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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.

FEDERAL REGULATORY NEWS



PAI RELEASES STATEMENT REGARDING RESTORING INTERNET FREEDOM ORDER

On January 2, 2019, Chairman Ajit Pai released a [statement](#) regarding Congressional action on the Commission's [Restoring Internet Freedom Order](#) stating that he was ". . . pleased that a strong bipartisan majority of the U.S. House of Representatives declined regulation." Pai said that the 115th Congress closed without invalidating the Commission's Restoring Internet Freedom Order through

the Congressional Review Act. Pai maintained that the Commission's light-touch approach is working, noting that the Commission will continue to pursue its forward-looking agenda to bring digital opportunity to all Americans in 2019.

CHAIRMAN STARKS SWORN IN AS NEW COMMISSIONER

On January 30, 2019 Commissioner Geoffrey Starks was sworn in by Chairman Ajit Pai. Commissioner Starks, former assistant chief in the Commission's Enforcement Bureau, fills the seat vacated last year by Mignon Clyburn. His term runs through June 30, 2022. The Commission now has a full slate of Commissioners for the first time since Commissioner Clyburn's departure. [Statement](#).

MUNI WIRELESS INFRASTRUCTURE RECON PETITION FILING ANNOUNCED

On January 2, 2019 the Commission issued a [public notice](#) to announce that the city of New Orleans, the Virginia Municipal League, the Kentucky League of Cities, *et al.* filed a [petition for reconsideration](#) of the Commission's 2018 [declaratory ruling and third report and order](#) on wireless infrastructure deployment (see below). Oppositions to the petition will be due 15 days after publication of this public notice in the *Federal Register*. Replies to oppositions will be due 10 days after the time for filing oppositions has expired.

IN THE COURTS

TENTH CIRCUIT DECLINES STAY OF COMMISSION SMALL CELL ORDER - APPEAL TRANSFERRED TO NINTH CIRCUIT

On January 10, 2019, the U.S. Court of Appeals for the Tenth Circuit (Denver, CO), released an [order](#) granting a the City of San Jose, *et al.*'s [motion to transfer](#) appeals of the Commission's September 2018 [declaratory ruling and third report and order](#) on wireless infrastructure deployment – the small cell order - to the U.S. Court of Appeals for the Ninth Circuit. The Ninth Circuit is already addressing a petition for review of the Commission's August 2018 [order](#) on pole attachment reforms. The Tenth Circuit found the Commission's August 2018 order and the September 2018 order are the same order for purposes of appeal consolidation. Separately, the Tenth Circuit also released an [order](#) denying a [motion for stay](#) of the Commission's wireless infrastructure deployment order filed by the [City of San Jose, et al.](#),



[City of Seattle, et al.](#) and [City of Huntington Beach](#). The court ruled that the petitioners had failed to meet their burden of showing irreparable harm if a stay was not granted. The Commission's wireless infrastructure deployment order took effect in part on January 14, 2019. Petitions for review of the order were also filed by [PRTC](#), [Verizon](#) and [Sprint](#). (Cases 18-9568, 18-9571, and 18-9572)

D.C. COURT ANNOUNCES RESTORING INTERNET FREEDOM ORAL ARGUMENT TIME ALLOTMENT

On January 23, 2019, the U.S. Court of Appeals for the District of Columbia Circuit issued an [order](#) announcing time allotments for parties' oral arguments in the Restoring Internet Freedom [Order](#) appeal scheduled for February 1, 2019. Observers note that the time allotments for oral arguments in the case are longer than typically allowed.

On January 15, 2019 Commission filed a [motion](#) to delay oral argument in appeals of the Commission's Restoring Internet Freedom [Order](#) due to the recent lapse in funding for the Commission and the relevant component of the Department of Justice. The Commission maintained that petitioner and - intervenors Internet Association, Entertainment Software Association, CCIA and Writers Guild of America, West, Inc. - took no position on the motion, and the United States, intervenor Digital Justice Foundation and respondent-intervenors USTelecom, CTIA, NCTA, ACA and WISPA do not oppose the motion.

On January 16, 2019, INCOMPAS filed an [opposition](#) to the FCC's motion. INCOMPAS argued that petitioners had invested substantial resources and time in preparing for oral argument and granting the extension would cause substantial disruption for petitioners. INCOMPAS said a denial of the Commission's motion would be in line with the court's precedent, noting that during the 2013 governmental shutdown, this court denied similar requests to stay oral argument.

On January 17, 2019 the Court had denied a Commission's motion. The Court found that despite the lapse in government funding for the judiciary, oral arguments already scheduled for January and February would proceed. Twenty-two state attorneys general and other state and local government entities maintain that the Commission's preemption of state net neutrality laws violates the Communications Act of 1934, as amended, which established "a system of dual state and federal regulation." *Mozilla Corp. v. FCC* (case 18-1051)

STATE REGULATORY NEWS



ALABAMA – COMMISSION TRS SURCHARGE TERMINATED

On January 30, 2019, the Alabama Public Service Commission ordered telephone companies to cease collection of the state's Dual Party Relay surcharge after normal billing cycles, beginning March 1, 2019. The Commission found that the State's Dual Party Relay Fund had collected sufficient revenues to operate the Dual Party Relay system "without the collection of additional surcharges for the foreseeable future." The current \$0.15 per access line, per month surcharge has remained in effect since 1995. (Informal Docket U-3089)

CALIFORNIA – SHIROMA APPOINTED TO COMMISSION

California Governor Gavin Newsom (D) has appointed Genevieve Shiroma to the California Public Utilities Commission. Ms. Shiroma has served on the Agricultural Labor Relations Board, and previously as chief of the Air Quality Branch at the California Air Resources Board. Ms. Shiroma also served as director of Ward 4 of the Sacramento Municipal Utility District. Her appointment is pending Senate confirmation.

