

BloostonLaw Telecom Update

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IMPORTANT JUNE DEADLINES

JUNE 1: FCC FORM 395, EMPLOYMENT REPORT.

*Common carriers, including wireless service providers, with 16 or more full-time employees must file their annual Common Carrier Employment Reports (FCC Form 395) by May 31. (But since May 31 falls on a Sunday this year, the report is due June 1.) This report tracks carrier compliance with rules requiring recruitment of minority employees. Further, the FCC requires all common carriers to report any employment discrimination complaints they received during the past year. That information is also due on **May 31**. The FCC encourages carriers to complete the discrimination report requirement by filling out Section V of Form 395, rather than submitting a separate report. Clients who would like assistance in filing Form 395 should contact Richard Rubino.*

JUNE 30: ANNUAL ICLS USE CERTIFICATION.

*Rate of return carriers and CETCs must file a self-certification with the FCC and the Universal Service Administrative Company (USAC) stating that all Interstate Common Line Support (ICLS) and Long Term Support (LTS) will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. In other words, carriers are required to certify that their ICLS and LTS support is being used consistent with Section 254(e) of the Communications Act. **Failure to file this self-certification will preclude the carrier from receiving ICLS support. We, therefore, strongly recommend that clients have Blooston-Law submit this filing and obtain an FCC proof-of-filing receipt for client records.***

BloostonLaw contacts: Ben Dickens and Gerry Duffy.

(See Page 6 for other important deadlines.)

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FCC Shrinks Wireline Porting Interval To 1 Business Day, Extends Sec. 214 Notice Rules To VoIP Providers

The FCC, at today's open meeting, adopted two items: (1) a Report and Order concerning the requirements of interconnected Voice over Internet Protocol (VoIP) providers when discontinuing service, and (2) a Report and Order and Further Notice of Proposed Rulemaking concerning the interval for porting a customer's telephone number in response to wireline-to-wireline and intermodal port requests.

The Commission first made it easier for consumers to switch voice service providers by requiring wireline, wireless and certain Voice over Internet Protocol (VoIP) providers to transfer a customer's existing telephone number to a new provider within one business day, rather than the current four-day requirement. According to the Commission, delays in number porting cost consumers money and impede their ability to choose providers based solely on price, quality and service.

With the exception of "small carriers", all providers must implement the new number porting interval within nine months from the time the Commission receives key input from the North American Numbering Council (NANC),

which is due 90 days after the effective date of the order. Small carriers have 15 months after the NANC recommendation to implement the new interval. The NANC is a federal advisory committee charged with advising the Commission on numbering matters. The definition of small carriers was not apparent from initial news releases, but will no doubt be described in the text of the order.

In a second order, the Commission expanded consumer protections for customers of interconnected VoIP providers under Section 214 of the Communications Act. Interconnected VoIP providers are those whose customers can place calls to and receive calls from the public telephone network, rather than solely over the Internet. These providers are now required to notify customers before they discontinue, reduce or impair service, as conventional providers currently must do. Interconnected VoIP providers can no longer close shop without notice, leaving customers unexpectedly without phone service or recourse.

Consumers are increasingly using interconnected VoIP to replace analog voice service, and their expectations for notice, access to emergency 911 service and other consumer protections are the same as users of conventional voice service, the Commission found.

In a separate statement, **Acting Chairman Michael Copps** said: "As much as we strive to put together the best item possible, no Order is perfect, and this one is no exception. We have a few loose ends still to tie-up—other standards surrounding porting processes and "non-simple" ports. In particular, as the Order stands now, the shortened interval still applies only to simple ports. Some of the non-simple ports look no different to consumers than simple ports, yet the shortened interval adopted in this Order will not apply. All consumers should be able to benefit from the shortened porting interval. We do, however, take these matters up in the Further Notice, and I look forward to addressing them in the relatively near future."

Commissioner Jonathan Adelstein said: "Larger carriers will have nine months to implement the new interval; smaller carriers, who may not have automated their porting systems, will have fifteen months. Further, the order recognizes that those carriers that have porting-specific implementation costs will have avenues to recover those costs."

