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Regulatory Review

The Miller Isar, Inc. Regulatory Review is a monthly report designed to provide clients with information regarding regulatory and policy matters that may impact their business operations. The Regulatory Review is provided for informational purposes only and does not constitute legal opinion or legal counsel.

FEDERAL REGULATORY NEWS



COMMISSION RELEASES RESTORING INTERNET FREEDOM ORDER

On January 4, 2018, the Commission released the controversial [Restoring Internet Freedom Order](#), adopted during its December 14, 2017 Open Meeting. The Order, among other things, reclassifies broadband internet access service as an information service; reinstates the private mobile service classification of mobile broadband Internet access service; reverts to the Commission's interconnected service definition that existed before the 2015 Title II regulation Order; returns to the transparency rule adopted in 2014 with certain modifications; eliminates certain reporting requirements adopted in the 2015 Order; and eliminates the Commission's provider conduct rules. The Order includes a severability clause, establishing the Commission's "intention in adopting the ... Declaratory Ruling and these rule changes that, if any provision of the Declaratory Ruling or the rules, or the application thereof to any person or circumstance, is held to be unlawful, the remaining portions of such Declaratory Ruling and the rules not deemed unlawful, and the application of such Declaratory Ruling and the rules to other person or circumstances, shall remain in effect to the fullest extent permitted by law." An Incompas petition to modify protective orders in recent transaction proceedings pertaining to Internet Service Providers to allow confidential materials submitted in those dockets to be used in the proceeding was denied. Commissioner Rosenworcel released a [statement](#) saying that as a result of the Commission's actions, broadband providers will have the power to block websites, throttle services and censor online content, noting "the FCC is on the wrong side of history, the wrong side of the law, and the wrong side of the American public." Commissioner Clyburn also dissented. The full Order becomes effective following Office of Management and Budget (OMB) information collection approval under the Paperwork Reduction Act, to be announced following Federal Register publication. [Pai Statement](#); [Clyburn Statement](#); [O'Rielly Statement](#); [Carr Statement](#). (FCC No. 17-166, Docket No. 17-108).

CARR NOMINATION SUBMITTED TO SENATE

On January 8, 2017, President Trump [submitted](#) Commissioner Carr's nomination for a second full term as an FCC commissioner, beginning July 1, 2018.

PAI TOUTS FIRST YEAR ACCOMPLISHMENTS

On January 24, 2018, Chairman Pai released a list of FCC [accomplishments](#) since becoming Commission chairman in January 2017. Among the listed accomplishment: CAF Phase II and Mobility Fund Phase II actions; reversing the FCC's 2015 imposition of Title II regulation on internet providers; enforcement actions against anti-robocall and anti-spoofing law offenders; addressing rural call completion issues; temporarily stopping and proposing elimination of the Universal Service program's local service rate floor; and improving FCC transparency and process reforms.

COLLOCATION PRA COMMENTS DUE FEBRUARY 8

On January 9, 2018, the Commission released a [Notice](#) in the *Federal Register* requesting Paperwork Reduction Act (PRA) comments regarding extension of currently approved information collection for physical collocation on rates, terms and conditions that are just, reasonable and nondiscriminatory. The requirement that implements portions of sections 201 and 251 of the Communications Act, also seeks to promote deployment of advanced telecommunications services without significantly degrading the performance of other services. PRA comments are due February 8, 2018.

POLE ATTACHMENT COMPLAINT – COPPER RETIREMENT PRA COMMENTS DUE MARCH 5

On January 4, 2018, the Commission published a [Notice](#) in the *Federal Register* requesting Paperwork Reduction Act (PRA) comments on two revisions of currently approved information collections associated with pole attachment complaint procedures and Section 251 network change disclosure requirements. Under its November 29, 2017 [Wireline Infrastructure Order](#), the Commission expanded the type of pole attachment complaints that may be initiated by incumbent local exchange carriers, including utility pole access denial complaints. The Order also adopted new network change disclosures rules under Section 251(c)(5) of the 1996 Telecommunications Act, primarily applying to notices of planned copper retirements, and eliminated the prohibition against incumbent carriers engaging in useful advanced coordination with entities affected by network changes. The Commission estimates that the total annual compliance burden associated with its actions has been reduced by 392 hours. PRA comments are due March 5, 2018.

RESTORING INTERNET FREEDOM ORDER ISP DISCLOSURES PRA COMMENTS DUE MARCH 19

On January 18, 2018, the Commission published a [Notice](#) in the *Federal Register* requesting Paperwork Reduction Act (PRA) comments on the information collection requirements relating to disclosure requirements in the Restoring Internet Freedom [Order](#). The requirements direct Internet Service Providers to publicly disclose their network management practices, performance and commercial terms of service for broadband internet access services. PRA comments are due March 19, 2018.

