

BloostonLaw Telecom Update

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Tower Compliance Manual

BloostonLaw has assembled a compliance manual for all tower/antenna structure owners, as well as any licensee mounting antennas on structures. The manual helps structure owners and licensees avoid FCC fines, minimize Federal and state approval delays, and minimize or avoid the potential for civil and/or criminal liability that could be associated with tower operations/accidents. The manual includes a detailed explanation of FCC, FAA and other Federal regulatory requirements so that your staff can understand the legal do's and don'ts associated with tower construction and antenna mounting. We have also developed checklists that can be used by your employees and contractors to (1) make sure that necessary compliance steps are taken and (2) create a paper trail documenting such compliance. There are separate checklists for antenna structure owners and radio licensees that will use such structures. These checklists cover such issues as environmental protection, historic preservation, harmful RF radiation limits, interference protection, aviation safety, and Federal reporting requirements. A sample tower log is included.

In recent years, tower owners have faced million dollar fines and even higher civil liabilities due to rule violations that may contribute to an aviation accident. Similar liability can arise from environmental or harmful radiation violations. Also, many licensees do not realize that, for every antenna mounted in the United States, the licensee must either obtain the prior approval of the applicable State Historic Preservation Officer (SHPO), or establish that the antenna qualifies for an exemption from this requirement. BloostonLaw is offering its antenna structure compliance manual in binder format, with the checklists provided on CD-ROM as well, so that you can print off the appropriate checklist for each new structure or antenna. If you wish to purchase a copy of the manual, please contact the firm.

BloostonLaw contacts: Hal Mordkofsky, 202-828-5520; and John Prendergast, 202-828-5540.

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Blooston Rural Carriers Urge FCC To Keep Rate-Of-Return Regulation For Small RLECs

Also To Abandon Proposed 4/1 Mbps "Target" & \$8.7 Billion USF Cap

In comments in the FCC's Universal Service Fund (USF) Reform proceeding, BloostonLaw, on behalf of its participating rural telephone clients ("the Blooston Rural Carriers"), urged the Commission to adopt a reasonable approach that would allow small and rural telecom carriers to bring broadband services to their customers. Specifically, the Blooston Rural Carriers urged the FCC:

- (1) Not to force rural local exchange carriers (RLECs) to abandon a rate-of-return regulatory system that has contributed greatly to their current and past success by assuring lenders and owners that 20-to-30-year infrastructure loans will be repaid, thereby enabling RLECs to obtain financing for network upgrades. They are particularly concerned that the Commission is considering a forced move from rate-of-return regulation to incentive regulatory systems that have heretofore failed to provide larger carriers with effective incentives to upgrade their networks.

- (2) To abandon its initial proposal for a rural support “target” that will be inadequate when implemented and that threatens to create a permanent “digital divide” between a rural 4 megabits per second /1 Mbps and an urban 100 Mbps/50 Mbps network; and
- (3) To abandon its proposal for a “capped” total \$8.7 billion USF until 2020 that will not be sufficient to meet the broadband support needs of RLECs, mid-sized carriers, regional Bell operating companies (RBOCs), and low-income customers.

The Blooston Rural Carriers said that RLECs have been *the* great success story of the existing USF, as they have long accepted the burdens of serving remote and sparsely populated areas that were not wanted by larger carriers. Such areas comprise 37% of the nation’s geography. In addition, RLECs have undertaken the obligations of carrier of last resort (COLR) status in areas where it has required costly extensions of facilities and service to non-profitable customers, the Blooston Rural Carriers said. Despite the disadvantages of small size and limited resources, RLECs developed an unparalleled record of bringing quality and affordable service to rural areas. Recently, they have upgraded their voice networks to multiple use networks to provide broadband services to approximately 90% of their customers, the Blooston Rural Carriers said.

Finally, the Blooston Rural Carriers said that existing telephone high-cost mechanisms need to evolve into broadband high-cost mechanisms. In light of the past successes of RLEC high-cost support programs and the very different investment incentives and financial characteristics of RLECs and other carriers, **the Blooston Rural Carriers recommend that the Commission establish separate broadband high cost mechanisms for RLECs and RBOCs and mid-sized carriers.**

Whereas the **RLEC mechanism** could merge existing programs into a single mechanism, it should keep as many as possible of the features that have enabled the present RLEC high-cost mechanisms to be successful (including supporting both capital expenditures and operating costs, employing actual costs rather than model costs, and using funding from industry contributions). In contrast, the **RBOC/mid-sized carrier mechanism** could be focused on capital grants to create the incentives necessary to convince larger carriers to make broadband infrastructure investments in their rural service areas, the Blooston Rural Carriers said.

What should not take place, the Blooston Rural Carriers said in conclusion, is a redistribution of current RLEC high-cost support to other carriers, including the RBOCs and mid-sized carriers. “Redistribution of a critical revenue stream upon which many RLECs rely would disrupt

and reverse the substantial recent success of RLECs in bringing broadband to their rural customers.”

BloostonLaw contact: Gerry Duffy.

SDTA Takes Aim At FCC’s “Flawed” Broadband Models

In comments in the same proceeding (see story above), the South Dakota Telecommunications Association (SDTA) agreed with the FCC that the current Universal Service Fund (USF) support mechanisms could benefit from some level of reform, particularly to eliminate the identical support rule in connection with the High-Cost Fund (HCF) and to minimize fraud and waste in the Low Income fund. But SDTA said the sweeping changes proposed in the Commission’s Notice of Inquiry (NOI) and Notice of Proposed Rulemaking (NPRM) will not only fall short of the National Broadband Plan’s goals, they will cause substantial harm to existing rural networks, stranding investment and eliminating the significant gains made by RLECs all across rural America.

