

REGULATORY VIEW

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FCC Reconsiders USF Reforms

The FCC has adopted a Seventh Order on Reconsideration and a Further Notice of Proposed Rulemaking (FNPRM) that revises several rules adopted in the USF/ICC Transformation Order and addresses many Connect America Fund (CAF) Phase II issues. The FCC also released a Declaratory Ruling that clarifies what constitutes a “reasonable request” for broadband by RLEC customers. The Order has not been released as of the time this article was written.

Local Rate Floor

The FCC will delay, and phase-in over multiple years, the recently-adopted \$20.46 local rate floor (See *TCA Regulatory View*, March 2014). The June 1, 2014 deadline for the increase has been eliminated and replaced with a \$2 increase to a \$16 local rate floor by December 1, 2014. Compliance with the rate floor is necessary to avoid reductions in HCLS beginning January 2015.

During the Open Meeting, Commissioner Pai voiced his disapproval of implementing the rate floor and argued that higher local rates for rural areas than those in urban areas is unfair because it ignores the question of affordability. Pai compared Washington DC (where phone service requires 0.26 percent of the average household income) with Ouachita County Arkansas (where the \$20.46 rate floor would consume 0.77 percent of their

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Register Today!

Conference Highlights

- ⇒ QRA Status & Alternative Regulatory Paths
- ⇒ CAF Phase II and IP Opportunities
- ⇒ D.C. Legislative Update - Tom Wacker NTCA's Vice President of Government Affairs
- ⇒ Wireless Business Panel
- ⇒ Maximize Your Marketing
- ⇒ Cyber Security
- ⇒ Mergers & Acquisitions Panel
- ⇒ Rural Economic Development Initiatives
- ⇒ Executive Leadership

Your TCA Regulatory Consultants

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- Daniel Meszler
- Curt Huttzell



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average household income) and asserts “I cannot fathom how mandating such a result serves the public interest.”

HCLS Changes

The FCC eliminated the capital and operations expense benchmarks established by quantile regression analysis (QRA Caps). The FNPRM will include a proposal to change the manner in which the HCLS cap is implemented potentially moving from a hard cutoff to a proportionate reduction. The FCC has also reinstated Safety Net Additive (SNA) for RLECs qualifying with increased investment for 2010 and 2011.

CAF for RLECs

The FNPRM will request comment on several proposals for a CAF for RLECs, including the Data-Only Broadband plan proposed by the Rural Associations (see *TCA Federal Regulatory Update*, Issue 13-6, May 17, 2013) and optional Alternative Regulation plan proposed by ITTA (see *TCA Regulatory View*, March 2014). Purportedly, the FCC will also request comment on a proposal being developed by the Wireline Competition Bureau for creating a CAF that supports broadband deployment for RLEC areas.

CAF Phase II

The FCC also adopts rules on the competitive bidding process for CAF Phase II support. Specifically, in the event that the price cap LECs decline their right of first refusal, the FCC will streamline the ETC designation process and allow non-traditional providers (electrical coops, cable operators etc.) to participate as long as they meet the service quality standards. Claiming that 98% of customers in urban areas have access to broadband downstream speeds of at least 10Mbps, the FCC proposes to increase the minimum speed from 4/1 to 10/1 and is also exploring increases to the minimum upload speed.

In a separate [Order](#), the FCC announced that it has adopted a final version of the Connect America Cost Model (CACM) and released a [list](#) of eligible census blocks (subject to an upcoming challenge process). The funding threshold is set at \$52.50 with an extremely high cost ceiling set at \$207.81.

CETC Support and Mobility Fund Phase II

Prior to the Open Meeting, it was rumored that the FCC may reconsider halting the phase down of CETC support (which is slated to go into effect on June 30 if the Mobility Fund Phase II was not operational and would freeze CETC support at current levels until the fund is implemented). However, Commissioner Clyburn’s statement appears to indicate that this halt was not eliminated – and that CETC support will indeed freeze after June 30.

The FCC is seeking comment on repurposing Mobility Fund Phase II to support areas that do not have access to 4G LTE. Presumably, this would only include areas that are not covered by Verizon or AT&T’s LTE footprint.

