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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



THIRD QUARTER USF CONTRIBUTION FACTOR SET

On June 12, 2018, the FCC The FCC Office of Managing Director released a [public notice](#) to announce that the proposed universal service contribution factor for the third quarter of 2019 will be 24.4%. The second quarter contribution factor was 18.8%. On May 31, 2019, the Universal Service Administrative Company (USAC) submitted its [Federal Universal Service Support Mechanisms Quarterly Contribution Base for Third Quarter 2019](#) used to determine the universal service fund contribution factor support mechanisms for third quarter 2019. USAC estimated the contribution requirements were \$11,483,305,614, down from \$12,266,461,604 in the previous quarter. (DA No. 19-559)

USTELECOM PETITION TO WITHDRAW FORBEARANCE REQUEST FOR ALL BUT LOW SPEED UNES AND RESALE APPROVED – PAI PROPOSES UNE AND RESALE TRANSITION PERIOD

On July 2, 2019, the Wireline Competition Bureau issued an [order](#) granting USTelecom's July 1 [request](#) to withdraw all pending requests for forbearance identified in appendix A of USTelecom's May 4, 2018 [petition for forbearance](#). The request excluded unbundling obligations for DS1 and DS3 transport and analog voice-grade copper loops under section 251(c)(3) and associated section 251 and section 252 obligations; and avoided cost resale obligations under section 251(c)(4) and associated section 251 and section 252 obligations. Earlier in June, the Commission [approved](#) USTelecom's request to withdraw its request for forbearance from dark fiber transport requirements.

Regarding the remaining network element unbundling and resale elements of USTelecom's forbearance petition, Commission Chairman Ajit Pai has circulated a draft order that would establish a three-year transition period for competitive providers and their customers to pursue alternative arrangements for voice services relying on unbundled network elements and resale to be taken up at the Commission's July open hearing. An accompanying memorandum opinion and order would "[grant forbearance from DS1 and DS3 transport unbundling requirements at price cap carrier wire centers where competitive fiber networks are located within a half-mile of the wire center;]" "[condition this forbearance on (1) a six-month transition period during which competitive local exchange carriers can place new orders for DS1 and DS3 unbundled transport; and (2) a concurrent three-year transition period to enable these carriers to arrange for alternative transport options;]" and "[remove unnecessary regulatory burdens and thereby promote facilities-based competition, the transition away from legacy networks, and new and continued investment in next-generation networks and services.]"

Under the statutory deadline in the 1996 Telecommunications Act provisions granting Commission forbearance authority, if the Commission does not act on the pending portions of the USTelecom petition by August 2, those pending requests will be deemed granted. Should the draft order and a pending Business Data Services proposed order be adopted during the Commission's July open meeting, there will be no portions of USTelecom's forbearance petition that will remain subject to the statutory August 2 "deemed-granted" deadline.

Pai has maintained that the unbundled network element and resale obligations established under the 1996 Act are no longer needed and undermine network investments. Pai also circulated a draft report and order on remand on price cap carriers' transport services and facilities in WC Docket Nos. 16-143, 05-25, 18-141. GN Docket No. 13-5, and Rulemaking 10593 affirming, "the Commission's previous findings that widespread and ever-increasing competition in the supply of BDS [business data services] transport justifies relieving price cap carriers of *ex ante* pricing regulation and tariffing of their BDS TDM transport services nationwide" and "[e]liminate unnecessary, burdensome regulations and thereby encourage competitive entry and further investment in next-generation networks and services." (WC Docket No. 18-141)

NATIONAL LIFELINE ELIGIBILITY VERIFIER LAUNCHED IN ELEVEN STATES

On June 17, 2019, the Commission released a [Public Notice](#), announcing a "soft launch" of the National Lifeline Verifier in eleven states - Arizona, Connecticut, Georgia, Iowa, Kansas, Nebraska, Nevada, New York, Vermont, Virginia, and West Virginia - on June 25, 2019. Eligible Telecommunications Carriers (ETCs) will be allowed – but not required – to use the National Verifier to familiarize themselves and adjust their systems to use the National Verifier (NV) before use becomes mandatory. According to the Public Notice, "ETCs ... should not begin any recertifications for Lifeline subscribers as of June 25, 2019 and should finish any currently open recertifications for Lifeline subscribers in these states no later than August 30, 2019. In addition, USAC will begin reverification of existing Lifeline subscribers in these eleven states [using the NV] during the soft launch period." ETCs electing to continue using legacy eligibility verification processes must comply with the Commission's legacy rules for determining subscriber eligibility (DA No. 19-569).