Commissioner Robert McDowell said: "We also provide a generous and sensible glide path for implementing the change: nine months after the North American Numbering Council's review for the largest providers, and fifteen months thereafter for the smallest. I am confident that a one business day interval strikes the proper balance between any costs associated with implementing

the change and the economic benefits that will flow to consumers."

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

FCC Making Final Push To Alert Consumers About June 12 DTV Transition

With only 30 days left before the nationwide digital television (DTV) transition, the FCC is making a final push to make sure consumers are prepared for the end of analog broadcast service. On June 12, all full-power television stations in the United States will cease analog transmission and broadcast only in digital. Consumers who use an antenna to get free, over-the-air programming could lose their television signals on June 12 if they haven't taken steps to make their televisions DTV-ready.

More than a third of the country's full-power broadcast stations already have ceased analog broadcasts and now provide service only in digital, but June 12 is the deadline for all stations to do so. Consumers who do not subscribe to pay television services and have older, analog televisions will need to attach digital-to-analog converter boxes to their televisions in order to continue receiving television programming. They also may need to adjust or replace their antennas. According to a Nielsen survey, 3.5 million households -- 3.1 percent of U.S. households with TVs -- were still "completely unready" for the transition to DTV as of April 26.

The Commission at its open meeting today outlined a wide-ranging outreach plan for the remaining 30 days before the June 12 deadline. As it has done in the past, the FCC will give special attention to six groups that the Commission has targeted as particularly in need of help. They include low-income individuals, minority communities, non-English speaking consumers, senior citizens, consumers with disabilities and individuals living in rural areas or tribal lands. Among the activities in the Commission's action plan:

- About 180 FCC employees have been dispatched to communities in 49 markets that are home to the greatest concentrations of unprepared households. FCC staff members are working with local governments and community-based organizations to get the word out on DTV preparedness and educate consumers on how to get ready. FCC commissioners also are speaking and answering questions about the digital transition at events such as town hall meetings and community gatherings.

- The Commission has revamped its DTV website, www.dtv.gov, to make it more useful to consumers and easier to use. The updated site gives consumers help and information specific to their communities on a variety of topics. By entering their zip codes in a search box, consumers can locate nearby support centers, get contact information for local stations and find DTV events near them. Information on sources of assistance is being updated daily. Online reception maps will show consumers what stations they should be able to receive at their home address once the transition is complete, information that can be useful in choosing and installing an antenna.
- The FCC so far has issued 12 grass roots contracts to establish up to 400 walk-in centers and 12,000 DTV help clinics across the country to offer consumers hands-on assistance on how to connect and operate converter boxes, help in ordering converter box coupons and other services.
- The Commission has awarded 34 contracts for free, in-home technical assistance for consumers having trouble installing their converter boxes and adjusting their antennas for digital signals. The Commission expects to issue several more contracts within the next week, resulting in a group of contractors capable of providing up to 218,700 installations across the country. Joining FCC contractors in this effort are two valuable volunteer partners – members of AmeriCorps National Civilian Community Corps and fire fighters in cooperation with the International Association of Fire Chiefs. Consumers can request such “house calls” by dialing 1-888-CALL-FCC.
- Operators at the FCC’s national DTV help line, 1-888-CALL-FCC (1-888-225-5322), can troubleshoot common converter box or antenna installation problems and will refer consumers to groups providing in-home installation if more assistance is needed. Several hundred operators are now working seven days a week, and their numbers will increase to as many as 4,000 as the June 12 deadline nears.
- The Commission has teamed with Consumers Union to distribute a consumer guide, written by CU’s Consumer Reports, that provides clear instructions and diagrams to help viewers prepare for the transition. “DTV Made Easy,” a 15-page booklet, can be downloaded from www.dtv.gov or obtained by calling the FCC’s DTV help line, 1-888-CALL-FCC. It also will be available at DTV walk-in help centers and mobile clinics

throughout much of the country, from in-home installation helpers, and from major retailers.

