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## Regulatory Review

*The Miller Isar, Inc. Regulatory Review is a monthly report designed to provide clients and industry 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 NEWS



#### 4Q USF CONTRIBUTION FACTOR SET

On September 1, 2020, the Universal Service Administrative Company (USAC) filed its [Federal Universal Service Support Mechanisms Quarterly Contribution Base](#) for fourth quarter 2020. USAC projects collected interstate and international end-user revenue base used in determining the Universal Service support mechanisms for 4Q2020 to be \$10,428,377,862, based on revenue reported on the quarterly FCC Form 499Q by 4,200 carriers (3,051 contributors and 1,149 de minimis carriers). On September 14, 2020, the Office of Managing Director released a [Public Notice](#), announcing that the proposed universal service contribution factor for the fourth quarter of 2020 will be 27.1%, up from the previous quarter's 26.5%. (Docket No. 96-45).

#### SIMINGTON NOMINATED AS O'RIELLY REPLACEMENT

On September 15, 2020, President Trump [announced](#) his intent to nominate Nathan A. Simington to replace Commissioner O'Rielly. Simington is currently a senior advisor in the National Telecommunications and Information Administration (NTIA) specializing in network and telecommunications policy, and works on 5G security and secure supply chains, the American Broadband Initiative and is NTIA's representative to the Government Advisory Committee of the Internet Corporation for Assigned Names and Numbers. Simington reportedly drafted and supports the Section 230 petition directed by Trump, currently before the Commission.

#### FCC PROVIDES REGULATORY FEE PAYMENT METHODS AND PROCEDURES

On September 4, 2020, the Commission released a [Public Notice](#) providing payment procedures for fiscal year 2020 regulatory fees. The *Public Notice* contains guidance for regulatees to pay FY 2020 Regulatory Fees, including ensuring current Commission Registration System numbers, limitations on credit card transactions, electronic filing and payment methods and procedures.

#### COMMISSION ANNOUNCES RDOF APPLICATION STATUS

On September 1, 2020, the Rural Broadband Auctions Task Force, Office of Economics and Analytics, and Wireline Competition Bureau issued a [Public Notice](#), announcing the status of the 505 short-form applications received for the Rural Digital Opportunity Fund (RDOF) Phase I auction (Auction 904). According to the *Public Notice*, bidding in the auction begins October 29, 2020. The *Public Notice* includes information on modification and resubmission of short-form applications, and reminds applicants of Commission adopted procedures for the auction. The 121 short-form applications have been designated as complete and listed in attachment A of the *Public Notice*; 384 applications are classified as incomplete and listed in attachment B. (Docket Nos. AU Docket No. 20-34, WC Docket No. 19-126, WC Docket No. 10-90)

## **UPDATING EX PARTE RULE COMMENTS DUE OCTOBER 2**

On September 2, 2020, the Commission's July 9, 2020 *Notice of Proposed Rulemaking* (NPRM) in its updating of the Commission's *ex parte* rules proceeding was published in the [Federal Register](#). The NPRM seeks comment on potential amendments to its *ex parte* rules, including exemption from the rules in certain proceedings for government-to-government consultations between the Commission and federally recognized tribal nations, and a requirement that all written *ex parte* presentations and oral *ex parte* presentations be submitted before the Sunshine period begins. Following *Federal Register* publication, comments are due October 2, 2020; reply comments are due November 2, 2020. (GC Docket No. 20-221)

## **CONSUMER BROADBAND SERVICE TESTING INFORMATION COLLECTION PRA COMMENTS DUE NOVEMBER 9**

On September 7, 2020, a Commission notice seeking Paperwork Reduction Act (PRA) comments on an extension of a currently approved information collection relating to consumer broadband services testing and measurement was published in the [Federal Register](#). Following *Federal Register* publication, PRA comments are due November 9, 2020.

