

REGULATORY VIEW

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FCC Receives Recommendations for CAF for RLECs

The FCC received comments from approximately fifty parties in response to the FNPRM that was released with the 7th Reconsideration (Omnibus) Order. The FNPRM requested comment on several topics including: 1) several proposals for a CAF for rate-of-return LECs; 2) increasing the broadband speed target from 4/1 to 10/2; and 3) reducing support in areas served by an unsubsidized competitor. While the larger LECs kept their comments focused on CAF II, there were numerous comments on RLEC concerns.

TCA comments supported the Rural Associations' proposal for USF for Stand-alone Broadband (SABB) as the best way of meeting the FCC's principles to: (a) remain within the existing \$ 2 billion RLEC budget; (b) distribute support equitably and efficiently; (c) determine support using forward-looking costs; and (d) prevent double recovery. TCA agreed with the FCC's proposal for increasing the broadband speed standard from 4/1 to 10/1. TCA urged the FCC to not reduce support in RLEC areas in

(Continued on page 2)

Inside this Issue:

Federal Issues Update	3
Suggested Upcoming Webinars	4
FCC Details E-Rate Reforms	5
RBE Applications Due October 14	6
AWS-3 Auction Short Forms Due September 12	6
News from the States	7
Important Deadlines and Due Dates	8
Event Calendar	9



Mystery in the Mountains
TCA Financial Conference
SEPTEMBER 10-12, 2014

THE STANLEY HOTEL
ESTES PARK, COLORADO
Minutes from DIA
CONTACT ERIN HADDOCK AT ehaddock@tcatel.com
OR
719-266-4334 WITH QUESTIONS
www.tcatel.com/fc14



Your TCA Regulatory Consultants

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



(Continued from page 1)

“competitive” census blocks and to retain the current qualifications of an unsubsidized competitor. Finally, TCA opposed the FCC’s proposal to change the existing method of capping HCLS.

The Rural Associations (NTCA, WTA, ERTA, NECA, and several state associations) disagreed with the FCC’s proposal to reduce support in RLEC areas served by unsubsidized competitors saying that it would raise substantial public interest questions especially concerning COLR obligations. They explained that their SABB support mechanism not only satisfies the FCC’s principles, but provides the simplest and easiest way to implement. The Rural Associations agreed with increasing the data speed to a 10/1 - as long as there are clear guidelines concerning requests for service and predictable and sufficient funding - but asserted increasing upload speeds is more technologically problematic and would dramatically increase costs.

The FTTH Council advocated for all fiber networks – which it contends will “future proof” investments from concerns of increased speed needs.

The Small Company Coalition (SCC) recommended their SABB support mechanism – which is based upon modifying the FCC’s existing Part 36 rules. Specifically, broadband costs would be removed from Special Access into a Broadband HCLS. While the SCC claims that their SABB would remain within the FCC’s budget, they also state that individual loop costs of RLECs would not be necessarily capped but would discourage the FCC’s so called race to the top by instead triggering focused reviews while still staying within budget.

The Nebraska Rural Independent Companies (NRIC) supports allowing RLECs to voluntarily switch to model based support – and while the CACM is a reasonable starting point for a RLEC model, it requires adjustments for study areas and cost inputs. NRIC supports RLEC SABB support, but contends that it must go hand in hand with USF contributions reform. NRIC recommended that the \$2B budget be re-sized annually to ensure sufficient funding and that the move to 10/1 cannot be made without additional support.

Blooston Rural Carriers also suggested that moving the minimum speed to 10/1 should only be made if support will be made available for those increased speeds. Blooston made the comment also that the Mobility Fund should only be made available for 4G investments.

Dish Networks requested that the FCC raise its latency requirements from 100 milliseconds to 500-750 milliseconds and lower the monthly data caps from 100 Gb to 10 Gb to enable satellite providers to compete for CAF II funds.

While the Missouri PSC stuck primarily to addressing CAF II, it did state that both rural and urban areas need equal access to broadband, and that there should be flexibility in the way obligations are met – such as less than 100% build out with a hand in hand reduction in support and swapping high cost locations for other identified eligible locations. They also stressed the need for increased accountability.

The Utah PSC commented that mobile penetration is overstated in CAF II. They also contended that the wide disparity in the size of census blocks (ranging from 4 acres to 946 square miles) renders it inherently flawed for the

(Continued on page 3)

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.

