

# BloostonLaw Telecom Update

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## REMINDER!

### *Enforcement of Red Flag Rules Begins May 1*

The Federal Trade Commission (FTC) last year suspended enforcement of the "Red Flag" Rules until **May 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, 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 May 1, 2009, meaning only that a business will not be subject to enforcement action by the FTC if it delays implementing the program until May 1.** 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 who use radios internally, 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.**

**The FCC has released the new filing fee guides for the fees that will take effect April 28, 2009.**

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## Commenters Strike On All Fronts In NTIA/RUS Broadband Proceeding

To date more than 1,400 comments were filed in the joint request for information released by the National Telecommunications and Information Administration (NTIA) and the Rural Utilities Service (RUS) regarding the broadband initiatives in the American Recovery and Reinvestment Act (ARRA) of 2009. Last week, we reported on the BloostonLaw filing on behalf of its nearly 60 Rural ILECs (BloostonLaw Telecom Update, April 15). This week, we have selected some filings that may be of interest to our clients.

**Comments of 71 Concerned Economists:** This filing should not be overlooked because it includes the names of such heavyweights as Alfred Kahn and Thomas Hazlett. It opens with the statement: **"While we may disagree about the stimulus package, we believe that it is important to implement mechanisms that make stimulus spending as efficient as possible."** These economists then go on to recommend auction mechanisms to allocate broadband stimulus grants.

Essentially, these economists (who disagree on the initial premise) agree that the solution is that procurement

grant auctions are better suited than traditional grant applications.

**Western Telecommunications Alliance (WTA):** WTA proposed definitions of the terms “broadband,” “unserved area” and “underserved area” for the NTIA and RUS programs implementing the ARRA. WTA also noted that existing common carrier regulatory requirements, plus the FCC’s 2005 broadband policy statement, are capable of dealing with any and all nondiscrimination and network interconnection issues that may arise during the implementation of such programs.

*Proposed definitions:* According to WTA, **broadband** is a rapidly evolving service standard that should be defined at a reasonable and realistic level such as the FCC’s current 768 kbps transmission speed for initial ARRA purposes. Fiber deployment comprises a very effective and efficient means to create jobs and stimulate economic recovery. Given the very high cost of deploying fiber all the way to individual homes, NTIA and RUS will create more jobs and improve the service of more customers if they fund a larger number of projects that deploy fiber further out into many networks, than if they fund a smaller number of projects that lay fiber all the way to homes, WTA said.

**Unserved areas** should be defined, consistent with the FCC’s current broadband standard, as areas whose residences and businesses do not have available to them a non-satellite-provided broadband service with a transmission speed of 768 kbps or greater.

**Underserved areas** should be defined as areas whose residences and businesses do not have available to them a non-satellite-provided broadband service with a transmission speed of 10-15 Mbps or greater. If there is ARRA money available for such areas, the floor should be set relatively high to encourage the deployment of fiber optic facilities significantly further out into networks.

Finally, WTA said, lengthy delays and appeals to consider and resolve complex nondiscrimination and network interconnection obligations should be avoided by requiring grant and loan applicants (with the possible exception of state governments) to agree to common carrier regulation as a condition of receiving such grants or loans.

**The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO):** In the selection process for awarding Recovery Act broadband funding, NTIA and RUS should give priority to those applicants that have demonstrated they have the proficiency and resources to bring sustainable telecommunications services to consumers in high-cost, difficult-to-serve areas. More specifically, priority should be given to financially stable applicants with an established track record of offering essential telecommu-

nications services to all consumers in their service areas. This will help to ensure that funded projects are completed and result in sustained, high-quality, affordable access to broadband services for consumers. In order for consumers to benefit from funding as soon as possible, applicants that already have at least some network infrastructure, network engineers, and customer service staff in place should receive priority. These experienced, “shovel ready” providers will help achieve the economic stimulus goals of the Recovery Act.

Similarly, service providers that are integral parts of the communities they serve will best be able to respond to customers’ needs, while providing employment stability and opportunities in these areas. It is also important to prioritize projects that will offer the greatest bandwidth speeds to customers, as higher speeds permit the use of more broadband applications, which spurs demand. NTIA and RUS should not permit “in-kind” contributions in lieu of the 20 percent funding requirement in order to avoid displacing private investment. Also, the agencies’ consultations with states should be expeditious and avoid adding bureaucracy or impeding the distribution of funding. Grants will most effectively advance broadband deployment in the highest-cost areas, while loans may be most efficient in areas that are more conducive to sustainable broadband deployment.