Were it not for the existing federal USF support mechanisms, SDTA said, the telecommunications networks that have been deployed by the South Dakota rural local exchange carriers (RLECS), which cover approximately 80% of South Dakota’s geographic area, simply would not exist. The rural carriers have used the support dollars as they are intended – to actually invest in and maintain the facilities and equipment that are necessary to deliver both basic and advanced telecommunications services. Further, critical functions such as COLR obligations and access to rural financing rely heavily on continued USF support. Reductions in USF support will hamper the ability of South Dakota RLECs and other rural carriers to continue meeting these obligations, and put in jeopardy their ability to repay loans to prominent rural lenders like the Rural Telephone Finance Cooperative, SDTA said.

Beyond the clear negative impact the proposed reforms will have on existing broadband infrastructure, SDTA pointed out that the cost model process itself is inappropriate for determining USF support because it does not address the unique concerns presented in rural carrier service areas. “Under the ‘company agnostic’ approach advocated in the Notice, such realities go completely un-addressed.”

The Broadband Assessment Model itself is critically flawed and simply incapable of accurately and beneficially serving as a support distribution mechanism, SDTA said. “In the first place, the Notice assumes that current universal service and access charge mechanisms are inefficient. Yet, no such evidence is presented and, quite to the contrary, the South Dakota RLECS are proof of the

exact opposite. The Notice asks for comment on various reforms to universal service, ostensibly to expand the provision of broadband service, but no information is provided on how any of the proposed reforms will achieve the goals enumerated in Section 254 of the Act. Likewise, the Notice ignores the well-developed record that a model or reverse auction would not effectively determine the appropriate amount of support and, therefore, support based on a model or a reverse auction mechanism would adversely impact consumers in rural ILEC service areas.”

In addition to the lack of support for its assumptions, SDTA said, the Broadband Assessment Model would fail to provide sufficient support and necessarily result in downgraded service. “First, the model cannot meet the requirement in Section 254(b)(3) requiring reasonably comparable service in rural and urban areas because the proposed mechanisms will produce non-comparable speeds – only 4 Mbps downstream and 1 Mbps upstream. Next, it is difficult to determine whether the model can calculate support levels to minimize the perceived, but not identified, problems of waste, fraud, and abuse, without more specific detail. Further, by focusing entirely on the funding of neutral geographic units, rather than the providers and the service areas in which they actually operate, the Broadband Assessment Model will necessarily create greater inefficiencies than those alleged with respect to current USF mechanisms by again failing to take into account the realities of rural telecommunications deployment.”

The Broadband Assessment Model flatly fails to produce accurate reflections of the cost of deploying, maintaining, and operating rural, high-cost broadband networks, SDTA said. “It overestimates 4G wireless availability by assuming availability in South Dakota’s counties if a carrier has merely announced future plans to deliver 4G; it fails to calculate or project the amount of funding from either current support mechanisms or the Connect America Fund (CAF) that will be required to maintain existing broadband-capable networks that meet or exceed the 4/1 Mbps threshold; and, in its present form, fails to address the un-depreciated, unrecovered portions of existing broadband infrastructure and the ongoing costs to operate and maintain broadband-capable networks provided by rural carriers in rural, high-cost areas.

“Likewise, the model assumes that its errors balance out at the larger geographic level. But, the fact of the matter is that small, rural carriers do not serve large areas. In fact, very often they only serve parts of a county, or small areas within a few counties. Based on this, the results of the Commission’s model are likely to produce false results at the level of small areas that rural carriers serve.”

With respect to the Notice of Proposed Rulemaking, SDTA submitted that the Notice’s identification of the

problems facing the HCF is overbroad, doctrinaire and not factually supported. The problems and causes of growth in the fund are well known and subject to specific solutions; yet the Notice does not address these specific problems, instead taking a ‘one size fits all’ approach – an approach which has been previously rejected by the Commission, SDTA said. “Instead, the Notice’s proposals should be tailored more narrowly. High-cost reform should immediately focus upon eliminating the identical support rule, as recommended by the Joint Board and the Commission should focus on fraud, waste and abuse in the low income fund,” SDTA added.

Rural carriers are different than non-rural carriers and, rather than dismissing such differences, the differences should be addressed to accomplish desired ends, SDTA said. Adopting and implementing proposals that are focused around reducing the amount of USF support to rural carriers or which fail to adequately address the revenue losses associated with interstate and intrastate switched access reform will neither foster the goals of increased broadband infrastructure deployment in the rural carriers service areas, nor facilitate the NBP’s many other objectives, including the objectives which look to improve broadband adoption and use and stimulate economic growth in rural communities, SDTA said.

BloostonLaw contacts: Ben Dickens and Mary Sisak.

Rural Associations File Joint Comments In USF Docket

The National Exchange Carrier Association (NECA), the National Telecommunications Cooperative Association (NTCA), the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO), the Western Telecommunications Alliance (WTA) and the Rural Alliance, along with 38 concurring state associations and other groups, filed joint comments in the FCC’s Notice of Proposed Rulemaking (NPRM) and Notice of Inquiry (NOI) regarding the proposals on broadband Universal Service Fund (USF) reform.

