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## Regulatory Review

*The Miller Isar, Inc. Regulatory Review is a monthly report designed to provide information regarding regulatory and policy developments that may impact business operations. The Regulatory Review is provided for informational purposes only and does not constitute legal opinion or legal counsel. Compliance items of particular note are highlighted.*

### FEDERAL REGULATORY NEWS



#### **USAC SUBMITS 2Q24 UNIVERSAL SERVICE FUND SUPPORT MECHANISM PROJECTIONS**

On February 2, 2024 the Universal Service Administrative Company (USAC) [Federal Universal Service Support Mechanisms Fund Size Projections](#) for for the second quarter of 2024. USAC projected a consolidated budget of \$75.34 million for 2Q24, up from \$71.91 million in 2Q23.

#### **AT&T-USTELECOM URGE FLEXIBILITY IN ROBOCALL ENFORCEMENT**

On January 29, 2024, AT&T, USTelecom, and others [met separately](#) with the Consumer and Governmental Affairs Bureau and Wireline Competition Bureau staff to address robocalls enforcement. The parties asserted that given an evolving threat landscape, including the emergence of AI-based robocalling, the Commission should be dubious of proposals to restrict provider flexibility to protect their customers. The parties urged the Commission to adopt SIP Code 603+ as the uniform mechanism to notify callers of analytics-based blocking and consider a new requirement that entities commit to cooperate with number traces by the registered traceback consortium.

#### **WHITE HOUSE OMB ISSUES RFI ON ARTIFICIAL INTELLIGENCE PRIVACY RISKS**

On January 30, 2024, the White House Office of Management and Budget (OMB) released a [Request for Information: Privacy Impact Assessments](#) (RFI) requesting public input on how privacy impact assessments (PIAs) may be more effective at mitigating privacy risks, including those that are further exacerbated by artificial intelligence (AI) and other advances in technology and data capabilities. OMB issued the RFI pursuant to [Executive Order 14110](#) on Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence, which called for action across the federal government to use AI to improve agencies' work, and take steps in response to the technology's risks. Comments are due April 1, 2024, and may be submitted at <https://www.regulations.gov/> using the instructions for submitting comments.

#### **USAC SUBMITS NATIONAL VERIFIER ANNUAL REPORT**

On January 31, 2024, the Universal Service Administrative Company (USAC) submitted its [National Verifier annual report and data](#). The report summarizes National Verifier functions, and how the National Verifier protects against waste, fraud and abuse. The report also provides an update on use and performance of the National Verifier, including a discussion of system enhancements for the Lifeline Program and Affordable Connectivity Program.

## **COMMISSION DECLARES AI-GENERATED ROBOCALL VOICES ILLEGAL**

On January 31, 2024, the Commission issued a [news release](#) announcing that Chairwoman Rosenworcel proposed that the Commission recognize calls made with Artificial Intelligence-generated voices are deemed “artificial” voices under the Telephone Consumer Protection Act (TCPA), which would make voice cloning technology used in common robocalls scams targeting consumers illegal. The proposal is anticipated to provide new tools to state attorneys general to go after voice cloning scams.

On February 8, 2024, the Commission issued a [Declaratory Ruling](#) in its Implications of Artificial Intelligence Technologies on Protecting Consumers from Unwanted Robocalls and Robotexts proceeding, clarifying that the Telephone Consumer Protection Act (TCPA) applied to artificial intelligence technologies. As a result, the Commission found that the TCPA’s restrictions on the use of artificial or prerecorded voice encompass current AI technologies that generate human voices fall the under the Commission’s implementing rules, and therefore use of such calls requires prior express consent of the called party to initiate calls absent an emergency purpose or exemption. [news release](#) (CG Docket No 23-362).

## **ADDITIONAL NETWORK REIMBURSEMENT PROGRAM USER GUIDES RELEASED**

On January 31, 2024, the Wireline Competition Bureau issued a [Public Notice](#) announcing publication of additional Secure and Trusted Communications Networks Reimbursement Program user guides. The guides provide information on aspects of FCC Form 5640 (application request for funding allocation), including [Part H2 \(individual extension term request\)](#), [administrative updates](#), [invoice deadline extensions](#), [Part M, final certification and updates](#) and [notification of ownership changes](#). (WC Docket No. 18-89)

