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Regulatory Review

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

FEDERAL REGULATORY NEWS



NET NEUTRALITY RULES SUNSET JUNE 11

The Commission has [announced](#) that the net neutrality rules adopted in 2015 will sunset on June 11 following publication of the Commission's January 2018 [Restoring Internet Freedom Order](#) in the *Federal Register*. Chairman [Pai](#) and Commissioner [Rosenworcel](#) issued statements. On May 9, 2018, Senator Edward J. Markey (D-Mass.) [announced](#) that Senate Democrats filed a discharge petition to force a vote on the Congressional Review Act [resolution](#) rejecting new rules in the *Restoring Internet Freedom Order*. The deadline for a Senate vote on the resolution is June 12, 2018. ([Reuters](#) [The Verge](#) articles).

USTELECOM SEEKS FORBEARANCE FROM INCUMBENT LOCAL EXCHANGE CARRIER REGULATIONS

On May 4, 2018, USTelecom, a national industry association representing incumbent local exchange carriers (ILECs) including AT&T, filed a [petition for forbearance](#) with the Commission seeking forbearance from certain Commission ILEC regulations. USTelecom requested that ILECs be relieved from unbundling and resale obligations arising from section 251(c)(3) and (4) and related section 251 and 252 obligations under the 1996 Telecommunications Act (the Act); Regional Bell Operating Company (RBOC) time interval requirements for nondiscriminatory treatment of affiliates and no n-affiliates regarding requests for service under section 272(e)(l) of the Act; the long distance separate affiliate requirement for independent ILECs under section 64.1903 of the Commission's rules; and RBOC-specific competitive checklist item regarding access to poles, ducts, conduit and rights-of-way under Section 271(c)(2)(B)(iii) of the Act. USTelecom maintained that forbearance would remove barriers to infrastructure investment and will promote deployment and competition in the provision of high speed broadband services. On May 8, 2018 the Commission released a [Public Notice](#) announcing the pleading cycle in the proceeding. Comments are due June 7, 2018 and reply comments are due June 22, 2018. Several interested parties including INCOMPAS, CALTEL, and the National Association of Regulatory Utility Commissioners have petitioned the Commission for an extension in the comment deadlines. (Docket No. 18-141)

REGULATORY FEE – POLE ATTACHMENT SMALL ENTITY COMPLIANCE GUIDES AVAILABLE

On May 3, 2018, the Commission issued a [Small Entity Compliance Guide](#) for rules adopted in its pole attachment [Report and Order](#). The *Report and Order* eliminated rules requiring historic preservation review when utility poles are replaced with substantially identical poles capable of supporting antennas or other wireless communications equipment. The Compliance guide specifically addresses Sections 1.1320(b)(3), Replacement Utility Poles, and 1.1320, Review of Commission Undertakings That May Affect Historic Properties of the Commission's rules.

Separately, on May 8, 2018, the Commission released a [Small Entity Compliance Guide](#) regarding the Commission's September 5, 2017 schedule of regulatory fees [Report and Order](#). The guide provides information on collection of fiscal year 2017 regulatory fees for Wireless Radio Services (Section 1.1152); Mass Media Services (Section 1.1153); Cable

Television Services (Section 1.1155); Common Carrier Services (Section 1.1154); and International Services (Section 1.1156).

RURAL CALL COMPLETION RULES EFFECTIVE JUNE 11

On May 10, 2018 the Commission [published](#) its April 17, 2018 [Second Rural Call Completion Order](#) in the *Federal Register*. The rules adopted under the Order become effective on June 11, 2018 with the exception of Section 64.2113, governing covered provider points of contact, which requires Office of Management and Budget approval. The rules now require “covered providers,” entities responsible for selecting the initial long distance route for more than 100,000 domestic retail subscriber lines, to monitor the performance of intermediate providers to which they hand off calls. The Commission also eliminated the call completion reporting requirement for covered providers established by the Commission in 2013. On May 22, 2018, the Commission published a [notice](#) in the *Federal Register* setting the date for Paper Work Reduction Act comments regarding information collection associated with the amended rural call completion rules. Comments are due July 23, 2018.