- The FCC has called upon television broadcasters nationwide to conduct a “soft test” at three different times on May 21, when analog programming will be interrupted with a special message telling viewers that if they are seeing the message, it means they are not prepared to receive a digital signal and will lose reception on June 12 if they don’t take action.
- The FCC will launch a “home stretch” communications campaign coinciding with the May 21 “soft test,” consisting of new Public Service Announcements, localized media announcements and interviews and grassroots educational literature distribution.

Coupons worth \$40 toward purchase of a converter box can be obtained from the National Telecommunications and Information Administration by visiting www.dtv2009.gov or calling 1-888-DTV-2009 (1-888-388-2009). Each household is entitled to coupons for up to two boxes. Consumers can continue to order converter box coupons through July 31, 2009. For the latest information on the transition, please visit www.dtv.gov, or call the DTV help line at 1-888-CALL-FCC (1-888-225-5322).

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

Genachowski Confirmation Hearing Scheduled For After Memorial Day Recess

The Senate Commerce Committee has postponed a confirmation hearing for Julius Genachowski, President Obama's nominee for FCC Chairman, until after Memorial Day. Commerce Committee Chairman Jay Rockefeller had originally scheduled the hearing for May 12. No reason was given for the delay, except that it was agreed to on a “bipartisan” basis.

Republicans reportedly want time to consider names for either one or both of the G.O.P. seats on the Commission. It is not clear whether Obama intends to reappoint Commissioner Robert McDowell (R), whose term expires June 30. He could serve until the end of the year, if the President does not nominate someone to fill his seat.

Some of the options reportedly being considered by the Republicans include Ajit Pai, a former congressional staffer and deputy general counsel at the FCC, and Lee Carosi Dunn, a long-time staffer to Sen. John McCain (R-Ariz), according to FierceWireless and the Dow Jones News Wire.

It is not clear whether the Senate Commerce Committee plans to vote just on Genachowski's nomination, or on a slate of nominees. Obama announced his intention to nominate Mignon Clyburn, a South Carolina Public Service Commissioner and daughter of House majority whip Rep. James Clyburn (D-S.C.), for an open Democratic Commission seat last week (BloostonLaw Telecom Update, May 6).

Acting Chairman Michael Copps will remain on the FCC as a Commissioner, after Genachowski is sworn in. However, Jonathan Adelstein will be leaving the Commission to head the Rural Utilities Service (RUS) once Genachowski is confirmed by the full Senate.

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

House Hearing Focuses On Wireless Competition

At a recent House Energy and Commerce Telecommunications Subcommittee hearing on competition in the wireless industry, the debate focused on whether or not states should continue to have the right to resolve disputes between customers and wireless carriers, exclusivity deals for devices, roaming rules and other issues as they look to define a new regulatory framework for the industry.

In his opening remarks, **Energy and Commerce Committee Chairman Henry Waxman (D-Calif.)** said: "The purpose of this hearing is to make sure consumers are protected as the industry evolves. As robust as the industry has been in the past, it is clear that the market is becoming more concentrated. Two providers account for about 60% of the market, and the four largest account for about 90% of the market. This Committee must take care to ensure that this consolidation does not harm consumers. Certainly a positive development is the trend towards more open wireless platforms. I was supportive of the FCC's efforts in the 700 MHz auction to promote openness, and I will continue to monitor this trend with keen interest. Openness drives technological innovation, promotes consumer choice, and can stimulate higher broadband speeds."

Several lawmakers voiced support for a measure that would allow a federal standard to pre-empt state regulations for resolving disputes between customers and wireless carriers over their contracts. Lobbyists for the wireless industry are in favor of such a move because, they argue, voice calls and data transfers from cell phones by their very nature cross state lines. Rick Boucher (D-Va.), the chairman of the subcommittee, said states should continue their role in resolving the disputes.

Lawmakers also voiced concerns about exclusivity agreements for hot new devices, such as the one AT&T Mobility has with Apple for the iPhone. "I continue to question why a consumer is constrained" by such exclusivity arrangements, said Rep. John Dingell (D-Mich.).

The lawmakers also debated whether to require wireless carriers' roaming agreements to cover mobile broadband data instead of just voice calls.