[Return to
Table of Contents](#)



(Continued from page 2)

CACM – as a competitor claiming to serve one customer in a census block eliminates the entire block from receiving USF.

CTIA – the Wireless Association, stressed that CAF II should be technologically neutral and that performance standards reflect broadband services to encourage spectrum based wireless bidders. CTIA also maintained that the Mobility Fund Phase II should be kept at an ongoing \$500 million level while phasing out the identical support rule gradually to avoid loss of service.

TCA View: *The majority of comments on RLEC issues advocate for a CAF that will provide funding for broadband only customers. TCA agrees that the Rural Associations' SAAB mechanism is the easiest to implement and most likely to secure FCC approval. Also, the RLEC industry is in substantial agreement that a requirement for 10/1 data speed is appropriate - as long as there is sufficient support.*

TCA Contact: [Daniel Meszler](#)

Federal Issues Update

USF Contribution Referral

The FCC has [requested](#) the Federal-State Joint Board on Universal Service (Joint Board) recommend modifications to USF contribution method by April 7, 2015. The FCC notes that since the 1996 Telecom Act contributions have been based on interstate retail revenues, but network convergence and technological innovation have made this system increasingly complex and difficult to administer. The FCC requests the Joint Board consider improving the efficiency, fairness and sustainability of the contribution system in its recommendation. The eight-member Joint Board is comprised of three FCC commissioners (Clyburn, Rosenworcel and Pai), four state commissioners (Cawley-PA, Boyle-NE, Bloom-OR and Nelson-SD) and one state consumer advocate (Katz-CT).

Definition of Unsubsidized Competitor

The Rural Associations [requested the FCC to clarify](#) the process by which it will identify and verify the presence of an “unsubsidized competitor” in RLEC service areas. The FCC’s *USF/ICC Transformation Order* determined that RLEC service areas 100% covered by an unsubsidized competitor were not eligible for CAF support. However, the FCC’s *Omnibus Order* appeared to propose that it identify “unsubsidized competitors” by simply reviewing its study area maps and Form 477 data. Accordingly, the Rural Associations seek clarification the FCC did not intend to adopt a simplistic approach to identify 100% competitive overlap - but intended to initiate discussions about the development of a more detailed approach. Alternatively, if the FCC intends not to go beyond this simplistic approach the Rural Associations seek reconsideration and urge the FCC to allow RLECs to propose a data-driven, detailed process.

Urban Rate Floor

The Rural Associations have [requested the FCC to reconsider](#) the method used by the Wireline Competition Bureau (WCB) to calculate the 2014 local service rate floor of \$20.46. Specifically, the Rural Associations seek reconsideration of the WCB’s use of a weighted averaging method to produce the rate floor and instead advocate for using standard deviations in conjunction with the average rate.

The Rural Associations warn that the consequences of using the wrong calculation method are severe – and will ultimately result in over 1.5 million rural consumers incurring local voice service rates increasing by up to 46 percent. The Rural Associations assert that these rate increases will harm access to service for some of the most vulnerable consumers in rural parts of the nation and impose a disproportionate burden on older

(Continued on page 4)

[Return to
Table of Contents](#)



(Continued from page 3)

Americans. Should RLECs fail to make the required local rate increases, the Rural Associations estimate they will lose up to \$81 million in USF annually.

The Rural Associations emphasize that had the WCB used the standard deviation approach for the minimum rate – as it did for deriving the maximum local rate - the resulting rate floor would have been either \$12.44 (based on a two-standard deviation standard) or \$16.45 (based on a one-standard deviation standard). The Rural Associations contend that local rates within this range are more what the FCC and the industry anticipated when this process was initiated and are commonly available in large cities.

Part 32 Streamlining NRPM

The FCC has issued an [NPRM](#) calling for a comprehensive review of the Part 32 Uniform System of Accounts (USOA) – with the objective of reducing regulatory burdens while maintaining access to necessary data. While the NPRM is primarily aimed at price cap LECs, the FCC does request comment on the applicability of its streamlining proposals for RLECs.

The NPRM seeks comment on how USOA rules differ from GAAP accounting and the extent to which the USOA could be modified. The NPRM identifies the following areas of inquiry for better aligning USOA accounting with GAAP:

1. Recording acquired plant at original versus acquisition cost
2. Straight-line versus accelerated depreciation
3. Recording gains or losses for cost of removal and salvage
4. Using only the cost of debt in calculating Allowance for Funds Used During Construction (AFUDC)
5. Considering materiality in the recording of transactions
6. Obtaining preapproval from the FCC for recording prior period adjustments and extraordinary items

In addition, the NPRM invites comment on whether more closely aligning USOA with GAAP might affect the rates of RLECs and the FCC's ability to evaluate those rates.

