

# REGULATORY VIEW

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## Rural Call Completion Update

Since releasing the Rural Call Completion Order and FNPRM in October 2013, which requires long distance providers to record, retain and report rural call completion data (see *TCA Regulatory View*, October 2013), the FCC has issued one extension for compliance, and received numerous Petitions for Reconsideration as well as reply comments on the FNPRM. The FCC has also taken enforcement action against a carrier violating call completion rules. (see related article in this *TCA Regulatory View*).

The FCC granted Vonage's request for a one month extension of time to eliminate false audible ringing as required by the Order – finding that avoiding service disruption and customer confusion is consistent with the underlying purpose of the rule. Vonage has subsequently filed for a second 30 day extension, citing problems with the new software installed to prevent the problem.

Several Petitions for Reconsideration have been filed with the FCC requesting modifications to the Rural Call Completion Order. Transcom, a wholesaler of VoIP traffic, argues that the order: 1) would outlaw development, deployment and delivery of potentially beneficial and non-harmful enhanced/information service products, 2) has no limiting principle that would keep the FCC from imposing common carrier duties on non-common carriers – and could require every residential end user to generate

*(Continued on page 2)*

### *Inside this Issue:*

<a href="#">Welcome to the New TCA Regulatory View</a>	2
<a href="#">Over 100 Parties Offer Suggestions for Communications Act Re-write</a>	3
<a href="#">Cybersecurity Framework Finalized</a>	4
<a href="#">Study Area Boundary Submission Reminder</a>	4
<a href="#">Windstream Agrees to \$2.5M Fine For Call Completion Practices</a>	5
<a href="#">Accessibility Recordkeeping Compliance Certification Due April 1</a>	6
<a href="#">States News</a>	7
<a href="#">Important Deadlines and Due Dates</a>	8
<a href="#">Event Calendar</a>	9

## TCA's Board of Directors Seminar

*Navigating the Telcom Industry While Speeding Up the Learning Curve for New Directors*

Join us for an exciting, informative and interactive two-day seminar hosted in Kansas City, MO. This seminar has been developed to meet the current challenges facing all Directors of Rural Telco's while providing valuable industry knowledge for new Directors.

**April 16-17, 2014 - Kansas City, MO**

**Registration Now Open!**

### Your TCA Regulatory Consultants

- Kevin Kelly
- Stacey Brigham
- Daniel Meszler
- Curt Huttzell



(Continued from page 1)

and retain written call completion records, and 3) keeps Enhanced Service Providers from performing enhanced/information functions and mandates assumption of a common carrier duty.

COMPTEL is requesting reconsideration of the FCC's definition of the small carrier exemption (100,000 or fewer lines). COMPTEL claims that changing the definition from the NPRM (100,000 or fewer *subscribers*) increases by 150 percent the number of providers that will have to comply with the record keeping, reporting and retention requirements. Carolina West Wireless is also seeking reconsideration of the small carrier definition – so that lines served by affiliates with non-controlling minority owners are not counted toward the 100,000 line threshold.

Sprint requests the FCC to reconsider :1) using the call completion reports as the basis for subsequent enforcement action, and 2) the RLEC call completion surveys be made available for thorough independent review.

USTelecom and ITTA claim that the record keeping rules for “on network” intraLATA long distance traffic is unnecessary – as these types of calls are primarily handled by one provider and do not involve intermediate providers.

Several parties filed comments in response to the FCC's FNPRM. Both NARUC and the National Association of State Utility Consumer Advocates (NASUCA) recommended the FCC require intermediate providers to register and certify they will follow industry standards and state and federal rules. They also recommended that the FCC not create any additional limitations or safe harbors regarding data collection and retention. NARUC concurred with the FCC's position that RLEC data reporting should remain voluntary, while the FCC codifies existing prohibitions on blocking, choking, or restricting traffic into a rule. Both parties emphasized that there should be no barriers to states obtaining the data necessary to investigate call completion problems or coordinating investigations with other states.

The RLEC industry associations (NECA, NTCA, ERTA, and WTA) filed comments that substantially agreed with the positions espoused by NARUC and NASUCA – in addition to asking the FCC to focus more on the implementation and enforcement of the Order, rather than on the actions suggested in the FNPRM.

Finally, several RLECs have recently reported a significant spike in customer complaints about nuisance robocalls. Some customers have reported receiving hundreds of calls, at all times of the day and night from spoofed numbers. Carriers that have customers who are experiencing this problem should contact Kristi Thompson with the FCC Enforcement Bureau with information regarding the phone numbers contacted, approximate times of calls, the carrier names and the results of any investigations.