Rep. Waxman said that carriers who received federal funding should be required to offer roaming service to other companies "on a just and reasonable basis." Smaller carriers, such as Leap Wireless, argue that roaming agreements are one of the keys to their survival, and that larger providers such as AT&T and Verizon Wireless often make it difficult for smaller competitors to enter new markets by either charging them extremely high fees for the roaming agreement or denying them roaming access.

Sprint's representative, **Paul Schieber**, argued that Sprint pays AT&T, Verizon and other incumbent local exchange carriers (LECs) hundreds of millions of dollars annually for middle mile special access facilities (the monthly lease payments for these facilities represent more than one-third of the costs of operating a cell site) and, in most cases, Sprint simply has no competitive alternatives to the incumbent LECs for these facilities. Sprint claims that the prices that incumbent LECs charge for these middle mile connections harm consumers and cost jobs by diverting needed resources from Sprint's broadband network and services.

Victor H. "Hu" Meena of Cellular South argued that "one effect of the market concentration is that the largest carriers now use their market power to demand (and receive) long-term exclusive agreements with device manufacturers for the latest and greatest handsets. Exclusivity agreements prevent other carriers from acquiring these devices and are particularly harmful to wireless consumers."

FiberTower's representative said: "Middle mile and last mile backhaul enables wireless competition to exist and to thrive. So, our country has an interest in ensuring its availability. The decisions that are made along the way (encouraging the use of multiple-use backhaul platforms and ensuring equal and non-discriminatory access to those platforms, making a limited number of the numerous vacant the TV white space channels available in rural areas, reinforcing FCC rules that prevent burdensome and preempted zoning or permitting restrictions, and implementing FCC, National Telecommunications and Information Administration (NTIA), and Rural Utilities Service (RUS) rules) can create (or destroy) the necessary environment. Making a limited number of TV White Space channels available before the initial grant filing

deadlines will greatly increase the ability to bring broadband services to many more unserved and underserved communities, while sparking short term and long term job growth and ensuring wise efficient use with taxpayer funds.”

Consumers Union urged policymakers to eliminate anti-competitive practices and foster competition in the industry by helping to: 1) reduce costs for consumers associated with switching carriers, 2) ensure companies can compete, and 3) scrutinize the behavior and market power of dominant carriers.

BloostonLaw contacts: Hal Mordkofsky, John Prendergast, Richard Rubino, and Cary Mitchell.

LAW & REGULATION

SEVERAL RURAL ASSOCIATIONS BACK MOBILE

Cell Phone Act of 2009: In a letter to Max Baucus (D-Mont.), Chairman of the Senate Finance Committee, and other congressional leaders, a number of associations, including CTIA, OPASTCO, the Rural Cellular Association (RCA), Rural Telecommunications Group (RTG), and USTA expressed support for S.144, the *MOBILE Cell Phone Act of 2009* and its House companion H.R. 690. According to the letter, “This bill has broad bipartisan support and will modernize the tax code by removing cellular telephones, smart phones and similar communications devices (cell phones) from application of the listed property rules, which impose special, more burdensome substantiation requirements than are imposed on other business property.” This proposal passed the House last year as part of H.R. 5719, the Taxpayer Assistance and Simplification Act of 2008 and garnered 60 co-sponsors in the Senate, including a majority of the Senate Committee on Finance. Given the broad bipartisan support the signatories respectfully urged Congress to adopt this legislation as soon as possible. “Under current law, an employee must include the value of an employer-provided cell phone in income unless strict substantiation requirements are met demonstrating that use is predominantly for business purposes. An employer’s deductions for cell phones are also predicated on satisfying these burdensome substantiation rules. These strict substantiation requirements were added at a time when cell phones were considered a luxury item. Now, their use in business, government and nonprofits is common-place and essential in the modern world. Meeting these strict substantiation requirements burdens the business use of cell phones, dampens the use of advanced technology and is impractical given their frequent use in a fast-paced global work environment. Such detailed documentation is not required for use by an employee of his office phone. There is no reason that cell phones should be subjected to stricter substantiation requirements. Also, the cost of cell phones and wireless

service has decreased significantly since the substantiation requirements were adopted. Thus, taxpayers are subject to significant compliance burdens to monitor a relatively small potential fringe benefit, if any. As with other business property, taxpayers must still be able to demonstrate the business use of the cell phone,” the letter stated. BloostonLaw contacts: Hal Mordkofsky and John Prendergast.