MONETARY FORFEITURE PENALTIES ADJUSTED

On January 5, 2018, the Commission Enforcement Bureau issued an [Order](#) amending section 1.80(b) of its rules to adjust the forfeiture penalties for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Improvements Act of 2015. According to the Act, beginning in 2017, agencies were to adjust annually the civil monetary penalties and publish annual adjustments by January 15 of each year.

COMMISSION PUBLISHES UNIFIED AGENDA ON DEREGULATORY ACTIONS

On January 12, 2018, the Commission [published](#) its Unified Agenda of Federal Regulatory and Deregulatory Actions in the *Federal Register*. The Unified Agenda lists major items and other significant proceedings under Commission development or review related to the Regulatory Flexibility Act (5 U.S.C. §602), with applicable regulatory and legal citations. Publication is published semi-annually in spring and fall.

LIFELINE ORDER BECOMES EFFECTIVE FEBRUARY 15

On January 16, 2018, the Commission [published](#) its Lifeline [Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order](#), released on December 1, 2017, in the *Federal Register*. The Report and Order adopts measures to bridge the digital divide for Lifeline subscribers and reduce waste, fraud and abuse in the Lifeline program. Corresponding rules become effective February 15, 2018, with the exception of section 54.411, which becomes effective on March 19, 2018, and sections 54.403(a)(3), 54.413 and 54.414, which are subject to OMB approval. The Commission also [published](#) the accompanying Notice of Proposed Rulemaking and Notice of Inquiry in the *Federal Register*. Comments are due January 24, 2018; replies are due February 23, 2018.

SECTION 214 DISCONTINUANCE RULES EFFECTIVE JANUARY 18

On January 18, 2018, the Commission published a [Notice](#) in the *Federal Register* announcing Office of Management and Budget approval of the information collection associated with the Commission's section 214 service discontinuance rules for a period of three years. The rules were promulgated in 2016 Technology Transitions [Declaratory Ruling, Second Report and Order, and Order on Reconsideration](#). The amendments to 47 CFR 63.71(a) introductory text, (b), (g) and (i) became effective on the *Notice* publication date.

ELECTRONIC WIRELINE FEE PAYMENT RULES EFFECTIVE FEBRUARY 20

On January 18, 2018, the Commission [published](#) a notice in the *Federal Register* to announce that the requirement for electronic payment of wireline fees contained in its December 18, 2017 [Order](#) amending section 1.11051 becomes effective on February 20, 2018. The rule amendment establishes that application fees associated with petitions filed with the Wireline Competition Bureau must be paid on line through the Commission's electronic payment system. The Order also made conforming revisions in Parts 0, 1, 51 and 61 to account for electronic filing of fees for tariffs, petitions and applications with the Bureau. The Commission established a temporary 90 day transition period from the Notice date, allowing payments and paper filings to be processed by U.S. Bank. All Bureau-related fee payments and filings must be made in accordance with the procedures set forth on the Commission's [website](#) following the transition period. The Order is effective February 20, 2018.

BEFORE CONGRESS



EXECUTIVE ORDERS ON RURAL BROADBAND DEPLOYMENT SIGNED

On January 8, 2018, President Trump signed an [Executive Order](#) that directs streamlining and expediting of requests to locate broadband facilities in rural areas. The Order directs the Executive Branch to continue implementation of section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, which requires that the General Services Administration develop a common form and master contract for wireless facility sitings on buildings and other property owned by the federal government. The President also signed a separate [Memorandum](#) ordering the Secretary of the Interior to develop a plan to support rural broadband development by increasing access to tower facilities and other infrastructure assets managed by the Department of the Interior. [News release](#)

HOUSE SUBCOMMITTEE INTRODUCES BROADBAND INFRASTRUCTURE PRINCIPALS - LEGISLATION

On January 11, 2018 the House Subcommittee on Communications and Technology [introduced](#) four resolutions establishing broadband infrastructure principals. The principals include: 1) directing broadband infrastructure funding toward areas that are currently unserved; 2) ensuring federal policy treats all broadband providers in a technology-neutral manner, applying consistent rules that support innovation; 3) ensuring a wireless broadband infrastructure funding preference for states that support small cell siting reform; and 4) ensuring federal, state and local tax, regulatory, permitting and other requirements are coordinated and reconciled to maximize the benefits of broadband investment. Commissioner Carr issued a [statement](#).

On January 16, 2018, House Communications and Technology Subcommittee Chairman Marsha Blackburn (R TN) introduced three bills designed to reduce federal agency barriers to broadband deployment when agencies serve as landlords controlling government-owned lands, buildings, rights-of-way.

