-of-first-refusal for the price cap carriers where there were applications submitted to provide rural broadband experiments. They said since there was a total of $885 million in RBE projects that was proposed by applicants, which exceeds the budget of $100 million for the entire RBE program, access to CAF Phase II support through the proposed carve-out will be critical for many of those applicants in order for them to have access to any funding if they are not selected for the RBE program. UTC also met with Chairman Wheeler’s Legal Advisor and Legal Advisors to Commissioner Rosenworcel and Commissioner Clyburn. UTC also met with Jonathan Chambers, Chief of the Office of Strategic Planning and Policy Analysis, on December 4, 2014, to discuss similar issues, as well as opportunities for utilities to access E-rate funding. UTC also expressed support for the FCC’s proposal to make funding available for construction of facilities to provide access to schools and libraries, saying this will help underwrite some of the high costs that utilities are facing to run fiber connections into extremely rural areas where school and libraries are located.

- The National Rural Electric Cooperative Association filed a letter on December 8, 2014, to assert that
areas in which a proposal for a rural broadband experiment is submitted should be removed from a price cap carrier's state-level commitment. NRECA argued by removing the right of first refusal, the Commission would enable a price cap carrier, the applicant submitting the formal proposal, and any other eligible provider to participate in the competitive bidding process for CAF Phase II model-based support for that area. NRECA claimed this process should drive down costs and preserve scarce universal service funds, and said allowing electric cooperatives a chance to compete to provide voice and broadband services in unserved and underserved locations will help to close the digital divide.

- The Wireline Competition Bureau issued a Public Notice on December 9, 2014, seeking comment on Ace Telephone of Michigan’s Petition for a waiver of section 51.909(a), 51.917(b)(1), and 51.917(b)(7) to modify access rate bands and charges, 2011 Switched Access Charge Revenue Requirement, and 2011 Base Period Revenue in connection with the merger of affiliated study areas in Michigan. Ace’s Petition claims these waivers are necessary to implement the merger and consolidation by Ace-Michigan of its Allendale, Michigan study area into its Drenthe, Michigan study area. Comments are due January 8; replies due January 23.

- No comments were filed on Hill County Telephone Cooperative and Southwest Texas Telephone Company’s Petition requesting a limited waiver of section 51.917(c). Replies due December 18. Public Notice

- NECA filed a letter on December 9, 2014, correcting the footer in the attachment in its December 5, 2014 filing, which provided the FCC with the results of the recalculation of the High-Cost Loop Support cap for 2015, as instructed by the Wireline Competition Bureau in its October 3, 2014 Order that addressed issues associated with the pending acquisition by Consolidated Communications of Enventis. The attachment consists of only one page, not two as previously indicated.

- Panhandle Telephone Cooperative met with Legal Advisors to Chairman Wheeler and Commissioners Rosenworcel, O’Rielly, and Pai, and Wireless Telecommunications Bureau and Wireline Competition Bureau staff on December 3 - 4, 2014, to discuss the importance of ongoing high cost USF support through the Mobility Fund Phase II for its provision of mobile wireless service throughout the Oklahoma Panhandle area. PTCI said that, despite the growing use of 4G LTE networks for data services, the current incompatibility between CDMA and GSM networks will persist in the foreseeable future and during the anticipated term of Mobility Fund Phase II.

- Verizon met with Chairman Wheeler’s Legal Advisor on December 4, 2014, to argue that reversing the FCC decision that a LEC cannot assess end office switching access charges when it routes over-the-top VoIP traffic over the public Internet would encourage arbitrageurs to use over-the-top VoIP autodialing equipment to collect originating switched access through new robocall schemes. Verizon said if the FCC now intends a different outcome, it would have to change its existing rules or its existing interpretation of those rules, and its new rule could only have prospective effect. Verizon also met with Commissioner Clyburn’s Legal Advisor and met with Commissioner Rosenworcel’s Legal Advisor on December 5, 2014, to discuss similar issues.

- Peerless Networks filed a letter on December 10, 2014, asking the FCC to take action to rectify what it says are AT&T’s and Verizon’s “self-help” in refusing to pay access charges associated with interexchange calls that originate with a LEC and its VoIP partner(s). Peerless requested the FCC issue a declaration confirming that sections 51.903(d), 51.913(b), and 69.106 require interexchange carriers to compensate competitive LECs and their affiliated or unaffiliated VoIP partners for tariffed end office switched access functions that they perform on over-the-top IP traffic, regardless of whether all of the functionally equivalent TDM rate elements are provided and regardless of whether the calling parties’ ANI matches the CLEC seeking the end office switched access compensation.