BLOOSTONLAW SUPPORTS CTIA’S TOWER-SITING

PETITION: BloostonLaw has joined several other parties in signing a letter supporting CTIA’s pending Tower Siting “Shot Clock” Petition to establish reasonable timeframes for local and state zoning authorities to act on tower siting and wireless facility applications. The letter makes the following key points:

- Unreasonable delays in zoning authorities’ reviews of tower siting applications -- at times longer than three years -- threaten to deny citizens critical wireless voice and broadband communications services.
- The delays also threaten the wireless industry’s ability to advance job creation and capital expenditures. These tower applications represent true “shovel-ready” projects poised to unleash increased investment and employment opportunities.
- The buildout of 700 MHz and AWS networks (for which carriers spent more than \$33 billion dollars on the spectrum alone) make the need for prompt tower siting even more critical. New wireless broadband investments of \$17.4 billion can result in an increase of between 4.5 and 6.3 million jobs within 24 months.
- Delays in constructing commercial towers impede increased E911 coverage and responsiveness, wireless carriers’ delivery of emergency alerts, and Public Safety’s ability to deploy its own wireless services that are often collocated on commercial towers.
- Zoning authorities’ prolonged inaction on wireless tower applications risks denying Americans critical services that enhance productivity and efficiency.

BloostonLaw contacts: Hal Mordkofsky, John Prendergast, and Cary Mitchell.

FCC FINALLY GRANTS OREGON STUDY AREA

WAIVER REQUEST: The FCC has granted a joint request filed by Qwest, Pine Telephone Systems, and Oregon Telephone Corporation for waivers of the study area boundary freeze codified in the Appendix-Glossary of Part 36 of the Commission’s rules. The study area waiver will permit Qwest and Oregon Telephone to remove territories from their Oregon study areas and permit Pine and Oregon Telephone to add territories to their existing

Oregon study areas. In addition, the FCC granted a separate request filed jointly by Qwest and Pine for a waiver of the study area boundary freeze to permit Qwest to remove the Three Rivers territory from its Oregon study area and permit Pine to add that territory to its existing Oregon study area. **The original request was filed May 4, 2006.** BloostonLaw contact: Gerry Duffy.

SELECTED COMMENTS IN 10th CIRCUIT REMAND PROCEEDING: Various parties recently filed comments to refresh the record in the FCC's proceeding regarding the decision of the 10th U.S. Circuit Court of Appeals in Denver in *Qwest v. FCC (Qwest II)*.

CTIA said that a universal service system that promotes the deployment and provision of advanced wireless and broadband capabilities in rural and high-cost areas will more readily satisfy all of the statutory universal service principles, as required by the Tenth Circuit. In responding to the court's direction to re-assess its analysis of the "reasonable comparability" requirement in section 254(b)(3) of the Communications Act, the Commission must bear in mind that the statute does not mandate "identical" rates but does require that *services* as well as rates be reasonably comparable as between urban and rural areas. Thus, given the broad and increasing availability of wireless broadband services in urban areas, comprehensive reform should provide for the availability of such services to customers in rural and high-cost areas. Moreover, in responding to the Tenth Circuit's remand, the Commission can best fulfill the statutory goals – including balancing the requirement for sufficiency with the need to keep service affordable for all contributors -- by providing support based on efficient costs.

ITTA proposed a plan that incorporates the Broadband and Carrier-of-Last-Resort Support (BCS) Solution filed by Embarq on September 18, 2008, but with one modification—ITTA recommends that the Commission decline the broadband component included in Embarq's BCS Solution, and instead adopt the Broadband Pilot Program (BPP) proposed by Qwest Communications on July 9, 2007. ITTA, however, urges a modification to the Qwest BPP: rather than funding the BPP using savings from imposing the restriction on funding multiple ETC handsets, ITTA proposes that the Commission should instead fund the BPP through normal USF operations. ITTA also includes in its proposal a reiteration of its request that the Commission eliminate the identical support rule. The ITTA proposal corrects USF mechanisms to account for competition in urban areas, and ensures that carriers serving high-cost areas are able to obtain support based on the specific characteristics of the areas they serve.