## **CALL BLOCKING ORDER BECOMES EFFECTIVE OCTOBER 14**

On September 7, 2020, the Commission's July 17, 2020 [Third Report and Order, Order on Reconsideration, and Fourth Further Notice of Proposed Rulemaking](#) in its Advanced Methods to Target and Eliminate Unwanted Robocall proceeding was published in the [Federal Register](#). The orders adopt amendments to Section 64.1200 of the Commission's rules. The amendments establish a safe harbor from liability under the Communications Act for unintended or inadvertently blocked legitimate calls when blocking is based upon reasonable analytics leading carriers to believe that such blocked calls were unwanted and should have been blocked. With *Federal Register* publication, the order and rule amendments become effective October 14, 2020. (CG Docket No. 17-59)

## **RURAL CALL COMPLETION REPORT COMMENTS DUE OCTOBER 29**

On September 14, 2020, the Commission issued its [Report and Request for Comment](#) in the Commission's Rural Call Completion proceeding. The Commission requests comment regarding its conclusion that the rules promulgated in its April 2, 2020 [Second Report and Order and Third Notice of Proposed Rulemaking](#) have been effective in improving rural call completion. The bureau also seeks comment on the effectiveness of the intermediate provider service quality standards adopted in the March 15, 2019 *Fourth Report and Order*. Comments are due October 29, 2020. (Docket No. 13-39)

## **COMMISSION STREAMLINES ADMINISTRATIVE HEARINGS PROCEDURAL RULES**

On September 14, 2020, the Commission released a [Report and Order](#) in its Procedural Streamlining of Administrative Hearings proceeding. The Commission adopted amendments that codify and expand use of a process that relies on written testimony and documentary evidence in lieu of live testimony and cross-examination, and authorized Commission staff to act as a case manager to supervise development of the written hearing record when the Commission designates itself as the presiding officer at a hearing. The Commission also dispensed with requirements for preparation of an initial opinion whenever the record of a proceeding can be certified to the Commission for final decision. (EB Docket No. 19-214)

## **FCC FORM 499 INFORMATION COLLECTION PRA COMMENTS DUE OCTOBER 16**

On September 16, 2020, notice of the Commission's request for Paperwork Reduction Act (PRA) comments on an extension of an information collection associated with FCC Forms 499-A and 499-Q, the annual and quarterly Telecommunications Worksheets, were published in the [Federal Register](#). Following *Federal Register* publication, PRA comments are due October 16, 2020.

## **INTERNET ACCESS SERVICE REPORT RELEASED**

On September 17, 2020, the Commission's Office of Economics and Analytics released two reports regarding internet access services in the U.S. The first [report](#), which summarizes information as of June 30, 2018, finds that total internet connections increased some 4.9% between June 2017 and June 2018 to 429 million connections; Mobile internet connections increased 5.7% year-over-year to 320 million; the number of fixed connections grew to 109 million, up about 2.8% from June 2017. A

second [report](#) summarizing information as of December 31, 2018, was also released. The reports are based on information collected from FCC Form 477 submissions.

### **REGULATORY FEES ORDER EFFECTIVE SEPTEMBER 23**

On September 23, 2020, the Commission’s August 31, 2020 [Report and Order and Further Notice of Proposed Rulemaking](#) adopting a schedule of regulatory fees for fiscal year 2020 was published in the [Federal Register](#). The Commission stated that regulatory fees should have been paid by September 25, 2020 to avoid penalties and interest. The order became effective September 23, 2020. (MD Docket No. 20-105)

### **TELEPHONE NUMBER AGING RULE WAIVED FOR COMPANIES IMPACTED BY WILDFIRES**

On September 22, 2020, the Commission’s Wireline Competition Bureau issued an [Order](#) granting on its own motion a waiver of the Commission’s telephone number aging rule, section 52.15(f)(ii), to all companies serving in areas of California and Oregon affected by wildfires. The telephone number aging rule states precludes providers from reassigning telephone numbers that have been disconnected for up to 90 days before assigning them to other customers. The waiver will also apply to residential customers in other areas subject to future major disaster or emergency declarations signed by the president due to wildfires during the 2020 to 2021 season. It expires on June 22, 2021. (CC Docket No. 95-116, CC Docket No. 99-200)