- Level 3 and Bandwidth.com met with FCC General Counsel and Wireline Competition Bureau staff on December 8, 2014, to discuss the proper legal framework for analyzing claims by AT&T and Verizon that the proposed Order on circulation should apply only prospectively if the Commission finds that a CLEC working in tandem with an over-the-top VoIP provider may assess end office local switching access charges. They asserted the test for prospective-only application of an agency adjudicative
order is not met here, and stated the Commission must apply its determination in this proceeding consistently, beginning from the time the Transformation Order took effect.

- Bandwidth.com and Level 3 met with Legal Advisors to Chairman Wheeler and Commissioner Rosenworcel on December 4, 2014, to discuss the VoIP Symmetry Rule. They urged the FCC to expedite its approval of a proposed Order on circulation that they believe would resolve the VoIP symmetry issue. They also said every month of delay in addressing this issue costs them time and money, and asserted that delay effectively rewards IXCs that engage in self-help, forcing CLECs to turn to courts to preserve their right to collect their charges.

- Bandwidth.com met with Commissioner Clyburn’s Legal Advisor on December 3, 2014, to discuss the VoIP Symmetry Rule. They urged the Commission to expedite its approval of a proposed Order on circulation that would resolve the VoIP symmetry issue. Bandwidth also said every month of delay in addressing this issue costs them time and money, and asserted that the delay effectively rewards the IXCs that engage in self-help, forcing CLECs to turn to courts to preserve their right to collect their charges.

- Level 3 spoke with Commissioner O’Rielly’s Legal Advisor on December 5, 2014, asserting Verizon and AT&T have not provided any basis to overturn the presumption of retroactivity that applies to a declaratory ruling. Level 3 asserted the YMax Order did not establish a preexisting rule that over-the-top VoIP traffic cannot be subject to local switching charges. Level 3 also claimed the Wireline Competition Bureau did not establish a rule in its 2012 Clarification Order that precluded the assessment of local switched access charges with respect of over-the-top VoIP services so long as the CLEC or its VoIP partner performed the functions analogous to those compensated by section 69.106, which do not include the line port connection to the loop.

- Craw-Kan Telephone filed a letter on December 11, 2014, withdrawing its Petition seeking a waiver of section 51.917(b), which it filed to correct a clerical error resulting in an inadvertent omission of its Fiscal Year 2011 reciprocal compensation revenue from its initial calculations of 2011 Rate-of-Return Carrier Base Period Revenue for both its Kansas and Missouri study areas.

- Arthur Mutual Telephone filed a letter on December 10, 2014, withdrawing its Petition seeking a limited waiver of section 51.917(b)(7)(ii) to allow Arthur Telephone to include in its FY 2011 Base Period Revenue amounts for Transitional Intrastate Access Service that were billed and collected during this time period, but were not properly accounted for when calculating the baseline for recovery.

Call Completion

- The FCC published in Federal Register on December 10, 2014, the Order on Reconsideration granting USTelecom and ITTA’s Petition for Reconsideration of the October 28, 2013 Rural Call Completion Order. The Order is effective January 9, 2015, except for amendments to sections 64.2101 (Definitions), 64.2103 (Retention of Call Attempt Records), and 64.2105 (Reporting Requirements), which contain new or modified information collection requirements that will not be effective until approved by the Office of Management and Budget.

- The Wireline Competition Bureau issued a Public Notice on December 11, 2014, seeking comment on Carolina West Wireless and its subsidiary Clear Stream’s Petition for Waiver of the rule in the Rural Call Completion Order and Order on Reconsideration that requires the subscriber lines of affiliates to be counted toward the determination of whether a carrier serves fewer than 100,000 subscriber lines. CWW argued since its affiliates have no influence over CWW’s call routing decisions, they should not be counted when making this determination. CWW said counting its affiliates is arbitrary, imposes a substantial financial burden on CWW for complying with the Order, and provides minimal public interest benefit, as CWW serves only 60,000 lines. Comments are due December 22; replies due December 31.

- CenturyLink spoke with Wireline Competition Bureau staff on December 6, 2014, to update the Bureau
on its progress implementing Safe Harbor policies for rural call completion. CenturyLink outlined its
timeframe for nationwide implementation of its Safe Harbor procedures, and reviewed concerns it
faces establishing Safe Harbor agreements with some wireless carriers for terminating calls destined to
their wireless subscribers. CenturyLink also discussed the need for additional clarifying instructions for
providers’ use of the various rural and non-rural Operating Company Numbers aspects now listed in
recently provided information from NECA for reporting purposes.

