

BloostonLaw Telecom Update

Published by the Law Offices of Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP
www.bloostonlaw.com

Vol. 11, No. 19

May 14, 2008

Clients Can Order BloostonLaw's Updated CPNI Compliance Manuals

Clients can order BloostonLaw's updated Model CPNI Compliance Certification, and a template for the CPNI Compliance Statement that must be attached to it, to comply with the new FCC rules, which apply to all entities that provide telecom services, wireline or wireless, including paging. The new rules became effective late last year.

Please note that the Model CPNI Compliance Certification may be completed for each telecommunications carrier, or for a group of affiliated telecommunications carriers that all follow the same CPNI procedures. Likewise, the CPNI Compliance Statement is a template that should be modified to specify the exact procedures followed by a telecommunications carrier or group of affiliated telecommunications carriers.

CLIENTS SHOULD CONTACT US FOR THESE MODELS AND USE THEM TO COMPLETE THE APPROPRIATE PAPERWORK FOR THIS YEAR, AND FOR EACH SUCCEEDING YEAR GOING FORWARD.

Please note that the completed CPNI Compliance Certification and CPNI Compliance Statement must now be filed annually (March 1) with the FCC, and also must be placed in a company file where they can be accessed if needed. We will be glad to help our clients to file the certification and obtain a proof-of-filing copy, once the deadline is announced. The FCC's Enforcement Bureau has recently fined several carriers for not correctly complying with the CPNI Compliance Certification process, so it is important that this requirement be followed to the letter. BloostonLaw contacts: Gerry Duffy (202-828-5528), Mary Sisak (202-828-5554, and John Prendergast (202-828-5540).

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FCC Proposes Revised Rules For 700 MHz Band "D Block"

The FCC, at its open meeting today, adopted a Second Further Notice of Proposed Rulemaking (FNPRM) that seeks public comment on how the Commission should proceed with the re-auction and licensing of the 700 MHz D Block spectrum while maximizing the public safety and commercial benefits of a nationwide, interoperable broadband network. **Since the FCC will now consider alternative approaches to the D Block licensing scheme, we encourage our small and rural clients to join in comments urging that the D Block be licensed (at least in rural areas) via smaller license areas that would allow small business/rural telco participation in the auction; and that any public safety participation requirements for rural areas take into account the difficulties of a rural build out. These carriers could be the most logical entities to achieve coverage to more remote communities.**

In July 2007, the FCC adopted rules for the 700 MHz Band spectrum that included the creation of a 10-megahertz license in the D Block to be part of a 700 MHz Public/Private Partnership with the adjacent 10 megahertz of spectrum dedicated to a Public Safety Broadband License. The 700 MHz Public/Private Partnership was designed to achieve the public policy goal of promoting public safety interoperability, allowing police, fire and

other first responders to better communicate with one another in times of emergency. Because the D Block did not meet its \$1.3 billion reserve price in the recent Auction No. 73, the FCC decided to re-auction this spectrum under revised rules.

Today's FNPRM asks for comment, ideas, and recommendations on how to revise the rules for the D Block. First, the FNPRM asks whether it remains in the public interest, following the 700 MHz Auction, to retain a Public/Private Partnership between the D Block licensee and the Public Safety Broadband Licensee. The Notice also seeks comment on various potential modifications to the current rules governing the Public/Private Partnership. For instance, the FCC asks whether only entities that provide public safety services, as defined in the Communications Act, are eligible to use the public safety spectrum portion of the shared network established by the Partnership.

Comments are also sought on the technical requirements of the shared wireless broadband network. In this regard, the Notice includes information on a possible technical framework that identifies in greater detail parameters for the shared wireless broadband network.

In addition, commenters may provide input on the following issues raised in the FNPRM:

- the rules governing public safety priority access to the network during emergencies;
- the performance requirements and license term;
- whether to license the D Block and public safety broadband spectrum on a nationwide or regional basis;
- the various fees associated with the shared network;
- whether or not it would be appropriate for the Public Safety Broadband Licensee or any of its agents, advisors, or service providers to serve as a mobile virtual network operator to manage access and use of the 700 MHz D Block of spectrum by first responders;
- the process for the D Block licensee and the Public Safety Broadband Licensee to negotiate a Network Sharing Agreement;
- the potential for requirements that the Public Safety Broadband Licensee be a non-profit organization and that no for-profit entities, apart from certain outside advisors or counsel, be involved; and
- auction-related issues, such as whether to restrict auction participation and how to determine a reserve price.