On January 18, 2018, Chairman Blackburn [announced](#) introduction of a second round of broadband deployment bills focusing on "supporting innovation and advancing broadband infrastructure in rural communities. The bills include: [Making Available Plans to Promote Investment in Next Generation Networks without Overbuilding and Waste \(MAPPING NOW\) Act](#), which would direct the Assistant Secretary of Commerce for Communications and Information to conduct a National Broadband Map; [Promoting Exchanges for Enhanced Routing of Information so Networks are Great \(PEERING\) Act of 2018](#), which would authorize a matching grant program through NTIA to promote peering centers where none exist or help an existing one expand if it is the only such facility in a core-based statistical area, and authorize eligible recipients under the USF E-rate and Telehealth programs to use such funds to contract with a broadband provider to obtain a connection or pay for maintaining a connection to a peering facility; and [Wireless Internet Focus on Innovation in Spectrum Technology for Unlicensed Deployment \(WIFI STUDY\) Act](#), which would direct the U.S. Comptroller General to conduct a study on the complementary role of unlicensed spectrum in assisting with internet traffic management and the potential for gigabit Wi-Fi service in spectrum bands below 6 gigahertz.

And on January 19, 2018, Chairman Blackburn [announced](#) introduction of a third set of five bills intended to promote broadband deployment: [Restoring Economic Strength and Telecommunications Operations by Releasing Expected Dollars](#)

[\(RESTORED\) Act](#), (HR 4832) would permit companies eligible for universal service "high-cost" support to receive an advance payment of up to seven months of support "to aid in the restoration of services in Presidentially-declared disaster areas." Funding could be used for repairs in areas that are "substantially unserved by facilities-based providers of residential fixed voice and broadband service that do not receive high-cost support"; The [Connecting Communities Post Disaster Act](#) (HR 4845), which "would provide a 5-year categorical exclusion from environmental and historical reviews for communications facilities in Presidentially-declared disaster areas to aid the replacement and improvements to such facilities;" [The Streamlining Permitting to Enable Efficient Deployment of Broadband Infrastructure](#), (HR 4842) that would "exempt broadband facilities from environmental and historic preservation reviews on federal property that have already granted another communications facility on the same property" and exempt broadband facilities from environmental and historic preservation reviews if located within the public right-of-way and if not "more than 50 feet tall of 10 feet higher than any existing structure in the public right-of-way, whichever is higher;" The [Broadband Deployment Streamlining Act](#) (HR 4847), which would "direct the Secretaries of Interior and Agriculture to issue regulations within 1 year to streamline applications processes to locate or modify communications facilities on public lands" and amend section 6409 of the Middle Class Tax Relief and Job Creation Act "to institute a firm shot clock by which applications must be granted or denied (an application is deemed granted if the agency fails to grant or deny within the allotted time)." HR 4847 would also require the Government Accountability Office to evaluate the "accuracy and reliability of data collected for the National Broadband Map;" and House Resolution 701, which would "express the sense of the House of Representatives that environmental and historic reviews of broadband facilities should be narrowly tailored and proportional to lands that are physically impacted by the deployment of such facilities."

Separately, the House Subcommittee on Communications and Technology [announced](#) the witness list for a hearing on January 30, 2018, "Closing the Digital Divide: Broadband Infrastructure Solutions." The Subcommittee also added new bills to the list of 25 bills it will consider, including: [H.R. 4881, Precision Agriculture Connectivity Act of 2018](#); [H.R. 2903, Rural Reasonable and Comparable Wireless Access Act](#); [H.R. 1581, Tribal Digital Access Act](#); and [H.R. 1546, Rural Wireless Access Act](#).

SENATE PASSES BILE TO REQUIRE GAO STUDY ON USF REQUIREMENTS

On January 10, 2018, the Senate unanimous passed a consent bill ([S 875](#)) that would require the Comptroller General to conduct a study and submit a report on filing requirements under the Universal Service Fund programs and make recommendations on consolidating redundant requirements within 180 days of passage. The bill would also direct the Commission to consider any recommendations in a rulemaking proceeding and to complete the rulemaking within sixty days of receiving the report. The bill was introduced by Senator Dan Sullivan (R. AK) in April and approved by the Senate Commerce, Science, and Transportation Committee in June.

"DIG ONCE" – "CLIMB ONCE" BILLS INTRODUCED

Representatives Anna G. Eshoo (D., CA), and David McKinley (R., WV) have introduced a "dig-once" bill to require that road projects that receive federal funding include the installation of broadband conduit. The proposed Broadband Conduit Deployment Act, [H.R. 4800](#), will reduce costs, "By laying broadband conduit during construction of roads that receive federal funding, broadband providers can later install fiber-optic cable without costly excavation of newly built roads," according to Representative Eschoo.

On January 19, 2018, Representative Eschoo [announced](#) introduction of a second bill, the Climb Once Act, also co-sponsored by Representatives Eschoo and McKinley. The bill would ensure that no federal laws undermine state "climb once" or "one-touch make-ready" policies. The bill would direct the Commission "to establish best practices and model policies that states and local governments may use to shape their own one-touch-make-ready implementation."

