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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



#### **ROSENWORCEL DESIGNATED ACTING COMMISSION CHAIRWOMAN**

On January 21, 2021, President Biden designated Federal Communications Commission Commissioner Jessica Rosenworcel as acting FCC chairwoman on January 21, 2021. Statements were issued by Commissioners [Rosenworcel](#) and Commissioners [Starks](#), [Carr](#) and [Simington](#).

#### **COMMISSION ADOPTS FURTHER ANTI-ROBOCALL MEASURES**

On December 30, 2020, the Commission released a [Fourth Report and Order](#) in its Advanced Methods to Target and Eliminate Unlawful Robocalls proceeding. Under the *Fourth Report and Order*, the Commission requires voice service providers to meet certain affirmative obligations and better police their networks against illegal calls. The existing call blocking safe harbor is extended to cover network-based blocking of certain calls that are highly likely to be illegal. And the Commission adopts rules to provide greater transparency and ensure that both callers and consumers can better identify blocked calls and that wanted calls are un-blocked, consistent with section 10(b) of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act. Lastly, the Commission broadens its point-of-contact requirement to cover caller ID authentication concerns under section 4(c)(1)(C) of the TRACED Act. (CG Docket No. 17-50)

#### **COMMISSION ADOPTS RULES IMPLEMENTING SECTION 8 OF THE TRACED ACT**

On December 30, 2020, the Commission released a [Report and Order](#) in its Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, adopting measures to implement section 8 of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act. The TRACED Act directs the Commission to ensure that any exemption the Commission grants under 47 U.S.C. section 227(b)(2)(B) for calls to residential lines or under section 227(b)(2)(C) for calls to wireless numbers includes certain requirements. In accordance with the TRACED Act's directives, the Commission's ensures that any exemption adopted pursuant to sections 227(b)(2)(B) or (C) includes requirements governing the classes of parties that may make such calls; the classes of parties that may be called; and limits the number of such calls that may be made to a particular called party to three. Rule amendments adopted under the *Report and Order* appear in section 64.1200, Delivery Restrictions, of the Commission's rules. (CG Docket No. 02-278) [News Release](#)

#### **COMMISSION SEEKS COMMENT ON ROBOCALL REPORTING WEB PORTAL**

On January 4, 2021, the Commission's December 8, 2020 [Notice of Proposed Rulemaking](#) (NPRM) regarding implementation of Section 10(a) of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence

(TRACED) Act was published in the [Federal Register](#). The NPRM requests comment on the Commission’s proposal to establish an online web portal enabling private entities to submit information about robocall or spoofing violations. Under the TRACED Act, the Commission is directed to establish regulations that create a streamlined process for voluntarily reporting robocall or spoofing violations information with the Commission no later than June 30, 2021. With *Federal Register* publication, comments are due February 3, 2021 and reply comments are due February 18, 2021. (EB Docket No. 20-374)

#### **OEA RELEASES DIGITAL DIVIDE IN U.S. MOBILE TECHNOLOGY AND SPEEDS WORKING PAPER**

On December 30, 2020, the Commission’s Office of Economics and Analytics (OEA) released Working Paper 51, [The Digital Divide in U.S. Mobile Technology and Speeds](#). The Working Paper investigates if there is a digital divide in how certain groups access mobile broadband as measured by the mobile connection technology, and whether there is a digital divide in the quality of their mobile broadband as measured by download and upload speeds. OEA concludes, among other things, “that the mobile digital divide does exist across certain dimensions. Rural areas are somewhat more dependent on non-WiFi mobile technology and experience slower speeds on their mobile connections. We also find that counties with higher minority populations are more likely to use older mobile technologies and experience slower speeds. Counties with older populations are more likely to use mobile technologies and are more likely to have slower speeds. Counties with larger households are more likely to use WiFi and also have faster WiFi.”

#### **COMMISSION RELEASES COMMUNICATIONS MARKET PLACE REPORT**

On December 31, 2020, the Commission released its [2020 communications marketplace report](#) in compliance with a RAY BAUM’S Act of 2018 requirement that the Commission provide a comprehensive evaluation of the state of competition in the communications marketplace in the United States. The report assesses: the state of competition in the communications marketplace; the state of deployment of communications capabilities; and barriers to competitive entry. The report also discusses the actions taken by the Commission over the past two years to address challenges and opportunities in the communications marketplace and help Americans in the face of the pandemic, and the Commission’s agenda for continuing to address market challenges and opportunities for the next two years.

