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A federal judge in California has paused a trial in which the FTC is seeking \$4 billion from AT&T and will allow the telecom to file for a partial judgment. U.S. District Judge Haywood S. Gilliam Jr. said there is a "substantial issue" in regard to the FTC's calculations of its \$4 billion "unjust gains" calculation. The judge gave AT&T attorneys two weeks to file briefings, further poking holes in that math.

The trial over the Federal Trade Commission's lawsuit began two weeks ago in Oakland, California. The agency filed suit against DirecTV in 2015, before AT&T closed on its purchase of the satellite TV operator. The FTC alleges that from 2007 to 2015, as 33 million customers signed up for satellite service, DirecTV didn't adequately disclose that a discounted 12-month video package requires a 2-year contract, and the monthly bill increases by as much as \$45 in the second year of the agreement. DirecTV is also accused of not informing customers that they'd be subject to a \$480 fine if they broke their contract, or that charges for premium channels would kick in after three months.

At issue are the calculations that led the FTC to conclude that AT&T owes \$4 billion. According to subscription legal news platform Law360, University of San Francisco economics professor Daniel Rascher took the stand on the 10th day of the trial last week. Rascher is the fellow enlisted by the FCC to come up with the "unjust gains" calculations. And his rigorous cross-examination by AT&T attorneys appears to have influenced the judge into considering AT&T's motion for a partial judgment.

Specifically, Rascher had to explain to the court how he determined what portion of DirecTV's \$30 billion in revenue from 33.5 million customers came from unjust gains made through false advertising. According to Law360, AT&T attorney Pete Marketos repeatedly questioned the professor on whether he surveyed actual customers or did any kind of analysis to determine if and how those customers were deceived by the ads. "I'm not into interpreting ads," Rascher responded. "I'm not a marketing professor."

The trial attorney also sought to pin the professor down on what portion of the \$4 billion unjust gains calculation was directly attributable to customers who misinterpreted advertising. Rascher said he hadn't yet made those

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calculations because he hadn't been asked to do so. "But when would that occur?" the judge asked Rascher. "The trial is about to be over. When would that analysis be done, if it hasn't been done yet?" AT&T said in a statement that the company has always believed that the FTC suit was without merit. "We continue to feel that way today," the company stated. – **Fierce Cable**

Nearly 190,000 cable and wireline subscribers are without service in the wake of Hurricane Harvey, though all TV stations remained on-air as of Monday morning, the Federal Communications Commission reports.

According to the FCC, 189,487 cable and wireline subs in the 55 counties impacted by the storm had lost service as of Monday, up from a total of 148,565 on Sunday. The Commission says 19 non-mobile switching centers were out of commission Monday morning, while another 22 were operating on back-up power. Those figures marked a deterioration from Sunday's report when 11 centers were offline and 21 were running on back-up power. The FCC did not break out the figures by operator.

In a Monday statement, Comcast's Houston office **said** it was "temporarily suspending operations until local law enforcement agencies deem road conditions safe." "Restoration crews remain on standby," Comcast said in a statement. "Once clearance is granted, Comcast's maintenance technicians will be dispatched to begin assessment and restoration efforts throughout the Greater Houston Area including Galveston, Liberty, Brazoria, Harris, and Fort Bend Counties."

In the meantime, the operator says it has **opened up its network of 53,000 Xfinity WiFi hotspots** in the Greater Houston area to help locals stay in touch with loved ones. Both customers and non-customers can utilize the hotspots, Comcast said. The former can use their Xfinity Internet login information to connect, while non-customers can select the "Not an Xfinity Internet Customer" option on the sign in page.