IN THE COURTS

RESTORING INTERNET FREEDOM ORDER APPEALS CONSOLIDATED IN D.C. CIRCUIT

On January 17, 2018, the U.S. Court of Appeals for the D.C. Circuit released an [Order](#) that consolidates four Protective Petitions for Review of the Commission's Restoring Internet Freedom [Order](#) filed by the [State of N.Y., et al.](#), [Mozilla](#), [Public Knowledge](#) and [New America's Foundation](#). Petitioners state that their petitions have been filed out of an abundance of caution, pending the Order's publication in the Federal Register.



STATE REGULATORY NEWS



CALIFORNIA – NET NEUTRALITY BILL INTRODUCED

A bill intended to establish net neutrality protections through regulation of state business practices has been introduced in the California Senate. [SB 822](#) establishes that it is the “intent of the Legislature to enact legislation to effectuate net neutrality in California utilizing the state’s regulatory powers and to prevent Internet service providers from engaging in practices inconsistent with net neutrality, including, without limitation ...: (a) Using the state’s market influence as a purchaser of Internet and telecommunications services to effectuate net neutrality; (b) Strengthening the state’s consumer protection and deceptive and unfair business practice laws to effectuate net neutrality; (c) Conditioning issuance or renewal of a state franchise pursuant to the Digital Infrastructure and Video Competition Act of 2006 (Division 2.5 (commencing with Section 5800) of the Public Utilities Code), and use of the public rights-of-way for Internet infrastructure, on adherence to net neutrality, and on promotion of the availability of municipal broadband; and (d) Conditioning any state-granted right to attach small cell or other broadband wireless communications devices to utility poles on adherence to net neutrality.” If enacted, the bill will incorporate net neutrality requirements into cable franchise agreements and as a condition to use public rights-of-way. The bill is supported by several groups including the Electronic Frontier Foundation and CALPIRG, and the American Civil Liberties Union.

COLORADO – NEW 911 RULES ADOPTED

The Colorado Public Utilities Commission has adopted amendments to its 911 rules intended to streamline, update and improve existing rules. The amendments include definition updates to make the rules more “technology-neutral” and more adaptable to future changes in technology. An amendment also states that the 911 rules primarily apply to basic emergency service providers. An existing rule was deleted “to avoid imposing obligations on basic local exchange carriers that are not imposed upon other originating service providers regarding 911 service, with the exception of the obligations regarding payphone providers.” The rulemaking follows a petition from the Colorado 911 Advisory Task Force, created by the Commission in 2016 to oversee statewide implementation of basic emergency service following a Commission basic emergency services rulemaking. The rulemaking had been closed following the governor’s office suggestion that the Commission may be exceeding its authority. Wireless and VoIP providers, among others, had opposed the proposed rules at that time. The governor’s office proposed that the Commission obtain more stakeholder input prior to adoption of new rules. The Task Force was formed to develop the recommended amendments. (Rulemaking 17R-0488T)

KANSAS – USF ASSESSMENT SET AT 7.5%

The Kansas Corporation Commission has adopted the state’s universal service fund assessment rate at 7.5%, effective March 1, 2018. The assessment is based on projected funding obligations and cash reserve contingency funding. (Docket 18-GIMT-084-GIT)

NEBRASKA – “PORTED” USF SUPPORT TO END

The Nebraska Public Service Commission has ended regulations that extend state universal service fund (USF) support to former CenturyLink subscribers who elected to subscribe to an eligible competitive carrier. The practice of extending state USF support began in 1997, consistent with FCC rules that provided for USF support when competitive eligible telecommunications carriers began serving USF-subsidized subscribers. USF support was then deducted from the ongoing support received from the incumbent and paid to the competitive eligible provider. The federal rules were eliminated in 2011 and the FCC began phasing out support. In 2017, the Commission initiated a rulemaking proceeding to consider whether to continue porting support to CLECs providing service via unbundled network elements in CenturyLink’s out-of-town service area and concluded that it would discontinue the practice. USF has been provided to two competitive carriers for 13 grandfathered lines. (Docket NUSF-110)

NEBRASKA - PSC Elects Commissioner Ridder as Chair

The Nebraska Public Service Commission said it has elected Commissioner Mary Ridder as chair of the commission for 2018. Commissioner Ridder was elected to the commission in November 2016 for a six-year term. Commissioner Rod Johnson was re-elected vice chair of the commission for 2018.

NEW JERSEY – NEW LAW PROHIBITS BOARD REVIEW OF CERTAIN TRANSACTIONS

Former Governor Chris Christie (R), on his last day in office, enacted SB 3603, a bill that prohibits the Board of Public Utilities from reviewing and approving property transaction of certain telecommunications companies. Under the new law, the Board may not review transactions pertaining to the sale, conveyance, or lease of real or personal property, or the grant of an easement or interest in such property in New Jersey, if the company provides competitive telecommunications services or is operating under an alternative form of regulation

NEW JERSEY – FIORDALISO NAMED BOARD PRESIDENT

Governor Phil Murphy (D) has named current New Jersey Board of Public Utilities member Joe Fiordaliso, Board president. Mr. Fiordaliso has been a member of the Board since 2005, having originally been appointed by then Governor Richard Codey, and then re-nominated twice by former Governor Chris Christie.