WIRELESS CARRIER LOCATION INFORMATION DISCLOSURE COMPLAINT FILED

On June 14, 2019, The Georgetown Law Center on Privacy & Technology, New America's Open Technology Institute and Free Press filed a [complaint](#) against AT&T, T-Mobile, Sprint and Verizon Wireless regarding unauthorized disclosure and sale of customer location information. The Complainants maintain that the Companies broadly violated Communications Act requirements that telecommunications providers, including wireless service providers, comply with privacy obligations associated with release of location information. According to the Complaint, AT&T, T-Mobile, Sprint disclosed customer location information to location aggregators, other location-based services companies and unauthorized individuals without customer approval or notification in violation of Sections 222 and 201(b) of the Communications Act and Commission rules.

RURAL CALL COMPLETION RULES BECOME EFFECTIVE JULY 5

On June 4, 2019, the Commission published its March 15, 2019 fourth [report and order](#) on rural call completion in the [Federal Register](#). The report and order implemented the *Improving Rural Call Quality and Reliability Act of 2017* that established service quality standards for intermediate providers, set forth procedures to enforce intermediate provider requirements and sunset the rural call completion data recording and retention requirements. The order becomes effective July 5, 2019.

CALL BLOCKING AND CALLER ID AUTHENTICATION THIRD FNPRM RELEASED – COMMENT DEADLINE ANNOUNCED

On June 6, 2019 the Commission released its [Declaratory Ruling and Third Further Notice of Proposed Rulemaking](#) regarding call blocking and caller ID authentication. The *Third Further Notice of Proposed Rulemaking* proposes a safe harbor for call-blocking programs targeting unauthenticated calls which may be spoofed; safeguards to ensure that "critical" calls are not blocked; and would require voice service providers to implement the SHAKEN/STIR Caller ID Authentication framework in the event major voice service providers have failed to do so by the end of this year. On June 26, 2019, the Commission Consumer and Governmental Affairs Bureau and Wireline Competition Bureau [announced](#) comment deadlines regarding the *Third Further Notice of Proposed Rulemaking*. Comments are due July 27, 2019 and reply comments due August 23, 2019.

On June 24, 2019, the Commission published [notice](#) in the *Federal Register* to announce that the *Declaratory Ruling* became effective June 7, 2019. The ruling clarified voice service providers may offer consumers programs to block unwanted calls through analytics (call-blocking programs) on an informed opt-out basis and may block calls from numbers not in a consumer's contact list (white-list programs). The Commission reminded voice service providers that protecting emergency communications is paramount. The Commission directed the Consumer and Governmental Affairs Bureau, in consultation with the Wireline Competition and Public Safety and Homeland Security Bureaus, to prepare two reports on the state of deployment of advanced methods and tools to eliminate unwanted calls. (Docket Nos. 17-59, 17-97)

USF BUDGET CAP NPRM COMMENTS DUE JULY 15

On June 13, 2019, the Commission's May 31, 2019 [notice of proposed rulemaking](#) (NPRM) requesting comment on placing an \$11.42 billion cap on the Universal Service Fund USF was [published](#) in the *Federal Register*. The NPRM seeks comment on: setting a different cap; adjusting the cap over time; implementing the cap; extending Commission projections further than one year to better anticipate potential spending over the cap; how to reduce expenditures if the Universal Service Administrative Company (USAC) projects disbursements will exceed the overall USF cap; possible changes to the budget structures of the individual programs to establish a maximum level of support that can be disbursed annually; prioritizing the funding among the four programs and other possible universal service pilots or programs where USAC projects total disbursements will exceed the overall cap; and how to account for additional duties or obligations the Commission might create in other proceedings that potentially would cause projected expenditures to exceed the cap. NPRM comments are due July 15, 2019 and reply are due August 12, 2019. (FCC 19-46) (WC Docket No. 06-122)

COMMENTS ON PETITION TO PAUSE LIFELINE SERVICE CHANGE IMPLEMENTATION DATE DUE JULY 31

On July 1, 2019, the Wireline Competition Bureau issued a [public notice](#) requesting comments on a CTIA, the National Hispanic Media Coalition, the National Consumer Law Center, *et al.* [petition](#) requesting that the Commission pause the December 1, 2019 implementation of two changes to Lifeline regulations that would otherwise take effect: a five-fold increase in the minimum required broadband data usage allowance, and the phasedown in support for voice services. Comments are due July 31, 2019, and reply comments are due August 15, 2019.

