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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



USAC PROPOSES FEDERAL USF SUPPORT MECHANISM QUARTERLY CONTRIBUTION BASE FOR 1Q20 – CONTRIBUTION FACTOR SET.

On December 2, 2019, the Universal Service Administrative Company (USAC) submitted the [Federal Universal Service Support Mechanisms Quarterly Contribution Base](#) for first quarter 2020 to the Commission. USAC projected \$11,129,976,956 to be collected from the interstate and international end-user revenue as the basis in determining the USF Support Mechanisms contribution factor for first quarter 2020. This is an increase in projected revenue from \$11,017,439,561 in the previous quarter. On December 12, 2019, the Commission released a [Public Notice](#) establishing the first quarter 2020 universal contribution factor at 0.212 or 21.2 percent. (CC Docket No. 96-45)

COMMISSION RELEASES TOLL FREE NUMBER AUCTION SMALL ENTITY COMPLIANCE GUIDE – ADMINISTRATOR ANNOUNCES QUALIFIED BIDDERS

On December 3, 2019, the Commission issued a [Small Entity Compliance Guide](#) regarding procedures for the 833 NPA toll free auction adopted in its 2019 [Public Notice](#). The guide is intended to assist individuals and small businesses understand the requirements and procedures for the Commission's auction and provide additional compliance information, record keeping and reporting requirements, and establishes the implementation date. (AU Docket No. 19-101 WC Docket No. 17-192 CC Docket No. 95-155)

Separately, on December 10, 2019, Wireline Competition Bureau and the Office of Economics and Analytics issued a [Public Notice](#) announcing the 44 applicants qualified to bid in the 833 NPA code auction. Auction applicants are identified by status as qualified or non-qualified. The Public Notice also includes information on bidding and post-bidding processes. Only qualified bidders were authorized to bid in the December 17, 2019 auction.

911 ORDER BECOMES EFFECTIVE JANUARY 6

On December 5, 2019, the Commission's August 2, 2019 [Report and Order](#) establishing requirements for 911 emergency calls placed from multi-line telephone systems was [published](#) in the *Federal Register*. Following publication, the *Report and Order* becomes effective January 6, 2020. Compliance will not be required for certain Part 9 rules until the Commission announces the compliance date in the *Federal Register*. (PS Docket Nos. 19-261 and 17-239; GN Docket No 11-117)

NATIONAL VERIFIER LAUNCHED IN FIVE ADDITIONAL STATES

On December 9, 2019, the Wireline Competition Bureau issued a [Public Notice](#) announcing that a soft launch of the national Lifeline Verifier in Florida, Illinois, Minnesota, Ohio and Wisconsin would begin December 16, 2019. The soft launch period enables eligible telecommunications carriers to familiarize themselves with the national verifier and adjust and test systems and business processes before use becomes mandatory.

COMMISSION ISSUES LIFELINE PROGRAM ADVISORY – ANNOUNCES ELECTRONIC INTERFACE FOR LIFELINE ENROLLMENT

On December 9, 2019, the Commission Enforcement Bureau released an [FCC Enforcement Advisory](#) to emphasize that eligible telecommunications carriers that receive federal universal service fund support for the Lifeline program will remain responsible for claiming Lifeline support only for eligible low-income consumers. The Bureau stated that although the Commission created systems to enhance the overall integrity of the Lifeline program and combat waste, fraud and abuse, those systems do not relieve eligible telecommunications carriers of their responsibilities to submit accurate Lifeline reimbursement claims. (Enforcement Advisory No. 2019-07)

In a related matter, on December 10, 2019, the Commission issued a [news release](#), announcing launch of an electronic interface participating carriers can use when verifying a potential subscriber's Lifeline program eligibility. The application programming interface will connect carriers' systems to the Lifeline program's national eligibility verifier and enable carriers to send applicant information directly to the national verifier for an eligibility check, reducing the paperwork required from potential subscribers.