NEW JERSEY – NET NEUTRALITY BILLS INTRODUCED

Several bills seeking to preserve network neutrality have been introduced in the New Jersey Assembly. The bills include, AB 1767, the "New Jersey Net Neutrality Act," which would require Internet service providers "to provide customers access to any lawful Internet content of their choice, the ability to attach any lawful, non-harmful device to their end connection, the ability to run any lawful application or use any lawful service of their choice, and access to an open, neutral and non-prioritized Internet." Under the bill, ISPs would have to give customers prior written notification of changes in ISP policies resulting in Internet traffic prioritization other than those adopted for "reasonable Internet network management." ISPs would be required to disclose prioritization policies generally and in any agreement entered into with a content provider. The Division of Consumer Affairs would be directed to establish a New Jersey Internet Service Provider Registry. The division would be responsible to test each ISP's connectivity speed, and post the information online allowing customers to "compare the costs, prioritization policies, promised or asserted connectivity speeds, and actual connectivity speeds of ISPs within the state."

AB 2131 would direct the Board of Public Utilities to prohibit ISPs from installing infrastructure on certain poles or underground facilities unless adhering to net neutrality principals. An ISP would be prohibited from installing broadband telecommunications infrastructure on any pole located on or over any highway or any right-of-way or in any underground facility belonging to a public utility or cable television company, unless the ISP: "1) publicly discloses to customers located in this state accurate information regarding the network management practices and performance and commercial terms of its Internet service; 2) does not engage in paid prioritization; and 3) permits customers located in this state to access all lawful Internet content, applications, and services, and to use non-harmful Internet-enabled devices, without discrimination and without the impairment or degradation of Internet access speeds, subject to reasonable network management."

AB 2132 would prohibit awarding public contracts to an ISP that "engages in paid prioritization; prevents customers located in this state from accessing all lawful Internet content, applications, and services or using non-harmful Internet-enabled devices; or impairs or degrades Internet access speeds, subject to reasonable network management."

And AB 2139 would require cable TV companies to commit to adhering to net neutrality principles as a condition of approval of applications for municipal consent to system-wide franchises for the provision of cable TV service

SOUTH CAROLINA – 803 AREA CODE OVERLAY PROPOSED

Current numbering administrator, Neustar, Inc. has petitioned the South Carolina Public Service Commission to implement a distributed numbering overlay to relive numbering exhaustion in the 803 area code. Neustar anticipates that numbers in the 803 area code would become exhausted by fourth quarter 2020. The Company has proposed a 13-month implementation schedule. (Docket 2018-35-C)

UTAH – USF RULE PROPOSED

The Utah Public Service Commission has proposed new rules to implement state universal service fund (USF) law, Utah Code Ann. § 54-8b-15(15). The proposed rule, which would replace Utah Administrative Code R746-360, R746-341, and R746-343, includes expansion of the current fund to extend the State's Lifeline program to wireless telecommunications providers and broadband providers. Additionally, the Commission seeks to streamline existing rules. The rulemaking

proceeding was delayed pending adoption of a revised contribution methodology. Under the proposed rule, a single distribution amount of \$3.50 in Lifeline support would apply rather than a proposed two-tiered distribution process. Comments are due February 14. The new rule could go into effect as soon as February 21. (Docket 17-R008-01)

WASHINGTON – BROADBAND BILLS INTRODUCED

Several bills have been introduced in the Washington State House and Senate aimed at promoting broadband deployment:

HB 2312, the “Washington Equitable Broadband Web Act” would establish a reverse auction process to fund the buildout of last-mile broadband to the unserved and underserved areas. The reverse auction would include requests for proposals that: “(a) require successful project proposals to provide at least one commercial voice and broadband service with rates comparable to similar offerings in urban areas; (b) prioritize projects that bring high-speed Internet access to unserved rural areas of the state beginning with those counties having the highest total population without access according to the Federal Communications Commission's 2016 broadband progress report; (c) prioritize projects that seek the lowest amount of state investment per new location served; and (d) consider leverage of existing telecommunications infrastructure and the potential use of unique solutions.” A rural Internet access account would be created and \$300M would be transferred from the budget stabilization account to the rural Internet access account. The bill would also require a legislative audit and review committee to evaluate the program and submit a report by December 1, 2021.