SERVICE DISCONTINUANCE NOTICE RULES EFFECTIVE MAY 14; POLE ATTACHMENT RULE EFFECTIVE MAY 10

On May 14, 2018, the Commission released a [notice](#) in the *Federal Register* to announce that the Office of Management and Budget approved the information collection requirements associated with the Commission’s Part 51 service discontinuance notice rules for a three-year period. The rules were promulgated under the Commission’s November 29, 2017 [Report and Order](#), which included amendments to pole attachment rules, the network change disclosure processes, and discontinuance processes under Section 214(a) of the Communications Act of 1934, as amended. Amendments to sections 51.325, Public notice requirement; 51.329, Methods for providing notice; 51.333, Short term notice, objections thereto and objections to copper retirement notices, and deleted Section 51.332 of the Commission’s rules became effective on May 14, 2018. The amended pole attachment rules, Section 1.1424, Complaints by incumbent local exchange carriers, became effective on May 10, 2018.

On May 9, 2018, the Commission released a [notice](#) in the *Federal Register* announcing Office of Management and Budget approval of the information collection associated with Sections 63.60(d)–(i), Definitions, and 63.71(k), Procedures for discontinuance, reduction or impairment of service by domestic carriers of the Commission’s rules, which became effective the same day.

COMMENTS ON USF FUNDING PROHIBITION FOR EQUIPMENT AND SERVICES POSING NATIONAL SECURITY RISKS DUE JUNE 1

On May 2, 2018, the Commission [published](#) its [Notice of Proposed Rulemaking](#) proposing options for ensuring that Universal Service Fund support is not used to purchase equipment or services from companies posing a national security risk to communications networks or supply chain in the *Federal Register*. Comments are due June 1, 2018; reply comments are due July 2, 2018. (DA No. 18-452) (Docket No 18-89)

BUSINESS DATA SERVICE INFORMATION COLLECTION AND CALLER ID REQUIREMENT PAPERWORK REDUCTION ACT COMMENT DEADLINES SET

On May 15, 2018, the Commission published a [notice](#) in the *Federal Register*, requesting Paperwork Reduction Act (PRA) comments regarding amendment of currently approved information collection pertaining to the 2017 Business Data Services [Order](#). The Order included requirements that price-cap regulated incumbent local exchange carriers remove all business data services that are no longer subject to price-cap regulation from their interstate tariffs within 36 months of its effective date of the *Order*, August 1, 2020). PRA comments are due June 14, 2018.

Also on May 15, 2018, the Commission [notice](#) in the *Federal Register* requesting PRA comments on a new information collection associated with amended rules governing privacy requests. Under the rule amendment in Section 64.1601 of the Commission’s rules, delivery requirements and privacy restrictions do not apply when calling party number (CPN) delivery is made in connection with a threatening call. The Commission had also amended rules to allow non-public emergency services to receive the CPN of all incoming calls from blocked numbers requesting assistance. PRA comments are due June 14, 2018.

COMMISSION INITIATES ACCESS CHARGE ARBITRAGE PROCEEDING

On May 17, 2018, the Wireline Competition Bureau issued a [public notice](#) to announce that a new “Updating the Intercarrier Compensation Regime to Eliminate Access Arbitrage” proceeding has been initiated. No additional information was included on the scope of the proceeding. (WC Docket No. 18-155)