The **Rural Cellular Association (RCA)**, among other things, said that in defining "reasonably comparable" rates, the Commission should replace the existing standard deviation benchmark with a benchmark of 125 per-

cent of the national average urban rate. The use of a clear numerical standard will avoid confusion about the agency's test, and will also respond to the court's concerns by narrowing the existing gap between urban and rural rates. The Commission should define "sufficient" support in a manner that ensures that rural consumers have access to mobile wireless services that are reasonably comparable to those available in urban areas. Although the Commission must take into account all the statutory principles in defining "sufficient" support, it should give weight to the principles of competitive and technological neutrality, affordability, and reasonable comparability because these principles are directly related to the specific purposes and objectives of high-cost support mechanisms.

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

DEADLINES

JULY 10: DTV EDUCATION REPORT. *New 700 MHz licensees from Auction No. 73 are required to file a report with the FCC concerning their efforts to educate consumers about the upcoming transition to digital television (DTV). Last summer, we explained that the FCC's Part 27 rules require 700 MHz licensees that won licenses in Auction No. 73 to file quarterly reports on their DTV consumer outreach efforts through the Spring of 2009. However, in an apparent contradiction, the same rules do not impose any substantive consumer education requirements on 700 MHz license holders. This situation has not changed. The reporting rule simply states that "the licensee holding such authorization must file a report with the Commission indicating whether, in the previous quarter, it has taken any outreach efforts to educate consumers about the transition from analog broadcast television service to digital broadcast television service (DTV) and, if so, what specific efforts were undertaken." Many licensees may not have initiated 700 MHz service as of yet. However, to the extent they are also an Eligible Telecommunications Carrier (ETC) and recipient of federal USF funds, separate FCC rules found in 47 C.F.R. Part 54 (Universal Service) require ETCs to send monthly DTV transition notices to all Lifeline/Link-Up customers (e.g., as part of their monthly bill), and to include information about the DTV transition as part of any Lifeline or Link-Up publicity campaigns until June 30, 2009. BloostonLaw contacts: Hal Mordkofsky and Cary Mitchell.*

JULY 20: 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 31: 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 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, 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.

JULY 31: 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 oth-

er 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 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 1: FTC BEGINS ENFORCEMENT OF RED FLAG RULES. The Federal Trade Commission (FTC) has delayed enforcement of the "Red Flag" Rules for 90 days until **August 1, 2009**, to give creditors and financial institutions additional time to implement identity theft programs. Under the new rules, all businesses that maintain a creditor-debtor relationship with customers, including virtually all telecommunications carriers (but other companies as well), must adopt written procedures designed to detect the relevant warning signs of identity theft, and implement an appropriate response. **The Red Flag compliance program was in place as of November 1, 2008. But the FTC will not enforce the rules until August 1, 2009, meaning only that a business will not be subject to enforcement action by the FTC if it delays implementing the program until August 1. The FTC announcement does not affect other federal agencies' enforcement of the original Nov. 1, 2008, compliance deadline for institutions subject to their oversight.** Other liabilities may be incurred if a violation occurs in the meantime. The requirements are not just binding on telcos and wireless carriers that are serving the public on a common carrier basis. They also apply to any "creditor" (which includes entities that defer payment for goods or services) that has "covered accounts" (accounts used mostly for personal, family or household purposes). **This also may affect private user clients, as well as many telecom carriers' non-regulated affiliates and subsidiaries. BloostonLaw has prepared a Red Flag Compliance Manual to help your company achieve compliance with the Red Flag Rules. Please contact Gerry Duffy (202-828-5528) or Mary Sisak (202-828-5554) with any questions or to request the manual.**

AUGUST 3: 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 is due on August 1, but because August 1 falls on a Saturday this year, the next business day is Monday, August 3.) This filing requirement also applies to certain Private Mobile Radio Service (PMRS) licen-

sees, 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 499Q. BloostonLaw contacts: Ben Dickens, Gerry Duffy, and Mary Sisak.