SB 5935 would introduce a grant program to expand broadband availability throughout the state. The competitive grant would be intended to assist “qualified local governments and public entities, including public utility districts, port districts, and local jurisdictions, to deploy broadband services in underserved and unserved areas of the state.” A governor's office on broadband access would be created as a coordinating body for public and private efforts. A separate office on broadband access would be created to help establish and administer the grant program. The governor's office would be directed to appoint an implementation task force by September 30. That task force would be required to submit a broadband work plan and a progress report to the Legislature by April 1, 2018. A final report with findings and recommendations for statewide deployment of broadband service in unserved and underserved areas, as well as other necessary administrative and legislative actions, would be due by Nov. 15, 2018. A process for expediting permits would be adopted "exempting microcells, small cell facilities, and small cell network infrastructure from general land use requirements; and requiring cities and towns to adopt small cell network-specific ordinances with design standards.” Within nine months, cities and towns with a population greater than 20,000, and within 12 months, cities and towns with a population of 5,000 to 20,000, would be directed to enact a small cell facility deployment ordinances establishing a process for issuing master permits for microcells, small cell facilities, and small cell networks. The Utilities and Transportation Commission would also be required to report on funding levels to small providers, the impact of eliminating funds on small telecommunications companies, on potential funding mechanisms.

HB 2749 would impose an additional 0.05% sales tax to be used exclusively to support high-speed Internet access infrastructure deployment to unserved areas throughout a county. The funds would have to be used for the development of last-mile infrastructure “where it has not been commercially feasible for the private sector to build.” Funds could not be used for “government operation or for the provision of retail broadband service by public entities.”

WYOMING – ORDER REQUIRES TELECOM COMPANIES TO ACCOUNT FOR FEDERAL TAX LAW GAINS

The Wyoming Public Service Commission has released an order directing public utilities and telecommunications companies to begin accounting for the “significantly reduced federal income liability in 2018” resulting from the federal Tax Cuts and Jobs Act of 2017. The directive is part of a Commission investigation into the impact of the federal corporate tax cuts adopted in December 2017 on subscriber rates. Companies are to account for the difference between tax rates as a “deferred regulatory liability. According to the Commission, company rates in effect on January 1, 2018 will be “subject to refund and adjustment commensurate with the difference between [company] federal income tax liability under the law in effect on December 31, 2017, and the law in effect on and after January 1, 2018. Interested parties are invited to submit comments. (Docket No. 90000-134-XO-17)

Compliance Reporting February

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.

FEDERAL REPORTS DUE IN FEBRUARY

Due Date Jurisdiction Report Name

Due Date	Jurisdiction	Report Name	Due Date	Jurisdiction	Report Name
February 1	Federal	499Q <i>de minimis</i> determination notice (ad hoc as may apply)	February 14	Texas	CTP (Certified Telecommunications Provider) Quarterly Reporting pursuant to HB 1777
February 1	Federal	FCC Form 499-Q Telecommunications Reporting Worksheet (Quarterly)	February 14	Utah	Hearing and/or Speech Impaired Relay Report
February 1	Federal	FCC Form 502 due NANPA	February 15	Florida	Florida Telecommunications Relay, Inc. (FTRI) Monthly Surcharge Collection Report
March 1	Federal	FCC Form 477 Statement of Number and Type of Private Lines Connected to the US public switched network	February 15	Georgia	Georgia Telecommunications Relay Service (TRS) Monthly Surcharge Collection Report
<p>Companies should also be anticipating FCC Form 499A, the annual universal service fund (worksheet) report, submissions on or before April 1.</p> <p>Copies of FCC forms are available on the Internet at: http://www.fcc.gov/formpage.html.</p>			February 15	Kansas	Kansas Universal Service Fund 2004/2005 Wireless and Wireline Carrier Remittance Worksheet
STATE REPORTS DUE IN FEBRUARY			February 15	Kentucky	Commonwealth of Kentucky Telecommunications Relay Service Fund Telecommunications Devices for the Deaf Distribution Fund
Due Date	Jurisdiction	Report Name	February 15	Kentucky	Commonwealth of Kentucky Universal Service Fund
February	Missouri	Relay Missouri Statement	February 15	Nebraska	Nebraska USF & E911 Remittance Worksheet
February	Rhode Island	Telecommunication Education Access Fund	February 15	North Carolina	North Carolina Access Line Report - Rule 17-2(K)
February	Rhode Island	Telecommunications Relay Service Report	February 15	North Carolina	Questions for Competing Carriers Report
February 1	Idaho	ID Universal Service Fund Form	February 15	Oklahoma	State of Oklahoma Universal Service Fund Carrier Remittance Worksheet
February 9	California	Combined California PUC Telephone Surcharge Transmittal	February 15	Pennsylvania	Pennsylvania Universal Service Fund, FY2004 Carrier Remittance Monthly Worksheet
February 9	Oregon	Oregon Universal Service Contribution Worksheet	February 15	Puerto Rico	Puerto Rico Universal Service Fund July 2004 - December 2004 Carrier Remittance Worksheet
February 10	Alaska	Alaska Telecommunications Relay Services Fund - Remittance of Surcharges Collected	February 15	Rhode Island	E911
February 10	Arkansas	State of Arkansas Universal Service Fund	February 15	South Carolina	The Public Service Commission of South Carolina SC Dual Party Relay System Invoice
February 10	Arkansas	State of Arkansas Universal Service Fund	February 15	Vermont	Vermont Universal Service Fund Carrier Remittance Worksheet
February 10	California	Employee Compensation, Dues, and Subscriptions	February 15	Virginia	Telecommunications Relay Service Monthly Report
February 10	Georgia	Local Service Indicators Data Requests	February 15	Wyoming	WY USF Annual Report
February 10	New York	Service Quality Performance	February 20	Alaska	State of Alaska Universal Service Fund Monthly Carrier Remittance Worksheet
February 10	Oregon	Oregon Universal Service Identification Worksheet			
February 14	Missouri	Quarterly Quality of Service Report			
February 14	North Carolina	Public Utility Regulatory Fee Report			