CENTURYLINK PETITIONS COMMISSION FOR DECLARATORY RULING ON VOIP ACCESS CHARGES – COMMENT SCHEDULE SET

On May 11, 2018, CenturyLink filed a [Petition for Declaratory Ruling](#) to request that the Commission rule on the applicability of end-office local switching access reciprocal compensation per Section 51.913 of the Commission's rules, for traffic originating from or terminating to an over-the-top VoIP provider end user that partners with a local exchange carrier to exchange traffic to and from the public switched telephone network. CenturyLink states that the issue was the subject of a Commission 2015 declaratory ruling but that the decision had been vacated and remanded by the U.S. Court of Appeals for the D.C. Circuit. CenturyLink also maintained that the Commission's decision had not decided on a proper interpretation of the access reciprocal compensation rules applicable toll traffic to or from end users of over-the-top VoIP. The incumbent maintains that the rule permits a LEC partnered with a VoIP provider to collect end office local switching access reciprocal compensation when the LEC and/or its VoIP partner perform certain critical call initiation or termination processes, irrespective of whether the VoIP provider also controls last-mile facilities used to reach the VoIP provider's end user customer. "CenturyLink continues to believe that the proper interpretation of these rules as applied to VoIP traffic exchanged with the PSTN is that they permit a LEC partnered with a VoIP provider to collect end office local switching access reciprocal compensation when the LEC and/or its VoIP partner perform certain critical call initiation or termination processes, as further described herein, irrespective of whether the VoIP provider also controls last-mile facilities used to reach the VoIP provider's end user customer." On May 18, 2018 the Wireline Competition Bureau issued a [public notice](#) setting the comment schedule for the Petition. Comments are due June 18, 2018; replies are due July 3, 2018. (WC Docket 10-90 and CC Docket 01-92)

ISP TRANSPARENCY DISCLOSURE PORTAL ANNOUNCED

On May 21, 2018, the Commission Consumer and Governmental Affairs Bureau issued a [public notice](#) announcing that an online Internet Service Provider (ISP) transparency disclosures [portal](#) has been established. Establishment of the portal was required under the Commission's Restoring Internet Freedom order. The portal was activated on May 29, 2018 and is available to the public for searching ISP disclosures.

COMMISSION INITIATES 8YY ACCESS CHARGE REFORM PROCEEDING

On May 17, 2018, the Wireline Competition Bureau issued a [public notice](#) on May 17, 2018, announcing it has opened WC Docket No. 18-156, which is captioned "8YY Access Charge Reform." No additional information was provided.

THIRD QUARTER FEDERAL UNIVERSAL SERVICE FUND SUPPORT MECHANISM AND PROJECTIONS FILED

On May 2, 2018, the Universal Service Administrative Company (USC) filed [Federal Universal Service Support Mechanisms Fund Size Projections](#) for the Third Quarter 2018 on May 2, 2018. The total high cost support mechanism funding requirements are projected to be \$1.087 billion. (Appendices are available on [USAC's website](#)).

SPECIAL COUNSEL FINDS O'REILLY VIOLATED HATCH ACT

A U.S. Office of Special Counsel (OSC) has determined that Commission Commissioner Michael O'Reilly violated the Hatch Act's restrictions on political activities following Commissioner O'Reilly's comments at the Conservative Political Action Conference (CPAC) in February. In response to a question regarding what could be done to avoid "regulatory ping pong" on FCC positions when political party control changes asked during a CPAC panel discussion, O'Reilly said, "What we can do is make sure as conservatives that we elect good people to both the House and Senate and make sure that President Trump gets elected." He continued, "We're going to have a fight over the Obama Internet rules in the next couple of months in the U.S. Senate. And that's going to matter and that vote matters, and so making sure that people take the right course on that really does affect what policies we're able to ... replace going forward. So we certainly could use everyone's help along those lines." Two government watchdog groups filed complaints against O'Reilly, alleging that his comments constituted Hatch Act violations. Erica Hamrick, deputy chief of the OSC's Hatch Act Unit, found that "Despite his words, Commissioner O'Reilly explained to OSC that he was not advocating President Trump's reelection but was attempting to answer the question asked, which he understood to be about preventing the next Administration from reversing the FCC's net neutrality decision. ..." Ms. Hamrick noted, however, that "Regardless of his explanation, Commissioner O'Reilly advocated for the reelection of President Trump in his official capacity as FCC Commissioner. Therefore, he violated the Hatch Act's prohibition against using his official authority or influence to affect an election." The OSC issued a warning letter advising Commissioner O'Reilly that should he engage in prohibited political activity while employed in a position covered by the Hatch Act, OSC would "consider such activity to be a willful and knowing violation of the law, which could result in further action pursuant to 5 U.S.C. § 1215."