**TCA View:** *Rural call completion remains a serious problem for several RLECs. The FCC's Rural Call Completion Order is a step in the right direction and needs to be followed with stringent enforcement. We anticipate that the petitions for reconsideration will not result in any significant changes in the FCC's initial order.*

TCA Contact: [Daniel Meszler](#)

## Welcome to the New TCA Regulatory View

We've made some updates to the layout, but don't worry, all of the content you need and enjoy is still here!

- \* Links are now imbedded right into the articles. Just look for the blue text to know where to click.
- \* Click on article names in the Table of Contents to jump to that article.
- \* Click on “Continued on page” text to go to the continuation of the article.
- \* The “Return to the Table of Contents” link is at the bottom of most pages.
- \* For any questions on the *Regulatory View* or any regulatory matters, contact the TCA Regulatory Team.

[Return to Table of Contents](#)



## Over 100 Parties Offer Suggestions for Communications Act Re-write

The ranking Republicans on the House Energy and Commerce Committee recently invited comment on modernizing the Communications Act (Act), and over 100 interested parties responded. The Committee's invitation raised five broadly-defined issues in the Act: (1) the service oriented structure, (2) the provisions needing retention, elimination or adaptation, (3) the organization and jurisdiction of the FCC, (4) regulatory flexibility in the face of rapidly evolving technology, and (5) the distinction between telecommunications and information services. A representative sample of comments demonstrates a wide variety of opinions.

NTCA and WTA submitted separate comments, and the two rural associations take different approaches regarding differing regulatory classifications for different services – the so-called “vertical silos” of service regulation. NTCA maintains the aim of any legislative update should be to put the regulation of networks on a common footing to the extent possible and depart from vertical silo regulation. Accordingly, NTCA's primary focus is the transformation of the USF to continue to provide specific, predictable and sufficient support for networks in rural, high-cost areas. NTCA also advocates that the USF contributors be based on connections, not interstate revenues. Finally, unlike the RBOCs, NTCA champions giving the states a complementary role in matters such as consumer protection and the need for universal service funding in individual markets. In contrast, WTA finds the vertical regulatory silos are warranted - because the services provided by differently regulated competitors are not interchangeable or direct and equal substitutes. Accordingly, WTA argues that wireless availability is inconsistent outside towns and away from major highways and concludes wireless and wireline services are complementary.



The RBOCs largely agree that the Communications Act must undergo significant modification. AT&T believes a wholesale re-write of the Act is in order and recommends the Congress create a new title that would apply to next-generation, broadband-enabled services – and make it clear the FCC has no authority to regulate the rates charged for or entry into the provision of such services. Furthermore, AT&T maintains that IP services should not be subject to state regulation, intercarrier compensation should die along with the TDM network, and the distinction between telecommunications and information services should be eliminated. Finally, AT&T recommends imposing automatic sunsets on all FCC rules.

Verizon and CenturyLink make similar recommendations to those of AT&T. Verizon contends Congress should strive for a new policy framework characterized by lighter touch regulation and recognize that broadband services and the Internet are inherently interstate services. Consequently, Verizon argues that the new framework should be applied at the federal level and state/local regulation should be pre-empted. CenturyLink advocates disbanding ILEC-specific regulation, dispensing with the telecommunications/information services distinction and applying sunsets to all of the Act's provisions.

Like the RBOCs, the so-called “think tanks” seek substantial modifications to the Act. The conservative American Enterprise Institute (AEI) recommends transferring the competition and consumer protection functions of the FCC to the FTC and creating a specialized agency to oversee federal universal service programs. The equally conservative Mercatus Center (Mercatus), a research center based at George Mason University, would base the Act on the FTC Act (which forbids unfair competition and unfair or deceptive trade practices) and vest the FCC's rulemaking authority in a single official located in the executive branch. Mercatus also recommends radical changes to the USF, including capping the overall size, distributing funding through performance-based block grants to the states and basing contributions on a “numbers” tax. Finally, Mercatus advocates limiting state regulatory powers, perhaps even eliminating basic local service rate regulation except in clear instances of monopoly provision. Similarly, the Free State Foundation recommends eliminating the “silo” regime and

*(Continued on page 4)*

[Return to  
Table of Contents](#)



(Continued from page [3](#))

transferring the FCC's privacy and data security regulation to the FTC.