Due Date	Jurisdiction	Report Name
February 20	Arizona	Arizona Universal Service Fund Carrier Remittance Worksheet
February 20	Colorado	CO Telecommunications Relay Service Surcharge
February 20	Idaho	Idaho Telecommunications Service Assistance Plan (ITSAP)
February 20	New Hampshire	Telecommunications Relay Service Remittance
February 20	Pennsylvania	Remittance Form for Monthly Telecommunications Relay Service (TRS) Surcharge Collections
February 20	Utah	Utah Universal Service Fund Surcharge Remittal Statement
February 20	Washington	Telecommunications Relay Service, Washington Telecommunications Assistance Program, and E911
February 21	New York	TAF Adjustment Input Form
February 21	New York	Targeted Accessibility Fund Monthly Online Reporting Form
February 21	Oregon	Residential Services Protection Fund Surcharge Remittance Form
February 22	Arkansas	Arkansas Intrastate Carrier Common Line Pool Report
February 25	Minnesota	Minnesota Annual 911/TAM/TAP Fees Report Form
February 25	Texas	Texas Universal Service Fund Worksheet
February 27	South Carolina	Annual Gross Receipts Report
February 28	Michigan	End User Count for Previous Year (Status of Competition Report)
February 28	Mississippi	Mississippi Dual Party Fund Statement of Revenues
February 28	Nebraska	State of Nebraska Dual Party Relay Surcharge Form
February 28	Oregon	Oregon Telephone Assistance Program Reimbursement Form
February 28	Tennessee	Wireline Activity Tennessee-CCN Authority
February 28	Vermont	Monthly Disconnect Report
February 28	Vermont	Vermont Service Quality Performance Index Report

Due Date	Jurisdiction	Report Name
February 28	Virginia	Monitoring Competition in the Intrastate, Interexchange Telecommunications Market in Virginia Certificated Interexchange Carriers Annual Reporting
February 28	Virginia	Service Quality Report
February 28	Wyoming	Telecommunication Companies Revenue & Assessment Report (Wyoming Universal Service Fund)
	Wyoming	WY USF Assessment True Up Form

The following articles are reprinted with the expressed consent of the author and CCMI.



[Telecom in 2018 - A Year of Legislation and Litigation](#) By Andrew Regitsky, Jan 5, 2018 10:00:00 AM Happy New Year! 2018 is set to be the most unusual year ever for the telecom industry. In every other year I can remember, there were a set of issues everyone knew the FCC was likely to grapple with. Last year with a brand new conservative Commission it was obvious that Chairman Ajit Pai was going to reverse the 2015 net neutrality rules, eliminate one-sided ISP privacy rules (with the help of Congress) and deregulate ILEC special access services. In addition, the Commission improved the pole attachment rules, modified the Lifeline program and began looking at additional switched access reform. It was easy to criticize the FCC for many of its actions, but no one could accuse the FCC of inaction, even when they had less than a full complement of five commissioners. [Read more »](#)

[Are Wireless Carriers Refusing Direct Connections for Call Terminations?](#) By Andrew Regitsky, Jan 12, 2018 10:00:00 AM Several diverse companies have banded together to complain to the FCC that despite the transition of terminating switched access rates to bill-and-keep, national wireless carriers are engaging in traffic aggregation schemes at the terminating end of calls. In a December 4, 2017 ex parte presentation in Docket 10-90, the Klein Law Group representing Consolidated Communications, Peerless Network and West Telecom Services noted that: By refusing direct interconnection (and in some cases terminating existing connections altogether) for all terminating traffic or certain types of terminating traffic (e.g., interMTA and/or wholesale traffic), these wireless carriers are forcing such terminating traffic to be routed through their “intermediate carrier partners” or “affiliates” and as a result, originating carriers no longer can terminate

such traffic to these wireless carriers on a bill-and-keep basis. (Klein Law Group, ex parte, at p. 3). [Read more »](#)