USAC OFFERS OVERVIEW ON USF FUND TRANSFER TO U.S. TREASURY

On May 5, 2018, the Universal Service Administrative Company (USAC) announced that it will accept Universal Service Fund (USF) payments to, and distribute funds from, the U.S. Treasury effective May 1. According to its notice, Contributors may pay their current USF April invoice using the current process, or they may pay using USAC's E-File. Payments were due May 15. Beginning with the May invoice, contributors are required to pay their USF contributions using E-File. These payments are due June 15. USAC will no longer accept checks or wire transfers. Additional information on paying USAC and video tutorials are available on USAC's pay web site, www.usac.org/pay.

COMMENTS ON FCC PROPOSED REGULATORY FEES DUE JUNE 21

On May 22, 2018, the Commission issued a [Report and Order and Notice of Proposed Rulemaking](#) to address regulatory fee issues raised in the 2017 [Further Notice of Proposed Rulemaking](#). The Commission requests comment on the assessment and collection of 2018 fiscal year regulatory fees. The Report and Order adopted new tiers for calculating regulatory fees for submarine cable systems, declined to adopt a new regulatory fee for international section 214 authorizations, and retained the optional bulk rate calculation for determining the number of subscribers in multiple dwelling units used in the calculation of cable television regulatory fees. The NPRM seeks comment on the Commission's proposed regulatory fees for FY 2018, specifically, proposing to collect \$322,035,000 in regulatory fees for FY 2018. Comments are due June 21, 2018; reply comments are due July 6, 2018.

IN THE COURTS

AT&T MOBILITY TO SEEK SUPREME COURT REVIEW OF FTC COMMON CARRIER EXEMPTION

AT&T Mobility, LLC has announced that it plans to request U.S. Supreme Court review of a U.S. Court of Appeals for the Ninth Circuit (San Francisco) ruling that AT&T does not qualify for exemption from Federal Trade Commission (FTC) enforcement pertaining to non-common carrier activities. The FTC had filed suit against AT&T Mobility before the U.S. District Court for the Northern District of California, alleging that AT&T "throttling" wireless broadband customers who had subscribed to unlimited data plans constituted an unfair business practice under section 5 of the FTC Act, and that its marketing of unlimited data plans constituted a deceptive business practice. AT&T's motion to dismiss the case under the FTC's common carrier exemption was dismissed by the district court. AT&T's wireless broadband service had not been classified as a common carrier service at the time of alleged violations took place. Yet AT&T maintained that the common carrier exemption was "status-based" whereby an entity with common carrier status for some services was entitled to the exemption for all of its services. A three-judge panel of the Ninth Circuit agreed with AT&T, but the Ninth Circuit agreed to rehear the case *en banc*. The Ninth Circuit subsequently upheld the district court's ruling on AT&T's motion to dismiss. In the joint AT&T and FTC statement, the parties said that the FTC is asking the district court to allow discovery to resume, saying that direct settlement talks between the parties have not been initiated, and that the Supreme Court is not likely to grant cert for a unanimous *en banc* decision based on well-established law defining "common carrier," when there is no conflicting circuit ruling. AT&T wants the district court to continue its stay of the discovery process while considering Supreme Court review. The parties continue exploring a settlement.



ORAL ARGUMENTS SCHEDULED IN MINNESOTA VOIP PROCEEDING APPEAL

The U.S. Court of Appeals for the Eighth Circuit (St. Louis) has scheduled oral arguments for June 12 in "Charter Advanced Services (MN) LLC; Charter Advanced Services VIII (MN) LLC, v. Nancy Lange, in her official capacity as Chair of the Minnesota Public Utilities Commission, *et al.*" The case is an appeal of the Minnesota Public Utilities Commission's jurisdiction over Charter Communications, Inc.'s interconnected voice-over-Internet protocol (VoIP) service, "Spectrum Voice." Charter has argued that the FCC's restoring Internet freedom (RIF) order expressly preempts states from regulating broadband Internet services. Last fall the FCC filed an *amicus curiae* brief in the proceeding maintaining that the Minnesota Commission had overstepped its authority noting that the Commission's "sweeping assertion of regulatory authority over VoIP service threatens to disrupt the national voice services market and to address how relevant FCC orders provide more measured and appropriate mechanisms for regulating VoIP service." The Minnesota Attorney General's Office maintains that the RIF order pertains to broadband Internet access services, and that the VoIP service in question is not a broadband service, but rather a "telecommunications management exception" described in the Commission's order. (Case 17-2290)