The Associations agree existing high-cost USF mechanisms must be reformed in a comprehensive fashion to directly support broadband networks and services. The comments reflect significant concern, however, about the National Broadband Plan’s (NBP’s) overall approach to broadband USF reform, and recommend against adopting the specific recommendations in the NOI and NPRM, as these are likely to thwart the NBP’s goal of delivering affordable, robust broadband services in rural local exchange carrier (RLEC) serving areas. Specifically, the Associations recommend the Commission should:

- Not impose an overall cap or freeze on the existing High Cost program for incumbent carriers, or

new caps or freezes on RLEC-specific mechanisms such as interstate common line support.

- Not require RLECs to shift to incentive regulation, as it has been demonstrably ineffective in encouraging carriers to provide an evolving level of service to consumers in high-cost areas. In contrast, rate-of-return regulation has a proven track record of success in this regard, and remains fully viable in today's competitive broadband environment.
- Focus on developing simple, reliable and workable methods based on actual costs for supporting broadband in RLEC territories and not pursue efforts to develop complex models or "market based" mechanisms such as reverse or procurement auctions.
- Immediately reform the USF contribution system and, most importantly, expand the contribution base to include, at a minimum, all broadband Internet access providers.
- Move quickly to address certain discrete intercarrier compensation reform issues such as strengthening the call signaling rules to mitigate phantom traffic as well as confirming that interconnected VoIP providers are required to pay access charges.

The Associations and their respective RLEC members support the universal broadband service goals of the NBP. The Associations believe meetings between industry and the FCC offer the best hope for arriving at workable solutions to reforming universal service mechanisms to meet the NBP's goals.

BloostonLaw contacts: Ben Dickens, Gerry Duffy, and Mary Sisak.

FCC Releases Results Of 2008 Biennial Review

The FCC has released the results of its 2008 Biennial Review of telecommunications regulations in accordance with Section 11(a) of the Communications Act, which requires the Commission to review, in every even-numbered year, all regulations that apply to the operations or activities of any provider of telecommunications service and to determine whether any regulation is no longer necessary or in the public interest as the result of meaningful economic competition between providers of such telecommunications service. The findings of the Review process are recommendations at this point; and a further rulemaking would be needed to adopt binding regulations based on the recommendations.

On September 4, 2008, the Commission issued a Public Notice seeking comment on whether any rules subject to the Section 11(a) biennial review should be repealed or

modified as the result of meaningful economic competition. Staff considered the public comments, as well as developments in the marketplace, in deciding whether to recommend, repeal, or modify any rules subject to review. The results are as follows:

The Wireline Competition Bureau (WCB) staff made several recommendations. WCB staff recommended that the Commission further consider in the pending:

- *RAO Letter 12 Modification* proceeding whether section 32.26 is no longer necessary in the public interest as a result of meaningful economic competition.
- *Separations Freeze FNPRM* proceeding whether any of the Part 36 rules are no longer necessary in the public interest as a result of meaningful economic competition.
- *Equal Access Notice of Inquiry* proceeding whether any of the Part 51 carryover equal access rules preserved by 47 U.S.C. § 251(g) are no longer necessary in the public interest as a result of meaningful economic competition.
- Comprehensive universal service/intercarrier compensation reform proceeding whether any of the intercarrier compensation rules in Part 51 are no longer necessary in the public interest as a result of meaningful economic competition.
- Comprehensive universal service/intercarrier compensation reform proceeding whether any of the universal service rules in Part 54 are no longer necessary in the public interest as a result of meaningful economic competition.
- Comprehensive universal service/intercarrier compensation reform proceeding and the *Special Access Proceeding* whether any of the rules in Part 61 are no longer necessary in the public interest as a result of meaningful economic competition.
- forbearance proceedings whether any of the rules in Part 64, Subpart G are no longer necessary in the public interest as a result of meaningful economic competition.
- in a pending proceeding whether any of the rules in Part 64, Subpart T are no longer necessary in the public interest as a result of meaningful economic competition.
- Comprehensive universal service/intercarrier compensation reform proceeding and the *Special Access Proceeding* whether any of the access charge rules in Part 69 are no longer necessary in the public interest as a result of meaningful economic competition.

The Wireless Telecommunications Bureau (WTB) staff made several recommendations. First, WTB staff recommended that the Commission should further consider in the pending comprehensive universal service/intercarrier compensation reform proceeding wheth-

er section 20.11 is no longer necessary in the public interest as a result of meaningful economic competition, or whether it should be modified so that the rule is in the public interest. Second, WTB staff recommended that the Commission should further consider in its then-pending roaming proceeding whether section 20.12 is no longer necessary in the public interest as a result of meaningful economic competition, or whether it should be modified so that the rule is in the public interest. Third, WTB staff recommended that the Commission should initiate a proceeding to determine whether the rules concerning comparative renewal in Part 27 and Part 101 should be revised.

The International Bureau (IB) staff made two recommendations. First, IB staff concluded that the reporting requirements for international services in Part 43 may no longer be necessary in the public interest, and recommended that the Commission should consider whether to repeal or modify those requirements in IB Docket 04-112. Second, IB staff concluded that the International Settlements Policy (ISP) in Part 64, Subpart J, may no longer be necessary in the public interest as the result of meaningful competition between telecommunications service providers, and recommended that the Commission should initiate a proceeding to consider repealing or modifying the ISP.

The **Consumer & Governmental Affairs Bureau (CGB)**, **Enforcement Bureau (EB)**, **Office of Engineering & Technology (OET)**, and the **Public Safety & Homeland Security Bureau (PSHSB)** staffs did not recommend that the Commission repeal or modify any rules in their respective jurisdictions as no longer in the public interest as the result of meaningful economic competition between telecommunications service providers.