The NPRM also proposes requiring price cap carriers comply with a more limited set of accounting rules targeted to particular statutory needs. The statutory needs identified in the NPRM include the following:

1. Computation of pole attachment rates
2. Access charge imputation
3. Cross-subsidization of competitive services

TCA View: *The FCC's referral of USF contributions to the Joint Board appears to be designed to provide some "cover" for resolving this highly controversial issue. It will be interesting to see what the state regulators propose. We do not expect the FCC to change its stance on the urban rate floor. Finally, we anticipate that state regulators will oppose modifications to the USOA for RLECs – and any streamlining will primarily apply to price cap LECs.*

TCA Contact: [Curt Huttzell](#)

Suggested Upcoming Webinars

**September 5,
2:00pm ET**

The FCC will hold a second [webinar](#) for FCC Form 477 Filers

**September 10,
2pm ET**

The FCC will hold a [webinar](#) covering the new 911 reliability obligations for ILECs serving PSAPs

**Wednesdays,
10am ET**

USAC holds a [weekly webinar](#) to discuss updates on the National Lifeline Accountability Database (NLAD) and allow users to ask questions and hear discussions from others in the industry

[Return to
Table of Contents](#)



FCC Details E-rate Reforms

The FCC has released the [Order](#) detailing reforms to the E-Rate program (see *TCA Regulatory View*, July 2014). Last month, the FCC adopted significant reforms to Schools and Libraries USF (E-rate) in order to meet the new goals it established for the program: 1) Ensuring affordable access to high-speed broadband sufficient to support digital learning in schools and robust connectivity for all libraries, 2) Maximizing the cost-effectiveness of spending for E-rate supported purchases, and 3) Making the E-rate application and other E-rate processes fast, simple and efficient.

To ensure affordable access to high-speed broadband the FCC will:

- Set an annual funding target of \$1 billion for funding for WiFi (and other internal connections) needed to support high-speed broadband within schools and libraries;
- Test a more equitable approach to funding internal connections in funding years 2015 and 2016 by increasing the minimum contribution rate from 10 to 15 percent; and
- Phase down support for voice services and eliminate support for other legacy services (such as paging) to reorient the E-rate program to focus on supporting high-speed broadband

To maximize cost-effectiveness, the FCC adopted rules to require the public disclosure of the awarded funding in 2015. The FCC contends that some providers inflate their pricing when bidding on E-rate contracts and reminds all providers that they must offer the lowest corresponding price for services (i.e., prices offered to commercial customers for similar services).

The FCC also took several steps to streamline the E-rate application process by:

- Simplifying the application process for multi-year contracts;
- Exempting low-cost, high-speed business-class broadband Internet access services from the competitive bidding requirements;
- Easing the signed contract requirement;
- Removing the technology plan requirement;
- Requiring electronic filings; and
- Enabling direct connections between schools and libraries.

The FCC adopted measures to simplify and streamline other aspects of E-Rate, including:

- District-wide discount rates rather than an individual discount rate for each school building;
- Use of Census Bureau definition of urban and rural for determining the available discounts. Districts will be designated urban or rural based on the designation of the majority of their schools;
- Changes to the national school lunch program and modifying the requirements for applicants using surveys;
- Allowing direct invoicing by schools and libraries that opt to utilize the Billed Entity Applicant Reimbursement process rather than requiring disbursements to pass through the service provider;
- Codifying USAC's 120 day invoicing deadline;
- Creating a Tribal consultation, training and outreach program to better understand the needs of schools and libraries on tribal lands;
- Requiring all appeals to be addressed by USAC before filing with the FCC; and
- Directing USAC to improve the administration of the program by increasing transparency and creating online portals for submitting information.

Finally, the FCC has extended the document retention deadline to 10 years to match the timeframes adopted in other USF programs.

(Continued on page 6)

[Return to
Table of Contents](#)



(Continued from page 5)

TCA View: Comments from all Commissioners make it clear that this is intended to be a first step toward further reforms of the E-rate program. Disturbingly, the FCC followed its E-Rate changes by releasing a [map](#) purporting to represent fiber connectivity for schools and libraries, which grossly understated connectivity in RLEC areas. It is likely that the FCC will rely upon this map for future E-Rate reforms necessitating that it contain accurate information. Accordingly, TCA recommends all clients review the FCC's map and, if necessary, provide the FCC with any corrections.