[Terminating Switched Access Costs Vary by a Factor of 12 in Some States!](#) By George David, Jan 15, 2018 10:00:00 AM That's right, just when you thought the FCC's terminating switched access reforms to a bill-and-keep regime would make your life simpler, it turns out things are much more complex – and error prone – than ever. For example, in one New York state Local Access and Transport Area (LATA) terminating switched access cost per minute (CPM) can range from \$0.00070000 to \$0.00883148, that's over twelve times higher! We'll share the gory details later in the blog, but first some background. The July 1, 2017 access filings added a brand-new twist to terminating access rate management, the notion of "affiliation". Simply put, if the access tandem (AT) and the terminating end office (EO) are owned by the same incumbent local exchange carrier (ILEC), i.e. affiliated and are price cap regulated - one set of rate elements apply; if the access tandem and the terminating end office are owned by two different ILECs, i.e. non-affiliated, another set of rate element apply. [Read more »](#)

[Congress and States Begin to Battle to Save Net Neutrality](#)

By Andrew Regitsky, Jan 19, 2018 10:00:00 AM That didn't take long! The FCC's January 4, 2018 Internet Freedom Order is under attack weeks before it takes effect and even before it is printed in the Federal Register. Senate Democrats launched the first barrage earlier this week when they announced they had 50 Senators, 49 Democrats and Republican Susan Collins of Maine to vote to overturn the Order using the Congressional Review Act (CRA). The Congressional Review Act empowers Congress, by means of a simple majority vote, to remove new federal regulations issued by government agencies and ensure that a similar rule cannot be enacted in the future. When Donald Trump became President, Republicans used the CRA to overturn a flurry of rules created by the FCC in the last few months of the Obama administration, including one-sided privacy rules that would apply to ISPs but not edge providers. Under the CRA, Congress has 60 legislative days (i.e., actual days Congress is in session) to overturn the Internet Freedom Order [Read more »](#)

[O1 Communications Takes Aim at T-Mobile Over Direct Connections Refusal](#)

By Andrew Regitsky, Jan 26, 2018 10:00:00 AM A couple of weeks ago, we became aware of a brewing industry dispute between a diverse group of small service providers and the major national wireless carriers. The small carriers claim that wireless companies are refusing to directly connect with them to terminate traffic or at least certain types of terminating traffic such as wholesale. Instead, wireless carriers are forcing this traffic to be routed through an intermediate carrier partner or affiliate, and as a result, the originating providers can no longer can terminate traffic to these wireless carriers on a bill-and-keep basis. The small carriers believe that by

forcing carriers to send terminating traffic through the wireless company's intermediate carrier partner they are engaging in an arbitrage scheme. These intermediate carriers assess terminating minute of use access charges and share these revenues, either directly or indirectly, with their wireless partner. [Read more »](#)

[Burger King | Whopper Neutrality](#) – a poignant explanation of net neutrality.

The following discussion comes from Philip Macres, Principal, Klein Law Group, PLLC.

IS YOUR COMPANY BEING DENIED DIRECT CONNECTS BY NATIONAL WIRELESS CARRIERS? THIS NEW FORM OF ARBITRAGE IS ADDING SIGNIFICANT EXPENSES TO WIRELINE CARRIERS

Several wireline carriers have reported that they are experiencing a new form of arbitrage perpetrated by certain national wireless carriers. Specifically, these reports state that certain wireless carriers are engaging in arbitrage schemes that involve: (a) disconnecting existing direct connects for certain types of terminating traffic that would be subject to bill-and-keep (i.e., without charge) if delivered over such direct connects; and (b) requiring that such terminating traffic be routed indirectly via the wireless carriers' "intermediate carrier partner(s)" that impose expensive per minute of use ("MOU") fees. The reports further claim, on information and belief, that these intermediate carriers are then sharing, in some form, such compensation with their wireless carrier partner(s).

For instance, as O1 Communications, Inc. recently stated in an FCC ex parte filing that in late 2015 and early 2016, both AT&T Mobility and T-Mobile disconnected O1's direct connects, and instead required O1 to indirectly route certain traffic through their respective intermediate carrier partner(s). O1 estimates that the cost to terminate the traffic over each indirect and inefficient route—which O1 could have terminated for free over direct connects just a few years ago—is now roughly between \$1.5 and \$1.8 Million annually.

Thus, if your company has: (1) been denied direct connects by any national wireless carrier; or (2) faced limitations on what type of terminating traffic (e.g., retail but not wholesale, intraMTA but not interMTA traffic) may be sent over direct connects to a wireless carrier, then your company may be incurring significant expenses, perhaps millions annually, by being forced to pay the terminating rates assessed by a wireless carrier's designated intermediate carrier partner(s).

At this time, efforts are underway by a coalition of carriers to get the FCC to address this issue by adopting a rule that specifies when direct connects for all types of traffic must

be made available to a requesting carrier. Involvement by additional carriers would be tremendously valuable to further demonstrate the scope of this issue and the need for FCC action. (Contact Mr. Macres for additional information.)

LIGHT READING

The following legal and corporate items are reprinted from *Corporate Counsel Update*:

The only way is ethics: Why sticking to the rules is no longer good enough (And how behavioral science can help you to do the right thing) As scrutiny for bad behavior gets stronger, we should look to the processes businesses have created to prevent it. [**READ MORE »**](#)

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