The FNPRM also seeks comment on how the D Block should be auctioned and licensed for commercial use if it were not required to be part of a Public/Private Partner-

ship. The FCC requests input on other ways to facilitate the deployment of a public safety broadband network if it found such a partnership were no longer in the public interest. The FCC notes that, if the D Block no longer contained the Public/Private Partnership condition, additional actions by Congress may be necessary to support the cost and build-out of a nationwide, interoperable broadband network for America's first responders.

Although the text of this WT Docket No. 06-150 Notice was not available at our deadline, comments will be due 30 days after publication of the item in the Federal Register, and replies will be due 15 days thereafter.

FCC Chairman Kevin Martin said he was pleased that this Further Notice turns a critical eye on the specific parameters of the private/public partnership, and ways to ensure the commercial viability of this endeavor by providing greater certainty to all parties involved. "In this respect," he said, "the Further Notice appropriately looks at both sides of the ledger. For example, it examines ways to more clearly define the role of the Public Safety Broadband Licensee, asking questions about the scope of who would constitute a public safety user, the appropriate role of advisors, and whether increased oversight is necessary. With respect to the commercial side, it seeks input on how to clearly define expectations regarding build out, default penalties, and network parameters that will allow potential bidders to construct a positive business case for undertaking this unique opportunity. Finally, while not required, we will seek additional comment through a Third Further Notice of Proposed Rule-making, and I have also agreed to hold an en banc hearing on these issues."

While supporting the item, **Commissioner Michael Copps** said that: "Even beyond the daunting technical issues, we also need to resolve difficult problems of governance and economic incentives. For example, how can we ensure that the public safety broadband licensee has adequate funding to engage in planning and support its ongoing operations? Is USF funding a possible answer? Or the Telecommunications Development Fund? And we need to look at how to ensure that public safety entities can actually afford to use this system. What pricing plans are consistent with the needs of local jurisdictions to meet fixed budgets? What rules for use of the network by public safety, either for free or at a discounted rate, will the economics of this arrangement permit? After all, the elephant in the room is that we need to make sure that our rules allow the commercial partner a reasonable opportunity to turn a profit in the long-term, or else we will never find a bidder and the network will go unbuilt. We also need to understand if innovative technologies—like multi-mode satellite handsets, or dividing the commercial block into two or more blocks with varying degrees of population density—can improve the abil-

ity of commercial licensees to serve their public safety partners.”

Commissioner Jonathan Adelstein said: “One of our greatest failings last time was that the expectations were not made clear upfront as to how the network would look and what would be asked of a private sector partner. We have since learned that potential private partners did not have the certainty they needed to raise or commit capital to the project. Our hope this time, in the end, is to generate a set of rules that provide a real incentive for building the most advanced and interoperable nationwide network possible through a careful balance of flexibility and conditions that are laid out clearly and explicitly upfront. Finally, while I wholeheartedly support the launch of this proceeding today, I do want to counsel for taking a cautious and deliberate approach to an ultimate resolution. I am pleased that my colleagues have agreed to put forth a Further Notice of Proposed Rulemaking that details a more specific and complete proposal. This allows commenters to “kick the tires” on any proposed rules, and I thank Commissioner Copps for his wise insistence on this approach. It is important that we get the specifics nailed down as clearly as possible this time around, since it may be our last shot.”

Commissioner Deborah Tate said: “With regard to the choices before us, in this item we seek comment on whether the Commission should auction the ten megahertz of spectrum comprising the D Block with a modified version of the public/private partnership that was previously adopted, or auction this spectrum with no such requirement. The choice between these two options is one of the key decisions we will make in this proceeding. It is important to clearly understand the strengths and weaknesses of both approaches. For example, auctioning the D Block with no public/private partnership and minimal service rules might maximize the funds raised at auction, funds that then would be available for Congress – if it so chooses – to appropriate for public safety communications. On the other hand, requiring the D Block winner to participate in a public/private partnership would ensure a dedicated provider that then may be well-positioned to coordinate interoperable services and take advantage of economies of scale. There are other potential costs and benefits that should be addressed. For this reason, I strongly encourage comments in this regard from the public safety community, from potential service providers, and from other experts and interested parties.”