## **DEADLINES FOR EQUIPMENT REMOVAL-REPLACEMENT EXTENDED**

On January 31, 2024, the Wireline Competition Bureau issued a [Public Notice](#) granting requests to extend deadlines for equipment removal or replacement under the Secure and Trusted Communications Networks Reimbursement Program. The Bureau granted requests filed by Mediacom Communications, NfinityLink Communications, Viya Wireless and Country Wireless. (WC Docket No. 18-89)

## **COMMISSION ADDRESSES AFFORDABLE CONNECTIVITY PROGRAM FREEZE**

On February 1, 2024, the Commission issued a [news release](#) announcing that Chairwoman Rosenworcel sent [letters](#) to congressional authorizers and appropriators formally informing them that without new funding, the Affordable Connectivity Program (ACP) will no longer accept new enrollments beginning on February 8, 2024. The Commission reported that an outreach effort is underway to tell ACP fund recipients about the potential loss of the benefit. In her letters to Congress, Rosenworcel attached ACP enrollment data by state, territory and congressional district.

## **DIGITAL DISCRIMINATION FNPRM COMMENT DATES ANNOUNCED**

On February 2, 2024, the Wireline Competition Bureau issued a [Public Notice](#) announcing that the Commission’s November 20, 2023 [Further Notice of Proposed Rulemaking](#) (FNPRM) in its Implementing the Infrastructure Investment and Jobs Act: Prevention and Elimination of Digital Discrimination proceeding was published in the [Federal Register](#) on February 1, 2024. The FNPRM proposes rules establishing broadband provider obligations to prevent digital discrimination including submission of annual reports that facilitate greater transparency regarding substantial broadband projects recently completed by providers and internal compliance programs requiring periodic evaluation of the demographics of served and unserved communities by recently completed projects, as well as pending and planned substantial projects. The Commission also seeks comment on establishing an office of civil rights. Following [Federal Register](#) publication, comments are due March 4, 2024 and reply comments are due April 1, 2024. (GN Docket No. 22-69)

## **TRANSPARENCY RULE DISCLOSURES RULE PRA COMMENTS DUE APRIL 5**

On February 5, 2024, a Commission [notice](#) was published in the *Federal Register* seeking Paperwork Reduction Act (PRA) comments on extending currently approved information collection under the disclosure of transparency rule adopted in the Commission's January 2018 [Declaratory Ruling, Report and Order, and Order](#) in its Restoring Internet Freedom proceeding. The rule requires Internet Service Providers to disclose Internet congestion management, application-specific behavior, device attachment rules and security practices, as well as any blocking, throttling, affiliated or paid prioritization. The rule also requires providers to disclose performance characteristics and the price of the service, privacy policies and redress options. Following *Federal Register* publication, PRA comments are due April 5, 2024. (WC Docket No. 17-108)

## **ACP STAKEHOLDERS REMINDED OF ACP ENROLLMENT FREEZE BEGINNING FEBRUARY 8**

On February 6, 2024, the Wireline Competition Bureau issued a [Public Notice](#), reminding providers, eligible households and all other Affordable Connectivity Program (ACP) stakeholders of the upcoming enrollment freeze beginning February 8, 2024. The Bureau noted that to receive the ACP benefit, eligible households must be enrolled in the program no later than 11:59 p.m. ET, February 7, 2024, following expiration of additional appropriated funding. April 2024 is currently projected to be the last month for which the ACP can fully reimburse providers for the benefits passed through to enrolled households. (WC Docket No. 21-450)

## **LOCAL NUMBER PORTABILITY ADMINISTRATOR SELECTION PROCESS ORDER RELEASED**

On February 6, 2024, the Commission released its [Order](#) in its Third Local Number Portability Administrator Selection Process proceeding, adopting the process for selecting the entity that will serve as the Local Number Portability Administrator (LNPA) at the conclusion of the contract with the present LNPA, iconectiv, LLC (iconectiv). As a complement to this action and to ensure the continued and efficient provision of LNPA services for consumers, the Bureau approved the contract extension under which iconectiv will remain the LNPA during the selection process. (WC Docket No. 23-337)