Section 11(b) directs the Commission to "repeal or modify any regulation it determines to be no longer necessary in the public interest." The Commission will take further action as appropriate to implement the staff recommendations and satisfy the requirements of Section 11(b).

The staff recommendations summarized in the Public Notice were made as of December 31, 2008, the conclusion of the period of review covered in the 2008 Biennial Review, and do not necessarily represent current staff views. Commission staff will develop findings and recommendations and report on the status of proceedings for the period following December 31, 2008 during the 2010 Biennial Review.

BloostonLaw contacts: Hal Mordkofsky, Ben Dickens, Gerry Duffy, and John Prendergast.

FCC RELEASES ORDER ON FY 2010 REGULATORY FEES: The FCC has issued a *Report and Order*, concluding its Assessment and Collection of Regulatory Fees proceeding to collect \$335,794,000 in regulatory fees for Fiscal Year (FY) 2010. In its FY 2010 regulatory fee assessment, the FCC said it will use the same methodology adopted in FY 2009. To collect the fees required by Congress, the Commission will adjust the FY 2009 amount downward by 1.8 percent and allocate this amount across the various fee categories. Consistent with past practice, the FCC will then divide the FY 2010 amount by the number of estimated payment units in each fee category to determine the unit fee. As in prior years, for cases involving small fees, e.g., licenses that are renewed over a multiyear term, it will divide the resulting unit fee by the term of the license and then rounded these unit fees consistent with the requirements of section 9(b)(2) of the Communications Act. Hence, in FY 2010, the FCC concludes that regulatees must start the FY 2010 regulatory fee payment process using the Commission's electronic filing and payment system (Fee Filer). **We expect the FCC to announce a deadline for regulatory fee payments later this summer.**

The FCC concludes that the FY 2010 commercial mobile radio service (CMRS) Messaging regulatory fee should remain at a rate of \$0.08 per subscriber. The FCC believes it would best serve the public interest to set the Interstate Telecommunications Service Providers (ITSP) regulatory fee rate at \$0.00349 per revenue dollar. In future years, it will further examine the nature and extent of all changes that need to be made in its regulatory fee schedule and calculations. In a separate and forthcoming action, the FCC said it will call for comment on issues including, but not limited to, how changes in the telecommunications marketplace may warrant rebalancing of regulatory fees among existing service providers, and how further changes to the schedule of fees may be anticipated in light of new changes to the telecommunications landscape resulting from implementation of the National Broadband Plan and the introduction of other new wired and wireless services. BloostonLaw contacts: Hal Mordkofsky, John Prendergast, and Richard Rubino.

FCC WAIVES SOME DEADLINES FOR NARROWBANDING TELEPHONE MAINTENANCE AND OTHER PRIVATE RADIO LICENSES: The FCC granted in part and denied in part a petition filed by the National Public Safety Telecommunications Council (NPSTC) requesting a stay of the January 1, 2011, interim deadlines associated with the narrowbanding of private land mobile radio (PLMR) licensees in the 150-174 MHz and 421-512 MHz bands. This includes the Telephone Maintenance Radio licenses held by a number of rural telephone companies, as well as other private radio licenses used for internal communications by cable installers and other

companies. In previous orders, the Commission set January 1, 2013 as the final deadline for PLMR licensees in these bands to migrate to narrowband (12.5 kHz or narrower) technology, and January 1, 2011 as the deadline for certain interim measures relating to licensing and equipment. The FCC said it recognized the concerns of NPSTC and some commenters that enforcing certain interim deadlines as of January 1, 2011 could hamper operations during the final two years of the transition and unnecessarily raise equipment costs. Consequently, the FCC waived until January 1, 2013, the deadline for ceasing manufacture or import of equipment that includes a 25 kHz mode, but denied the request to stay the deadline for prohibiting certification applications for 25 kHz-capable equipment; declined to waive the deadline for seeking new or expanded 25 kHz operations; and waived until January 1, 2013, the deadline for certifying equipment that is not capable of operating in 6.25 kHz mode. The FCC emphasized its commitment to the January 1, 2013 deadline for migrating to narrowband technology, which the Commission first adopted in 2003 and subsequently affirmed, in order to promote the efficient use of PLMR spectrum and facilitate the introduction of advanced technologies. BloostonLaw contacts: Hal Mordkofsky, John Prendergast, Richard Rubino, and Cary Mitchell.

FCC's "SUNSHINE" AGENDA IS CONSISTENT WITH TENTATIVE AGENDA: The FCC's "Sunshine" Agenda for its July 15 open meeting is consistent with the tentative agenda it released at the end of last month (BloostonLaw Telecom Update, June 30). The Commission will consider the following three items:

- Notice of Proposed Rulemaking initiating reforms to the Universal Service Rural Health Care Fund to expand the reach and use of broadband connectivity by health care providers throughout the nation;
- Notice of Proposed Rulemaking and Notice of Inquiry to increase value, utilization, and investment in the 2 GHz, Big LEO, and L-bands of the Mobile Satellite Service; and;
- Notice of Proposed Rulemaking seeking comment on streamlining the tariff filing and formatting process by transitioning from paper to electronic filing to reduce industry burden and promote an open, transparent, and efficient flow of information.

BloostonLaw contacts: Hal Mordkofsky, Ben Dickens, Gerry Duffy, and John Prendergast.