COMMENTS SOUGHT ON TRUTH-IN-BILLING RULES

On December 13, 2019, the Commission Consumer and Governmental Affairs Bureau issued a [Public Notice](#) requesting comments to refresh the record on methods for modernizing and strengthening the Commission's current truth-in-billing rules. Among the specific issues on which the Bureau seeks comments, are whether existing truth-in-billing rules should be extended to interconnected VoIP providers, Comments are due 30 days following *Federal Register* publication; replies are due 60 days following publication. (CC Docket No. 98-170 WC Docket No. 04-36)

COMMISSION CLARIFIES VOIP SYMMETRY RULE

On December 17, 2019, the Commission released its [Order on Remand and Declaratory Ruling](#) clarifying provisions of the the Commission's "VoIP Symmetry Rule" following adoption during the Commission's December 12, 2019 open hearing. The Commission stated that it interpreted its VoIP Symmetry Rule to "permit LECs to assess end office switched access charges only if the LEC or its VoIP partner provides a physical connection to the last-mile facilities used to serve an end user. If neither the LEC nor its VoIP provider partner provides such physical connection to the last-mile facilities used to serve the end user, the VoIP-LEC partnership is not providing the functional equivalent of end office switched access and the LEC may not assess end office switched access charges." In 2011, the Commission adopted the VoIP Symmetry Rule, interpreting the rule, "to permit LECs to assess end office switched access charges only if the LEC or its VoIP partner provides a physical connection to the last-mile facilities used to serve an end user. If neither the LEC nor its VoIP provider partner provides such physical connection to the last-mile facilities used to serve the end user, the VoIP-LEC partnership is not providing the functional equivalent of end office switched access and the LEC may not assess end office switched access charges." In 2015, the Commission issued a *Declaratory Ruling* which interpreted the VoIP Symmetry Rule as allowing LECs that partner with over-the-top VoIP providers to collect end office switching charges on their VoIP-PSTN traffic. The ruling was challenged, vacated and remanded back to the Commission for further consideration by the United States Court of Appeals for the District of Columbia Circuit. (WC Docket No. 10-90 CC Docket No. 01-92)

COMMENTS SOUGHT ON STAFF CALL BLOCKING REPORT

On December 20, 2019, the Commission issued a [Public Notice](#) seeking to collect information for its first staff report on call blocking. The Commission requested comment regarding availability and effectiveness of call blocking tools, the impact of Commission actions, the impact on 911 services and public safety, and any other information that may inform the Commission's analysis of the state of deployment of advanced methods and tools to eliminate illegal and unwanted calls, among other matters. On December 30, 2019, the Commission's *Public Notice* was published in the [Federal Register](#).

Comments are due January 29, 2020 and reply comments are due February 28, 2020. [News Release](#) (Docket Nos. 17-59, 17-97)

COMMENTS SOUGHT ON FCC FORM 499-A AMENDMENTS

On December 26, 2019, the Commission Wireline Competition Bureau issued a [Public Notice](#) requesting comments on proposed amendments to the annual *Telecommunications Reporting Worksheet*, FCC Form 499-A, and accompanying instructions. Two proposed clarifications to the instructions would be included; an update, “to reflect that filers who fail to submit, upon request, documentation supporting their Forms 499 are subject to enforcement provisions of the Act and other applicable law, as well as administrative penalties;” and clarification that “that all amounts that filers receive as universal service support should be reported on line 308.” The Commission also proposes updates to instruction filing deadlines, circularity factor update, traffic study submissions, deletion of references to SMS and MMS messaging services and stylistic amendments. Comments are due January 27, 2020. (Docket No. 06-122).

LIFELINE REFORM ORDER EFFECTIVE AND NPRM COMMENTS DUE JANUARY 27

On December 27, 2019, the Commission’s November 14, 2019 *Fifth Report and Order, Memorandum Opinion and Order on Reconsideration and Further Notice of Proposed Rulemaking* reforming the Lifeline program [was published](#) in the *Federal Register*. Among the program reforms are: a prohibition on participating carriers from paying commissions to employees or sales agents based on the number of consumers who apply for or are enrolled in the Lifeline program with that carrier; and restoration of the role of states in designating carriers to participate in the Lifeline program, among other things. The order becomes effective January 27, 2020, except for section 54.406(b) of the Commission’s rules, which becomes effective February 25, 2020, and section 54.406(a), which becomes effective March 26, 2020. Sections 54.404(b)(12) and 54.410(f) are delayed and the Commission will publish a document announcing the effective date. The *Further Notice of Proposed Rulemaking*, seeks comment on additional measures to combat waste, fraud and abuse in the Lifeline program. Comments are due January 27, 2020 and Reply comments are due February 25, 2020. (WC Docket Nos. 17-287, 11-42, and 09-197)