Comments from CLECs and wireless carriers focused on interconnection and the telecommunications/information services distinction. COMPTEL wants legislation ensuring interconnection between networks and wholesale access to transport facilities at reasonable rates. Likewise, the Competitive Carriers Association argues the Act should ensure competitive wireless carriers are able to interconnect with incumbents not only for voice and data roaming, but also for backhaul, transport and wireline interconnection. Sprint says any update of the Act must preserve and promote interconnection and guarantee access to essential bottleneck facilities. Both the American Cable Association and the National Cable and Telecommunications Association support the FCC's distinction between telecommunications and information services – arguing it protects broadband service from burdensome common carrier regulatory treatment.

State regulators are not convinced that the Act requires substantive modification. NARUC claims the Act gives the FCC all the flexibility it requires to update its regulatory practices. NARUC emphasizes that Congress should not reduce authority reserved for the states in the Act in any re-write, including: interconnection arbitration, authority over access to federal USF programs, public welfare, quality of service and consumer safeguards. NARUC also wants Congress to increase the required collaboration between the FCC and state regulators. NASUCA supports disposing of the distinction between telecommunications and information services and extending Title II common carrier rules to IP voice and broadband services, including the requirement for rates to be just and reasonable and affordable.

**TCA View:** *The wide ranging opinions exhibited belie the notion that Congress may amend the Act in a significant way anytime soon. The various players are simply too far apart to reach a consensus, and Congressional gridlock is at such heightened levels that even an industry consensus would face an uphill battle. The Committee's invitation to provide input may simply be a way for House members to demonstrate to their industry supporters that they have not forgotten about them.*

**TCA Contact:** [Curt Huttzell](#)

## Cybersecurity Framework Finalized

The Obama Administration has announced the completion of the voluntary [Cybersecurity Framework](#) which was developed by the National Institute of Standards and Technology (NIST) (see *TCA Regulatory View*, November 2013). The framework is intended to assist companies with developing and implementing a plan to address cybersecurity threats. To accomplish this, the Framework provides industry standards and best practices to “help organizations manage cybersecurity risks.”

(Continued on page [5](#))

## Study Area Boundary Submission Reminder

Revisions to Study Area Boundaries to reconcile overlaps are due **March 17**

This due date had been extended by the FCC to allow more time for coordination with neighboring ILECs.

Additional information including ILEC login, filing instructions and FAQs can be found on the link below:

[Study Area Boundary Data Collection](#)

[Return to Table of Contents](#)



(Continued from page 4)

The Framework consists of three parts:

1. Core – with 5 functions (Identify, Protect, Detect, Respond, Recover) along with categories and references to describe common cybersecurity activities;
2. Profile – aligns industry best practices to the Core and contains a self-assessment used to identify areas for improvement;
3. Tiers – rates the organization’s “readiness” to respond to threats.



Concurrently, the Department of Homeland Security announced the launch of its [Critical Infrastructure Cyber Community \(C3\) Program](#) to assist service providers with understanding and utilizing the Cybersecurity Framework. The C3 Program is intended to accomplish the following:

1. Increase cyber resilience;
2. Increase awareness and use of the Framework; and
3. Encourage organizations to manage cybersecurity as part of an all hazards approach to enterprise risk management.

**TCA View:** *Despite attempts by NIST to improve its initial draft, the Framework remains overly complex and cumbersome to navigate – especially for small companies. Fortunately, the use of the Framework is voluntary, however, many anticipate that it will become mandatory in the future. TCA will be providing frequent updates on this increasingly important topic to our clients to ensure policies and procedures are in place to address cybersecurity risks.*

TCA Contact: [Stacey Brigham](#)

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## Windstream Agrees to \$2.5M Fine For Call Completion Practices

Windstream has entered into a consent decree with the FCC, agreeing to a \$2.5 million “contribution” to end the investigation into the company’s rural call completion practices. Windstream has also agreed to implement a three-year plan designed to ensure compliance with the rules adopted in the FCC’s *Rural Call Completion Order*.

Windstream serves retail long distance customers primarily through intermediate providers, commonly referred to as least-cost routers. The rural call completion problems leading to the FCC’s investigation arose from the practices of PAETEC prior to its purchase by Windstream.

Announcing the decree, Michele Ellison, Chief of the FCC’s Enforcement Bureau, said “...I’m pleased that Windstream fully cooperated with the FCC’s investigation and committed to taking tangible steps to ensure more reliable service to rural America.”