SSN NO LONGER REQUIRED TO OBTAIN FRN FOR CERTAIN FCC OWNERSHIP REPORTS: As the result of a complicated court action and, in part, the failure of the FCC to post its Form 323 for comment last year, nobody needs to provide his/her Social Security Number (SSN) for a new FCC Registration Number (FRN) in order to file ANY Ownership Report – biennial or otherwise

– until further notice. The FCC apparently has taken the position that “no individual attributable interest holder will be required to submit a Social Security number to obtain an FRN [i.e., FCC Registration Number] for the July 8, 2010, biennial filing deadline or for any imminent non-biennial filing of Form 323.” As a result, any person holding an attributable interest in a commercial broadcast licensee – i.e., any person who would have to be reported on Form 323 – who has not already submitted his/her SSN to the FCC in order to obtain an FRN need not do so. It remains to be seen if the FCC modifies its requirements regarding the issuance of FRNs in other contexts. The FCC has gathered SSN/Employer ID information in other contexts to comply with the requirements of the Federal Debt Collection Act. BloostonLaw contacts: Hal Mordkofsky and John Prendergast.

COURT STRIKES DOWN FCC'S INDECENCY POLICY: The 2nd U.S. Circuit Court of Appeals in New York has ruled that the FCC's indecency policy violates the First Amendment because it is unconstitutionally vague, creating a chilling effect that goes far beyond the fleeting expletives at issue here. Thus, the court vacated the FCC's order and the indecency policy underlying it. The case, *Fox Television Stations et al. v. FCC*, was on remand from the U.S. Supreme Court, which had previously reversed the 2nd Circuit for deciding that certain indecent remarks by Bono at the 2004 Golden Globes Awards were “fleeting expletives.” The 2nd Circuit had struck down the FCC's indecency law as arbitrary and capricious, but declined to reach the constitutional issues in the case. It is now reaching those issues. First, the court noted a dramatic change in the media environment over the past 30 years. Thus, the FCC can hardly single out broadcast TV when most American families subscribe to cable or satellite TV, watch Internet video on cell phones, and play lifelike video games with few standards of decency. Plus there are ways to block indecent programs. The court also observes that the FCC fails to justify how it prohibits certain “bad” words, but not others; and how it allows the same bad words in some contexts (a certain film, for example) but not on a certain program. Essentially, the court concluded that the FCC's indecency policy is “impermissibly vague.” The 2nd Circuit said: “If the FCC cannot anticipate what will be considered indecent under its policy, then it can hardly expect broadcasters to do so. And while the FCC characterizes all broadcasters as consciously trying to push the envelope on what is permitted, much like a petulant teenager angling for a later curfew, the Networks have expressed a good faith desire to comply with the FCC's indecency regime. They simply want to know with some degree of certainty what the policy is so that they can comply with it. The First Amendment requires nothing less.” BloostonLaw contacts: Hal Mordkofsky and John Prendergast.

DEADLINES

JULY 19: FCC FORM 497, LOW INCOME QUARTERLY REPORT. This form, the Lifeline and Link-Up Worksheet, must be submitted to the Universal Service Administrative Company (USAC) by all eligible telecommunications carriers (ETCs) that request reimbursement for participating in the low-income program. **The form must be submitted by the third Monday after the end of each quarter.** It is available at: www.universalservice.org. BloostonLaw contacts: Ben Dickens, Gerry Duffy, and Mary Sisak.

JULY 30: CARRIER IDENTIFICATION CODE (CIC) REPORTS DUE. Carrier Identification Code (CIC) Reports must be filed by the last business day of July of each year. These reports are required of all carriers who have been assigned a CIC code by NANPA. Failure to file could result in an effort by NANPA to reclaim it, although according to the Guidelines this process is initiated with a letter from NANPA regarding the apparent non-use of the CIC code. The assignee can then respond with an explanation. (Guidelines Section 6.2). The CIC Reporting Requirement is included in the CIC Assignment Guidelines, produced by ATIS. According to section 1.4 of that document: At the direction of the NANPA, the access providers and the entities who are assigned CICs will be requested to provide access and usage information to the NANPA, on a semi-annual basis to ensure effective management of the CIC resource. (Holders of codes may respond to the request at their own election). Access provider and entity reports shall be submitted to NANPA no later than January 31 for the period ending December 31, and no later than July 31 for the period ending June 30. It is also referenced in the NANPA Technical Requirements Document, which states at 7.18.6: CIC holders shall provide a usage report to the NANPA per the industry CIC guidelines ... The NAS shall be capable of accepting CIC usage reports per guideline requirements on January 31 for the period ending December 31 and no later than July 31 for the period ending June 30. These reports may also be mailed and accepted by the NANPA in paper form. Finally, according to the NANPA website: If no local exchange carrier reports access or usage for a given CIC, NANPA is obliged to reclaim it. The semi-annual utilization and access reporting mechanism is described at length in the guidelines. BloostonLaw contacts: Ben Dickens, Gerry Duffy, and Mary Sisak.

JULY 30: FCC FORM 525, COMPETITIVE CARRIER LINE COUNT QUARTERLY REPORT. Competitive eligible telecommunications carriers (CETCs) are eligible to receive high cost support if they serve lines in an incumbent carrier's service area, and that incumbent carrier receives high cost support. CETCs are eligible to receive the same per-line support amount received by the in-

cumbent carrier in whose study area the CETC serves lines. Unlike the incumbent carriers, CETCs will use FCC Form 525 to submit their line count data to the Universal Service Administrative Company (USAC). **This quarterly report must be filed by the last business day of March (for lines served as of September 30 of the previous year); the last business day of July (for lines served as of December 31 of the previous year); the last business day of September (for lines served as of March 31 of the current year); and the last business day of December (for lines served as of June 30 of the current year).** CETCs must file the number of working loops served in the service area of an incumbent carrier, disaggregated by the incumbent carrier's cost zones, if applicable, for High Cost Loop (HCL), Local Switching Support (LSS), Long Term Support (LTS), and Interstate Common Line Support (ICLS). ICLS will also require the loops to be reported by customer class as further described below. For Interstate Access Support (IAS), CETCs must file the number of working loops served in the service area of an incumbent carrier by Unbundled Network Element (UNE) zone and customer class. Working loops provided by CETCs in service areas of non-rural incumbents receiving High Cost Model (HCM) support must be filed by wire center or other methodology as determined by the state regulatory authority. CETCs may choose to complete FCC Form 525 and submit it to USAC, or designate an agent to file the form on its behalf. BloostonLaw contacts: Ben Dickens, Gerry Duffy, and Mary Sisak.