#### **COMMENTS SOUGHT ON EMERGENCY BROADBAND BENEFIT PROGRAM**

On January 4, 2021, the Wireline Competition Bureau issued a [Public Notice](#) requesting comment regarding establishment of an emergency broadband benefit program, pursuant to the Consolidated Appropriations Act (Act) enacted on December 27, 2020. The Act establishes a \$3.2 billion Emergency Broadband Connectivity Fund and directs the Commission to develop a broadband discount program for eligible households during an emergency period relating to CV-19. Under the program, eligible households may also receive discounts off certain connected devices, and participating providers may qualify for discount reimbursement. Comments were due January 25, 2021; reply comments are due February 16, 2021. [News Release](#) Statements were issued by Commissioners [Rosenworcel](#) and [Starks](#).( WC Docket No. 20-445)

#### **WIRELESS INFRASTRUCTURE ORDER SMALL ENTITY COMPLIANCE GUIDE RELEASED**

On January 4, 2021, the Commission issued a [small entity compliance guide](#) associated with the Commission’s November 3, 2020 [Report and Order](#) further streamlining state and local government review processes for modifications to existing wireless infrastructure under section 6409(a) of the Spectrum Act of 2012. The guide provides compliance, recordkeeping and reporting requirement information, and the implementation date. (WT Docket No. 19-250, RM-11849)

#### **PETITIONS FOR RECONSIDERATION OF THE COMMISSION’S 5G FUND ORDER ANNOUNCED**

On January 5, 2021, the Commission released a [Public Notice](#), announcing that petitions for reconsideration of the Commission’s October 29, 2020 [Report and Order](#) establishing a 5G fund have been filed by: [RWA and NTCA](#); the [Coalition of Rural Wireless Carriers](#); [CTIA](#); [SBI](#); and the [5G Fund Supporters](#). Oppositions to petitions are due 15 days following publication of the public notice in the *Federal Register*; replies to oppositions are due 10 days thereafter. (GN Docket No. 20-32)

#### **PETITIONS FOR RECONSIDERATION OF THE COMMISSION’S CALLER ID AUTHENTICATION ORDER ANNOUNCED**

On January 5, 2021, Wireline Competition Bureau issued a [Public Notice](#), announcing petitions for reconsideration of the Commission’s October 1, 2020 [Second Report and Order](#) in its call authentication trust anchor proceeding have been filed by the [VON Coalition](#) and [CTIA](#). On January 14, 2021, the Commission’s *Public Notice* was published in the *Federal*

*Register*, which set a January 29, 2021 deadline for filing oppositions and February 8, 2021 reply deadline. The Wireline Competition Bureau also released a separate [Public Notice](#) on January 14, 2021, announcing the deadlines. (WC Docket No. 17-97)

#### **SECOND CALL AUTHENTICATION TRUST ANCHOR FURTHER NOTICE OF PROPOSED RULEMAKING RELEASED**

On January 14, 2021, the Commission released a [Second Further Notice of Proposed Rulemaking](#) in its call authentication trust anchor proceeding, proposing a limited Commission role in overseeing certificate revocation decisions by the private STIR/SHAKEN Governance Authority that would have the effect of placing providers in noncompliance with Commission rules. Comments are due 30 days following *Federal Register* publication. Reply Comments are due 60 days following publication. (WC Docket No. 17-97)