NUMBERING RESOURCE PRA COMMENTS DUE AUGUST 1

On July 2, 2019, the Commission published [notice](#) in the *Federal Register* requesting Paperwork Reduction Act comments on an extension of a currently approved information collection associated with Form 502, Numbering Resource Optimization. Form 502 data enables the Commission manage the ten-digit North American Numbering Plan, and is used by the Commission, state regulatory commissions and the North American Numbering Plan Administrator to monitor numbering resource utilization by all carriers using the resource and project the dates of area code and NANP number exhaust. Comments are due August 1, 2019.

RATE OF RETURN REGULATORY REFORM INFORMATION COLLECTION PRA COMMENTS DUE AUGUST 1

On July 2, 2019 the Commission published a [notice](#) in the *Federal Register*, seeking Paperwork Reduction Act comments on a revision of a currently approved information collection associated with reforms to the universal service mechanisms adopted in the [March 2016](#) and [December 2018](#) rate-of-return regulatory reform orders. Comments are due August 1, 2019.

LOCAL COMPETITION INFORMATION COLLECTION PRA COMMENTS DUE AUGUST 13

On June 14, 2019, the Commission published a [notice](#) in the *Federal Register* requesting Paperwork Reduction Act comments pertaining to current information collection requirements associated with sections 251 and 252 of the Telecommunications Act of 1996. Comments are due August 13, 2019.

IN THE COURTS

PARTIES APPEAL COMMISSION ONE-TOUCH-MAKE READY POLE ATTACHMENT AND SMALL CELL ORDER



On June 10, 2019, [Sprint, et al.](#), [city of Portland, et al.](#) and the [American Public Power Association](#) filed opening briefs with the U.S. Court of Appeals for the Ninth Circuit Court (San Francisco) regarding thirteen [petitions for review](#) of the Commission's September 2018 [declaratory ruling and order](#) on wireless infrastructure deployment. In its brief, [Sprint, et al.](#) asserted the Commission had refused to deem a state or local government's failure to act within a reasonable period of time on a request for authorization to place, construct or modify personal wireless services facilities to be a grant of authorization, despite having done so with similar applications made under the Spectrum Act. The [City of Portland, et al.](#) argued that the Commission cannot force states and localities to respond to demands for access to proprietary property or require contribution of resources to a federal regulatory scheme consistent with the Fifth and Tenth Amendments, or to limit cost reimbursement. [APPA](#) maintained it was arbitrary and capricious for the Commission to require its shot clock requirements run concurrently for all necessary permits and applications and establish a safe harbor of \$270 for access to both public rights-of-way and public facilities without considering that public power utilities often operate in the rights-of-way of local governments with which they have no relationship.

BEFORE CONGRESS



HOUSE PASSES FY 2020 APPROPRIATIONS BILL

On June 26, 2019, the House passed [HR 3351](#), the Financial Services and General Government Appropriations Act, 2020 by a 224-196 vote. The Bill includes appropriations for the Federal Communications Commission. Under the bill, the Commission would receive a \$339 million budget for FY 2020, consistent with its fiscal year 2019 allocation. All of the Commission's budget is collected from regulatory fees. A number of Commission-specific amendments were adopted including a prohibition on the Commission "from finalizing a draft declaratory ruling that would overturn local ordinances that promote broadband competition;" a \$1 million increase/ decrease in funding funding to stress the need for the Commission to make the issue of robocalls that seek to scam seniors a priority; an decrease and increase in Commission funding "to highlight the importance of completing its investigation into the sale of geolocation data by wireless carriers to third party location aggregators;" and a prohibition on the Commission finalizing an overall cap on Universal Service Fund programs.