JULY 30: FCC FORM 507, UNIVERSAL SERVICE QUARTERLY LINE COUNT UPDATE. Line count updates are required to recalculate a carrier's per line universal service support, and is filed with the Universal Service Administrative Company (USAC). This information must be submitted on July 31 each year by all rate-of-return incumbent carriers. (This year July 31 falls on a Saturday, so we recommend that our clients file by Friday, July 30 **And it must be filed on a quarterly basis if a competitive eligible telecommunications carrier (CETC) has initiated service in the rate-of-return incumbent carrier's service area** and reported line count data to USAC in the rate-of-return incumbent carrier's service area, in order for the incumbent carrier to be eligible to receive Interstate Common Line Support (ICLS). This quarterly filing is due July 31 and covers lines served as of December 31, 2009. Incumbent carriers filing on a quarterly basis must also file on **September 30** (for lines served as of March 31, 2010); **December 30** (for lines served as of June 30, 2010), and **March 31, 2011**, for lines served as of September 30, 2010). BloostonLaw contacts: Ben Dickens, Gerry Duffy, and Mary Sisak.

JULY 31: REPORT OF EXTENSION OF CREDIT TO FEDERAL CANDIDATES. This report (in letter format) must be filed by January 30 and July 31 of each year, but

ONLY if the carrier extended unsecured credit to a candidate for a Federal elected office during the reporting period. BloostonLaw contacts: Hal Mordkofsky, John Prendergast, and Richard Rubino.

AUGUST 2: FCC FORM 499-Q, TELECOMMUNICATIONS REPORTING WORKSHEET. *All telecommunications common carriers that expect to contribute more than \$10,000 to federal Universal Service Fund (USF) support mechanisms must file this quarterly form. (Normally this form would be due August 1, but because this year August 1 falls on a Sunday, FCC rules dictate that filing is due the next business day, August 2.) This filing requirement also applies to certain Private Mobile Radio Service (PMRS) licensees, such as for-profit paging and messaging, dispatch and two-way mobile radio services. The FCC has modified this form in light of its recent decision to establish interim measures for USF contribution assessments. The form contains revenue information from the prior quarter plus projections for the next quarter. Form 499-Q relates only to USF contributions. It does not relate to the cost recovery mechanisms for the Telecommunications Relay Service (TRS) Fund, the North American Numbering Plan Administration (NANPA), and the shared costs of local number portability (LNP), which are covered in the annual form (Form 499-A) that was due April 1. For-profit private radio service providers that are "de minimis" (those that contribute less than \$10,000 per year to the USF) do not have to file the 499-A or 499-Q. However, they must fill out the form and retain the relevant calculations as well as documentation for their contribution base revenues for three years. De minimis telecom carriers must actually file the Form 499A, but not the 499-Q. BloostonLaw contacts: Ben Dickens, Gerry Duffy, and Mary Sisak.*

AUGUST 2: FCC FORM 502, NUMBER UTILIZATION AND FORECAST REPORT: *Any wireline or wireless carrier (including CMRS and paging companies) that have received number blocks--including 100, 1,000, or 10,000 number blocks--from the North American Numbering Plan Administrator (NANPA), a Pooling Administrator, or from another carrier, must file Form 502 by August 2. (Normally, this filing would be due August 1, but this year August 1 falls on a Sunday, and agency rules require the filing be submitted the first business day thereafter.) Carriers porting numbers for the purpose of transferring an established customer's service to another service provider must also report, but the carrier receiving numbers through porting does not (for the reporting period in which the port occurs). Resold services should also be treated like ported numbers, meaning the carrier transferring the resold service to another carrier is required to report those numbers but the carrier receiving such numbers should not report them. New this year is that reporting carriers are required to include their FCC Registration Number (FRN). Reporting carriers file utilization and forecast reports semiannually on or before Feb-*

ruary 1 for the preceding six-month reporting period ending December 31, and on or before August 1 for the preceding six-month reporting period ending June 30. BloostonLaw contacts: Ben Dickens, Gerry Duffy, and Mary Sisak.