#### **RESTORING INTERNET FREEDOM ORDER ON REMAND EFFECTIVE FEBRUARY 8**

On January 7, 2021, the Commission's October 29, 2020 Restoring Internet Freedom [Order on Remand](#) was published in the *Federal Register*. With *Federal Register* publication, the *Order on Remand* becomes effective February 8, 2021. The order, - adopted over the dissents of Democratic Commissioners Jessica Rosenworcel and Geoffrey Starks - reaffirmed the Commission's 2017 Restoring Internet Freedom order, after addressing three issues remanded to the Commission by the U.S. Court of Appeals for the District of Columbia Circuit. The court largely upheld the 2017 Restoring Internet Freedom order while remanding three issues on which it said the Commission had either failed to examine, fully explain, or adequately address: public safety, Lifeline, and pole attachments. The *Order on Remand* concluded that the Commission's original Restoring Internet Freedom order promoted public safety, facilitates broadband infrastructure deployment, while allowing the Commission to continue to provide Lifeline support for broadband service. The order also amended certain Part 54 rules to remove broadband internet service from the list of services supported by the universal service Lifeline program, though preserved the Commission's authority to fund broadband internet access service through the Lifeline program. (WC Docket No. 17-108 WC Docket No. 17-287 WC Docket No. 11-42)

#### **OET RELEASES BROADBAND MEASURING REPORT**

On January 4, 2021, the Commission's Office of Engineering and Technology (OET) released its tenth [Measuring Broadband America Fixed Broadband Report](#). The report "presents perspectives on empirical performance for data collected in September and October 2019 from fixed Internet Service Providers (ISPs), as part of the Federal Communication Commission's (Measuring Broadband America program)." Among the Report's key findings, the maximum advertised download speeds among the service tiers offered by ISPs and measured by the Commission ranged from 24 Mbps to 940 Mbps for the report period; the weighted average advertised speed of the participating ISPs was 146.1 Mbps, representing an 8% increase from the previous year (Ninth Report) and over 100% increase from two years prior; and measured download speeds were 100% or better than advertised speeds during the peak hours (7 p.m. to 11 p.m. local time) for most providers. Overall 12 different ISP/technology configurations were evaluated in this report and eight performed at or better than their advertised speed during the peak hours. Only one performed below 90% for actual-to-advertised download speed during the peak hours. The report was based on data collected in September and October 2019 from fixed ISPs, as part of the Commission's Measuring Broadband America program.

#### **BROADBAND DEPLOYMENT REPORT RELEASED**

On January 19, 2021, the Commission released its [Fourteenth Broadband Deployment Report](#) in its inquiry concerning deployment of advanced telecommunications capability proceeding. For the third consecutive year, the Commission found that advanced telecommunications capability is being deployed "on a reasonable and timely" basis and the digital divide continues to narrow. The Commission noted that, "Fixed and mobile providers continue to make impressive gains in bringing high-speed broadband service to all Americans. Since the Commission's last Broadband Deployment Report, the number of Americans living in areas without access to at least 25/3 Mbps (the Commission's current benchmark) has dropped from more than 18.1 million Americans at the end of 2018 to fewer than 14.5 million Americans at the end of 2019, a decrease of more than 20%.<sup>2</sup> Moreover, more than three-quarters of those in newly served areas, nearly 3.7 million, are located in rural areas, bringing the number of rural Americans in areas served by at least 25/3 Mbps to nearly 83%.<sup>3</sup> Since 2016, the number of Americans living in rural areas lacking access to 25/3 Mbps service has fallen more than 46%. As a result, the rural-urban divide is rapidly closing; the gap between the percentage of urban Americans and the percentage of rural Americans with access to 25/3 Mbps fixed broadband has been nearly halved, falling from 30 points at the end of 2016 to just 16 points at the end of 2019." (GN Docket No. 20-269) [News release](#)

#### **UNE – RESALE REPORT AND ORDER EFFECTIVE FEBRUARY 8**

On January 8, 2021, the Commission’s October 28, 2020 [Report and Order](#) in its modernizing unbundling and resale requirements proceeding, was published in [Federal Register](#) and becomes effective February 8, 2021. Under the Commission’s *Report and Order*, the Commission eliminated unbundling requirements subject to transition periods, for: enterprise-grade DS1 and DS3 loops where there is evidence of actual and potential competition; broadband-capable DS0 loops and subloops in the most densely populated areas; operations support systems nationwide except for the purposes of managing remaining UNEs; number portability; interconnection; and voice-grade narrowband loops, multi-unit premises subloops and network interface devices nationwide. (WC Docket No. 19-308)