On June 10, 2019, the House Appropriations Committee [announced](#) release of a [report](#) accompanying the fiscal year 2020 Financial Services and General Government Appropriations bill, which among other things, contained information on the Commission budget, broadband deployment and robocalls. The Committee expressed concern over the accuracy of Commission broadband maps and sought to direct to the Commission to improve map accuracy within 180 days of enactment. Regarding growing concern over robocalls, the Committee would direct the Commission to provide a report detailing information regarding robocalling complaints and status of provider actions to curb the practice within 90 days of enactment. The Commission would also be directed "to provide to the Committee within 90 days of enactment of this Act a detailed plan and timeline for potentially creating a Robocall Division within the Enforcement Bureau that consolidates staff and other agency resources dedicated to enforcing violations of the Telephone Consumer Protection Act (TCPA) and other relevant robocall statutes and regulations." Other expressed concerns included Commission delays in restoring essential communications services in Puerto Rico, the U.S. Virgin Islands, the need for more aggressive steps to promote network resiliency to mitigate the impact of future weather events on communications networks, and Commission efforts to maintain long-term sustainability and viability of the universal service fund programs. Separately, the Committee proposed providing the Federal Trade Commission with substantial additional funding "to increase both its enforcement of antitrust statutes and its capacity to investigate unfair, deceptive, and fraudulent business practices." Including fraudulent robocalls targeting seniors and health care.

STREAMLINED SMALL CELL DEPLOYMENT ACT REINTRODUCED IN SENATE

Senators John Thune (R, SD), chairman, and Brian Schatz (D, HI), ranking member, of the Senate Communications, technology, innovation, and the Internet subcommittee, have reintroduced the Streamlining the Rapid Evolution And Modernization of Leading-edge Infrastructure Necessary to Enhance Small Cell Deployment (STREAMLINE Small Cell Deployment Act) ([S 1699](#)). The bill would, among other things, establish that "[p]ermits must be approved or denied on publicly available criteria that are reasonable, objective, and non-discriminatory;" "[s]mall cell applications may be

denied or regulated for objective and reasonable structural engineering standards, safety requirements or aesthetic or concealment requirements;” “[a]pplications must be acted on no later than 60 days for requests to collocate equipment and 90 days for other requests;” “[f]lexibility and additional time is allowed for small municipalities (fewer than 50,000 residents);” that the Commission could “grant flexibility by issuing a one-time 30-day waiver of the timeframes required for action upon a request by a state or local government;” and “[f]ees must be publicly disclosed, competitively neutral, technology neutral, nondiscriminatory and based on actual and direct costs (including, for example, costs for maintenance and inspections).” Senators Thune and Schatz had first introduced their legislation in 2018. Some of the bill’s requirements have already been adopted by the Commission.

SENATE PANEL ADVANCES CYBER THREAT BILL

On June 17, 2019, the Senate Homeland Security and Governmental Affairs Committee approved by voice vote the Internet of Things (IoT) Cybersecurity Improvement Act, introduced by Senators Mark Warner (D, VA), and Cory Gardner (R, CO). The bill would establish cybersecurity standards for federal devices that are connected to the internet. The Commerce Department’s National Institute of Standards and Technology (NIST) would be directed to create the guidelines and the Office of Management and Budget would inform agencies of the security standards to make sure that IoT devices purchased are consistent with the NIST standards.

HOUSE ROBOCALL BILL INTRODUCED

On June 20, 2019, House Energy and Commerce Committee Chairman Frank Pallone, Jr. (D, NJ) and Ranking Member Greg Walden (R, OR) [announced](#) introduction of the Stopping Bad Robocalls Act ([HR 3375](#)). The bill is intended to prevent abusive robocall practices. Under the bill, telephone carriers would be required to implement call authentication technology with no additional line-item for consumers on an opt-out basis; include a process to help rural carriers implement this technology; direct the Commission to issue rules to protect consumers from unwanted calls and ensure consumers can withdraw consent; require the Commission to enact safeguards so companies can’t abuse robocall exemptions; ensure the Commission has the authority and the tools to take strong, quick action when it tracks down robocallers; and require the Commission to submit a report to Congress on the implementation of its reassigned numbers database.