Essential requirements of Windstream’s compliance assurance plan include:

- Designating a senior corporate compliance officer to focus on rural call completion issues;
- Cooperating with the FCC and rural LECs to establish a testing program evaluating rural call completion

(Continued on page 6)

[Return to  
Table of Contents](#)



(Continued from page [5](#))

performance whenever complaints or data indicate problems;

- Notifying intermediate providers that may be causing call completion problems and analyze and resolve such problems as soon as practicable;
- Ceasing to use intermediate providers that fail to improve their performance;
- Instituting a comprehensive plan to ensure future compliance with FCC rules;
- Reporting to the FCC any noncompliance with rural call completion rules within 15 days; and
- Filing initial compliance report in 90 days and annual reports for three years.

Windstream's consent decree marks the second time the FCC has taken action against a violator of its call completion rules. Last year Level 3 entered into a consent decree with the FCC involving Level 3's rural call completion practices, including its use and monitoring of intermediate providers. Level 3 agreed to a \$975,000 forfeiture to resolve the FCC's investigation.

**TCA View:** *The actions against Windstream and Level 3 demonstrate that the FCC is finally getting serious about enforcing its call completion rules. The FCC's recent Rural Call Completion Order combined with enforcement actions hopefully will significantly mitigate rural call completions issues.*

TCA Contact: [Curt Huttzell](#)

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## Accessibility Recordkeeping Compliance Certification Due April 1

The FCC reminds all telecommunications and broadband service providers to [certify](#) that they are in compliance with the Accessibility Recordkeeping Rules and provide contact information. The certifications are due April 1, are accessed by logging in with the company's FCC Registration Number (FRN) and Password, and must be certified by an officer of the company.



Accessibility requirements were adopted in the Telecommunications Act, mandating that service providers ensure their services are accessible to individuals with disabilities, if readily achievable, while requirements for VoIP and broadband providers were adopted later. To ensure compliance with these requirements, the FCC adopted rules requiring all telecommunications and broadband service providers and manufacturers to maintain, for a "reasonable period," records of their efforts to implement these requirements, beginning January 31, 2013. These efforts can include:

1. Information about the provider's efforts to consult with individuals with disabilities;
2. Descriptions of the accessibility features of its products and services; and
3. Information about the compatibility of such products and services with peripheral devices or specialized customer premise equipment commonly used by individuals with disabilities to achieve access.

By April 1 of each year, an officer must certify that records are being kept in accordance with the rules and that the company has operating procedures that are adequate to ensure compliance. The certificate will also require contact information of an individual or department to facilitate customer ability to directly contact providers with issues or concerns and will also be used by the FCC in the event that it receives consumer complaints.

**TCA View:** *The certification itself is a very simple process, merely requiring checking of boxes. However, many companies failed to complete all tabs last year and were sent notifications by the FCC to correct this oversight. Therefore, companies should take care to ensure all sections are completed and saved.*

TCA has created a recordkeeping policy statement to assist our clients' with compliance with these rules. Please contact Stacey Brigham to obtain a copy.

TCA Contact: [Stacey Brigham](#)

[Return to  
Table of Contents](#)



## News From the States

The **Colorado** Public Utilities Commission (CoPUC) Chair, acting as Hearing Commissioner, has issued a recommended decision declaring 56 CenturyLink wire centers to be effectively competitive areas (ECAs). Under the CoPUC rules adopted last year, ECAs are not eligible for state high cost funds and services in ECAs are not subject to regulation – except for emergency services. However, the incumbent will still retain carrier-of-last resort obligations in ECAs. The decision found that three-quarters of the residential subscribers in the 56 wire centers were served by at least five facilities-based providers and concluded that deregulation will promote competition and consumer choice.

**Iowa** Network Services (INS) has filed an application to participate in the FCC’s IP Service-Based Experiments. Initially proposed by AT&T, the IP Experiments are intended to test the impact on consumers of the TDM to IP transition. Specifically, INS proposes to test the transition for Centralized Equal Access (CEA) networks, which aggregate rural traffic and “centralize[s] the provisioning of expensive features and functionalities,” and whether an IP based CEA can “economically advance and accelerate” the IP conversion for the RLECs.

The **Kansas** Corporation Commission (KCC) has approved a stipulation granting a RLEC an annual draw from the state high cost fund of \$1.87 million. The RLEC had originally filed a request for \$4.1 million (derived using a ROE of 18.12%), but ultimately accepted the draw proposed by KCC Staff. The KCC’s decision increases annual RLEC support from the state high cost fund within \$1.1 million of the \$30 million cap, adopted in legislation passed in 2013.