DISTRICT OF COLUMBIA – COMMISSION APPROVES AMENDED SERVICE QUALITY RULES

The District of Columbia has approved updated service quality rules for companies serving more than 10,000 access lines in the District. Among the amendments, are changes to time measurements for installation commitments met metrics, and to the rule listing services to be included or excluded from measurement under the rules. Additional rules were added that include a trouble clearing time measure and a repeat trouble measure for evaluation of time to repair service-affecting but not out-of-service problems, and the percentage of repeated problems with a particular service line. The amendments also change how certain measures are reported. (Docket RM27-2014-01)

MICHIGAN – COMMISSION REMINDS PROVIDERS TO UPDATE REGISTRATIONS

The Michigan Public Service Commission staff has reminded telecommunications providers to update their registrations with the Commission. According to a Commission staff notice, "Michigan Section 211a of the Michigan Telecommunications

Act (MTA) requires telecommunications providers to register with the Commission, and Michigan Public Service Commission (MPSC) Order U-11900 requires all providers of telecommunication service within Michigan ‘to update their registrations annually and to notify the Commission, within 30 days, if they either file for bankruptcy or terminate their operations.’ The Intrastate Telecommunications Service Providers (ITSP) registration program is an on-line program that was established to allow service providers to fulfill this requirement electronically. Registration is free and takes just minutes. Providers must update their registration on the Commission’s ITSP <https://mae.force.com/itsp/ITSPPortalLogin> by February 8, 2019.” A user name and password are required to access the ITSP. An updated registration must be submitted even if there are no changes to company information. Providers no longer offering service in Michigan are requested to contact Commission staff.

MISSISSIPPI – NEW LAW AUTHORIZES ELECTRIC CO-OPS TO PROVIDE BROADBAND

Governor Phil Bryant (R) has signed House Bill 366, the “Mississippi Broadband Enabling Act,” a law that authorizes electric power cooperatives to provide high-speed Internet service to their customers, into law. Under the new law, electric cooperative may allow affiliated or unaffiliated broadband service providers to utilize their broadband system or other parts of their infrastructure to provide broadband service to customers. The Commission had advocated for the measure, adopting a resolution in November that asked the legislature to pass legislation enabling electric cooperatives to provide broadband service. According to the Commission, more than one hundred rural electric cooperatives are providing Internet service in the U.S., including in all the states bordering Mississippi. Twenty-five Mississippi electric cooperatives may begin providing Internet service, though the law prohibits the co-ops from using electric and energy sales revenues to subsidize their broadband service. Co-ops are also allowed to invest in Internet Service Providers. Before broadband service may be provided, the co-op must perform an economic feasibility study and prepare a plan to serve the entirety of the cooperative’s service area. An electric cooperative providing broadband must continue to maintain its electric service, under the new law. The law also prohibits electric cooperatives from disconnecting electric service to broadband customers who are delinquent on broadband bills. And cooperatives must charge the same pole attachment fees to affiliates or non-affiliated service providers as they would other pole attachers. The new law takes effect.

TEXAS – COMMENTS SOUGHT ON PROPOSED NEW NPA

The Texas Public Utility Commission has asked for comment on a petition filed by Neustar, Inc., the numbering administrator, for relief in the 214/469/972 numbering plan area (NPA). Neustar anticipates an exhaustion of telephone numbers in the NPA by third quarter 2021. Neustar is proposing a new NPA overlay. The industry is recommending a nine-month implementation plan. Comments are due February 5, 2019. (Docket 48765)

WEST VIRGINIA –2019 ANNUAL COUNTY LINE COUNTS DUE

On January 1, 2019, the West Virginia Public Service Commission notified local exchange and interexchange carriers of their obligation to provide landline data with the West Virginia Public Service Commission on a county-by-county basis as of March 1, 2019, by April 7, 2019. Companies are to report the number of residential, business and “company official” local exchange (dial tone) access lines actually assigned to subscribers. Payphone lines are to be counted whether 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, noted by the Commission as typically 8 to 1 truck-to-line ratio. The Commission notes that any line that is subject to a 911 fee should be counted including VoIP lines. VoIP lines should be counted separately. Resold lines should not be counted by the provider. There is no prescribed form, though a [Line Count Form](#) is linked in the notice.

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

<u>Due Date</u>	<u>Jurisdiction</u>	<u>Report Name</u>
February 1	Federal	499Q <i>de minimis</i> determination notice (ad hoc as may apply)

Due Date	Jurisdiction	Report Name
February 1	Federal	FCC Form 499-Q Telecommunications Reporting Worksheet (Quarterly)
February 1	Federal	FCC Form 502 due NANPA
March 1	Federal	FCC Form 477 Statement of Number and Type of Private Lines Connected to the US public switched network

Companies should also be anticipating FCC Form 499A, the annual universal service fund (worksheet) report, submissions on or before April 1.

Copies of FCC forms are available on the Internet at: <http://www.fcc.gov/formpage.html>.



CCMI HUB Blog

With the introduction of CCMI's expanded Blog, readers are invited to access CCMI's additional content, including Andy Regitsky's weekly regulatory blog and back copies of the Miller Isar, Inc. *Regulatory Review* at the [CCMI HUB Blog web site](#).

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