Radio stations were also struggling, with nine out of service as of 11 a.m. Monday, the FCC notes. Those include TX – KKTU, KUNO, KPRC, KKWV, KAYK, KMKS, KZFM, KKBA, and KEYS. TV stations, however, have been fairing a bit better, with no outages reported, the FCC says. More on the state of mobile communications in the flooded areas can be **found here**. – **CED**

A group of rank-and-file House Republicans charged up Pennsylvania's Capitol Hill Tuesday with a plan to use a litany of special fund transfers to deal with the state's \$2.2 billion budget hole. Will they get enough soldiers to follow them? That may be evident by the end of the week, as the 121-member majority House caucus continues to work out its counter to a tax-and-borrowing plan passed by the state Senate and endorsed by Gov. Tom Wolf. "I think today is kind of the last segment of hearing the different members' reaction to it [the fund transfer plan]," House Majority Leader Dave Reed, R-Indiana County, said. "After we get through today, we'll do a vote count, and if we have 102 votes we'll run it."

More likely, several sources said after Tuesday's closed-door, Republicans only workshop, is that a some portion of the fund transfer plan will be folded into a broader revenue package being developed by House Appropriations Committee's GOP members. The transfers would be looked at as a way to try to lessen or cut outright some elements of the Senate-passed plan that are most objectional to fiscal conservatives in the House, including:

- * Borrowing up to \$1.3 billion against future tobacco settlement payments.
- * A new gross receipts tax on natural gas consumption.

If one or both of those elements went away, some GOP sources said, it could help the broader Republican caucus provide coalition votes for another long-sought Wolf objective: A new tax on natural gas production from the Marcellus Shale. The real bottom line this day, however, was that neither House track was seen as ready for prime-time.

Meanwhile, Wolf issued a fresh warning that, without real progress, the state may have to turn off some of its financial spigots as early as next month. In a letter to House leadership, Wolf asserted "by Sept. 15, the Commonwealth will not have the money to pay its obligations, putting us in a much more dire financial situation." That's a date when, among other things, large Medicaid payments are scheduled to go out to health care providers across the state. Wolf's Press Secretary J.J. Abbott was not able to provide no more specifics about the governor's threatened consequences Tuesday.

During the budget impasse two years ago, the main pinch-point was state aid to a variety of human service programs ranging from food banks to respite services for caregivers to payments for foster parents, among others. House Democrats released their own staff work-up Tuesday, warning if there

is no agreement on a revenue plan this year, most of the state's discretionary spending lines would have to be dialed back by 12 percent. That would, they said, erase all the recent gains in the main state subsidy for public schools, see all state aid to Penn State, Pitt and Temple cut for the year, and reduce state support for county-based human services by hundreds of millions of dollars. House Republicans called that alarmist, and noted they are just as committed as any party to the talks to balancing the full budget, as passed. "I think we're moving in the right direction, and there is a sense of urgency to meet the \$32 billion [in approved spending] number and fully fund it," one senior House GOP source told PennLive. Translating that sense of urgency to an agreement, however, has been the tough part this summer.

And the problem is that any new House GOP plan is not an end game in itself; it will by definition trigger a new round of talks with the Senate and Wolf. In that vein, Tuesday's workshop was a baby step. It was devoted to a plan to sweep excess funds from scores of special funds that populate state government, set up to provide dedicated funding on issues ranging from acid mine drainage to wildlife conservation.

Proponents have argued there is enough surplus money in these accounts to close the entire spending - revenue gap, though they have thus far refused to publicly share specifics of where the money would come from. As Rep. Dan Moul, R-Gettysburg, and a leader of the transfers study group, put it in an interview with television station WHTM earlier this week, "Why would you go borrow the money and pay interest on money and raise taxes if you have taxpayer money sitting right there?" Reed defended his members' careful quest for non-tax alternatives, which could also include further expansions of legal gambling and further liquor privatization measures. "To be honest, we're the only ones looking at different possibilities," Reed said, asserting that several entreaties to meet with members of the Wolf administration this summer have fallen on deaf ears.

Wolf, of course, has publicly called on the House to vote the Senate plan, which also has . "So be it," Reed said Tuesday. "So it's incumbent on us to try to get to where we can get to 102 votes, and that's what we're doing." At present, the House is scheduled to return to session on Sept. 11, though an earlier return hasn't been ruled out. – pennlive.com