#### **FCC FORM 477 DATA DUE MARCH 1**

On January 8, 2021, the Commission’s Office of Economics and Analytics released a [Public Notice](#) reminding filers that the FCC form 477 containing data as of December 31, 2020 is **due March 1, 2021**. The FCC’s Form 477 filing interface, available online at <https://apps2.fcc.gov/form477/login.xhtml>. (WC Docket No. 11-10)

#### **PETITION FOR RECONSIDERATION OF 8YY ACCESS CHARGE REFORM ORDER FILED**

On January 12, 2021, the Commission’s Wireline Competition Bureau issued a [Public Notice](#), announcing that USTelecom filed a [petition for reconsideration](#) of the Commission’s October 9, 2020 “8YY” access charge reform [Report and Order](#). Oppositions to the petition are due 15 days following publication in the *Federal Register* and reply comments are due 25 days following *Federal Register* publication. (WC Docket No. 18-156)

#### **ONE-RING SCAM CALL REPORT AND ORDER EFFECTIVE FEBRUARY 12**

On January 13, 2021, the Commission’s November 30, 2020 [Report and Order](#) in its protecting consumers from one-ring scams proceeding, was published in the [Federal Register](#) and becomes effective February 12. The Commission notes that the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act directs the Commission to consider steps to protect consumers from a type of illegal call known as the one-ring scam, “in which a caller makes a call and allows the call to ring the called party for a short duration, in order to prompt the called party to return the call, thereby subjecting the called party to charges.” Under the *Report and Order* voice service providers may to block calls highly likely to be associated with one-ring scams and extended its recently adopted safe harbor for inadvertent blocking of wanted robocalls using reasonable analytics to one-ring scam calls. On January 15, 2021, the Consumer and Governmental Affairs Bureau issued a [Public Notice](#), announcing the effective date. (CG Docket No. 20-93)

#### **SUPPLY CHAIN SECOND REPORT AND ORDER EFFECTIVE MARCH 15**

On January 13, 2021, the Commission’s December 11, 2020 [Second Report and Order](#) in its protecting against national security threats to the communications supply chain proceeding was published in the [Federal Register](#) and now becomes effective on March 15, 2021. Under the *Second Report and Order*, the Commission established a reimbursement program, procedures, and criteria for publishing a list of covered communications equipment and services that must be removed from provider networks. Amendatory instruction 3 adding sections 1.50004(c), (d)(1), (g), (h)(2), (j) through (n); amendatory instruction 5 adding section 1.50007; and amendatory instruction 7 adding section 54.11 become effective at a later date. The Commission will publish a document in the *Federal Register* announcing the effective date of those amendments. (WC Docket No. 18-89)

#### **RDOF EDUCATIONAL MATERIALS RELEASED – LETTERS OF CREDIT DUE FEBRUARY 16**

On January 13, 2021, the Rural Broadband Auctions Task Force, Wireline Competition Bureau and the Office of Economics and Analytics issued a [Public Notice](#), announcing the availability of educational materials for use in detailed technology and system design descriptions submission required from Rural Digital Opportunity Fund Phase I long-form applicants. The materials are available at [Auction 904](#) under the education tab. The *Public Notice* also announced that long-form applicants must upload their letter of credit commitment letter(s), detailed technology and system design description(s) to their FCC Form 683, and must certify and submit their applications prior to 6 p.m. ET on February 16, 2021. (AU Docket No. 20-34 WC Docket No. 19-126, WC Docket No. 10-90)

## COMMISSION AMENDS DELEGATED AUTHORITY FOR REVIEW APPLICATION RULES

On January 14, 2021, the Commission issued an [Order](#) in its proceeding to amend Parts 0 and 2 of its rules. The *Order* codifies a uniformly applicable standard for the exercise of delegated authority by various bureaus and offices to dismiss applications for review that do not comply with the procedural requirements of sections 1.115(a), (b), (d) or (f) of the rules. (GN 21-16)

## REASSIGNED NUMBER DATABASE TECHNICAL SPECIFICATIONS ANNOUNCED

On January 15, 2021, the Consumer and Governmental Affairs Bureau issued a [Public Notice](#), announcing technical specifications and instructions to voice service providers regarding how to submit data for the file containing information about disconnected numbers to be included in the reassigned numbers database. In December 2018, the Commission authorized a Reassigned Numbers Database, which once operational will allow callers to determine whether a telephone number has been permanently disconnected after a date certain and is no longer assigned to the party the caller wants to reach. The Bureau also said it expects to announce when providers must begin reporting disconnection data. (CG Docket No. 17-59)

## COMMISSION CIRCULATES E-RATE, TOLL-FREE NUMBERING ITEMS

On January 14, 2021, the Commission [circulated](#) an item entitled “Promoting Fair and Open Competitive Bidding in the E-Rate Program”, and a *Notice of Proposed Rulemaking* regarding iconectiv’s petition seeking a competitive procurement process for toll-free numbering administrator selection.