## **COMMISSION ISSUES NOTICE OF SUSPECTED ILLEGAL TRAFFIC TO LINGO TELECOM, LLC**

On February 6, 2024, the Commission Enforcement Bureau issued a [Notice of Suspected Illegal Traffic](#) to Lingo Telecom, LLC directing the Company to address its apparent transport of illegal traffic. According to the Notice, “on Sunday, January 21, 2024—two days before the New Hampshire Presidential Primary Election—individuals began receiving calls that played an apparently deepfake prerecorded message from a voice that was artificially created to sound like U.S. President Joseph R. Biden, Jr. The caller identification information indicated that the calls came from a phone number that appeared as though it belonged to the spouse of Kathy Sullivan (Sullivan), a former New Hampshire Democratic Party chair who is running a super Political Action Committee (PAC) that led an effort to have New Hampshire Democrats write in President Biden's name in the state's primary election.” The Bureau's investigation revealed Lingo as the originating provider for the calls. Lingo was directed to effectively mitigate illegal traffic within 48 hours and implement effective measures to prevent new and renewing customers from using its network to originate illegal calls within 14 days of the Notice to avoid having its traffic blocked by downstream providers. Lingo was further directed to inform the Commission and USTelecom's Industry Traceback Group of the specific steps it took to mitigate illegal traffic on its network within 48 hours.

## **COMMISSION RULEMAKINGS PUBLISHED IN FEDERAL REGISTER**

On February 9, 2024, a Commission [notice](#) listing significant rulemaking proceedings under development or review pertaining to the Regulatory Flexibility Act was published in the *Federal Register*. The list is published twice a year.

## **ADDITIONAL EQUIPMENT REPLACEMENT PROGRAM GUIDE ISSUED**

On February 9, 2024, the Wireline Competition Bureau issued a [Public Notice](#) announcing publication of an additional user guide for the Secure and Trusted Communications Networks Reimbursement Program. This user guide, as well as existing user guides and other important documents related to the reimbursement program are available on the Commission's Secure and Trusted Communications Networks Reimbursement Program [website](#). (WC Docket No. 18-89)

## **CUSTOMER PROPRIETARY NETWORK INFORMATION CERTIFICATIONS DUE MARCH 1**

On February 9, 2024, the Commission's Enforcement Bureau issued an FCC Enforcement Advisory [Public Notice](#) reminding telecommunications carriers and interconnected Voice over Internet Protocol (VoIP) providers of their obligation to file their annual certification documenting compliance with the Customer Proprietary Network Information (CPNI) rules by March 1, 2024. The [Public Notice](#) states that "protection of CPNI is of paramount importance, as it includes sensitive personal information that carriers collect about their customers during the course of their business relationship (e.g., telephone numbers of calls made and received; the frequency, duration, location, and timing of such calls; and any services purchased by the consumer, such as call waiting and voicemail)." Because the CPNI rules provide important consumer protections, the Commission has taken enforcement action against telecommunications carriers and interconnected VoIP providers that fail to comply with the requirements. Failure to comply with the CPNI rules, including the annual certification requirement, may subject companies to enforcement action, including monetary forfeitures of up to \$ 244,958 for each violation or each day of a continuing violation, up to a maximum of \$2,449,575. The [Public Notice](#) also contains Frequently Asked Questions, a CPNI certification template and text of the CPNI rules. (EB Docket No. 06-36)

## **DATA BREACH NOTIFICATION RULES EFFECTIVE MARCH 13**

On February 13, 2024, the Commission's December 21, 2023 [Report and Order](#) in its Data Breach Reporting Requirements proceeding updating Commission data breach notification rules was published in the [Federal Register](#). The [Report and Order](#) updated the Commission's rule regarding data breach notifications by expanding the scope of its breach notification rules to cover various categories of personally identifiable information that carriers hold with respect to their customers. The amendments are intended to better ensure providers of telecommunications, interconnected VoIP, and telecommunications relay services are held accountable in their obligations to safeguard sensitive customer information and provide customers with the tools needed to protect themselves if their data is compromised. Following [Federal Register](#) publication, the [Report and Order](#) and attendant rules become effective March 13, 2024, except for the amendments codified in sections 64.2011 and 64.5111 (notification of security breaches), which are delayed pending approval by the Office of Management and Budget. (WC Docket No. 22-21)

## **STIR/SHAKEN GOVERNANCE AUTHORITY TOKEN REVOCATION REVIEW PROCESS PRA COMMENTS DUE APRIL 15**

On February 13, 2024, a Commission [notice](#) was published in the [Federal Register](#) seeking Paperwork Reduction Act (PRA) comments regarding an extension of a currently approved information collection on the STIR/SHAKEN governance authority token revocation review process. The Commission's August 2021 [Third Report and Order](#) in its Call Authentication Trust Anchor Appeals of the STIR/SHAKEN Governance Authority Token and Revocation Decisions proceedings established Commission oversight of STIR/SHAKEN governance system certificate revocation decisions finding providers in noncompliance with Commission rules. Following [Federal Register](#) publication. PRA comments are due April 15, 2024. (WC Docket Nos. 17-97 and 21-291)