BEFORE CONGRESS

SENATE PASSES RESOLUTION DISAPPROVING OF COMMISSION RESTORING INTERNET FREEDOM ORDER

On May 16, 2018 the Senate passed a Congressional Review Act [resolution](#) disapproving of the Commission's January 2018 Restoring Internet Freedom [Order](#), on a 52 to 47 [vote](#). The resolution is a first step in reversing the Commission's elimination of net neutrality rules originally adopted in 2015 and scheduled to end on June 11. Democratic and independent supporters needed a single Republican vote to secure majority. Republican Senators Susan Collins (R., ME), John Kennedy (R., LA), and Lisa Murkowski (R., AK) supported the measure. Democrats were critical of the Commission's process for adopting the Order, stating that Commission Chairman Ajit Pai had predetermined outcome of the proceeding and ignored evidence of comments submitted with false identities. Senator Ed Markey (D., MA) sponsored the resolution. Statements were issued by [Senators. Greg Walden \(R-Ore.\) and Marsha Blackburn \(R-Tenn.\)](#), Chairman [Pai](#) and Commissioners [Rosenworcel](#) and [Carr](#). (S.J.Res. 52)

SENATE - HOUSE MEMBERS SUPPORT HIGH-COST UNIVERSAL SERVICE FUND BUDGET SHORTFALL RESOLUTION

On May 15, 2018, sixty-three senators, led by Deb Fischer (R. NE) and Amy Klobuchar (D. MN), sent a [letter](#) to Chairman Pai to express support for a Commission Order that addresses resolution of universal service fund high-cost program budget shortfalls. The Senators seek more predictable and long-term solutions that allow the reformed high-cost mechanism to work as designed. A similar [letter](#) was sent by more than 130 congressmen to Chairman Pai on May 16, 2018, urging the Commission to address the remaining high-cost program shortfalls. [Senate press release](#) | [House press release](#)

STATE REGULATORY NEWS



CALIFORNIA – Telecommunications Rule Violation Citation Program Proposed

On May 2, 2018, the California Public Utilities Commission released a draft resolution that if adopted, would authorize the Communications Division staff to implement a telecommunications regulatory compliance citation program to enforce Commission rules. Under the proposed program, carriers that violate Commission rules would receive a notice requiring that the carrier bring itself into compliance. A second notice would be released 30 days later if the violation would not be resolved. Providers failing to comply with within six months would be subject to revocation of operating authority. Providers would further be subject to fines. Staff proposed fines of \$1,000 per month for operating without authority, \$1,000 per failure to submit required filings, notices or reports as required and an additional \$200 if subsequent notices were issued; and \$1,000 for failure to report and remit surcharges for at least 12 months up to a \$3,000 cap. An additional fine of 25 percent per user fees due on delinquent payments would apply for failure to report and remit user fee payments for at least 30 days. Providers would be prohibited from recovering penalties from end users. An appeals process would also be implemented. The resolution was considered during the Commission's May 31 public meeting. (Resolution T-17601)

CALIFORNIA – Rights of Way Rules Revised to Apply to CLECS

The California Public Utilities Commission has amended its rights-of-way (ROW) regulations to apply to wireless facilities deployed by competitive local exchange carriers (CLECs). According to the Commission, ROW rule amendments were necessary “to provide [CLECs] with expanded nondiscriminatory access to public utility infrastructure for the purpose of installing antennas and other wireless telecommunications facilities.” Under the amended rules, a default per foot fee is established for CLEC wireless pole attachments. The ROW rule amendments apply prospectively per Rule 6.3(a) of the commission's Rules of Practice and Procedure and will not apply to the contractual rates, terms, and conditions for existing CLEC installations. In 2016, the Commission had originally extended ROW rules applicable to utility-owned facilities-based carriers and cable television companies to all commercial mobile radio service (CMRS) following a petition filed by AT&T Mobility. The amendments followed a Wireless Infrastructure Association (WIA) petition seeking extension of the ROW rules applicable to CMRS facilities to CLEC wireless facilities. WIA's petition noted that in instances distributed antenna systems (DAS) were being installed by entities that were regulated as CLECs. (Investigation 17-06-027)