### **IN THE COURTS**

#### **MUNICIPALITIES ASK FOR NINTH CIRCUIT FCC ONE-TOUCH RULING EN BANC REVIEW**

Several municipalities and organizations representing municipalities have petitioned the U.S. Court of Appeals for the Ninth Circuit (San Francisco), to grant an *en banc* review of the Court’s three panel August [opinion](#) that upheld the Federal Communications Commission’s 2018 [moratoria order](#) and [one touch make ready](#) (OTMR) order, and effectively affirmed the Commission’s 2018 small cell decision. (*See Regulatory Review*, August 2020) According to the municipalities, the panel’s decision is in sharp conflict with U.S. Supreme Court, the full Ninth Circuit, and other court decisions, which reached different conclusions regarding the Commission’s reinterpretation of the phrase ‘prohibit or have the effect of prohibiting’ in Sections 253(a) and 332(c)(7)(B) of the 1996 Telecommunications Act, to which the municipalities argue the Ninth Circuit had been given narrow interpretation, and regarding the Commission’s imposition of cost-based limits on municipal fees and rents. The municipalities also maintained that the panel was not guided by a Supreme Court ruling “that Congress is presumed not to intend to preempt state and local governments’ proprietary activities. It instead approved the FCC’s improper inversion of that standard, ignoring established tests to distinguish proprietary and regulatory activities.”



### **STATE REGULATORY NEWS**



#### **CALIFORNIA – CASF Surcharge to Increase Under Draft Resolution**

A California Public Utilities Commission draft Resolution is proposing to increase the California Advanced Services Fund (CASF) from 0.56 percent to 1.019 percent from December 1, 2020 through December 31, 2022. The increase would allow the Commission to collect an estimated \$66 million in fees per year. According to the Commission, the increase is due to a significant decline in contributing intrastate telecommunications revenues, resulting in a \$53 million shortfall between March 1, 2018 and June 30, 2020. The draft resolution will be addressed at the Commission’s October 22, 2020 open meeting. (Resolution T-17709)

#### **CALIFORNIA – CPUC Initiates Broadband Rulemaking**

The California Public Utilities Commission has initiated a rulemaking to address effective broadband deployment strategies in the State. The Commission intends to “accelerate the deployment of and access to quality, affordable Internet for all Californians. The commission will be exploring short and medium-term actions in order to achieve this goal.” An Order Instituting Rulemaking (OIR) follows an August 2020 executive order issued by Governor Gavin Newsom (D.) that directs state agencies to bridge the digital divide by ordering 15 specific actions of these agencies to increase access to broadband in the areas of “mapping and data, funding, deployment, and adoption.” The executive order asks the Commission to lead data aggregation and mapping efforts to address locations without broadband access, and collaborate with the California

Department of Technology (CDT) and agencies to look for opportunities to “use programs under its jurisdiction to accelerate broadband deployment and to leverage utility infrastructure to increase access to existing fiber and cost-effectively deploy new fiber,” and to “develop tools for low-income individuals and social service organizations to easily identify and subscribe to affordable broadband plans.”

#### **DISTRICT OF COLUMBIA – 202 Area Code Relief Plan Approved**

The District of Columbia Public Service Commission has approved a North American Numbering Plan administrator (NANPA) petition on behalf of the telecommunications industry for relief for the "202" numbering plan area (NPA) under an all-services overlay approach. NANPA has determined that the 202 NPA will experience number exhaustion by third quarter 2022 unless a new area code is adopted. NANPA and the industry requested that the Commission issue an order no later than the fourth quarter of 2020 and approve a 13-month implementation schedule. The Commission formed a working group comprised of commission staff, the Office of the People’s Counsel for the District of Columbia, the District of Columbia government, NANPA, and interested parties, to implement the plan. Interested parties are to submit a request to join the working group within 30 days of the date of the Commission’s order and explain the reasons for their interest in joining. According to the Commission, opposition to the plan was filed by the Anti-Digit Dialing League (ADDL), which maintained that an all-services overlay is “burdensome and disruptive to customers who are required to switch dialing patterns.” ADDL recommended a geographic split, with the downtown business area and federal agencies retaining the 202 area code, while other parts of the district use the new area code. (Docket FC 1165)

#### **MICHIGAN – Commission Seeks to Repromulgate Basic Local Exchange Service Rules**

The Michigan Public Service Commission has adopted an order to repromulgate Commission rules governing basic local exchange services. Under state law, the rules are to automatically cease to be effect on March 21, 2021 unless repromulgated by the Commission. The Commission plans to repromulgate the rules with minor changes including a change regarding service discontinuance notices. (Docket U-20732)

#### **COMPLIANCE REPORTING OCTOBER**

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 OCTOBER**

**FCC Form 499-Q due November 1.**