AUGUST 2: INTERNATIONAL TELECOMMUNICATIONS TRAFFIC REPORTS. Section 43.61(a) of the Commission's rules requires each common carrier that provided international telecommunications services in 2009 to file a report of their international traffic data for calendar year 2009 by July 31, 2010. Because July 31 falls on a Saturday this year, the report is due on Monday, August 2, 2010. Carriers are reminded that traffic should be reported according to the codes for Traditional Settlement Arrangements and Non-Traditional Settlement Arrangements. Traditional Settlement Arrangements consist of traffic settled pursuant to the Commission's International Settlements Policy (ISP). Non-Traditional Settlement Arrangements consist of all traffic other than traditionally settled traffic. All common carriers that provided international facilities-based and facilities-resale switched and private line services, or pure switched resale services, during calendar year 2009, are required to file the report regardless of the amount of traffic they provided. Facilities-based services are provided using international transmission facilities owned in whole or in part by the carrier providing the service. Facilities-resale services are provided by a carrier utilizing international circuits leased from other reporting international carriers. These are distinct from pure switched resale services, which are switched services that are provided by switching traffic to (and reselling the switched services of) underlying U.S. carriers. International facilities-based and facilities-resale switched message telephone and private line services data must be filed on a country-by-country, region and world total basis. International switched telegraph, telex and other miscellaneous services data may be filed on a region and world total basis only. Carriers that provided international pure switched resale services for the calendar year may file world totals only. **As a rule of thumb, if you bill your customers calls for international calls in your own name, you are an international reseller and must file the traffic report; in addition, you must hold an FCC-issued International Section 214 Authorization for global resale. However, if carriers such as Verizon, AT&T, etc. bill your customers for all of their international communications, then you should not be classified as an international reseller, and you should not have to file the Report. As a corollary, if you hold an International Section 214 authorization, you should be filing the traffic report.** BloostonLaw contacts: Ben Dickens, Gerry Duffy, and Mary Sisak.

AUGUST 31: ELECTRONIC USF SUPPORT PAYMENTS. To facilitate the processing of electronic funds transfer (EFT) by the Universal Service Administrative

Company (USAC), the FCC has established the effective date of August 31, 2010 for the electronic disbursement requirement. After August 31, 2010, if a recipient of universal service support payments fails to provide the required financial institution information on its FCC Form 498 to enable payment by EFT, USAC will not make universal service support payments to that entity until the entity provides the required information. BloostonLaw contacts: Ben Dickens, Gerry Duffy, and Mary Sisak.

AUGUST 31: COPYRIGHT STATEMENT OF ACCOUNT FORM FOR CABLE COMPANIES. *This form, plus royalty payment for the second half of calendar year 2009, is due August 31. The form covers the period January 1 to June 30, 2010, and is due to be mailed directly to cable TV operators by the Library of Congress' Copyright Office. If you do not receive the form, please contact Gerry Duffy.*

AUGUST 31: ANNUAL LIFELINE SURVEYS & CERTIFICATIONS. *Each year, eligible telecommunications carriers (ETCs) are required to verify the continued eligibility of a statistically valid sample of their Lifeline subscribers. Under the terms of the Lifeline Order, States that have their own state-based low-income programs are required to establish state-specific verification procedures. These state procedures should include methods that ETCs should use to verify continued eligibility and should specify to whom the results should be submitted. States that do not have state-based low-income programs are designated "federal default states." ETCs in federal default states must verify annually the continued eligibility of a statistically valid sample of their Lifeline subscribers. The FCC's public notice "reminder" notes that an ETC in a state with its own state-based low-income program must submit a certification, signed by an officer of the company, to the Universal Service Administrative Company (USAC) by **August 31, 2010**, and ensure that USAC receives the certification by that date, attesting that the ETC has complied with the state verification procedures. In addition, all ETCs in federal default states must submit their annual Lifeline verification survey results to USAC and must ensure that these results are received by USAC by **August 31, 2010**. BloostonLaw contacts: Ben Dickens, Gerry Duffy, and Mary Sisak.*

SEPTEMBER 1: FCC FORM 477, LOCAL COMPETITION AND BROADBAND REPORTING FORM. *Who must file? Three types of entities must file this form: (1) **Facilities-based Providers of Broadband Connections to End User Locations:** Entities that are facilities-based providers of **broadband connections** – which are wired "lines" or wireless "channels" that enable the end user to receive information from and/or send information to the Internet at information transfer rates **exceeding 200 kbps in at least one direction** – must complete and file the applicable portions of this form for **each state in***

*which the entity provides **one or more** such connections **to end user locations**. For the purposes of Form 477, an entity is a "**facilities-based**" provider of broadband connections **to end user locations** if it **owns** the portion of the physical facility that terminates at the end user location, if it obtains unbundled network elements (UNEs), special access lines, or other leased facilities that terminate at the end user location and **provisions/equips** them as broadband, or if it **provisions/equips** a broadband wireless channel to the end user location over licensed or unlicensed spectrum. Such entities include incumbent and competitive local exchange carriers (LECs), cable system operators, fixed wireless service providers (including "wireless ISPs"), terrestrial mobile wireless service providers, satellite mobile wireless service providers, MMDS/BRS providers, electric utilities, municipalities, and other entities. (Such entities do not include equipment suppliers unless the equipment supplier uses the equipment to provision a broadband connection that it offers to the public for sale. Such entities also do not include providers of fixed wireless services (e.g., "Wi-Fi" and other wireless ethernet, or wireless local area network, applications) that only enable local distribution and sharing of a premises broadband facility.) (2) **Providers of Wired or Fixed Wireless Local Telephone Services:** Incumbent and competitive LECs must complete and file the applicable portions of the form for **each state** in which they provide local exchange service to **one or more** end user customers (which may include "dial-up" ISPs). (3) **Providers of Mobile Telephony Services:** Facilities-based providers of mobile telephony services must complete and file the applicable portions of this form for **each state** in which they serve **one or more** mobile telephony subscribers. A **mobile telephony service** is a real-time, two-way switched voice service that is interconnected with the public switched network using an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless handoff of subscriber calls. Obvious examples include cellular, PCS, and "covered" SMR carriers, but may include services provided on other wireless spectrum such as AWS, BRS and 700 MHz if configured to fit the above definition. A mobile telephony service provider is considered "**facilities-based**" if it serves a subscriber using spectrum for which the entity holds a license, that it manages, or for which it has obtained the right to use via lease or other arrangement (e.g., with a Band Manager). BloostonLaw contacts: Ben Dickens, Gerry Duffy, and Mary Sisak.*