Open Internet

- Netflix met with Commissioner Pai and his Legal Advisors on December 11, 2014, to discuss its
  response to Commissioner Pai’s letter to Netflix, which asked Netflix to respond to allegations that it
  has been working to effectively secure “fast lanes” for its content on ISP’s networks at the expense of
  competitors. Netflix explained it designed its Open Connect content delivery network to provide
  consumers with a high-quality video experience that enables ISPs to manage their networks in an
  efficient and cost effective way, and said Netflix bears all the costs of providing Open Connect
  equipment to any ISP that chooses to participate in the Open Connect program. Netflix explained
  Open Connect is not a fast lane and does not prioritize Netflix data, and said it has consistently
  opposed the FCC permitting fast lanes in consumer Internet connections.

- Netflix met with FCC General Counsel staff on December 3, 2014, to urge the FCC to use all
  appropriate tools to adopt strong open Internet rules that prohibit discrimination and access charges at
  all points in the network controlled by a broadband Internet access service provider. Netflix also
  explained that reclassifying broadband access as a telecommunications service does not require
  heavy-handed regulation, and to generate open Internet rules, the Commission can and should forbear
  from the vast majority of Title II provisions.

- Verizon met with FCC General Counsel and Wireline Competition Bureau staff on December 3, 2014,
  to state that if new no-blocking rules are necessary, they should be rules that prohibit providers from
  blocking or degrading traffic within the customer's chosen level of best-efforts Internet access service
  based on who sent it, and the proposed commercial reasonableness standard should be applied in a
  manner that provides the flexibility needed to encourage innovation and benefit consumers. Verizon
  also said new rules are not warranted for mobile broadband Internet access services, but if the
  Commission does adopt rules for these services, it should provide substantial flexibility.

- COMPTEL filed a letter on December 11, 2014, after the Washington Post reported Verizon told its
  investors the FCC’s use of Title II would not impact the investment that Verizon makes in either its
  wireline or wireless networks. COMPTEL said the FCC should consider this disclosure and discount
  the claims that network investment will decline if the FCC reclassifies broadband Internet access
  services. COMPTEL said reclassification, with appropriate forbearance, will provide the legally
  sustainable framework for the rules that are necessary to ensure an open Internet.

- Verizon filed a letter on December 12, 2014, responding to COMPTEL’s letter, which discussed
  comments made by Verizon’s Chief Financial Officer during an investor conference. Verizon asserted
  COMPTEL mischaracterized some of the comments, and submitted into the record a blog post by
  Verizon’s CFO, which it said clarifies his remarks and makes clear his perspective on the relationship
  between Title II regulation and network investment.

- Public Knowledge, the New America Foundation’s Open Technology Institute, and the Center for
  Democracy and Technology met with FCC General Counsel and Wireless Telecommunications Bureau
  staff on December 9, 2014, to discuss the Commission’s legal authority to adopt a common regulatory
  framework for network neutrality that reclassifies both fixed and mobile broadband Internet access
  services as telecommunications under Title II. They asserted whether the Commission decides to
  update its own 20-year-old definitions to reflect current realities, or to determine that mobile broadband
  is now the “functional equivalent” of a CMRS, or both, each path reinforces the other and both findings
  would be justified and long overdue.

- Vonage filed a letter on December 11, 2014, urging the Commission to use its Title II authority to re-
institute the Open Internet rules it adopted in 2010, and apply the same rules to fixed and mobile broadband. Vonage said contrary to CTIA’s claims, the Commission has ample discretion to modify its regulatory treatment of mobile broadband under the Act and its own rules, and asserted CTIA is incorrect that Section 332 bars reclassification of mobile broadband.

- A number of technology companies sent a letter to members of Congress and to Chairman Wheeler and the FCC Commissioners on December 10, 2014, opposing the proposal to classify broadband as a Title II service. They asserted their companies and employees would be hurt by the reduced capital spend in broadband networks that would occur if broadband is classified under Title II.

- AOL met with Commissioner Rosenworcel’s Legal Advisor on December 3, 2014, asserting that to effectuate the President’s call for reclassification and a firm ban on paid prioritization, a Title II-plus approach is necessary. AOL asserted that a firm ban should rely on all jurisdictional sources available to the Commission, including both Title II and Section 706. AOL also suggested the FCC forbear from Title II, unless such regulation becomes necessary.

- Free Press met with Commissioner Rosenworcel’s Legal Advisor on December 2, 2014, to discuss open Internet issues. Free Press reiterated points it made in prior meetings, including forbearance from provisions of Title II if and when the Commission should proceed to classify broadband Internet access service as a telecommunications service, and the proper interpretation of the protections afforded users of telecom services by Sections 201 and 202 of the Act. Free Press also discussed its filing, in which it disagreed with USTelecom’s study on Title II regulation, and a blog posting addressing claims that reclassification would allow for taxation of broadband by federal, state, and local governments.