TCA View: *Upon release of the Order, TCA will analyze the details and will communicate pertinent information to our clients. The validity of the FCC’s method for calculating the local rate floor is debatable as it neglects regional differences in rates and economic factors. As Commissioner Pai has indicated, this calculation may be another item that the FCC should reconsider.*

It is very good news that the FCC has reconsidered QRA and SNA rules that were damaging to so many RLECs. However, RLECs need to remain engaged as the FCC evaluates alternatives for the QRA and a CAF for RLECs to ensure the replacement is not worse than the original.

TCA Contact: [Stacey Brigham](#)

Navigating 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.

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FCC Receives Rural Broadband Experiments Recommendations

On January 31, the FCC released the IP Trials Order and FNPRM, which included a provision allocating a small amount of unused CAF funds for Rural Broadband Experiments (RBEs). The FCC first solicited proposals - in the form of Expression of Interest (EOI) letters - for deploying broadband in both unserved price cap LEC and RLEC service areas. After receiving more than one thousand EOIs, the FCC sought comment on the scope of the RBEs and the rules for allocating funding.

Specifically, the FCC requested comment on its proposed budget for the RBEs of \$50-\$100 million, ETC designations, right of first refusal for RBEs in RoR LEC areas, and the selection criteria – which include the cost effectiveness of the proposal, how robust/scalable the network would be, innovative strategies to leverage non-Federal funding, and connectivity to Tribal lands.



The FCC received more than 30 comments including comments from TCA. TCA asserted that the RBEs will be most successful by prioritizing entities that have experience in deploying broadband and are willing to leverage non-federal funding. TCA also stressed that the FCC should be mindful of the role RLECs play in their communities by providing them with a “right of first refusal” for projects in their area and that the use of the Connect America Cost Model (CACM) for determining eligible locations in RLEC areas is inappropriate. Finally, TCA asserted that the FCC’s 60 day limitation on state commission ETC proceedings is only appropriate for existing ETCs and their subsidiaries.

The Rural Associations concurred with many of TCA’s of the same positions. Additionally, the Associations requested the FCC clarify how the RBEs will be coordinated with existing federal USF programs and recommended that it not “sidetrack” the updating of existing support mechanisms. The California PUC (CPUC), urged the FCC to consider providing funding to non-traditional broadband providers and opposed giving LECs priority treatment. The CPUC also recommends funding experiments at the census block rather than census tract level, that cost effectiveness should always be the primary concern, and adding a fifth selection criterion - the proportionate share of a state’s contributions to the federal USF. Finally, USTelecom agreed with the FCC’s proposed budget, recommended funding be allocated based solely on the cost-effectiveness of the experiment and that service requirements follow the CAF Phase II requirements.

The Rural Associations also filed reply comments, which reiterated many of their initial recommendations and also requested the FCC adopt clear guidelines for the RBEs that focus on consumer protection and accountability. The Fiber to the Home (FTTH) Council championed cost-effectiveness as the primary selective criterion - with extra consideration given to scalable all-fiber broadband networks able to provide ultra-high-speed connectivity to rural areas. RICA urged that all unused CAF funds be made available for RBEs, instead of the FCC’s proposed \$50-100 million budget.

TCA View: *Based on recent FCC statements, it appears that RBEs will be very limited – and will not come close to approaching the EOIs filed. This is not necessarily a negative outcome as the RBEs offer both opportunities and threats for RLECs. More importantly, the FCC needs to develop a plan providing RLECs access to the CAF for broadband deployment.*

TCA Contact: [Daniel Meszler](#)