## UNIVERSAL SERVICE MONITORING REPORT RELEASED

On January 15, 2021, the Commission released its 23<sup>rd</sup> [Universal Service Monitoring Report](#) reporting data through September 2020. The report was prepared by federal and state staff members for the Federal State-Joint Board on Universal Service and focused on monitoring the impact of various universal service support mechanisms and financing methodologies. Information includes industry revenues from 2010 through 2019, universal service program funding requirements, contribution factors and the latest data on the low-income, high-cost, schools and libraries, and rural health care support mechanisms, among other things. (CC Docket No. 96-45 and WC Docket Nos. 02-6, 02-60, 06-122, 10-90, 11-42, 13-184, and 14-58)

## TOLL-FREE NUMBERS AUCTION REPORT RELEASED

On January 15, 2021, Wireline Competition Bureau released a [Report](#) in its Toll-Free Number and 833 auction proceedings to examine various aspects of this toll free number assignment experiment, including lessons learned, examination of auction outcomes, and recommendations for future toll free number assignment. The Bureau concluded that its 833 auction was a successful experiment that provided invaluable experience and data that can facilitate further Commission efforts to continue to modernize toll-free number allocation in the future. (WC Docket No. 17-192 CC Docket No. 95-155 AU Docket No. 19-101)

## DECLARATORY POLE REPLACEMENT COST RULING ISSUED

On January 19, 2021, the Wireline Competition Bureau issued a [Declaratory Ruling](#) in its accelerating wireline broadband deployment proceeding. The Commission clarified that it is unreasonable and inconsistent with section 224 of the Communications Act, the Commission’s rules, and past precedent for utilities to impose the entire cost of a pole replacement on a requesting attacher when the attacher is not the sole cause of the pole replacement. The bureau said that while it is not acting on NCTA - The Internet & Television Association’s [Petition for Declaratory Ruling](#), a clarification is necessary to address comments on the petition that indicated inconsistent utility allocation of pole replacement cost practices. The Bureau said it is more appropriate to address questions on the allocation of pole replacement costs within the context of a rulemaking. (WC Docket No. 17-84)

## FY 2020 ANNUAL PERFORMANCE REPORT ISSUED

On January 19, 2021, the Commission issued its [Fiscal Year 2020 Annual Performance Report](#), reflecting the Commission’s strategic and performance goals implemented between October 1, 2019 and September 30, 2020. Among the initiatives contained in the Report are the Commission’s efforts in closing the digital divide, efforts on 5G deployment and actions taken



in response to the COVID-19 pandemic. The Commission’s Strategic Plan for FY’s 2018 to 2022 is available at: <https://www.fcc.gov/about/strategic-plans-budget>.

## **ADDITIONAL BROADBAND MAPPING RULES ADOPTED**

On January 19, 2021, the Commission released its [Third Report and Order](#) in its Digital Opportunity Data Collection and Modernizing the FCC Form 477 Data Program Proceeding, adopting new rules to enhance broadband mapping accuracy. Specifically, the Commission specified that facilities-based fixed service providers are required to report broadband Internet access service coverage in the Digital Opportunity Data Collection and requires providers to identify where such services are offered to residential and business locations. Additionally, the Commission established specific reporting requirements relating to speed and latency for fixed service providers and require terrestrial fixed wireless services providers to report on the coordinates of their base stations. Mobile service providers must provide additional information concerning provider networks and propagation. And the Commission established requirements for challenges to fixed and mobile service coverage reporting and for challenges to the Fabric data, standards for identifying locations that will be included in the Fabric, and standards for enforcement of the requirements associated with the Digital Opportunity Data Collection. (WC Docket Nos. 19-195 and 11-10) [Release](#)