- Mobile Future filed a letter on December 5, 2014, in response to suggestions that the 2007 Voice Roaming Order can serve as a model for similarly classifying broadband Internet access service. Mobile Future said analogies to automatic voice roaming are misplaced, because the Commission is statutorily barred from subjecting mobile broadband service to common carriage requirements. Mobile Future asserted that the FCC faces an insurmountable legal barrier to the classification of mobile broadband services as common carrier offerings.

- WISPA met with Commissioner Clyburn and her Legal Advisor on December 4, 2014, to discuss Open Internet and CAF issues. WISPA said the “light touch” regulatory approach adopted in 2010 should be retained, and asserted small broadband Internet access providers should be exempt from any new rules the FCC may adopt. WISPA also met with Commissioner O’Rielly and his Legal Advisor, and Commissioner Rosenworcel and her Legal Advisor to discuss the same issues.

- George Washington University Law Professors filed a letter on December 10, 2014, expressing concern with the proposed open Internet rules in the “No Commercially Unreasonable Practices” section of the May 2014 NPRM. They asserted these proposed rules would violate international law obligations of the United States in the areas of international trade and human rights, and argued any FCC rule that does not meaningfully protect net neutrality would run afoul of these legal obligations and expose the United States to legal action by other governments and individuals prejudiced by its actions. They suggested the FCC abandon the rules proposed and instead adopt strong net neutrality rules prohibiting broadband providers from according differentiated treatment to Internet traffic.

Back to Highlights

Broadband

- NTCA issued its 2014 Wireless Survey Report on December 10, 2014. NTCA said the survey found that 66% of member company respondents are providing wireless service to their customers, and 80% of those providing wireless service also offer fixed broadband, 48% offer mobile voice, 41% offer mobile broadband and 23% offer fixed voice. The study indicates 35% of survey respondents not currently offering wireless service are considering doing so. NTCA said, however, survey respondents indicated that pressures created by national carriers and the ability to negotiate roaming agreements
with such carriers are among the most significant challenges affecting smaller competitors. Press
Release

- SouthernLINC Wireless filed a Request for waiver and an extension of time, until January 8, 2015, to
submit the FCC Form 477 Local Telephone Competition and Broadband Report. SouthernLINC said
on at least five instances, it attempted to upload its Mobile Voice Deployment shapefile, but each time
SouthernLINC received an error message indicating that the Form 477 filing interface would not accept
the shapefile. SouthernLINC said it has filed help requests with the FCC and has begun the process of
evaluating the acquisition of alternative mapping software or services in order to expedite the
uploading process.

- The FCC issued an Order on December 10, 2014, appointing the Honorable Elliot F. Elam Jr.,
Commissioner, South Carolina PSC, to serve on the Advanced Telecommunications Services Federal-
State Joint Conference. This appointment fills the position vacated by the Honorable Geoff Why,
former Commissioner of the Massachusetts DTC. The Joint Conference was convened in 1999 as part
of the Commission's ongoing efforts to ensure that advanced services are deployed as rapidly as
possible to all Americans, and it serves as a forum for ongoing dialogue among the Commission, state
regulators, and local and regional entities regarding the deployment of advanced telecommunications
capabilities.

IP Transition

- BT Americas met with Phil Verveer, Senior Counselor to Chairman Wheeler, on December 3, 2014, to
assert it is important to competitiveness in the global network services market that U.S. business
access services be effectively regulated wherever there is dominance, and urged the FCC to apply
effective dominance regulation where necessary. BT also highlighted its concerns about delays in
delivery and discrimination with respect to withdrawal of TDM access and a transition to unregulated
Ethernet access services on a timetable controlled by the incumbents.

- ADT met with Wireline Competition Bureau staff on December 4, 2014, to discuss technology
transitions and public safety issues. ADT asserted that existing alarm systems must be tested during
the Technology Transitions trials to ensure they will communicate with monitoring centers following the
transition, without the need for customer and/or security company intervention, and to ensure that the
IP Transition does not create an unlevel playing field within the electronic security marketplace.

USF

- The FCC adopted an Order at its December 11, 2014 Open Meeting, increasing the E-rate spending
cap from $2.4 billion to $3.9 billion. The Order also allows schools and libraries to build broadband
facilities themselves when it is the most cost-effective option; provides an incentive for state support of
last-mile broadband facilities through a match from E-rate of up to 10% of the cost of construction; and
requires carriers that receive subsidies from the High Cost program to offer high-speed broadband to
schools and libraries located in geographic areas receiving those subsidies at rates reasonably
comparable to similar services in urban areas. The Order has not yet been released. Statements:
Wheeler, Clyburn, O’Rielly, Pai, Rosenworcel.