Commissioner Robert McDowell said: “In the wake of the D Block’s failure, I have met with a number of parties to analyze what went wrong. Apparently potential bidders were deterred by onerous build-out and service requirements that required the eventual licensee to incur massive costs in an atmosphere of extreme uncertainty regarding how many, if any, public safety entities might actually sign up as paying customers. Today’s further

notice offers an open-ended opportunity for all interested parties to tell us what we did wrong, what our new goals should be, and how we can accomplish those goals.”

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

FCC Seeks Comment On Assessment and Collection Of FY 2008 Regulatory Fees

The FCC has proposed collecting \$312,000,000 in regulatory fees for fiscal year (FY) 2008. In a Notice of Proposed Rulemaking (NPRM) and Order issued last week, the Commission seeks comment on the development of FY 2008 regulatory fees collected pursuant to Section 9 of the Communications Act. It intends to collect these fees during the August-September 2008 time frame.

In this proceeding, the FCC is seeking comment on a variety of issues, including: (a) for CMRS Messaging – whether to change the fee from \$0.08 per subscriber unit; (b) improvement of the subscriber count methodology for services subject to assessment letters; (c) whether the FCC should continue sending e-mail notifications of the amounts due to CATV operators; (d) the process for notifying licensees about changes in the annual Schedule of Regulatory Fees, including any improvements that can be made to the process; (e) the most effective way to disseminate regulatory fee assessments and bills, e.g., through surface mail, e-mail, list server using Listserv, online website, or some other mechanism; (f) the fee payment process, including how the agency’s online regulatory fee filing system (Fee Filer) can be enhanced; (g) the timing of fee payments, including whether the FCC should alter the timing of the existing regulatory fee payment window (which is generally August – September); and (h) the timing of fee assessments and pre-bills.

For FY 2008, the FCC is proposing to use the same basic methodology it adopted for the collection of last year’s regulatory fees. Each fiscal year, the Commission proportionally allocates to fee categories the total amount that must be collected through its regulatory fees. Consistent with past practice, the FCC has proposed to divide the FY 2008 payment amount by the number of payment units in each fee category to calculate the unit fee. For cases involving small fees, the FCC proposes to divide the resulting unit fee by the term of the license. As in prior years, these fees would be rounded consistent with the requirements of the Act. The FCC seeks comment on these proposals.

CMRS Messaging Services: This category includes all narrowband services. Since FY 2002, the FCC has maintained the CMRS Messaging Service regulatory fee at the rate that was first established in FY 2002 (*i.e.*,

\$0.08 per subscriber unit), noting that the subscriber base in this industry has declined significantly. The FCC found that maintaining the CMRS Messaging regulatory fee rate at \$0.08 per subscriber unit, rather than allowing it to increase, was the appropriate level of relief to be afforded to the messaging industry. **For FY 2008, the FCC proposes to maintain the messaging service regulatory fee at \$0.08 per subscriber unit, and seeks comment on this proposal.** Commenters suggesting a different approach, *i.e.*, a proposal other than keeping the fee at \$0.08 per subscriber unit, should provide industry data to support their position.

New Lock Box Bank: Because of a change in the FCC's lockbox bank, instructions for making payment of fees by check and electronic wire transfer will differ from prior years.

Assessment Letters: Like last year, the FCC proposes to mail assessment letters to Commercial Mobile Radio Service (CMRS) providers (e.g., cellular, SMR and PCS carriers) using data from the Numbering Resource Utilization Forecast (NRUF) report that is based on "assigned" number counts that have been adjusted for porting to net Type 0 ports ("in" and "out"). This letter will include a listing of the carrier's Operating Company Numbers (OCNs) upon which the assessment is based. Consistent with existing practice, the letters will not include OCNs with their respective assigned number counts, but rather, an aggregate total of assigned numbers for each carrier. The FCC also proposes to continue the procedure of giving entities an opportunity to revise their subscriber counts by sending two rounds of assessment letters – an initial assessment and a final assessment letter. The FCC seeks comment on this proposal.

Under its proposed procedure for FY 2008, if the number of subscribers on the initial assessment letter differs from the subscriber count the service provider provided on its NRUF form, the carrier will be given an opportunity to correct its subscriber count by returning the assessment letter or by contacting the Commission and stating a reason for the change, such as the purchase or the sale of a subsidiary. If no response or correction to its initial assessment letter is received, the FCC would then expect the fee payment to be based on the number of subscribers listed on the initial assessment. Otherwise, the FCC would the responses to initial assessment letters and determine whether a change in the number of subscribers is warranted before issuing the final assessment letter.. The FCC is seeking comment on its current procedures of assessing CMRS subscriber counts (for NRUF filers) and other ways it could improve the process.