CONNECTICUT – Senate Passes Telecommunications Deregulation Bill

The Connecticut Senate has passed SB330, a bill that would effectively eliminate telecommunications service regulation in the State. The bill would, among other things, eliminate the Public Utilities Regulatory Authority's (PURA) authority to designate telecommunications services as competitive, emerging competitive and noncompetitive, would eliminate rate regulation for noncompetitive telecommunications services, and would remove the requirement for companies to file tariffs that include competitive and emerging competitive services with the PURA. Companies providing service to residential end users would have to post service rates, terms and conditions on their web sites. Providers serving commercial subscribers would have to make rates, terms, and conditions available in a customer service guide, on the provider's web site, or under a contract with a commercial retail subscriber. Companies serving more than 75,000 subscribers would no longer be required to obtain PURA authority to cease provision of retail services. The PURA would also no longer be authorized to conduct audits for services other than cable services. Providers would no longer be required to cooperate with incumbents to create a directory assistance database. Further, requirements that make unauthorized procurement, selling or receiving telephone records a crime; procedures governing selling telecommunications services over the phone by telecommunications companies, their affiliates, and authorized representatives; annual written disclosure requirements to customers related to promotional offerings and discounts; and a requirement for certain building owners to permit wiring by a telecommunications provider to provide service to the building under certain conditions would all be eliminated. And the bill would eliminate requirements for companies to provide directory assistance at no charge and indemnify the telephone company for any damages caused by the provider's negligence in misidentifying a nonpublished customer. Companies would be required to comply with existing federal law that requires telecommunications companies that provide local service to "provide subscriber list information on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions to anyone upon request for purposes of publishing directories in any format."

IOWA – Tax Bill Enacted

Iowa Governor Kim Reynolds (R) has signed SF 2388, a bill that changes telephone and cable company property valuations into law. Under the new law, assessment of telecommunications and cable company property will be limited to the value of land and buildings, will be assessed at the local level, and classified as commercial property beginning in 2022. These properties are currently assessed by the Iowa Department of Revenue, which includes poles and lines, among other property as part of the assessed value. The new law also exempts telecommunications and cable company machinery, equipment, and computers from sales and use tax exemption. A three year phase-in of the property tax exemption begins in 2019. Critics maintain that the new law will cost counties as much as \$30 million.

MAINE – Education Access Fund Surcharge Set

The Maine Public Utilities Commission has set the Maine Telecommunications Education Access Fund (MTEAF) monthly surcharge at \$0.21 per month, per number, or per line. This is the maximum rate at which the MTEAF surcharge may be set under new state law. The surcharge is assessed on local exchange carriers, providers of interconnected VoIP service, and providers of non-prepaid mobile telecommunications service. The rate increase was found necessary to maintain funding levels as the amount of intrastate retail revenues on which the surcharge applies has been decreasing steadily. (Docket 2018-00068)

NEW YORK – Commission Directs Carriers to Remove Central Office Codes from Blocking

On May 17, 2018, the New York Public Service Commission issued an [Order Directing Carriers to Revise Certain Requirements Related to Blockable Central Office Codes](#). The *Order* directs carriers to exclude "certain central office codes from blocking service options offered to customers in order to make them available for the provision of general telecommunications services." The *Order* followed a Verizon New York, Inc. 2017 Petition in which the incumbent requested Commission approval to exclude certain central office codes from blocking and asked the Commission to authorize changes to blocking options available by other regulated carriers. According to Verizon, since 2014 telephone numbers containing 716-970 blockable codes had been incorrectly assigned for general use. As a result, thousands of non-information end users were assigned numbers whose numbers were blocked from receiving calls from callers who elected a blocking service option that blocks outgoing calls to numbers beginning with the 716-970 code. Verizon proposed that the Commission remove 716 -970 numbers from the list of blockable codes rather than reassign numbers to end users and require local exchange carriers in New York to realign the blocking service provisions of their tariffs and product guides. The commission granted Verizon's Petition and directed all carriers to remove the identified codes from their respective

tariffs or service guides by August 17, 2018. Only the 976 code will remain blockable code in all area codes throughout the state. (Case Number: [17-C-0278](#))

COMPLIANCE REPORTING JUNE

The following is provided exclusively for informational purposes. Reporting requirements are subject to change and should be verified by filers.