- The FCC’s Intergovernmental Advisory Committee submitted its Advisory Recommendation to the FCC
concerning E-rate modernization. The IAC supports Chairman Wheeler’s proposal to increase the
funding cap from $2.4 billion to $3.9 billion, and suggested the Commission: allow fairness and
flexibility in funding fiber construction by making room for both carrier-provided services and self-
provisioning, whichever is most cost effective; promote greater use of the program in tribal areas and
underserved urban areas; encourage consortia, especially between neighboring school districts and
libraries; and continually seek administrative efficiencies.

- Commissioner Clyburn spoke at the Mississippi Broadband Connect Coalition Summit on December 2,
2014, and discussed the connections between greater broadband deployment and improved
healthcare. She said that 100 million Americans are not using broadband, and that this needs to be addressed. She also urged rural communities to identify partners to help with broadband development and to think of ways to incentivize further broadband investment, claiming that the first benefit from this will be improved access to healthcare.

- NCTA, Comcast, and Charter Communications spoke with the Legal Advisors to the FCC Commissioners on December 2 and 4, 2014, to discuss rules surrounding self-construction in the E-rate program and high-cost USF support requirements. They urged the FCC to adopt similar safeguards for E-rate as those implemented in the Rural Healthcare program, limit the amount of support given for the construction of new infrastructure by schools and libraries, and force schools and libraries that seek funding for self-provisioning to request bids on provider-offered services and then choose the most cost-effective solution. They also said that LECs should be permitted to avoid serving no more than 1-2 percent of locations in a state if they wish to receive support funding.

- Cox Communications met with the Legal Advisors to the FCC Commissioners on December 2-4, 2014, to discuss self-provisioning within the E-rate program. Cox urged the Commission to adopt safeguards for self-construction projects comparable to those adopted in the rural healthcare program by requiring a demonstration that self-construction is the most cost-effective solution, which Cox argues is only possible after comparing the costs of self-construction with those of provider-offered services. Cox also said that E-rate participants should continue to pay some portion of the costs of E-rate funded services.

- Cisco met with Commissioner Rosenworcel’s Legal Advisor on December 4, 2014, to discuss E-rate reform. Cisco stated its concern that internal connection funding levels could be adversely affected by fiber funding initiatives, and suggested the FCC place some limit on fiber funding to ensure that the other E-rate goals can be achieved.

- The Alliance for Excellent Education issued an analysis on December 10, 2014, intended to examine equity and quality of broadband access for American schools, paying special attention to any racial, economic, and geographic divides. AEE claimed the data shows that two-thirds of the nation’s students lack access to high-speed Internet (100 Mbps or more), and African American, Latino, low-income, and rural students are more likely to be in schools with slow Internet connections. AEE supported increasing the E-rate budget in order to combat the inequities and pervasive lack of broadband shown in its study. Press Release

- Madison Telephone filed an Application for Review on December 10, 2014, of the Wireline Competition Bureau Order that denied its Petition for Waiver of the rules pertaining to receipt of Safety Valve Support. Madison claimed the Bureau made an erroneous finding and subjective judgments when it concluded that Madison incorrectly filed calendar-year rather than quarterly SVS cost data, and urged the Commission to recognize it is undisputed that Madison is qualified to receive SVS.

- Comments were filed on December 8, 2014, in response to TracFone’s Emergency Petition for Declaratory Ruling, which asks the FCC to rule that state laws and regulations that impose 911 taxes and fees on low-income Lifeline customers who receive no-charge Lifeline service funded exclusively by the federal USF violate federal law. NTCA urged the Commission to deny the Petition, arguing that TracFone’s decision not to bill its customers is purely a business decision, and said that to allow TracFone to dodge 911 assessments while others remain subject to such assessments is unlawful, unnecessary, and would disrupt the competitive marketplace. Sprint supported the Petition, and argued 911 surcharges on Lifeline reduce the value of the federal Lifeline benefit and divert Lifeline support away from its intended recipients in order to pay for non-Lifeline services. USTelecom urged the Commission to use this Petition as an opportunity to make comprehensive reform to the Lifeline program by addressing the issue of whether all Lifeline providers, not just “no charge” services, should be subject to the application of any fees, not just 911 fees. Replies are due December 23. Public Notice | List of comments available to date

- Absolute Home Phones, et al. (members of the Lifeline Connects Coalition) met with Chairman Wheeler’s Special Counsel on December 5, 2014, to discuss the proposed Lifeline reforms. They
called for the adoption of “shot clock” deadlines for the Wireline Competition Bureau to act on federal ETC petitions and compliance plans, where petitions will be automatically granted if the Commission takes no action on them within 90 days of its filing. They also claimed it was arbitrary for the Commission to propose multi-million dollar fines against certain ETCs for failing to eradicate 100 percent of end-user fraud, and stated several member companies have received Notices of Apparent Liability while having near-perfect track records at protecting the program from duplicate enrollments.