The FCC recognizes that some carriers may not be sent a letter of assessment because they had not filed the NRUF form. The FCC proposes that these carriers com-

pute their fee payment using the standard methodology that is currently in place for CMRS Wireless services (e.g., compute their subscriber counts as of December 31, 2007), and submit their payment using an FCC Form 159. The Commission may audit the number of subscribers for which regulatory fees are paid, whether a carrier receives an assessment letter or computes the subscriber count itself. In the event that the Commission determines that the number of subscribers is inaccurate or that an insufficient reason is given for making a correction on the initial assessment letter, the Commission will assess the carrier for the difference between what was paid and what should have been paid.

The FCC, therefore, proposes to (1) obtain the subscriber count from NRUF data based on "assigned" number counts that have been adjusted for porting to net Type 0 ports ("in" and "out"); (2) provide carriers with an opportunity to revise their subscriber counts at the time when the initial assessment letter is mailed; and (3) require carriers to confirm their subscriber counts at the aggregate level using data in the NRUF report. The FCC seeks comment on these proposals.

Cable Television Operators: The FCC proposes to continue to permit cable television operators to base their regulatory fee payment on their company's aggregate year-end subscriber count, rather than requiring them to sub-report subscriber counts on a per community unit identifier (CUID) basis. The FCC seeks comment on this proposal. The FCC said this practice has worked well for the Commission the past three fiscal years and has eased administrative burdens for the cable television industry.

Beginning in FY 2006, the FCC sent an electronic message to e-mail addresses populated in the Media Bureau's Cable Operations and Licensing System (COALS) to notify them of the amount and due date of regulatory fees for basic cable television subscribers. The FCC proposes to continue this effort for FY 2008, but it is not sure if this notification practice is effective. **The FCC seeks comment on whether this practice of sending electronic e-mail notification to cable operators should be continued.**

CMRS Call Signs: In FY 2006, The FCC streamlined the CMRS payment process by eliminating the requirement for CMRS providers to identify their individual calls signs when making their regulatory fee payment. Instead, the Commission required CMRS providers to pay their regulatory fees only at the aggregate subscriber level without having to identify their various call signs. **The FCC proposes to continue this practice in FY 2008 and seeks comment on this proposal.**

In addition, to lessen the administrative burden on licensees, FCC proposed in FY 2007 to consolidate the CMRS cellular and CMRS mobile fee categories into one fee category and as one fee code, thereby eliminating the requirement for CMRS providers to separate their subscriber counts into CMRS cellular and CMRS mobile fee categories during the regulatory fee payment process. This consolidation of fee categories enabled the Commission to process payments more quickly and accurately. For FY 2008, the FCC proposes to continue this practice of combining the CMRS cellular and CMRS mobile fee categories into one regulatory fee category. The FCC seeks comment on this proposal.

Order: Last year, the FCC sought comment on the implementation of a new regulatory fee structure for licensees in the Broadband Radio Service (BRS). The proposal used a weighted average approach based on the FCC's 2006 Decision to establish three tiers, to be based on the BTA ranking of the license and the per MHz fee. BloostonLaw opposed the FCC's proposal because there was insufficient data in the record to conclude that rural operators would benefit from the new fee calculation. BloostonLaw also stated that the fee should be based upon the population within the licensee's geographic service area. Based upon BloostonLaw's and others comments, the FCC has concluded that it will continue the current practice of charging a flat fee per license until the BRS/EBS transition to the new band plan is completed.

Comments in this MD Docket No. 08-65 proceeding are due May 30, and replies are due June 6. Clients should let us know if they are interested in participating in this proceeding.

BloostonLaw contacts: Hal Mordkofsky, John Prendergast, Gerry Duffy, and Richard Rubino.

FCC Says It Will Set Date For Transition To 6.25 kHz Narrowband Technology

The FCC has clarified that it will eventually release a Notice of Proposed Rulemaking (NPRM) regarding a specific time line for private land mobile radio (PLMR) licensees in the 150-174 MHz and 421-512 MHz bands to transition to 6.25 kHz technology, and that language in the earlier *Third Report and Order* encouraging licensees to consider migrating directly to 6.25 kHz technology was not intended to dissuade migration to 12.5 kHz technology by licensees that have already begun the process.