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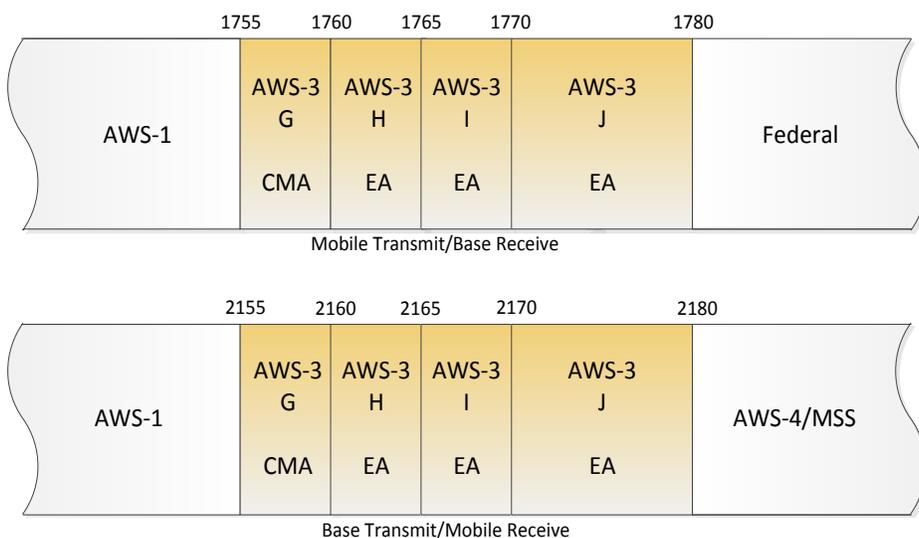


Wireless Issues Update

The FCC has released several wireless items and upcoming spectrum auction information.

AWS-3 Auction

The FCC has released [technical rules](#) that will govern the AWS-3 spectrum, which is expected to be auctioned later this year. The FCC has paired the 2155-2180MHz band (to be used for uplink) with the 1755-1780MHz band (to be used for downlink). These bands will be broken out into four blocks titled G-J. The AWS-3 G, H and I blocks are 5MHz down and up and the J block will be 10MHz down and up. The G block will be licensed at the Cellular Market Area (CMA) level and all others will be licensed at the Economic Area (EA) level. The FCC provides the following graphical illustration of this plan:



In addition to these paired spectrum bands, the FCC has also made two unpaired blocks (one includes 5MHz and the other 10MHz) available in the 1695-1710MHz band, which may be used for uplink operations and will be shared with federal meteorological satellite users.

The FCC will require that all AWS-3 devices be interoperable between the blocks and also with the AWS-1 band, which is adjacent to AWS-3.

E911

The FCC has released a [Third Further Notice of Proposed Rulemaking](#) (FNPRM) that proposes to enhance indoor location accuracy for mobile wireless providers. Comments and Replies are due May 12 and June 11, respectively.

(Continued on page 5)

FCC Form 481 Reminder

Filings are due by July 1, 2014

USAC has released the templates to be used this year

TCA has created a template for the 5-year build-out plans for RLECs filing this for the first time

For those unable to attend USAC's webcast on the Form 481, a recording of the webcast and slides are available here:

[Walking Through the Form 481](#)

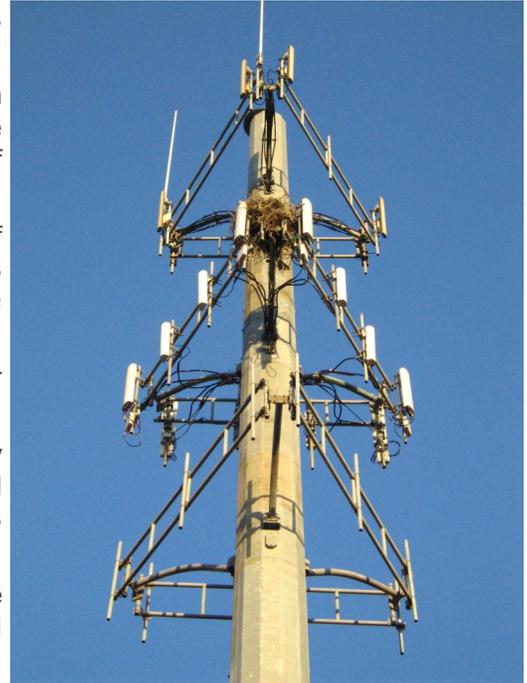
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Among other things, the FCC is proposing the following requirements for CMRS providers:

- Provide horizontal location (x- and y-axis) information within 50 meters of the caller for 67 percent of 911 calls made indoors within two years of the effective date of adoption of rules, and for 80 percent of indoor calls within five years.
- Provide vertical location (z-axis) information within 3 meters of the caller for 67 percent of indoor 911 calls within three years of the adoption of rules, and for 80 percent of calls within five years.
- Meet the above indoor requirements at either the county or PSAP geographic level.
- Demonstrate compliance with indoor location accuracy requirements by participating in a test bed program modeled on the indoor test bed administered by the Communications Security, Reliability, and Interoperability Council (CSRIC).