## **HIGH-COST PROGRAM RULE ORDER ERRATUM ISSUED**

On February 13, 2024, the Wireline Competition Bureau issued an [erratum](#) correcting the final rules in Appendix B of the October 2023 [Report and Order](#) in its Connect America Fund and related proceedings making administrative changes to streamline high-cost program rules. The [erratum](#) made corrections to sections 54.315, Application process for CAF phase II support distributed through competitive bidding, 54.316, Broadband deployment reporting and certification requirements for high-cost recipients, and 54.1508, Letter of credit for stage 2 fixed support recipients. (WC Docket Nos. 10-90, 23-328, 14-58, 09-197, and WT Docket No. 10-208)

## **LEVERAGING BROADBAND SERVICEABLE LOCATION FABRIC FOR HIGH-COST SUPPORT DEPLOYMENT OBLIGATIONS COMMENTS DUE MARCH 15**

On February 14, 2024, the Commission's January 25, 2024 [Public Notice](#) seeking comment on using the data included in the Broadband Serviceable Location Fabric to update and verify compliance with certain high-cost program support recipients' deployment obligations was published in the [Federal Register](#). On February 15, 2024, the Commission released a [Public Notice](#) announcing comment and reply comment datelines following [Federal Register](#) publication, now March 15, 2024 and April 1, 2024, respectively. (WC Docket Nos. 10-90,16-271, 18-143, 19-26 and AU Docket No. 20-34)

## COMMISSION ADOPTS FEBRUARY OPEN MEETING ITEMS

On February 15, 2024, the Commission adopted the following items during its open meeting:

- A [Report and Order and Further Notice of Proposed Rulemaking](#) in its Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991 proceeding, adopting new rules that: require robocallers and robotexters to honor do-not-call and consent revocation requests within a reasonable time, not to exceed 10 business days from receipt; codify the Commission's 2015 ruling that consumers can revoke consent under the Telephone Consumer Protection Act (TCPA) through any reasonable means; and clarify that a one-time text message confirming a consumer's request that no further text messages be sent does not violate the TCPA as long as the confirmation text merely confirms the called party's opt-out request and does not include any marketing information. The *Further Notice of Proposed Rulemaking* seeks comment on whether the TCPA applies to robocalls and robotexts from wireless providers to their own subscribers and whether consumers should have the ability to revoke consent and stop such communications. [Release](#) (CG Docket No. 02-278)
- A [Notice of Proposed Rulemaking](#) in its Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System proceeding seeking comment on measures to promote the accessibility of the Emergency Alert System (EAS) for people who speak a primary language other than English. Comments are due 30 days following *Federal Register* publication and reply comments due 60 days following publication. [Release](#) (PS Docket No. 15-94)
- A [Notice of Proposed Rulemaking](#) in its Space Innovation and Facilitating Capabilities for In-space Servicing, Assembly, and Manufacturing proceedings in which the Commission proposes a framework for licensing space stations engaged in in-space servicing, assembly and manufacturing operations. (IB Docket Nos. 22-271 and 22-272).

## CONSUMER ADVISORY COMMITTEE MEMBERSHIP – MEETING DATE ANNOUNCED

On February 20, 2024, Chairwoman Rosenworcel [announced](#) appointment of 28 members of the Consumer Advisory Committee (CAC) for the 12<sup>th</sup> term. The first meeting of the new CAC term is scheduled for April 4, 2024. The CAC provides advice and recommendations to the Commission on a wide array of consumer protection related matters. The Commission also issued a [news release](#) stating the relaunch of the CAC will focus on consumer issues, including artificial intelligence.

## COMMENTS ON AFFORDABLE CONNECTIVITY PROGRAM COMMENTS DUE MARCH 22

On February 20, 2024, a Commission [notice](#) was published in the *Federal Register* regarding a new computer matching program established between the Commission, the Universal Service Administrative Company and the Iowa Department of Health and Human Services to verify the eligibility of applicants to and subscribers of the Affordable Connectivity Program and Lifeline Program. The program begins March 22, 2024, and ends 18 months following the effective date. Following *Federal Register* publication, comments regarding the Program are due March 22, 2024.