Earlier in this proceeding, the Commission took the following actions in order to bring about a timely transition to narrowband technology: (1) set January 1, 2013, as the deadline for Industrial/Business and Public Safety Radio Pool licensees in the 150-174 MHz and 421-512

MHz bands to either migrate to 12.5 kHz technology, or utilize a technology that achieves equivalent efficiency; (2) prohibited any applications for new systems using 25 kHz channels, or modification applications that expand the authorized contour of an existing 25 kHz station, effective January 1, 2011; (3) prohibited the manufacture and importation of any 150-174 MHz or 421-512 MHz band equipment capable of operating with only one voice path per 25 kHz of spectrum, *i.e.*, equipment that includes a 25 kHz mode, beginning January 1, 2011; and (4) prohibited the certification of any equipment that includes a 25 kHz mode beginning January 1, 2011.

In the *Third Report and Order*, however, the Commission declined to establish a fixed date for users to transition to 6.25 kHz technology, because it agreed with the majority of commenters "that adopting such a measure would be premature, and . . . more time is warranted to allow further development and field testing of the 6.25 kHz [interoperability] standard." The Commission nonetheless reiterated that 12.5 kHz technology is a transitional step in the eventual migration of PLMR systems to 6.25 kHz technology.

Two petitions were filed in response to the *Third Report and Order*. First, Kenwood USA Corporation, Communications Sector requested clarification of the Commission's statement urging licensees to consider migrating directly to 6.25 kHz technology was not intended to delay or discourage migration to 12.5 kHz technology. It reports that the *Third Report and Order* has caused end-users, including entities that already were in the process of converting to 12.5 kHz technology in order to comply with the 2013 deadline, to adopt a "wait and see" approach rather than invest in 12.5 kHz equipment that may be rendered obsolete before the end of its useful life. The City of New York echoed Kenwood's concern that an early date for 6.25 kHz migration would result in stranded investment, and raise other concerns. New York urged the Commission to release an NPRM prior to adoption of a 6.25 kHz technology transition date, in order to allow licensees an opportunity to plan and implement a reasoned migration path. The commenters to New York's petition unanimously support this request.

As an initial matter, the FCC said it is cognizant of the concerns raised by New York and commenters supporting New York's petition that their 12.5 kHz equipment not be rendered obsolete prematurely. Accordingly, it clarified that it intends to provide notice and seek comment prior to adopting final rules establishing a 6.25 kHz migration schedule, and thus grant New York's petition to that extent. At that time, interested parties will have an opportunity to comment on such a proposal.

The FCC said it is also aware that many licensees of larger, more complicated systems have already commenced the transition to 12.5 kHz technology in order to

comply with the 2013 deadline. It therefore clarified that the language in the *Third Report and Order* urging licensees to consider migrating directly to 6.25 kHz technology was not intended to dissuade migration to 12.5 kHz technology by licensees that have already begun the process.

The FCC reiterated, however, that 12.5 kHz technology is a transitional step in the eventual migration of PLMR systems to 6.25 kHz technology. As the demand for scarce PLMR spectrum continues to grow, the Commission said it will closely monitor the progress made by standards-setting organizations and equipment manufacturers to develop more spectrum-efficient PLMR systems. As indicated in the *Third Report and Order*, when 6.25 kHz technology matures to the point that sufficient equipment is available for testing, the FCC said it will expeditiously establish a transition date for users to convert to that more spectrum-efficient technology.

Consequently, licensees that may not migrate to 12.5 kHz technology until the January 1, 2013, deadline approaches should consider the feasibility of migrating directly to 6.25 kHz technology. Such a course could be more efficient and economical for licensees—and result in greater overall spectrum efficiency—than first migrating to 12.5 kHz technology by 2013, then further migrating to 6.25 kHz technology thereafter.

In this *Fourth Memorandum Opinion and Order*, we address a petition for reconsideration and a request for clarification of the *Third Report and Order*.

This item was originally scheduled for the FCC's May 14 open meeting, but was deleted from the agenda because the Commission adopted it the day before the meeting.