The FCC also allows PSAPs to seek enforcement of these requirements within their jurisdictions, after they have implemented location bid/re-bid policies that are designed to obtain all 911 location information made available by mobile wireless providers.



600MHz Broadcast Whitespaces Incentive Auctions

The FCC announced it will vote on an Order next month that would set standards for the 600MHz Auction. It is expected that this Order will set the bidding area at Partial Economic Areas (proposed and negotiated by the Competitive Carriers Association (CCA), NTCA and the Rural Wireless Association (RWA). Chairman Wheeler and others have also publicly announced that the Order will include spectrum aggregation limits for bidders that own significant spectrum below 1GHz (i.e., AT&T and Verizon), which will limit the amount of spectrum these providers can obtain, making more available for smaller providers.

TCA View: *Fortunately, the FCC's AWS-3 band plan is an improvement over the initial tentative band plan, which would have created two 10MHz paired band at the EA geographic level and only one 5MHz at the CMA level. CCA and other stakeholders voiced concern that this plan would benefit AT&T and Verizon by providing one large block of spectrum for each - leaving the 5MHz block for all other providers to fight over. Not only would this deprive many rural carriers access to spectrum, it would have potentially produced the irrational outcome of lower prices for the 10MHz blocks and higher prices for the 5MHz. The FCC's new band plan is more likely to result in AT&T and Verizon bidding against each other, which will almost certainly result in higher bids in the J block and likely the H and I blocks as well.*

The E911 FNPRM (while understandable from a public safety perspective) is troubling in that it is one more unfunded mandate from the FCC on small wireless providers.

Finally, it is heartening to see the FCC make commitments to promote competition in the 600MHz auction. While the spectrum aggregation limits have drawn fire from AT&T (who has threatened to not participate in the auction as a result), Chairman Wheeler has held firm on this concept essentially calling AT&T's bluff by saying he doesn't believe any carrier that has repeatedly voiced its need for more spectrum will actually stay away from the auction.

TCA Contact: [Stacey Brigham](#)



News from the States

The **Georgia** Public Service Commission (GPSC) has approved its Staff's recommendation that the FCC's existing cost allocations are sufficient to prevent regulated services from cross-subsidizing deregulated services. Several competitive providers had contended that ILECs providing voice, data and video use less than 10% of the local loop transmission facilities for basic local service – and that these costs should not be considered in determining state high cost funding. Staff disagreed and found that FCC rules allocating loop investment (75/25% between intrastate and interstate operations) properly assign costs – and that even assuming the GPSC had the authority to modify the allocation – could result in less federal USF, thereby increasing state high cost funding for RLECs, instead of decreasing it.



The **Iowa** Utilities Board (IUB) has waived several rules for ETC reporting requirements in response to a request from RLECs to make the state certification process more consistent with the FCC's reporting requirements. The IUB waived its May 2 filing deadline and instead will adhere to the FCC's July 1 filing deadline and also replaced its outdated certification form with one that includes the newly required federal information. The IUB has indicated that it will launch a rulemaking in May to permanently modify the ETC annual certification rules making them more consistent with the federal USF high-cost and Lifeline programs.

The **Kansas** Corporation Commission (KCC) has received comment on applying the state high cost fund assessment and record retention requirements – primarily directed at plans and bundled packages offered by wireless carriers and VoIP providers. RLECs asserted that there is no such thing as a “free” voice service offering and recommended that the state's affordable local rate be imputed. While Verizon substantially agreed with the RLECs, CenturyLink claimed that a separate investigation is needed due to the “complexity of the issues.” The KCC initiated this proceeding in response to concerns expressed by the fund administrator that revenues were not being reported consistently by carriers – and that electronic billings records were not being retained to enable audits of contributions.