## USDA ANNOUNCES \$51.7M RURAL BROADBAND INVESTMENT – FIFTH ROUND OF RECONNECT FUNDING

On February 21, 2024, the U.S. Department of Agriculture (USDA) [announced](#) funding to bring high-speed internet, clean water, state-of-the-art infrastructure and economic growth to rural communities under 216 projects in 45 states, Puerto Rico and the Northern Mariana Islands. The investments are part of President Biden's Investing in America agenda. Funding includes a \$51.7 million investment to expand access to high-speed internet for people in rural areas across the country through the Reconnect Program and the Broadband Technical Assistance Program. Awards will benefit people living in Alaska, California, Idaho, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Nebraska, Nevada, North Carolina, Oregon, South Carolina, Texas, Virginia, Washington, and Wyoming. Additionally, USDA Secretary Tom Vilsack announced that the USDA will begin accepting applications on March 22, 2024, for its fifth round of funding for the ReConnect Program.

## TENTATIVE AGENDA FOR MARCH OPEN MEETING ISSUED

On February 22, 2024, the Commission issued a [tentative agenda](#) for its March 14, 2024 open meeting. Items to be considered include:

- The Commission's [2024 Section 706 report](#), which would include raising the fixed speed benchmark for advanced telecommunications capability to 100/20 Mbps and adopt a long-term speed goal of 1 Gbps/500 Mbps
- A [report and order](#) to create a voluntary cybersecurity labeling program for wireless consumer Internet of Things products, which would help consumers make informed purchasing decisions and create incentives for manufacturers to meet higher cybersecurity standards
- A [report and order and Further Notice of Proposed Rulemaking](#) to advance the Commission's vision for a single network future in which satellite and terrestrial networks work seamlessly together to provide coverage for consumer handsets that neither network can achieve on its own
- A [report and order](#) to require cable and satellite TV providers to specify the all-in price for video programming services in promotional materials and on subscribers' bills to allow consumers to make informed choices and
- A [Notice of Proposed Rulemaking](#) to facilitate a more efficient and widespread dissemination of alerts and coordinated responses to incidents involving missing and endangered persons, an issue particularly prevalent in tribal communities.

## NON-COMPLIANT PROVIDERS REMOVED FROM ROBOCALL MITIGATION DATABASE

On February 22, 2024, the Commission's Enforcement Bureau issued a [Removal Order](#), removing the 14 company robocall mitigation compliance certifications from the Robocall Mitigation Database. The Bureau said the named companies failed to correct their facially deficient database certifications or otherwise failed to demonstrate why the Bureau should not remove their certifications from the database following its October 16, 2023 [orders](#) directing the companies to take either action. The Bureau also issued a separate [order](#) removing the certification of Teleclub for the same reason.

## POLE ATTACHMENT FNPRM REPLY COMMENT DUE DATE EXTENDED- DISPUTE PRA COMMENT DEADLINE SET

On February 23, 2024, the Commission issued an [Order Granting Extension of Time](#) in its Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment proceeding granting in part a Utilities Technology Council and the Edison Electric Institute motion for an extension to file reply comments on the December 15, 2023 [Third Further Notice of Proposed Rulemaking](#) in the pole attachment proceeding. The reply comment due date was extended to March 13, 2024.

Relatedly, on February 27, 2024, a Commission [notice](#) was published in the *Federal Register*, seeking Paperwork Reduction Act (PRA) comments on a revision of a currently approved collection on pole attachment access and dispute resolution requirements. The December 15, 2023 [Forth Report and Order](#) substantially revised Section 1.1411, timeline for access to utility poles, redesignated existing Section 1.1415 as Section 1.1416, overlashing, and added a new Section 1.1415, dispute resolution procedures). Following *Federal Register* publication, PRA comments are due April 29, 2024.