STATE REGULATORY NEWS



CALIFORNIA – Commission Approves 909 Area Code Overlay

The California Public Utilities Commission has approved a petition from Neustar, Inc., the North American Numbering Plan Administrator, for implementation of an all-services area code overlay for the current 909 numbering plan area serving Big Bear Lake, Colton, Chino, Chino Hills, Fontana, Grand Terrace, Highland, Loma Linda, Montclair, Ontario, Rancho Cucamonga, Redlands, Yucaipa, as well as unincorporated areas in San Bernardino County; Claremont, Diamond Bar, Industry, La Verne, Pomona, San Dimas, Walnut, and unincorporated areas in Los Angeles County, and Calimesa, and Eastvale, and unincorporated areas in Riverside County. The overlay will be implemented under a thirteen-month schedule. (Application 17-06-020)

FLORIDA – 689 Area Code Becomes Operational

On June 5, 2019, the new 689 numbering plan area became operation in Florida’s 407/321 area covering Orange, Osceola, and Seminole Counties, as well as parts of Lake and Volusia Counties through an overlay implementation plan. The portion of the 321 area code serving Brevard County was not affected and will not receive the 689 overlay.

NEBRASKA – Annual Universal Service Fund Charge Set

The Nebraska Public Service Commission has extended the Nebraska Telecommunications Universal Service Fund surcharge at \$1.75 per residential connection and 6.95% on business revenues for another year. The fiscal year 2020 surcharge became effective on July 1. (Application NUSF-4)

MISSISSIPPI Commission Presley Selected as NARUC President

The Mississippi Public Service Commission has announced that Commissioner Brandon Presley had been selected to serve as the next National Association of Regulatory Utility Commissioners (NARUC) President. Members will formally vote during the NARUC annual meeting in November.

MAINE – Privacy, MTLs Bills Enacted

Governor Janet Mills (D) has signed LD 946, a bill that prohibits Internet service providers from using, disclosing, selling, or permitting access to a customer's personal information unless the customer opts in. The new law takes effect on July 1, 2020. Under the new law, providers must take reasonable measures to protect customers' personal information from "unauthorized use, disclosure, sale, or access." Providers must obtain subscriber opt-in consent before releasing any personal information and are prohibited from refusing service to customers or charge customers who do not consent. CTIA and The Telecommunications Association had opposed the bill. CTIA argued that the bill "would create two sets of rules that are different for various entities within the Internet ecosystem. This would lead to widespread consumer confusion about which rules apply to their data and work to create an uneven playing field. Internet users overwhelmingly prefer a single national standard."

Separately, HB 4249, a bill that repeals a requirement that each service user with a Multi-Location Telephone System (MLTS) install the necessary equipment and software to provide specific location information for a 911 call by December 31, 2019, was also enacted. Under the bill, "an MLTS operator would be exempt from the specific location identification requirements if the building maintained, on a 24-hour basis, an alternative method of notification and adequate means of signaling and responding to emergencies, including at least a communications system that provides the specific location of 911 calls from within the building, or if the building were serviced with its own appropriate medical, fire, and security personnel." Farms with less than 20 communications devices in one building will also be exempt from providing the specific location of each device until the installment of a new MLTS after January 1, 2020

WEST VIRGINIA – Pole Attachment Rulemaking Initiated

On June 4, 2019, the West Virginia Public Service Commission initiated a [rulemaking](#) governing pole attachments and the Commission's assumption of jurisdiction over pole attachments. According to the *Commission Order* initiating the rulemaking, "The State was enjoined, however, from enforcing the provisions of [West Virginia's pole attachment statute, W. Va Code §3G-4-1 *et. seq.*] by the Federal District Court for the Southern District of West Virginia because the State had not satisfied statutory conditions for reverse preemption of federal authority" in 2018. The Commission states that as a result of state legislation enacted in 2019 under Senate Bill 3, the Commission was granted jurisdiction over pole attachments and was directed to adopt the provisions of the law and Federal Communications Commission regulations. The Commission goes on to note, however, that "[t]he requirement to supplant the Commission Procedural Rules with the FCC formal complaint procedures places the Commission in a quandary," and requests comments on how to implement the FCC dispute resolution process and complaint rules regarding pole attachments with the Commission's Procedural Rules. Initial Comments are due July 5, 2019 and reply comments due July 15, 2019. (Case No. 19-0551-T-GI)

COMPLIANCE REPORTING JULY

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 JULY

International Traffic Data due July 31

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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