- Telrite, i-wireless, Blue Jay Wireless, and CGM (members of the Lifeline Connects Coalition) met with Wireline Competition Bureau staff on December 5, 2014, to discuss reforms to, and the status of, the Lifeline program. They discussed the impact additional E-rate investment will have on the USF, pending Lifeline ETC petitions, and its support for TracFone’s Petition to allow the sending and receiving of text messages to count as usage for Lifeline requirements. They also stated Lifeline administrative costs account for 9 percent of total disbursements.

- CenturyLink and Willard Telephone filed a letter on December 10, 2014, correcting a category mistake in their November Petition for study area waiver to allow the transfer of a portion of CenturyLink’s Sterling Exchange to Willard’s study area. They stated the Petition listed Willard as a “cost company,” when in fact Willard is an “average schedule company.”

- NTCH filed a Notice on December 10, 2014, requesting relinquishment of its ETC designation for providing Lifeline services in Tennessee. NTCH claimed that after its ETC relinquishment, its former service area will continue to be served in full by other providers. NTCH requested the relinquishment become effective February 28, 2015.

- AT&T met with Wireline Competition Bureau staff on December 10, 2014, to discuss Cingular Interactive’s (a former legacy affiliate of AT&T) appeal of a USAC decision. AT&T described the services Cingular Interactive provided over its Mobitex network and said Cingular sold this business (including the spectrum) years ago to an unaffiliated provider. AT&T asserted USAC erred when it invoiced Cingular Interactive in 2003 as though Cingular Interactive’s services were telecommunications services, and said USAC continues to invoice Cingular Interactive interest and penalties.

- AMV Gateway filed supplementary material on December 12, 2014, to its 2013 Request for Review of the USAC decision that determined AMV to be a reseller of telecommunications and subject to USF contribution requirements.

**Misc.**

- In addition to comments listed in a previous edition of *REGScan*, NASUCA filed comments on December 5, 2014, on USTelecom’s Petition asking the FCC to forbear from applying what it says are outdated provisions that apply only to wireline ILECs. NASUCA opposed all of the categories of forbearance requested in the Petition, but particularly the Category 4 request for forbearance for price cap ILECs from the ETC requirements of section 214(e) in areas where the PC ILEC does not receive CAF Phase II funding. NASUCA asserted this request for forbearance does not meet any of the three section 10 standards for forbearance, and would establish a radical new federal exemption from some ILECs’ COLR obligations. Replies are due December 22. [List of all comments available](https://www.fcc.gov/cgb/comments) | [Public Notice](https://www.fcc.gov/cgb/compliance-reports)

- The Wireline Competition Bureau released a Public Notice on December 9, 2014, announcing that the Special Access Database Container has been released on the FCC’s web portal. This database container release further implements the collection outlined by the Commission in its December 2012 Report and Order and FNPRM, which requires providers and purchasers of special access services, and certain entities providing “best effort” services in areas where the incumbent LEC is subject to price cap regulation, to submit data and information for an evaluation of the special access market. The data submission deadline for business with more than 1,500 employees is January 29; for
businesses with 1,500 or fewer employees the deadline is February 27. For those required only to certify that they are not a covered Provider, Purchaser, or entity providing Best Efforts Business Broadband Internet Access Service, the deadline is December 15. The FCC released version 1.2 of the Special Access Database Container on December 10, 2014, which further implements the special access data collection required by the December 2012 Report and Order and FNPRM.

- The Wireline Competition Bureau issued a Public Notice on December 12, 2014, announcing it will host a public webinar on December 18, 2014, to provide a walk-through of the database container for the Special Access Data collection. Bureau staff will discuss the procedures for creating and loading the database container and answer questions.

- The Wireline Competition Bureau released updated special access data collection FAQs on December 12, 2014. The FAQs provide answers to non-technical FAQs.

- Sprint met with Wireline Competition Bureau and General Counsel staff on December 8, 2014, to discuss the status of the Commission’s preparations to accept filings in response to its pending special access data collection. Sprint asserted the Commission will need to consider various ways to address unjust and unreasonable rates, terms, and conditions, including not only potential reforms of the existing price cap mechanisms, but also alternative approaches, such as benchmarks or other mechanisms.

- House Energy and Commerce Committee Chairman Fred Upton (R-MI) and Communications and Technology Subcommittee Chairman Greg Walden (R-OR) announced on December 10, 2014, the release of a white paper that explores the laws governing the market for video content distribution. This is the sixth white paper issued by the Committee in its process of reviewing the Communications Act for update. Responses are due January 23, 2015.