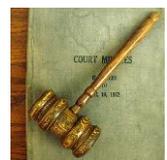
PRA COMMENTS ON SUPPLY CHAIN INFORMATION COLLECTION DUE JANUARY 29

On December 30, 2019, a [notice](#) was published in the *Federal Register* requesting Paperwork Reduction Act (PRA) comments on a new information collection associated with the Commission’s November 2019 [Order](#) prohibiting use of universal service fund payments to purchase, maintain, improve, modify, obtain or otherwise support any equipment or services produced or provided by a company that poses a national security threat to the integrity of communications networks. The Commission proposes to collect information to determine the extent to which potentially prohibited equipment exists in current networks and the costs associated with removing such equipment and replacing it with equivalent equipment. PRA comments are due January 29, 2020. (WC Docket No. 18-89, PS Docket Nos. 19-351 and 19-352)

IN THE COURTS

PETITIONS FOR REHEARING OF RESTORING INTERNET FREEDOM ORDER FILED

On December 13, 2019, several parties filed petitions for rehearing of the U.S. Court of Appeals for the District of Columbia Circuit’s October 1, 2019 [decision](#) upholding the majority of the Commission’s Restoring Internet Freedom [order](#). [Mozilla, et al.](#) asserted rehearing is warranted because the Court’s ruling conflicts with the Supreme Court’s Brand X [decision](#), and the Court’s *USTA v. FCC* [decision](#). Petitions for rehearing were also filed by the [National Hispanic Media Coalition](#), [New America’s OTI, et al.](#) and the [County of Santa Clara, et al.](#) The states of New York, *et al.*, filed a [notice](#) to join the petitions filed by Mozilla, and New America’s OTI, *et al.* The Digital Justice Foundation had filed a [petition](#) for rehearing on October 31, 2019. ([all petitions for rehearing](#)) (*Mozilla Corporation v. Federal Communications Commission and United States of America*, No. 18-1051)



BEFORE CONGRESS

HOUSE PASSES ROBOCALL BILL



On December 4, 2019 the House [passed](#) the [Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence \(TRACED\) Act](#) aimed at curbing robocalling. The bill would require carriers to offer call-authentication technology at no additional charge; require opt-in or opt-out robocall blocking at no additional charge; give the Commission the ability to enhance enforcement actions against unlawful robocallers through a longer statute of limitations and increased fines in certain cases; and would enable the Commission and

responsible carriers to trace back and cut off suspect phone companies responsible for sending vast numbers of unlawful robocalls. [Bill Summary](#).

HOUSE PASSES BROADBAND DEPLOYMENT AND MAPPING BILLS

On December 16, 2019, The House [passed](#) the Broadband Deployment Accuracy and Technological Availability Act, [H.R. 4229](#), and [passed](#) the Mapping Accuracy Promotes Services (MAPS) Act, [H.R. 4227](#). The Broadband Deployment Accuracy and Technological Availability Act would require the Commission to change the way broadband data is collected, verified and reported. The Commission would be required to issue rules requiring collection of detailed broadband availability data and the formation of a data-accuracy verification process; authorize funding of \$25 million in fiscal year 2021 and \$9 million per year for Fiscal Years 2022 through 2028; direct the Government Accountability Office to review the Commission’s progress on mapping accuracy; provide technical assistance for small providers; and seek to ensure that the Commission considers lessons learned from the Mobility Fund Phase II challenge process. The MAPS Act would prohibit submission of broadband internet access service coverage information or data to the Commission for the purposes of compiling an inaccurate broadband coverage map. Under the MAPS Act, it would be unlawful to “willfully, knowingly, or recklessly” submit inaccurate broadband service data to the Commission. The MAPS Act passed the Energy and Commerce Committee in November.