AUGUST 3: FCC FORM 502, NUMBER UTILIZATION AND FORECAST REPORT: Any wireless or wireline carrier (including 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 3**. (Normally, this filing would be due August 1, but this year August 1 falls on a Saturday, and FCC 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. 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 February 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.

**LAW OFFICES
BLOOSTON, MORDKOFKY, DICKENS,
DUFFY & PRENDERGAST, LLP**

2120 L St. NW, Suite 300
Washington, D.C. 20037
(202) 659-0830
(202) 828-5568 (fax)

Harold Mordkofsky, 828-5520, halmor@bloostonlaw.com
Benjamin H. Dickens, Jr., 828-5510, bhd@bloostonlaw.com
Gerard J. Duffy, 828-5528, gjd@bloostonlaw.com
John A. Prendergast, 828-5540, jap@bloostonlaw.com
Richard D. Rubino, 828-5519, rdr@bloostonlaw.com
Robert M. Jackson, 828-5515, rmj@bloostonlaw.com
Mary J. Sisak, 828-5554, mjs@bloostonlaw.com
D. Cary Mitchell, 828-5538, cary@bloostonlaw.com
Salvatore Taillefer, Jr., 828-5562, sta@bloostonlaw.com
Eugene Maliszewskij, Eng. 828-5536, ema@bloostonlaw.com

Paul Shultz, editor, 828-5566, pksh@bloostonlaw.com

If you would like to receive an e-mail version of the newsletter, contact Althea Pierce at 828-5521 or abp@bloostonlaw.com and indicate your format preference: MS Word 97, Adobe Acrobat (.pdf) or plain text.

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

VITAL MEETINGS & DEADLINES

May 15 – Deadline for comments on price cap carriers' short form TRP associated with annual access tariff filing due July 1.

May 15 – Deadline for comments on Iowa Telecom request for waiver of Section 61.41 "all or nothing" rule regarding acquisitions of Lakedale and Sherburne (WC Docket No. 09-25).

May 15 – Deadline for comments on unassigned BRS auction spectrum (Auction No. 86) practices and procedures (AU Docket No. 09-56).

May 18 – Deadline for reply comments on various recon petitions regarding unlicensed devices below 900 MHz and in the 3 GHz band (ET Docket No. 04-186, 02-380). (Extended from May 8.)

May 20 – Deadline for comments on Supplemental NOI regarding video competition report (2008 data) (MB Docket No. 07-269).

May 22 – Deadline for reply comments on price cap carriers' short form TRP associated with annual access tariff filing due July 1.

May 26 – Deadline for reply comments on Iowa Telecom request for waiver of Section 61.41 "all or nothing" rule regarding acquisitions of Lakedale and Sherburne (WC Docket No. 09-25).

May 29 – Deadline for reply comments on unassigned BRS auction spectrum (Auction No. 86) practices and procedures (AU Docket No. 09-56).

May 29 – Deadline for comments on conservation groups' request for FCC action on antenna structures (WT Docket Nos. 08-61, 03-187).

***May 31* – FCC Form 395, Employment Report, is due.**

***June 3* – FCC open meeting.**

June 8 – Deadline for reply comments on NOI to refresh record on non-rural USF support mechanism (WC Docket No. 05-337).

June 8 – Deadline for comments on NOI seeking comment on developing national broadband plan (GN Docket No. 09-51).

***June 12* – DTV Transition.**

***June 13* – DTV Analog Nightlight program begins and runs for 30 days until July 12.**

June 15 – Deadline for reply comments on conservation groups' request for FCC action on antenna structures (WT Docket Nos. 08-61, 03-187).

June 16 – Deadline for ILECs filing annual access tariffs on 15 days' notice (carriers proposing to increase any of their rates).

***June 19* – Deadline for both paper and electronic copies of applications for FY 2009 RUS Community Connect Grants for broadband projects.**