Also, relatedly, on February 29, 2024, the Commission issued a [Public Notice](#) announcing that the Coalition of Concerned Utilities filed a [Petition for Reconsideration](#) of the Commission's December 2023 [Fourth Report and Order](#) in its Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment proceeding regarding pole attachments was published in the *Federal Register*. Petitioners requested that the Commission eliminate the requirement that utilities submit a copy of periodic pole inspection reports to attaching entities. Following *Federal Register* publication, oppositions to the petition are due March 15, 2024, and reply comments are due March 25, 2024. (WC Docket No. 17-84)

## FORFEITURE ORDERS ISSUED OVER FCC FORM 499 NON-SUBMISSION VIOLATIONS

On February 23, 2024, the Enforcement Bureau issued separate forfeiture orders against [Telnexus](#) and [IK Communications](#) resulting from their failure to submit annual telecommunications reporting worksheets, FCC Form 499A. Each company was fined \$100,000 for the violation. According to the Orders, Telnexus failed to file the annual telecommunications reporting worksheets and respond to a letter of inquiry. IK Communications untimely filed its worksheets and failed to respond to a letter of inquiry.

## COMMISSION ISSUES ACCESSIBILITY RECORD COMPLIANCE CERTIFICATION AND CONTACT REPORTING REMINDER

On February 26, 2024, the Commission issued a [Public Notice](#), reminding service providers and equipment manufacturers that are subject to section 255, 716, or 718 of the Communications Act of 1934, as amended, of their obligation to maintain records of their efforts to implement these requirements. The Commission also reminds these entities of their obligation to file their annual recordkeeping compliance certifications and required contact information no later than April 1, 2024, in the Recordkeeping Compliance Certification and Contact Information Registry (RCCCI Registry), <https://apps.fcc.gov/rccci-registry/>. Additional guidance for filers is available at <https://www.fcc.gov/rccci-filing-instructions>. (Docket No. 10-213)

## TRUTH-IN-BILLING INFORMATION COLLECTION PRA COMMENTS DUE APRIL 29

On February 27, 2024, a Commission [notice](#) was published in the *Federal Register* seeking Paperwork Reduction Act (PRA) comments on an extension of a currently approved information collection relating to requirements for truth-in-billing. Following *Federal Register* publication, PRA comments are due April 29, 2024.

## TECHNOLOGICAL ADVISORY COUNCIL MEMBERSHIP-NEXT MEETING ANNOUNCED

On February 27, 2024, the Commission issued a [Public Notice](#) announcing that Chairwoman Rosenworcel has appointed members to serve on the Technological Advisory Council. A Council membership listing is attached to the *Public Notice*. The Commission also announced the next meeting of the Council is scheduled for March 19, 2024. The meeting is open to the public and will be available to the public for [viewing](#).

## NARUC ADOPTS NUMBERING RESOLUTION

On February 28, 2024, the National Association of Regulatory Utility Commissioners board of directors adopted a resolution from the Committee on Telecommunications at its winter policy summit urging the Commission to act to provide updated guidance on how states should bring forward cases of telephone number resource mismanagement or suspected robocalling using rented telephone numbers to the FCC using the audit process outlined in 47 C.F.R. 52.15(k).

## IN THE COURTS

### DIGITAL DISCRIMINATION R&O PETITION FOR REVIEW FILED BEFORE D.C. COURT OF APPEALS

On January 30, 2024, Benton Institute for Broadband & Society filed a [petition for review](#) with the United States Court of Appeals for the District of Columbia of the Commission's November 2023 [Report and Order](#) in its Implementing the Infrastructure Investment and Jobs Act: Prevention and Elimination of Digital Discrimination proceeding (GN Docket No. 22-69). Benton asserts that portions of the *Report and Order* are arbitrary and capricious, an abuse of discretion or otherwise not in accordance with law, including the Commission's failure to adopt a formal complaint process and its treatment of providers that are recipients of funds under the Broadband Equity Access and Development Program. Separately, on February 16, 2024, NCTA – the Internet and Television Association and ACA Connects filed a [petition for review](#) with the United States Court of Appeals for the District of Columbia Circuit regarding the Commission's November 20, 2023 *Report and Order*.



Relatedly, on February 7, 2024, the Commission submitted a [notice](#) with the U.S. Judicial Panel on Multidistrict Litigation notifying the panel that ten separate petitions for review of the Commission's digital discrimination *Report and Order* were filed before six different courts of appeals. On February 9, 2024, the Panel issued a [consolidation order](#) announcing consolidation of the appeals under the U.S. Court of Appeals for the Eighth Circuit (St. Louis, MO) through random selection.