HOUSE PASSES SUPPLY CHAIN BILL

On December 16, 2019, the House [passed](#) the Secure and Trusted Communications Networks Act, [H.R. 4998](#). The bill would prohibit using funds made available through Commission programs to purchase, rent, lease, or otherwise obtain equipment and services that the Commission has deemed a national security risk. The bill would also establish a Secure and Trusted Communications Reimbursement Program to assist communications providers with the cost of removing prohibited equipment and services from their networks and replacing prohibited equipment with more secure communications equipment and services. The bill would authorize \$1 billion to replace equipment to be appropriated in fiscal year 2020 and to remain available until 2029.

Separately, the House passed [HR 4779](#), which would reauthorize the Undertaking Spam, Spyware, And Fraud Enforcement With Enforcers beyond Borders (US SAFE WEB) Act of 2006. The bill would extend the Federal Trade Commission’s authority to work with foreign law enforcement agencies to combat cross-border online fraud, spyware, and spam from its current expiration date of September 30, 2020, to September 30, 2027. Under the bill, the FTC would be required to submit a report to the House and Senate Commerce committees within three years of enactment on the number of cross-border complaints it had received, any recommendations for legislation to help combat cross-border online activities targeted by the measure, and the agency’s activities under the US SAFE WEB Act.

STATE REGULATORY NEWS



IOWA – Telecom Rule Amendments Adopted

The Iowa Utilities Board has approved amendment to its Telecommunications Rules, Chapter 22, to reflect statutory deregulatory provisions enacted in 2018. Among the amendments to the Board’s rules are changes to alternate operator service tariff submissions; the consumer complaint processes; interstate access charge applications, tariffs, and rates; interexchange utility service and access; service territories; and applications for numbering resources. The new statutory provisions enacted under HF 2446, exempted telecommunications service from several requirements, including rate increase notices to subscriber; waivers of certain record retention requirements; disconnection of service and deposits; and a 20-day period for a customer to pay a utility bill and the rate for late payment charges. HF 2446 further required that all telecommunications providers register with the Board. Per the new rules, each telecommunications service provider is required to register with the Board annually. The new rules also add definitions for “alternative operator company,” “information service,” and “voice over Internet protocol service.” (Docket RMU-2018-0022)

OREGON – RSPF Surcharge Reduced

The Public Utility Commission of Oregon has reduced the Residential Service Protection Fund (RSPF) surcharge. The surcharge will be \$0.10 per line, effective January 1, 2020. The RSPF funds Oregon's Lifeline, telecommunications relay service and devices for the disabled programs.

NEW MEXICO – Commission Sets Universal Service Fund Surcharge

The New Mexico Public Regulation Commission has set a per-communication connection surcharge of \$0.88 to fund the State Rural Universal Service Fund and adopted an affordability benchmark rate of \$18. The monthly per-connection surcharge was formerly of \$1.24 for 2019. The commission had set a temporary surcharge to give fund administrator, GVNW Consulting, more time to provide its recommendation for 2019 as part of a proceeding to transition from a percentage-of-interstate-revenue surcharge to a per-communication-connection surcharge. (Case 19-00210-UT)

TEXAS – New Area Code Approved for Dallas Area

The Texas Public Utilities Commission has approved a North American Number Planning Administrator (NANPA) petition to implement a new area code to overlay the existing 214/469/972 area codes currently used in the metro Dallas area of Grayson, Denton, Colin, Hunt, Tarrant, Dallas, Rockwall, Kaufman, Johnson, Ellis, and Hill counties. An additional ruling is expected in early 2020. NANPA had projected number exhaustion for 214/469/972 NPAs by second quarter 2021. (Docket 48765)

WEST VIRGINIA – Pole Attachment Rules Adopted

On December 5, 2019, the West Virginia Public Service Commission adopted new pole attachment rules following enactment of Senate Bill 3 in March, that gave the Commission jurisdiction over pole attachments. The new rules are codified at Section 150-38-1 of the Commission's rules, 150 C.S.R. 38, and include provisions governing the duty to provide access, imputation of rates and cost modification, allocation of unusable space costs, timeline for access, use of contractors, overlashing, and complaint procedures, among others. ([General Order 261](#))'

We wish readers prosperity and health in the New Year. Happy New Year!