- CTIA filed a letter on December 8, 2014, in response to Neustar’s ex parte letter that takes issue with CTIA’s statement that any extension of the current LNPA contract beyond its scheduled June 2015 expiration will automatically trigger a price escalation clause and will cost consumers over $40 million per month. CTIA claimed its statement is based on Neustar’s most recent 10-K, and has been certified to be accurate and not misleading by the company’s Chief Financial Officer and Chief Executive Officer.

- Neustar filed a letter on December 9, 2014, asserting CTIA’s claim that a decision to designate Ericsson (Telcordia) as the next LNP Administrator will save consumers $40 million per month is false and misleading. Neustar asserted a selection of Ericsson would benefit Ericsson and please a few of the other members of CTIA, and claimed it will not save money for consumers.

- Telcordia filed a letter on December 9, 2014, indicating the FCC granted RigNet’s application to discontinue all domestic common carrier services as of January 1, 2015. Telcordia claimed although RigNet is not now providing telecommunications services, it is indisputable that as of January 1, 2015, RigNet will not be a telecommunications services provider, as defined under either the Communications Act or Section 3.4 of the Vendor Qualification Statement. Telcordia said Neustar’s argument that Telcordia’s proposed subcontractor Sungard is affiliated with a telecommunications service provider, RigNet, is now moot.

- The LNP Alliance met with Legal Advisors to Commissioners Pai, O’Rielly, and Rosenworcel, and General Counsel and Wireline Competition Bureau staff on December 9, 2014, to discuss LNP Administrator selection issues. The LNP Alliance asserted the interests of small and medium providers have been overlooked, and claimed that selecting the LNPA at this time, when, it says, industry task forces have not yet defined the role of the NPAC in a post-IP Transition world, may have skewed the selection process. The LNP Alliance suggested the Commission extend the Neustar contract by two years, and claimed Telcordia does not meet the Commission’s neutrality requirements as embodied in the Commission’s rules.

- CTIA filed a letter on December 12, 2014, to respond to Neustar who had disputed CTIA’s claim that a
decision to designate Telcordia as the next LNP Administrator will save consumers $40 million per month. CTIA said Neustar repeated arguments that have been fully addressed, and asserted the NANC is impartial, represents the broadest cross-section of the U.S. telecommunications industry, and claimed NANC voted unanimously to recommend Telcordia as the new LNPA.

- The House Appropriations Committee unveiled the fiscal year 2015 Omnibus Appropriations bill on December 10, 2014. The bill, among other things, provides the same budget amount for the FCC as 2014, at $339,844,000. The bill also extends, until December 31, 2016, the Universal Service Anti-deficiency Temporary Suspension Act, and continues to prohibit the FCC from using these funds to modify, amend, or change its rules for universal service support payments to implement the February 27, 2004 recommendations of the Federal-State Joint Board on Universal Service regarding single connection or primary line restrictions on universal service support payments. Press Release

- The FCC published in the Federal Register on December 12, 2014, the Order requiring electronic filing through the FCC’s Electronic Comment Filing System all formal complaints under Section 208 of the Communications Act and pole attachment complaints under Section 224 of the Act. The FCC also made minor editorial changes to its rules regarding these types of complaints to bring them more in line with the electronic age. The revised rules and the electronic filing requirement are effective January 12, 2015, but parties are allowed to electronically file documents now in Sections 208 and 224 proceedings, subject to the availability of such capabilities in ECFS.

- The FCC had deleted the 14 consent agenda items from the list of items to be considered at its December 11, 2014 Open Meeting.

- The FCC adopted a Public Notice at its December 11, 2014 Open Meeting, seeking comment on proposals for conducting the broadcast television spectrum incentive auction. The Public Notice includes specific, detailed proposals on crucial auction design issues, implementing decisions the Commission made in its May 2014 Incentive Auction Report and Order, including the methodology for establishing opening prices for the reverse and forward auctions, how to determine an initial spectrum clearing target, and measuring the extent of potential impairments due to inter-service interference, among other things. Comments are due by January 30; replies due February 27. Fact Sheet

Upcoming Filing Dates

- Dec. 15 – Certifications due from entities that are not a covered Provider, Purchaser, or entities providing Best Efforts Business Broadband Internet Access Service to the special access data collection. Order on Reconsideration.