## COMMISSION URGES FIFTH CIRCUIT TO DISMISS E-RATE SCHOOL BUS WI-FI PETITION FOR REVIEW

On February 6, 2024, the Commission filed a [motion](#) with the U.S. Court of Appeals for the Fifth Circuit (New Orleans, LA), seeking dismissal of a [petition for review](#) of the [declaratory ruling](#) to clarify the use of Wi-Fi on school buses is eligible for E-Rate funding. The Commission said petitioners, Maurine and Matthew Molak, did not file comments with the Commission on the proposal, nor did they raise their concerns in a petition for reconsideration or otherwise participate in Commission proceedings. On February 9, 2024, Petitioners filed a [response](#) to the Commission's motion. Petitioners maintained that the Court has repeatedly held petitioners who claim that an agency exceeded the scope of its authority may invoke the Hobbs Act regardless of whether they participated in the agency proceedings. Further, Petitioners cite to 47 U.S.C. § 405(a), which does not require petitioning the agency for reconsideration where the agency has already passed on the arguments petitioners wish to press.

## COMPANIES SEEK E-RATE – DIGITAL DISCRIMINATION REVIEWS FROM D.C. CIRCUIT

On February 14, 2024, Essential Network Technologies and MetComm.Net filed a [petition for review](#) with the U.S. Court of Appeals for the District of Columbia Circuit regarding E-Rate reimbursements. Petitioners maintain that the Commission violated its statutory duty to promptly issue funds for the discounts they provided under contracts entered years ago for IT and broadband services to elementary and secondary schools. Petitioners said if the court denies their petition for review, the court should grant a *writ of mandamus* directing the Commission to comply with its statutory duties to reimburse discounts and promptly render a decision regarding the Universal Service Administrative Company's E-Rate investigations.

### BEFORE CONGRESS



#### DIGITAL DISCRIMINATION RULE DISAPPROVAL RESOLUTION INTRODUCED

Representatives Andrew Clyde (R-GA) and Buddy Carter (R-GA) led 65 House Republicans in introducing a Congressional Review Act [joint resolution](#) of disapproval to overturn the Commission's November 15, 2023 [Report and Order](#) preventing and eliminating digital discrimination. Clyde's [press release](#) asserted the order handed the Biden administration's bureaucratic state effective control of all internet services and infrastructure in the U.S.

## WI-FI HOTSPOT PROPOSAL GAINS DEMOCRATIC SUPPORT

On February 2, 2024, Senators Edward J. Markey (D-MA) and Chris Van Hollen (D-MD), and Representatives Grace Meng (D-NY) and 64 members of Congress, sent a [letter](#) to Chairwoman Rosenworcel expressing support of the Commission's [proposal](#) to allow schools and libraries to loan out Wi-Fi hotspots to students and educators. The Senators and Representatives urged expansion and modernization of the hotspot program to help reduce educational disparities and ensure low-income students are no longer left behind. [press release](#)

### STATE REGULATORY NEWS



#### OHIO – COMMISSION AMENDS TELEPHONE RULES

On February 21, 2024, the Public Utilities Commission of Ohio issued a [Finding and Order](#) adopting proposed rules, including revisions, contained in Ohio Adm. Code Chapter 4901:1-6 concerning retail telecommunication services. Pursuant to R.C. 106.03(A) and R.C. 111.15(B), all state agencies are required to conduct a review every five years of their rules to determine whether to continue their rules without change, amend their rules, or rescind their rules. Several rule amendments were adopted by the Commission. A copy of the final rules is attached to the *Finding and Order*. (Case No. [23-817-TP-ORD](#))

## WISCONSIN – ANNUAL TELECOMMUNICATIONS PROVIDER QUESTIONNAIRE DUE APRIL 1

On February 8, 2024, the Public Service Commission of Wisconsin issued a reminder to all telecommunications providers that they are required (per Wis. Stat § 196.25) to submit the [annual questionnaire](#) electronically with the Commission on or before Monday, April 1, 2024. The annual questionnaire covers Wisconsin intrastate revenues for calendar year 2023. Companies with no Wisconsin revenues during calendar year 2023 are still required to file. [Instruction Manual](#)



## WEST VIRGINIA – TRS SURCHARGE SUSPENDED – LINE COUNTS DUE APRIL 7

On February 23, 2024, the West Virginia Public Service Commission [suspended](#) the state’s Telecommunications Relay Service fee, effective May 1, 2024. The Commission concurred with Staff’s finding that the current \$0.05 monthly fee per access line generates more revenue than necessary to support the service. All telecommunications carriers in this State collecting the fee shall cease collection after that date and file tariff revisions as necessary to reflect suspension of the fee

