

USF Tracker - November 30, 2020

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Looking Ahead to the New Administration

With the election behind us, this month we will preview some of the possible changes Universal Service could see in the Biden administration. First, and most significantly, we will see changes in the Federal-State Joint Board, which offers key recommendations on universal service policy. Commissioner Michael O’Rielly, who chairs the Joint Board, will be leaving the Commission this month. He’s been a persistent advocate for frugality and efficiency in USF policy and a key opponent to reform of the contributions methodology to include broadband services. Commissioner Geoffrey Starks is our bet to chair the Joint Board in January, and we expect serious consideration to be given to the state members’ October 2019 proposal to change the contributions methodology, particularly if the 1Q 2021 contributions factor tops 30% as some have predicted.

Within the programs, we expect more emphasis to be placed on the affordability factor in defining universal service. Not only will the Lifeline program receive a boost, but we expect E-rate program ideas such as Wi-Fi on buses and off-campus use of school broadband (aka the “homework gap”) likely to receive serious consideration. The Democratic Commissioners of the FCC have also been critical of the Commission’s broadband data mapping information and we expect they will give that issue a priority in at least the early days of the new administration. In addition, there is some possibility that infrastructure spending will be included in the next coronavirus relief bill, which would likely include spending on broadband build-outs and telehealth services.

We also expect more actions against waste, fraud and abuse in the USF programs. The Enforcement Bureau could see an increase in activity while we also expect the FCC to complete the revision to its suspension and debarment rules. This revision will make the USF program operate more similarly to government contracts programs, and places a burden on beneficiaries to have effective business codes of ethics and internal controls in place. While we can’t predict how quickly the FCC will enact new suspension and debarment rules, both applicants and service providers should begin their review of their compliance plans now. It won’t be a wasted effort.

Recent News

General

- On November 30, FCC Chairman Pai announced the he will leave the FCC on inauguration day, January 20, 2021. His last monthly FCC meeting will be on January 13, 2021.

- On November 16, the Biden-Harris transition team announced its FCC review team. The team will be led by John Williams, a senior counselor for the House Judiciary Committee. Other team members include former Acting FCC Chair Mignon Clyburn, Edward “Smitty” Smith, and Paul de Sa. All team members have significant prior experience at the Commission.
- On November 24, the FCC [announced](#) the appointment of six persons to the USAC Board of Directors. The six appointees are: Geoffrey A. Feiss, Joseph Gillan, Ellis Jacobs, Michael Skrivan, Joan H. Wade, and Katharine Hsu Wibberly. The appointees will serve three-year terms that begin on January 1, 2021.
- On November 16, NARUC appointed three Commissioners to fill existing vacancies on the Federal-State Joint Board on Universal Service. The appointees are Commissioner Brandon Presley (MS PSC), Commissioner Karen Charles Peterson (MA DTC) and Michael Caron (CT PUC).
- On October 30, the WCB issued its monthly Public Notice ([DA 20-1265](#)) entitled Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company. As its title suggests, the document announces summary dispositions of pending appeals, requests for review, requests for waiver, and petitions for reconsideration stemming from the actions of the Universal Service Administrative Company (USAC). This Public Notice features actions related to Contribution Methodology, and the E-Rate and Rural Health Care programs.

Lifeline

- On November 18, the FCC’s Wireline Competition Bureau (WCB) announced via [Public Notice](#) (DA 20-1372) the launch of the National Lifeline Eligibility Verifier in California, effective December 18, 2020.
- On November 16, the WCB released an [Order](#) (DA 20-1359) denying a petition for stay of the Lifeline program’s minimum service standard (MSS) for mobile broadband usage. On November 9, 2020, the National Lifeline Association (NaLA) and Assist Wireless, LLC, filed a petition for an administrative stay of the FCC’s rule updating the Lifeline MSS, which will take effect on December 1, 2020. The WCB also released an [Order](#) (DA 20-1358) partially granting another NaLA petition, waiving the rule that would establish a MSS greater than 4.5 GB/month, beginning on December 1, 2020, finding that “this moderate 50% increase - equal to the 50% increase permitted by the FCC’s partial waiver of the rule last year - balances the program’s goals of accessibility and affordability.” The WCB denied the portion of NaLA’s petition seeking to halt the phase-down of the support amount for Lifeline service that does not meet the broadband minimum standard, which will decrease from \$7.25/month to \$5.25/month on December 1, 2020.
- On November 16, the WCB released an [Order](#) (DA 20-1357) extending [prior waivers](#) of certain

Lifeline program rules for subscribers residing in rural areas on Tribal lands through February 28, 2021, in light of the ongoing pandemic. The waivers apply to rules governing recertification, reverification, general de-enrollment, subscriber usage, income documentation, and documentation requirements.