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

LAW & REGULATION

HOUSE JUDICIARY CHAIRMAN OFFERS "NETWORK NEUTRALITY" BILL: House Judiciary Committee Chairman John Conyers (D-Mich.) has introduced "net neutrality" legislation that would bar network providers from discriminating against some Internet content. The *Internet Freedom and Nondiscrimination Act of 2008 (H.R. 5994)* would require U.S. broadband providers to operate their networks "in a reasonable and nondiscriminatory manner so that all content, applications and services are treated the same and have an equal opportunity to reach consumers." According to Rep. Conyers, "If we allow companies with monopoly or duopoly power to control how the Internet operates, network providers could have the power to choose what content is available." Under the legislation, it would be unlawful for any

broadband network provider: (1) to fail to provide its broadband network services on reasonable and nondiscriminatory terms and conditions such that any person can offer or provide content, applications, or services to or over the network in a manner that is at least equal to the manner in which the provider or its affiliates offer content, applications, and services, free of any surcharge on the basis of the content, application, or service; (2) to refuse to interconnect its facilities with the facilities of another provider of broadband network services on reasonable and nondiscriminatory terms or conditions; (3)(A) to block, to impair, to discriminate against, or to interfere with the ability of any person to use a broadband network service to access, to use, to send, to receive, or to offer lawful content, applications or services over the Internet; or (B) to impose an additional charge to avoid any conduct that is prohibited by this subsection; (4) to prohibit a user from attaching or using a device on the provider's network that does not physically damage or materially degrade other users' utilization of the network; or (5) to fail to clearly and conspicuously disclose to users, in plain language, accurate information concerning any terms, conditions, or limitations on the broadband network service. **In a related matter, the House telecommunications subcommittee recently held a hearing on Rep. "Chip" Pickering's (R-Miss.) Net Neutrality bill (H.R. 5353), introduced earlier this year, that would require nondiscrimination on a nationwide basis and direct the FCC to investigate whether broadband network providers adhere to that policy.** The hearing met with mixed results, and no date was set for a markup of Pickering's bill. BloostonLaw contacts: Ben Dickens, Gerry Duffy, and Mary Sisak.

PROGENY SEEKS WAIVER OF M-LMS CONSTRUCTION RULE: Progeny LMS, LLC has filed a request for waiver of the FCC's Multilateration Location and Monitoring Service (M-LMS) construction rule. Progeny holds a total of 228 M-LMS Economic Area (EA) licenses in the 902-928 MHz band, all of which have a five-year construction deadline of July 19, 2008 and a ten-year construction deadline and expiration date of July 19, 2010. Under Section 90.155(d) of the Commission's rules, M-LMS licensees are required to construct and place into operation a sufficient number of base stations to provide service to one-third of the population of their EA within five years of initial license grant and two-thirds of the population of their EA within ten years of license grant. Alternatively, an M-LMS licensee may make a showing of substantial service in their license area at the five-year and ten-year benchmarks. Progeny requests an additional four-year extension of its five-year construction requirement until July 19, 2012 and a four-year extension of its ten-year construction requirement until July 19, 2014. The Wireless Telecommunications Bureau (WTB) seeks comment on Progeny's request. In support of its waiver request, Progeny argues that the lack of M-LMS equipment has prevented it from meeting its construction

requirements. Progeny states that the Commission has granted multiple extension of time requests to other M-LMS licensees due to the lack of M-LMS equipment. Progeny also stated that, because compliance with the construction deadline is impossible, the imposition of the deadline is inequitable and unduly burdensome. Progeny contends it has been committed to providing M-LMS services as evidenced by its discussions with the Department of Homeland Security regarding location services, its efforts to procure equipment, its funding of research on possible uses of the M-LMS band, and its active participation in the Commission's proceeding to revise the M-LMS rules. Progeny states that a four-year extension is needed because it must design, develop and deploy its own equipment to provide M-LMS service. Progeny points out that the extension would go beyond its license renewal date, but states that the Commission may condition renewal of licenses on subsequent compliance with its construction requirements. Comments must be filed no later than **June 4, 2008**, and reply comments must be filed no later than **June 19, 2008**. All filings should reference **WT Docket No. 08-60**. BloostonLaw contacts: Hal Mordkofsky and John Prendergast.