The **Oregon** Public Utility Commission (OPUC) has rejected a request from the state’s RLECs to include “access to broadband” in the definition of basic telephone service. The RLEC petition emphasized the importance of broadband for both residential and business customers and observed that the Oregon Broadband Advisory Council reports more than 74% of state’s residents have broadband access. The OPUC denied the RLEC petition because of insufficient time to study the matter and it directed its Staff to report back with recommendations by March 7.



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[Return to Table of Contents](#)



## Important Deadlines and Due Dates

**March 3, [CPNI Certification](#):** Telecommunications carriers must have an officer, as an agent of the carrier, sign and file a compliance certification. The certification must state: 1) that the officer has “personal knowledge” that the company has operating procedures adequate to ensure compliance with the rules; 2) must provide a statement explaining how its operating procedures ensure that is or is not in compliance; 3) must include an explanation of actions taken against data brokers; and 4) provide a summary of all customer complaints received in the past year concerning unauthorized release of CPNI.

**March 3, [Form 477](#), Local Telephone Competition and Broadband Reporting:** The FCC requires wired, terrestrial fixed wireless and satellite broadband services providers to report per Census Tract and each speed tier in which the provider offers service, the number of subscribers and the percentage of subscribers that are residential. In addition, mobile wireless broadband providers must report the number of subscribers whose data plans allow them to browse the Internet and access Internet content of their choice. Providers of VoIP service are also required to report subscriber information on Form 477.

**March 3, [Copyright Statement of Account Form](#) for Cable Companies:** This form, plus royalty payment for the second half of the previous calendar year. The form covers the period of July 1 to December 31 and is to be mailed directly by cable TV operators to the Library of Congress’ Copyright Office.

**March 8, [FCC Form 497](#), Low Income Monthly Report: Low Income Monthly Report:** All ETCs that request reimbursement for participating in the low-income program must submit to USAC their Lifeline and Link-Up Worksheet. This form must be electronically submitted by the eighth day of each month to receive support in that month. If the form is late or not electronically filed, support will be received the following month.

**April 1, [FCC Form 508](#), Projected Annual Common Line Revenue Requirement:** Each rate-of-return LEC is required to provide information to calculate the Projected Annual Common Line Revenue Requirement to USAC. This information must be submitted by study area, in order for the carrier to be eligible to receive Interstate Common Line Support (ICLS).

**April 1, [FCC Form 499-A](#), Telecommunications Reporting Worksheet:** This form is filed by all contributors to the Universal Service Fund (USF) support mechanisms, the Telecommunications Relay Service (TRS) Fund, the cost recovery mechanism for the North American Numbering Plan Administration (NANPA) and the shared costs of LNP. Contributors include telecommunications carriers that provide interstate, intrastate, and international telecommunications and certain other entities that provide interstate telecommunications for a fee including interconnected VoIP providers. Common carriers that qualify for *de minimis* exemption must also file Form 499-A.

**April 1, [Accessibility Recordkeeping Compliance Certification](#):** All telecommunications and broadband providers must certify that they are in compliance with the FCC’s Accessibility Recordkeeping requirements and provide complaint contact information as part ongoing efforts to make services accessible and usable to persons with disabilities. Providers must certify that they maintain, for a reasonable period, records of efforts to meet requirements to make services accessible and usable

**April 10, [FederalReporting.gov](#):** all ARRA Broadband Stimulus awardees must provide project status information, including number of jobs created or saved for the previous quarter. Awardees should provide separate reports for the loan and grant portions of their award if applicable. This report is due no later than ten days after the end of each quarter.

**April 30, Broadband Stimulus Agency Reports:** all ARRA Broadband Stimulus awardees must provide financial and penetration information to RUS and/or NTIA for the previous quarter. These reports are due no later than 30 days after the end of each quarter.



# March 2014

Look for TCA Consultants at the following meetings

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	
2	3	4	5	6	7	8
		ICA—Iowa Communications Alliance Des Moines, IA				
9	10	11	12	13	14	15
16	17	18	19	20	21	22
URTA Annual Meeting St. George, UT			SITA Spring Meeting Dallas, TX			
23	24	25	26	27	28	29
		CCA Global Expo San Antonio, TX				
30	31					

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[Return to Table of Contents](#)