High Cost/Connect America Fund (CAF)

- On November 25, Commissioner O'Rielly sent a [letter](#) to Wyoming Governor Mark Gordon expressing concern that the state was using CARES Act funding to overbuild existing networks. The letter notes that several local fiber and cable-based broadband providers recently alerted O'Rielly that their high-speed broadband networks are likely to be overbuilt by competitors receiving grants distributed through the Wyoming Business Council's Connect Wyoming program. O'Rielly asked Governor Gordon to release coverage maps for awarded projects, enable existing providers to challenge awards that are duplicative and to halt funding for any overbuilding projects.
- On November 16, the WCB released an [Order](#) (DA 20-2353) designating Siyeh Communications as an eligible telecommunications carrier in the Montana Browning Exchange.
- On November 16, the WCB announced via [Public Notice](#) (DA 20-1352) that all eligible price cap carriers that currently receive CAF Phase II support will receive an additional, seventh year of such support.
- On November 16, the WCB announced via [Public Notice](#) (DA 20-1351) the results of the Stage 2 competitive process of the Connect USVI Fund. According to the Public Notice, there is one winning applicant in the U.S. Virgin Islands that is eligible for high-cost support, with the 10-year support amount totaling \$84.5 million covering 46,039 total locations throughout the territory. Applicants must submit additional information by 6 P.M. (ET) on December 1, 2020.
- On November 12, the WCB, Rural Broadband Auctions Task Force and the Office of Economics and Analytics, authorized via [Public Notice](#) (DA 20-1339) Auction 903 support for the winning bids. The six winning bids were identified in [Attachment A](#).
- On November 2, the WCB released an [Order](#) (DA 20-1300) dismissing as moot Blackburn Technologies, LLC's petition for reconsideration of the order denying waiver of the eligibility rule for participation in the Uniendo a Puerto Rico Fund Stage 2 competitive process, and separate petitions for waiver of certain Stage 2 application rules from Aeronet Wireless Broadband LLC and Critical Hub Networks, Inc.
- On November 2, the WCB announced via [Public Notice](#) (DA 20-1299) the results of the Stage 2

competitive process of the Uniendo a Puerto Rico Fund. There were two winning applicants in Puerto Rico that are eligible for high-cost support, with the 10-year support amount totaling \$127.1 million covering 1,222,508 total locations in all 78 municipios. Applicants were required to submit additional information by November 17, 2020.

- On October 15, the U.S. Court of Appeals for the D.C. Circuit heard oral argument in a challenge to the FCC's Uniendo a Puerto Rico Fund. Petitioner Tri-County Telephone Company argued that the FCC lacked statutory authority to create the fund, arguing that the fund is intended to provide disaster relief and that disaster relief is not a permitted purpose for the Universal Service Fund under Section 254 of the Communications Act. *Tri-County Telephone Co. v. FCC*, D.C. Cir. No. 20-1003.

Schools and Libraries (E-Rate)

- On November 13, the FCC began circulating an Order in its Modernizing the E-Rate Program for Schools and Libraries docket. The FCC does not disclose the contents of items on circulation, however. The Order is believed to relate to a request to extend the invoicing deadline in certain instances after a Revised Funding Commitment Decision Letter (RFCDL) is issued.
- On November 13 and November 16, two parties submitted separate petitions for reconsideration of the WCB's October 14 Public Notice (DA 20-1218) providing guidance related to the new district-wide budgets for category two services, effective beginning in funding year 2021. The new rules make permanent the category two budget approach, set fixed five-year budget cycles, and reset the budgets beginning in 2021. The State E-Rate Coordinators' Alliance (SECA) seeks consideration of its January 2020 request that cost-allocation of Category Two services used by non-instructional facilities be eliminated. The petition by E-Rate Central, acting as the New York State E-rate Coordinator, seeks clarification that the October 14 order regarding part-time students also applies to full-time students.
- On November 4, the WCB released an [Order](#) (DA 20-1311) partially granting requests for review and waiver of the 2-in-5 Rule, which limits E-Rate applicant eligibility for internal connections discounts to two out of every five funding years. All Hallows Institute School, Laurel County School District, Rantoul City Schools District 137 and Youngstown City School District appealed USAC's rescission of internal connections disbursements in funding years 2010 and 2011 due to violations of the 2-in-5 Rule.

Rural Health Care

- On November 5, 2020, the WCB released a [Public Notice](#) (DA 20-1315) announcing the opening of the Connected Care Pilot Program ("Connected Care Program") 30-day application filing window, which opened on Friday, November 6 at 12:00 pm ET. The Public Notice provides additional details on the application window and guidance on the Pilot Program application process. The application window will close on **Monday, December 7, 2020 at 11:59 pm ET.**

USAC Board Meeting Materials

Each quarter, we provide selected highlights from USAC's quarterly board and committee meetings. This quarter, we provide the Business Update materials presented to USAC's Board of Directors, which evaluated the performance of USAC's IT functions. These materials are from the October 26, 2020 USAC Board meeting. Click [HERE](#) to view materials from the meeting. If you have any questions about the materials, please contact us.