## **IN THE COURTS**

### **FCC URGES D.C. COURT OF APPEALS TO REJECT ACCESS ARBITRAGE ORDER CHALLENGE**

The Commission has asked the U.S. Court of Appeals for the District of Columbia Circuit to reject a Great Lakes Communication Corp. *et al.* appeal of the Commission’s 2019 intercarrier compensation proceeding (WC docket 18-155) [Report and Order](#) to eliminate access arbitration. The *Report and Order* placed responsibility for paying for terminating tandem switching and transport rates on “access-stimulating” local exchange carriers to provide an incentive for such carriers to choose the most efficient access route. Citing to the appeal, the Commission maintained that the appellants had profited from access stimulation schemes and that their arguments had no merit. “Contrary to petitioners’ claims, the FCC had authority to adopt the rules; substantial evidence supported the agency’s decision to take additional measures to deter access stimulation; and the alternate tests for access stimulation are reasonably designed to identify arbitration schemes that the 2011 rules did not prohibit. The Court should deny the petitions for review,” the Commission stated, adding “The new rules are reasonably designed to deter access stimulation during the transition from the access charge regime to a bill-and-keep methodology.” (Great Lakes Communication Corp. *et al.* v. FCC (consolidated cases beginning with 19-1233))



### **MUNIS ASK NINTH CIRCUIT TO VACATE COMMISSION INFRASTRUCTURE DECLARATORY RULING**

A group of local municipalities and groups representing municipalities have petitioned the U.S. Court of Appeals for the Ninth Circuit (San Francisco) to vacate a 2020 Commission declaratory ruling that clarified rules governing section 6409(a) of the Spectrum Act originally adopted in 2014. The declaratory ruling had clarified when the Commission’s 60-day “shot clock” for local review begins as well as how certain aspects of proposed modifications—height increases, equipment cabinet additions, and impact on concealment elements and aesthetic conditions—affect eligibility for streamlined review under section 6409(a). Additionally, the Commission clarified that “FCC applicants do not need to submit environmental assessments based only on potential impacts to historic properties when parties have entered into a memorandum of agreement to mitigate effects on those properties.” (WT docket 19-250 and Rulemaking 11849) The municipalities maintained that the Commission violated the Administrative Procedures Act (APA) by “effectively amending existing legislative rules through ‘disingenuous interpretation’ and its failure to adhere to the notice-and-comment rulemaking procedures is not harmless error. Several ‘clarifications’ directly conflict with the rules that the Commission purports to interpret.” The municipalities also argue that the Commission’s actions were arbitrary and capricious, “because they substantively conflict with the rules they are purportedly clarifying and have no basis in logic or the record.” A brief in a third case, *City of Boston, Massachusetts et al. v. FCC*, said, “No or minimal deference is due to the FCC here ... because the agency’s actions do not meet the basic standards required for reasoned decision-making under the Administrative Procedures Act; create undue surprise; and create retroactive liability. The FCC entirely failed to consider whether its new interpretation of its rules is consistent with the statutory standard of ‘substantial change’ as required by the APA, *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29 (1983).” *League of California Cities, et al. v. FCC and City of Seattle et al. v. FCC* (consolidated cases beginning with case 20-71765)

## **FOURTH CIRCUIT DENIES CHINA TELECOM (AMERICAS) MOTION TO STAY IN 214 REVOCATION CASE**

On January 13, 2021, the U.S. Court of Appeals for the Fourth Circuit (Richmond) issued an [order](#) denying China Telecom (Americas)'s [motion to stay](#) of disclosure of its confidential information pending an appeal of the [order](#) launching a proceeding on revoking its section 214 authorizations. (*China Telecom (Americas) Corporation v. FCC*, No. 20-2365 (20-109))

### **STATE REGULATORY NEWS**



#### **CALIFORNIA – PETERSON APPOINTED EXECUTIVE DIRECTOR**

The California Public Utilities Commission has appointed Rachel Peterson as its executive director. Peterson was most recently the Commission's acting executive director and has worked at the commission since 2011.