Separately, on February 21, 2024, the Commission issued a reminder that all local exchange carriers are required by West Virginia state law (§24-6-6b(c)) to provide landline data to the West Virginia Public Service Commission on a county-by-county basis as of March 1 of the reporting year and by no later than *April 7* of the reporting year. The data this year will be as of March 1, 2024. The data pertains to local exchange (i.e., dial tone) access lines which are assigned to subscribers. Facilities which are not assigned should not be counted. Both residential and business lines, as well as so-called “company official” lines should be counted. Payphone lines should be counted, whether they are used by phone company public telephones or by public telephones provided by competitive payphone service providers. CENTREX line equivalents should be provided rather than the actual numbers of CENTREX trunks in service, usually CENTREX uses an 8 to 1 truck-to-line ratio.

## WYOMING – RELAY SPECIAL FEE INCREASED

On February 1, 2024, the Wyoming Public Service Commission released an *Order Requiring Identification and Inclusion of Wyoming Relay Special Fee*, increasing the monthly per access line relay special fee to \$0.10 per access line, effective February 1. All local exchange companies and radio communications service providers, as defined in Wyoming Statute §§ 16-9-201 (a)(v) and (viii), shall include and clearly identify the \$0.10 Wyoming Relay special fee (surcharge) on retail monthly bills for services rendered on and after February 1, 2024.

### IN THE NEWS



[Here’s what regional, local ISPs are saying about an ACP shutdown](#) By Masha Abarinova  
What do regional and rural ISPs think about the ACP going away? Ting Internet and others weigh in.

[Broadband across the nation: 2024 funding tracker](#) By Diana Goovaerts, Masha Abarinova, Julia King  
2024 is a new year but we’re still following the money.

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### Consolidated set to go private next year

Consolidated Communications expects to close its sale to Searchlight Capital Partners and British Columbia Investment Management in early 2025 after shareholders approved the deal to take the company private. The telecom will benefit from "financial flexibility and access to capital" from the deal, said Chairman Robert Currey. **Full Story:** [Telecompetitor](#) (1/31)

### Frontier formally launches strategic review, appoints M&A exec to board

Analysts from New Street and TD Cowen said a sale of Frontier is unlikely at this time. However, a JV or selling off some non-core assets may be on the table.

### Identity hijacking uses deepfake tech to scam victims

Identity hijacking is being called the next level of identity theft, one in which threat actors use deepfake images, video and audio to trick victims. Lou Steinberg, founder of CTM Insights and an expert on deepfake AI, says micro-fingerprint technology can protect against deepfake images, while code words and confirmations in separate channels can help in cases of deepfake video and audio. **Full Story:** [TheStreet](#) (2/5)

**Broadband users consume average of 641 GB a month**

People use 641 gigabytes a month on average and that rate will probably grow to one terabyte by 2028, OpenVault Broadband Insights found. Users who consume 1 TB or more per month already make up 21.6% of broadband subscribers. **Full Story:** [TV Tech](#) (2/8)

**FCC makes telecoms give notice of data breaches**

As of next month voice-over-IP and telecommunications companies must notify the FCC, the FBI and the Secret Service of data breaches within seven days after discovering them. The providers will need to let customers know about breaches within 30 days. **Full Story:** [Nextgov](#) (2/9)

**Pew: US adults flock to broadband, led by suburbanites**

Suburban residents are the largest users of broadband services, according to a Pew Research Center survey that found 80% of all US adults use broadband services. The poll found that 86% of suburban adults in the US subscribe to broadband compared to 77% of urban adults and 73% of adults in rural areas. **Full Story:** [Telecompetitor](#) (2/15)

**When will AI hit the telco core?** By Diana Goovaerts It’s early days yet, experts told us, and more work needs to be done.

**FEDERAL REGULATORY REPORTING MARCH**

The following report listing has been compiled from past reporting requirements and is provided exclusively for informational purposes. Reporting requirements are subject to change and should be verified by filers.

<b>Due Date</b>	<b>Jurisdiction</b>	<b>Report Name</b>
March 1	Federal	<b>Local Competition and Broadband Reporting FCC Form 477</b> Customer Proprietary Network Information Compliance Certification
March 1	Federal	
March 31	Federal	Circuit Status Report (facilities based international carriers).
April 1	Federal	<b>FCC Form 499A</b>

For additional information, please contact Andrew Isar at [aisar@millerisar.com](mailto:aisar@millerisar.com), or call 253.851.6700.