FCC SEEKS COMMENT ON NECA's PROPOSED INTERSTATE TRS FUND FORMULAS: The FCC seeks comment on the National Exchange Carrier Association's (NECA's) proposed compensation rates for interstate traditional TRS; interstate Speech-to-Speech (STS); interstate captioned telephone service (CTS) and interstate and intrastate Internet Protocol (IP) captioned telephone service (IP CTS); interstate and intrastate IP Relay; and interstate and intrastate Video Relay Service (VRS). The FCC also seeks comment on the proposed carrier contribution factor and interstate TRS Fund size requirement. NECA proposes per minute compensation rates based on the new rate calculation methodologies established in the 2007 TRS Rate Methodology Order. These calculations result in the following proposed rates: \$1.5938 for interstate traditional TRS; \$2.7248 for interstate STS; \$1.6569 for interstate CTS and interstate and intrastate IP CTS; \$1.2865 for interstate and intrastate IP Relay; and tiered rates of \$6.7362 for the first 50,000 monthly minutes, \$6.4675 for monthly minutes between 50,001 and 500,000, and \$6.2685 for minutes above 500,000 for interstate and intrastate VRS. Based on these rates, NECA proposes a carrier contribution factor of 0.01012, and a Fund size requirement of \$805.5 million. **Comments in this CG Docket No. 03-123 proceeding are due May 16, and replies are due May 23.** BloostonLaw contacts: Ben Dickens, Gerry Duffy, and Mary Sisak.

DEADLINES

MAY 31: FCC FORM 395, EMPLOYMENT REPORT. *Common carriers, including wireless carriers, with 16 or more full-time employees must file their annual Common*

*Carrier Employment Reports (FCC Form 395) by May 31. 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 Form 395 is newly revised this year—prior versions are obsolete.)** The FCC encourages carriers to complete the discrimination report requirement by filling out Section IV of Form 395, rather than submitting a separate report. Clients who would like assistance in filing Form 395 should contact Richard Rubino and Bob Jackson.*

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 BloostonLaw submit this filing and obtain an FCC proof-of-filing receipt for client records.*** BloostonLaw contacts: Ben Dickens and Gerry Duffy.

JULY 21: 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 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 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 and John Prendergast.

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*Limited to Matters and Proceedings before Federal Courts and Agencies

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.

FCC Meetings and Deadlines

May 15 – Deadline for comments on price cap ILECs' short form TRPs (WCB/Pricing File No. 08-14).

May 16 – Deadline for reply comments on RCC, Northwest Dakota Cellular recon petitions seeking to use postcards instead of bill stuffers to comply with DTV Consumer Education Order (MB Docket No. 07-148).

May 16 – Deadline for short-form application in closed Auction No. 77 (cellular service in two unserved areas).

May 16 – Deadline for comments on NECA's proposed interstate TRS Fund formulas (CG Docket No. 03-123).

***May 19* – Deadline for reply comments on USF reform NPRMs—Joint Board, Identical Support Rule, and Reverse Auctions NPRMs (WC Docket No. 05-337).** Extended from May 5.

May 19 – Deadline for comments on VTel petition for declaratory ruling regarding interconnection rights for LECs, VoIP providers (WC Docket No. 08-56).

May 22 – Deadline for reply comments on price cap ILECs' short form TRPs (WCB/Pricing File No. 08-14).

May 22 – Deadline for comments on EEOC forms (FCC Forms 395-A and B) (MM Docket No. 98-204).

May 22 – Deadline for comments on CTIA, PCIA, NATE petition for rulemaking on migratory birds remand case (WT Docket No. 08-61).

May 22 – Deadline for comments on petitions for reconsideration of order denying HAC waiver requests (WT Docket No. 01-139).

May 23 – Deadline for reply comments on NECA's proposed interstate TRS Fund formulas (CG Docket No. 03-123).

May 29 – Deadline for reply comments on AT&T's request to review USAC audit finding regarding Form 497 (WC Docket No. 03-109).

May 30 – Deadline for reply comments on FNPRM proposing to eliminate "30 Market Rule" for BAS transition before 2 GHz MSS operations can begin (WT Docket No. 02-55).

***May 30* – Effective date of revised DTV consumer education rules.**

May 30 – Deadline for comments on homeowner association antenna restrictions (CSR-7861-O, CSR-7862-O).

May 30 – Deadline for comments on assessment and collection of FY 2008 regulatory fees (MD Docket No. 08-65).

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

June 2 – Deadline for reply comments on petitions for reconsideration of order denying HAC waiver requests (WT Docket No. 01-139).