TCA Contact: [Stacey Brigham](#)

RBE Applications Due October 14

The FCC has [adopted the application submission and evaluation process](#) for the [Rural Broadband Experiments](#) (RBEs) and provided a list of [FAQs](#) to assist potential bidders. As anticipated, the FCC will require its spectrum auction platform to be used for submitting applications (see *TCA Regulatory View*, July 2014) and bids must be received by **6pm ET on October 14, 2014**.

Bidders may only file one application, but the application may propose multiple projects. Bidders will assign a unique Bid Project ID and list all census blocks for each project. Bidders may also designate a project as contingent upon the award of another project. The FCC has also clarified that support requests and eligible locations may be rolled up to the project level and do not need to be broken out by census block.

The FCC has also established its evaluation criteria for determining winning bids. Because this process is intended to test the competitive bidding mechanism for CAF Phase II, the FCC has chosen to evaluate projects based on the sole criteria of "cost effectiveness". For Category 1 & 2 projects, the FCC will rank bids in order of the ratio of cost bid per location versus CACM cost per location. For example, if the model established \$100/location to serve an area and a bidder requested \$70, their project would be given a score of 0.7. If another bidder proposed to serve an area where the model established \$50 and the bidder matched this amount, their project would be given a score of 1.0 and the first project would be prioritized over the second due to its lower score.

The FCC also adopted one change from its July Order; it eliminated the challenge process for the RBEs (see *TCA Regulatory View*, July 2014). The FCC had previously indicated that awarded projects would be subject to a challenge process before any disbursements occurred. However, the FCC has decided that because it is currently engaged in the CAF Phase II challenge process, it is unnecessary to hold yet another challenge for the same areas under the RBEs a couple of months later.

TCA View: TCA is available to assist clients with evaluating whether to participate in the RBEs. Additionally, TCA has created a data collection and narrative template for clients interested in filing applications. Please contact Stacey Brigham to request your copy.

TCA Contact: [Stacey Brigham](#)

AWS-3 Auction Short Forms Due September 12

The FCC has opened the AWS-3 Auction 97 Portal to allow potential participants to begin populating the Short Form Applications (FCC Form 175).

The FCC has also launched a tutorial providing guidance on the auction participation from beginning to end.

All partnerships or agreements must be disclosed in the Short Form, bidders may not communicate about auction strategy with each other after the short forms are filed.

[Return to
Table of Contents](#)



News from the States

The **Colorado** Public Utilities Commission (CoPUC) has received a request from CenturyLink (CTL) to allow it to relinquish its provider-of-last-resort (POLR) obligations in 56 wire centers. Earlier this year, the CoPUC declared these wire centers “effectively competitive” and eliminated CTL’s state high cost funding. CTL notes that the CoPUC has determined that all customers in these wire centers “have a multitude of choices” for obtaining service – therefore, there is no need to establish a POLR and single out any one carrier to undertake the regulatory burden. CTL also argues that under recent telecom reform legislation POLR obligations in the 56 wire centers will end as a matter of law on July 1, 2016.



The **Nebraska** Public Service Commission’s (NPSC) decision to revoke ETC designation of a wireless Lifeline ETC was overturned by the state’s Supreme Court. Last year the ETC held an event to increase Lifeline subscribership in Omaha without notifying the NPSC or using its required state Lifeline forms. The NPSC subsequently opened a show cause proceeding, which ultimately resulted in the revocation of the carrier’s ETC designation. The Court ruled that the decision was “excessive” and that the NPSC has other methods of penalizing companies for non-compliance with its regulations, such as fines, which would be more “appropriate.” The Court has remanded the case back to the NPSC and directed it to consider alternative disciplinary measures.

The **New Mexico** Public Regulation Commission (PRC) is requesting comment on proposed rules that will substantially revise the state high cost fund in an attempt to implement legislation passed in 2013. Specifically, the PRC is proposing to: 1) reduce distributions to reflect declining intrastate access minutes, 2) raise the residential affordability benchmark to \$18.06, 3) establish carrier-specific business benchmark rates, 4) cap the fund surcharge at 3% for three years and 5) provide one-time grants to construct broadband facilities in unserved or underserved areas. Starting in 2016, broadband grants totaling \$5 million annually will be awarded from the fund and will provide up to 75% of the proposed project cost.