SEPTEMBER 30: FCC FORM 507, UNIVERSAL SERVICE QUARTERLY LINE COUNT UPDATE. *Line count updates are required to recalculate a carrier's per line universal service support, and is filed with the Universal Service Administrative Company (USAC). This information must be submitted on July 31 each year by all rate-of-return incumbent carriers, **and on a quarterly basis if a competitive eligible telecommunications carrier (CETC) has initiated service in the rate-of-return in-***

*cumbent carrier's service area and reported line count data to USAC in the rate-of-return incumbent carrier's service area, in order for the incumbent carrier to be eligible to receive Interstate Common Line Support (ICLS). This quarterly filing is due **July 31** and covers lines served as of December 31, 2007. Incumbent carriers filing on a quarterly basis must also file on **September 30** (for lines served as of March 31, 2008); **December 30** (for lines served as of June 30, 2008), and **March 31, 2009**, for lines served as of September 30, 2008).. BloostonLaw contacts: Ben Dickens, Gerry Duffy, and Mary Sisak.*

SEPTEMBER 30: FCC FORM 525, COMPETITIVE CARRIER LINE COUNT QUARTERLY REPORT. *Competitive eligible telecommunications carriers (CETCs) are eligible to receive high cost support if they serve lines in an incumbent carrier's service area, and that incumbent carrier receives high cost support. CETCs are eligible to receive the same per-line support amount received by the incumbent carrier in whose study area the CETC serves lines. Unlike the incumbent carriers, CETCs will use FCC Form 525 to submit their line count data to the Universal Service Administrative Company (USAC). **This quarterly report must be filed by the last business day of March (for lines served as of September 30 of the previous year); the last business day of July (for lines served as of December 31 of the previous year); the last business day of September (for lines served as of March 31 of the current year); and the last business day of December (for lines served as of June 30 of the current year).** CETCs must file the number of working loops served in the service area of an incumbent carrier, disaggregated by the incumbent carrier's cost zones, if applicable, for High Cost Loop (HCL), Local Switching Support (LSS), Long Term Support (LTS), and Interstate Common Line Support (ICLS). ICLS will also require the loops to be reported by customer class as further described below. For Interstate Access Support (IAS), CETCs must file the number of working loops served in the service area of an incumbent carrier by Unbundled Network Element (UNE) zone and customer class. Working loops provided by CETCs in service areas of non-rural incumbents receiving High Cost Model (HCM) support must be filed by wire center or other methodology as determined by the state regulatory authority. CETCs may choose to complete FCC Form 525 and submit it to USAC, or designate an agent to file the form on its behalf. BloostonLaw contacts: Ben Dickens, Gerry Duffy, and Mary Sisak.*

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This newsletter is not intended to provide legal advice. Those interested in more information should contact the firm.

VITAL MEETINGS & DEADLINES

July 15 – FCC open meeting.

July 15 – Deadline for comments on Broadband Framework NOI (GN Docket No. 10-127).

July 15 – Deadline for comments on Joint Board referral order to review Lifeline, Link-up eligibility, verification, outreach rules (WC Docket No. 03-109).

July 19 – FCC Form 497, Low Income Quarterly Report, is due.

July 19 – Deadline for reply comments on “bill shock” Public Notice (CG Docket No. 09-158).

July 19 – Deadline for comments on public notice seeking comments on interoperability, out-of-band emissions, and equipment certification for 700 MHz public safety broadband networks (PS Docket No. 06-229). Extended from June 17.

July 20 – “Closed” Auction No. 88 (construction permits for 13 full-power FM stations).

July 20 – Deadline for comments on proposed changes to Part 17 rules governing construction, marking, lighting of towers (WT Docket No. 10-88, RM-11349).

July 26 – Deadline for reply comments on NOI regarding survivability of broadband networks (PS Docket No. 10-92).

July 26 – Deadline for reply comments on NPRM proposing changes for governing UPCS devices in 1920-1930 MHz band (ET Docket No. 10-97).

July 26 – Deadline for reply comments on NOI initiating review of media ownership rules (MB Docket No. 09-182).

July 26 – Deadline for reply comments on FNPRM on eligibility of E-rate products and services (CC Docket No. 02-6).

July 26 – Deadline for reply comments on NPRM addressing potential E-rate reforms (CC Docket No. 02-6).

July 27 – Deadline for reply comments on Qwest-CenturyLink merger (WC Docket No. 10-110).

July 30 – FCC Form 507, Universal Service Quarterly Line Count Update, is due.

July 30 – FCC Form 525, Competitive Carrier Line Count Quarterly Report, is due.

July 30 – Deadline for reply comments on Joint Board referral order to review Lifeline, Link-up eligibility, verification, outreach rules (WC Docket No. 03-109).

July 30 – Carrier Identification Code (CIC) reports are due.

July 30 – Deadline for comments on state of competition for 15th Annual Mobile Wireless Report (WT Docket No. 10-133).

July 31 – Report of Extension of Credit to Federal Candidates.

Aug. 2 – FCC Form 499-Q, Telecommunications Reporting Worksheet, is due.

Aug. 2 – FCC Form 502, Number Utilization and Forecast Report, is due.

Aug. 2 – International Telecommunications Traffic Reports are due.