- Dec. 15 - PRA comments due on a revision to the rural call completion information collection resulting from the grant of USTA and ITTA’s Petition for reconsideration. FR

- Dec. 15 - Replies due on the NPRM initiating a proceeding to review the FCC’s Part 32 Uniform System of Accounts to consider ways to minimize compliance burdens on carriers while ensuring the agency retains access to the information it needs to fulfill its regulatory duties. FR

- Dec. 16 - Replies due on TracFone’s Petition for Rulemaking to amend Section 54.4067 (c)(2) to allow the sending and receiving of text messages to count as usage for the Lifeline usage requirements. TracFone also requested an interim waiver of this rule to allow its customers to demonstrate their intent to use the Lifeline service via text messaging. Public Notice

- Dec. 17 – Deadline for submissions to the 2015 Urban Rates Survey. Order

- Dec. 18 – Replies due on Hill County Telephone Cooperative and Southwest Texas Telephone Company’s Petition requesting a limited waiver of section 51.917(c). Public Notice

• Dec. 22 - Replies due on USTelecom’s Petition asking the FCC to forbear from applying what it says are outdated provisions that apply only to wireline ILECs. Public Notice

• Dec. 22 - Comments due on Carolina West Wireless and its subsidiary Clear Stream’s Petition for Waiver of the rule in the Rural Call Completion Order and Order on Reconsideration that requires the subscriber lines of affiliates to be counted toward the determination of whether a carrier serves fewer than 100,000 subscriber lines. Replies due December 31. Public Notice

• Dec. 22 - Comments due on developing the record on how compliance with broadband speed and latency obligations should be tested by recipients of high-cost support that deploy broadband networks to serve fixed locations. FR | Public Notice

• Dec. 23 - Replies due on TracFone’s Emergency Petition for Declaratory Ruling, which asks the FCC to confirm that state laws and regulations that impose 911 taxes and fees on low-income Lifeline customers who receive no-charge (i.e., non-billed) wireless Lifeline service funded exclusively by the federal USF violate federal law. Public Notice

• Dec. 26 - Replies due on the FNPRM proposing methods to ensure or encourage compliance with the FCC’s new toll free regulatory fee requirement, and a proposal to adopt a new direct broadcast satellite regulatory fee category. FR

• Dec. 31 - Replies due on Carolina West Wireless and its subsidiary Clear Stream’s Petition for Waiver of the rule in the Rural Call Completion Order and Order on Reconsideration that requires the subscriber lines of affiliates to be counted toward the determination of whether a carrier serves fewer than 100,000 subscriber lines. Public Notice

• Dec. 31 - Comments due on Panora Communications and Prairie Telephone’s Petition for Waiver of the definition of “study area” in order to permit Prairie to sell the remainder of its Yale exchange, which consists of approximately 144 access lines, to Panora. Replies due January 15. Public Notice

• Jan. 7 - Replies due on CenturyLink’s IP Transition Trial Proposal. Public Notice

• Jan. 8 - Comments due on Ace Telephone of Michigan’s Petition for a waiver of section 51.909(a), 51.917(b)(1), and 51.917(b)(7) to modify access rate bands and charges, 2011 Switched Access Charge Revenue Requirement, and 2011 Base Period Revenue in connection with the merger of affiliated study areas in Michigan. Replies due January 23. Public Notice

• Jan. 15 - Replies due on Panora Communications and Prairie Telephone’s joint Petition for Waiver of the definition of “study area” in order to permit Prairie to sell the remainder of its Yale exchange, which consists of approximately 144 access lines, to Panora. Public Notice

• Jan. 23 - Replies due on Ace Telephone of Michigan’s Petition for a waiver of section 51.909(a), 51.917(b)(1), and 51.917(b)(7) to modify access rate bands and charges, 2011 Switched Access Charge Revenue Requirement, and 2011 Base Period Revenue in connection with the merger of affiliated study areas in Michigan. Public Notice

• Jan. 23 - responses due to the House white paper that explores the laws governing the market for video content distribution. The white paper was issued by the House Committee in its process of reviewing the Communications Act for update.

• Jan. 29 - Responses due from large businesses with more than 1,500 employees that are required to provide special access data. Order
• Feb. 9 - Comments due on a Petition for Declaratory Ruling asking the FCC to confirm that the "intraMTA rule" does not apply to LEC charges billed to an IXC when the IXC terminates traffic to or receives traffic from a LEC via tariffed switched access services. Replies due March 11. Public Notice

• Feb. 27 - Responses due from small businesses with 1,500 or fewer employees that are required to provide special access data. Order

• Mar. 11 - Replies due on a Petition for Declaratory Ruling asking the FCC to confirm that the "intraMTA rule" does not apply to LEC charges billed to an IXC when the IXC terminates traffic to or receives traffic from a LEC via tariffed switched access services. Public Notice

• Apr. 6 - Comments due on the Special Access FNPRM. Replies due May 18. Public Notice

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