Geographic Rate Averaging and Rate Integration Certification letter were due on May 1.

FCC Form 395 - Common Carrier Annual Employment Report and Discrimination Complaint Report, May 31 (16 employees or more).

Companies should also anticipate the upcoming FCC International Report due July 31.

The following articles are reprinted with the expressed consent of the author and CCMI. The author and CCMI have authorized reprinting of these and future articles by Mr. Regitsky as a regular *Regulatory Review* feature.



[ILECs Seek End of Network Unbundling Requirements](#) By Andrew Regitsky Guess what folks, we are going to have an old-style telecom brawl this summer! The primary ILEC association USTelecom just filed a Petition for Forbearance with the FCC, arguing that section 251(c)(3) of the 1996 Telecom Act, which requires ILECs (the old RBOCs) to provide unbundled network elements (UNEs) to their competitors at cost is no longer necessary in today's ultra-competitive telecom market. In fact, USTelecom claims that competition has grown to such an extent, the section 10 forbearance requirements of the Act are now relevant and (after an 18-month transition) the Commission should no longer enforce their UNE requirements. **READ MORE >**

[Conspiracy Theorists Have Field Day with Net Neutrality Delay?](#) By Andrew Regitsky I have always been a little jealous that telecom regulation never seems to have its own conspiracy theory. Other industries certainly do. For example, some believe the Coca-Cola company introduced "New" Coke knowing it would be hated, as a sneaky way to reintroduce "Old" Coke with cheaper ingredients. Older folks might remember the controversy in the 1960's when the Beatles supposedly replaced Paul McCartney with a look-alike after he "died." This became obvious to the believers because when playing Beatle songs backwards they were able to hear the group exclaiming "Paul is dead." Years later, of course, Paul is still performing. Unfortunately, we in telecom regulation have never been popular enough to have our very own conspiracy theory. Thankfully, now that net neutrality has become a huge issue, we have arrived. We finally have our own conspiracy! The "conspiracy" involves the fact that FCC Chairman Ajit Pai delayed the key parts of his Restoring Internet Freedom Order until the Office of Management and Budget (OMB) approved the new ISP transparency rules. Those rules require ISPs to make public their commercial business agreements, including any efforts to block or throttle traffic or engage in paid prioritization. **READ MORE >**

[CenturyLink Wants FCC to Clarify that Local Switching Access Charges Apply to Over-The-Top VoIP Traffic](#) By Andrew Regitsky Switched access charges have existed since 1984, and for those of us who get paid to analyze it, it has been an absolute joy! Since their creation there has never been a week when carriers were not disputing the correct access rates or their applicability in various scenarios. That is primarily because of the millions of dollars involved, but also because switched access rates have traditionally been priced well above cost to support universal service and rates differed between the interstate and interstate jurisdictions. When new technologies arrived such as VoIP, the rules became even more complex and attempts to arbitrage the artificial differences in rates became more numerous. **READ MORE >**

[FCC Decides to End Switched Access Traffic Pumping](#) By Andrew Regitsky Despite steps taken in 2011 to stop carriers from taking advantage of the artificial differences in switched access rates, the FCC finally has faced up to the fact that switched access arbitrage through access stimulation (traffic pumping) and toll-free 8YY calls, continues alive and thriving in 2018. Thus, in its upcoming June 7, 2018 meeting, the Commission will open rulemaking proceedings to eliminate both types of switched access arbitrage. **READ MORE >**

[FCC Rulemaking Will "Fix" 8YY Originating Access and Query Charge Problems](#) By Andrew Regitsky After years of industry complaints about some carriers taking advantage of the current access charge structure for toll-free 8YY calls, the FCC finally announced that at its upcoming June 7, 2018 meeting it will initiate a Further Notice of Proposed Rulemaking (FNPRM) in Docket 18-156 to eliminate 8YY arbitrage once and for all. **READ MORE >**