The **Nebraska** Public Service Commission (NPSC) is seeking comment on its proposed pilot program, which would subsidize broadband service for low-income customers with a \$10 monthly discount. The NPSC proposes to divert \$2 million from the \$9 million state Broadband Fund to create the fund for consumers that currently qualify for the Lifeline Program and asks whether the proposed discount is reasonable. The NPSC also requests metrics for measuring the success of the program and whether there is relevant data from other broadband adoption programs that should be considered.



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Important Deadlines and Due Dates

May 1, [Rate Integration Certification \(Section 254\(g\)\)](#): Non-dominant IXCs that provide domestic interstate services, (long distance), must certify that they are providing such services in compliance with their geographic rate averaging and rate integration obligations. These obligations specify that: 1) rates in rural and high cost areas are no higher than in urban areas, and 2) providers of long distance shall provide such services to its subscribers in each U.S. state at rates no higher than the rates charged to its subscribers in any other state. An officer of the company must sign this annual certification under oath.

May 2, [FCC Form 499-Q, Telecommunications Reporting Worksheet](#): All carriers that expect to contribute more than \$10,000 to federal Universal Service Fund support mechanisms must file the quarterly report.

May 8, [FCC Form 497, 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.

May 31, [FCC Form 395, Employment Report](#): Carriers, including wireless carriers, with 16 or more full time employees must file their annual Common Carrier Employment Reports. This report tracks carrier compliance with rules requiring recruitment of minority employees. Further, the FCC requires all common carriers to report any employment discrimination complaints they received during the past year. The FCC encourages carriers to complete the discrimination report requirement by filing out section V of Form 395 rather than submitting a separate report.

June 8, [FCC Form 497, Low Income Monthly Report](#): See May 8 description.

June 30, Annual ICLS Use Certification: Rate of return (RoR) LECs and CETCs **must** file a self-certification with the FCC and the USAC stating that all Interstate Common Line Support (ICLS) and Long Term Support (LTS) will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Carriers are required to certify that their ICLS and LTS support is being used consistent with Section 254(e) of the Communications Act. **Failure to file this self-certification will prevent the carrier from receiving ICLS support.**

July 1, [FCC Form 481, Annual Reports](#): Rate of return (RoR) LECs and CETCs are required to file the following annual reporting requirements mandated by the USF/ICC Transformation Order: 1) five year service quality improvement plan, 2) data and explanatory text concerning outages of at least 30 minutes in duration; 3) number of unfulfilled requests for service from potential customers in the previous calendar year and details about attempts to provide them service; 4) number of complaints received per 1,000 connections in the previous calendar year; 5) certification of compliance with applicable service quality standards and consumer protection rules; 6) certification of the ability to function in emergency situations, and 7) all flat rates, plus state-mandated fees, for local residential service and all rates below the local urban rate floor, 8) list of holding companies and affiliates, 9) tribal engagement information, 10) voice service rates comparability certification, 11) terms and conditions for lifeline subscribers, 12) RUS Operating Report or audited financial statements or equivalent.

July 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.

July 31, [FCC Form 507, Universal Service Annual Line Count Update](#): All rate of return (ROR) incumbent LECs must file updated line counts with USAC by July 31 each year.



May 2014

Look for TCA Consultants at the following meetings

| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
|---|---|-----|--|-----|-----|-----|
| | | | 1 | 2 | 3 | |
| 4 | 5 | 6 | 7 | 8 | 9 | 10 |
| NTCA PR & Marketing Workshop Seattle, WA | | | | | | |
| 11 | 12 | 13 | 14 | 15 | 16 | 17 |
| 18 | 19 | 20 | 21 | 22 | 23 | 24 |
| | WSTA Annual Convention Lake Geneva, WI | | | | | |
| | NTA Spring Conference Omaha, NE | | | | | |
| 25 | 26 | 27 | 28 | 29 | 30 | 31 |
| | | | TCA Management Conference Westminster, CO | | | |

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