#### **CALIFORNIA – BROADBAND RULEMAKING SCOPE SET**

The California Public Utilities Commission has set the scope of its Broadband Rulemaking proceeding under three phases, to “identify strategies and tactics to facilitate expeditious deployment of reliable, fast, and affordable broadband infrastructure as well as services to connect all Californians.” Preliminary issues include “infrastructure deployment models and strategies, economic vitality and recovery strategies, and strategies to support specific communities, public safety, and other critical uses.” In Phase I, the Commission will consider requirements that should be imposed on communications providers and California energy investor-owned utilities (IOUs) to facilitate the construction of fiber facilities or other technologies capable of providing a minimum download speed of 100 Mbps when restoring facilities after a disaster such as a fire, as well as use of a roughly \$1 million in the Digital Divide Account to help schools and students. Phase I opening briefs are due February 1; reply comments will be due February 15. A Phase I draft order is expected in May. Phase II-A will address what role the IOUs can play in deploying broadband service to communities lacking access to download speeds of 100 Mbps, including an examination of ways to make existing and future IOU fiber infrastructure more available. Phase II-B will address the strategies, incentives or standards to improve open access in deploying wireline and wireless infrastructure; how communications service providers can better share their assets and build planning; whether General Order 95 should be modified to require utility pole owners to repair, reinforce, or replace poles in unserved areas that are determined to be unsafe, as they currently exist; and how the Commission should address access to existing infrastructure for communities where infrastructure, such as fiber, traverses through a community without an Internet service provider offering residential service to that community, among other items. Phase III “will investigate whether Internet service providers are refusing to serve certain communities or neighborhoods within their service or franchise areas, a practice called redlining, and if so, which measures should be taken to mitigate or eliminate that practice,” the commission said. The rulemaking was initiated largely in response to an executive order issued by Gov. Gavin Newsom (D.) directing certain agencies to increase access to broadband in the areas of “mapping and data, funding, deployment, and adoption.” (Rulemaking 20-09-001)

#### **FLORIDA – LA ROSA SWORN IN AS COMMISSIONER**

Florida Public Service Commissioner Mike La Rosa was sworn in first week of January. Governor Ron DeSantis (R.) appointed Mr. La Rosa to the Commission for a four-year term which began on January 2, 2021. La Rosa served in the state House representing District 42 until he was term limited in 2020. He previously served as chairman of the state House Commerce Committee.

#### **KENTUCKY – USF SURCHARGE INCREASED**

The Kentucky Public Service Commission has increased the Kentucky Lifeline program surcharge to \$0.15 per access line per month immediately, or as soon as allowed by applicable contracts between customers and carriers, through July 31, 2021. The surcharge had been \$0.07 per line. According to the Commission, the increase was implemented to support eligible telecommunications carriers that offer unlimited voice under a decision intended to provide additional Covid-19 related relief to Lifeline customers issued last July. The Commission is considering whether to make the increase permanent. (Case 2016-00059)

**OREGON – OREGON TELEPHONE ASSISTANCE PROGRAM RULE AMENDMENTS ADOPTED**

The Oregon Public Utility Commission has made permanent temporary rules adopted in 2020 regarding use of Oregon Telephone Assistance Program (OTAP) funds for broadband services, as well as comprehensive revisions to the Commission’s Residential Service Protection Fund (RSPF) and the Telecommunication Devices Access Program (TDAP), in addition to the OTAP. Additionally, the Commission eliminated obsolete OTAP rules and updated rules governing subscriber reporting data and on eligibility, consistent with FCC regulations and updated tribal-specific federal assistance program criteria through which a tribal low-income resident can demonstrate eligibility for OTAP. Other rule amendments included changes in response to an audit of the TDAP to reflect current practices. Further the rule made permanent the requirement that voice-over-Internet protocol providers collect and remit the Residential Service Protection Fund (RSPF) surcharge. The 2019 Oregon Legislature enacted SB 69, effective Jan. 1, to align Oregon law with FCC regulations, under which eligible low-income customers can receive the OTAP discount on broadband Internet access service. (Docket AR 635)

**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**

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

For additional information, please contact Andrew Isar at [aisar@ millerisar.com](mailto:aisar@millerisar.com), or call 253.851.6700.