The FCC has fined an **Oklahoma** RLEC \$100,000 for failing to provide 911 service to its customers. A FCC investigation revealed that 911 calls in the RLEC’s service area were not being routed to a newly established PSAP – and instead were routed to an automated recording telling callers to “hang up and dial 911.” Prior to the establishment of the new PSAP, the RLEC had routed 911 calls to AT&T operators – a practice that continued after the AT&T discontinued live operators. The FCC claimed the RLEC failed to use reasonable judgment in routing 911 calls, willfully and repeatedly violated FCC rules, and created a significant threat to the life and property of its customers.

TCA Office Closure

In honor of Labor Day, TCA Offices will be closed:

Monday September 1.

We wish you all a safe and happy holiday!

[Return to
Table of Contents](#)



Important Deadlines and Due Dates

September 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.

September 12, [FCC Form 175](#), AWS-3 Auction Short Form Application: Interested parties must file an application to participate in the upcoming AWS-3 Auction, scheduled to begin on November 13, 2014. Applications include General information about the applicant, including bidding credit eligibility and controlling interest information, licenses the applicant may wish to bid on, bidding arrangement/partnership disclosures, ownership disclosures, foreign ownership disclosures and multiple certifications.

October 1, [FCC Form 477](#), Local Competition and Broadband Reporting Form: The FCC modified the reporting requirements effective with this filing and now requires a single nationwide filing (not state by state). Wired, terrestrial fixed wireless and satellite broadband services providers will report per Census Tract the maximum speeds sold (not speed tier) as well as the number of subscribers for each advertised speed. In addition, mobile wireless broadband providers must report coverage areas by technology, minimum advertised upload and download speeds and spectrum band. Mobile providers must also provide a list of census tracts where service advertised and available to actual and potential customers and must report voice coverage areas by technology and spectrum. Providers of VoIP service are also required to report number of subscribers per census tract. **This filing is delayed to October 1 to allow time for compliance with the new reporting requirements.**

October 1, State and Federally Designated ETC Certification of Universal Service Support: State regulatory commissions must certify by October 1 each year that eligible rural carriers are using and will use universal service support for the intended purposes. State commissions must file this annual certification with the FCC and USAC stating that all federal high cost support provided to ILECs and CETCs serving lines in rural ILEC service areas “has been and will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.” **Failure of a state commission to provide certification will mean that non-certified carriers in that state will not receive high cost support for the first quarter of the following year.**

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

October 14, FCC Form 5620, [Rural Broadband Experiments](#) Applications: Interested parties must file an application to propose a Rural Broadband Experiment in rural price cap areas. Applications should include: 1) the FCC Registration Number (FRN); 2) Type of Project (i.e., Category 1 or 2); 3) List of census blocks to be served, 4) the number of locations as determined by the model and amount of support for each block; 5) Whether only tribal areas will be served; 6) Background information on the company and its qualifications to provide voice and broadband; 7) Partnership and ownership information. The FCC will create an online portal for application submissions.

October 31, 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.

November 1, [FCC Form 499-Q](#), Telecommunications Reporting Worksheet: All common carriers expecting to contribute more than \$10,000 to FUSF support mechanisms must file this quarterly form. The FCC has modified this form in light of its recent decision to establish interim measures for USF contribution assessments.

November 8, [FCC Form 497](#), Low Income Monthly Report: See September 8 Description.

[Return to
Table of Contents](#)



September 2014

Look for TCA Consultants at the following meetings

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1 Labor Day 	2	3 WLOTA Wisconsin Rapids, WI	4	5	6
7	8	9	10	11	12	13
CCA Annual Convention (Super Mobility Week) Las Vegas, NV				TCA Financial Conference Estes Park, CO		
14	15	16	17	18	19	20
WTA Fall Meeting Coer d'Alene, ID						
21	22	23	24	25	26	27
NTCA Fall Conference San Francisco, CA						
28	29	30	ANMTA Tucson, AZ			

Contact Us

Give us a call for more information about our services and products

TCA

526 Chapel Hills Dr., #100
 Colorado Springs, CO 80920
 (719) 266-4334

regconsultants@tcatel.com

Visit us on the web at www.tcatel.com



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[Return to Table of Contents](#)