It is important that the agencies be as forward-looking as possible when establishing its definitions of “unserved,” “underserved,” and “broadband,” recognizing that rapid technological and marketplace changes can render definitions out of date in a relatively short amount of time. For wireline technologies, an “unserved area” should be defined as those that lack access to speeds of at least 768 Kbps in the faster direction. This is the minimum speed the FCC uses to define basic broadband and is also the speed level that is necessary to utilize an increasing number of commonly used applications, which also stimulate broadband demand. An “underserved area,” in the wireline context, should be defined as those that lack access to speeds of at least 12 Mbps in the faster direction. This is the approximate minimum speed needed for today’s “triple play” of broadband data, voice, and video services, and also enables key applications such as robust telecommuting, advanced telemedicine, and education services. “Broadband service” should be defined per the FCC’s existing speed tier system, which recognizes that broadband is an evolving concept subject to rapid changes. Regardless of the definitions that are adopted, priority should be given to projects that are the most scalable and adaptable to meet growing consumer demands for higher speeds over the long term.

Overall, wireline technologies best meet this criteria. The widely-accepted principles contained in the FCC’s 2005 Broadband Policy Statement are sufficient to serve as the non-discrimination obligations of BTOP grant reci-

ipients and should not be supplemented. Any requirements going beyond these principles would threaten to discourage investment by imposing additional costs and risks to deploying broadband in areas that are already challenging to serve. Transport and Internet backbone providers should be obligated to provide funding recipients and rural broadband providers with interconnection to the Internet backbone at just, reasonable, and non-discriminatory rates, terms, and conditions. This is necessary to ensure that rural broadband customers are able to access and use the online content, applications, and services of their choice.

**The National Telecommunications Cooperative Association (NTCA)** offered the following suggestions:

1. Define "broadband" based on high-speed Internet access capabilities that are generally available in a significant sample of service offerings in urban areas to establish a standard of comparability and affordability in urban and rural areas.
2. Define "unserved areas" as populated areas that have no service or have dial-up only service (excluding satellite broadband service).
3. Define "underserved areas" as populated areas that have access to broadband service at speeds greater than 56 Kbps dial-up Internet access service but less than 768 Kbps broadband service, taking into consideration average customer usage during peak-hour or busy-hour load as established by the FCC.
4. Award broadband grants, loans and loan guarantees to small rural incumbent local exchange carriers (ILECs). They are well-suited to extend their existing broadband network infrastructure to the remainder of their rural service territories and other providers' unserved areas in an efficient and effective manner.
5. Refrain from using ARRA funds to subsidize competition.
6. Refrain from giving broadband grants, loans or loan guarantees to carriers in areas where they have agreed to achieve broadband deployments as part of past and future merger approvals.
7. Refrain from giving broadband grants, loans or loan guarantees to carriers in areas where they have included broadband services in their petitions for forbearance from Title II regulation.
8. Refrain from giving broadband grants, loans or loan guarantees to carriers in areas where they have entered into state incentive regulation plans, which require these carriers to achieve specific broadband deployments in return for pricing and earnings flexibility.
9. Use several factors to identify reputable applicants that are financially stable; have experience bringing broadband to unserved and underserved areas; and whose broadband strategies

will use ARRA funds in accordance with Congress' goals.

10. Require large, vertically integrated communications carriers to provide non-discriminatory access to special access transport needed to reach the Internet backbone.
11. Require large, vertically integrated communications carriers to base the price charged for special access transport needed to reach the Internet backbone upon the cost of providing the service.
12. Require large, vertically integrated communications carriers to make available to nonaffiliated companies the same terms, conditions and prices charged to their affiliated companies for special access transport needed to reach the Internet backbone.
13. Require large, vertically integrated communications carriers to make publicly available all terms, conditions and prices for special access transport needed to reach the Internet backbone.
14. Require similar protections for the cost of the Internet backbone.
15. Define special access (middle-mile) transport to include packet-switched broadband services, optical transmission services, TDM-based services and other future transport services to reach the Internet backbone. NTCA urged NTIA to keep confidential the data gathered to create a comprehensive nationwide inventory map of existing broadband services.

The association noted that NTIA must keep the data "under close watch" to prevent any illegal disclosure of such confidential and important information. In the filing, the association recommended that NTIA and RUS use several factors to identify reputable applicants whose broadband strategies will use ARRA funds in accordance with Congress' goals.

**CTIA-the Wireless Association** has asked NTIA and RUS to place net neutrality regulations on wireless networks being built with loans from the \$7.2 billion broadband stimulus fund. When Congress passed the \$787 billion economic stimulus package in February, it mandated the NTIA and the FCC put in place certain Net neutrality regulations. CTIA said that those regulations should not apply to wireless networks.

CTIA said Net neutrality rules "should be applied to broadband stimulus grantees within the context of its existing parameters, and not more broadly. Wireless networks are inherently different than the networks for which the [Net neutrality] policy statement was developed. The underlying network infrastructure, including spectrum, as well as the integration of the customer equipment, make wireless significantly different than other broadband networks."

But **Free Press** urged the NTIA and RUS to go farther than current Net neutrality rules. The agencies should also set speed guidelines, with no projects that deliver speeds of less than 200Kbit/sec. funded by the agencies, Free Press said in its comments. Grant applicants should report the minimum and average speeds they intend to deliver.

In addition, the stimulus package requires that the RUS give funding priority to projects that give users more than one Internet service provider and also requires the agency to give priority to projects that provide service to rural residents who do not have any access to broadband, Free Press said. Those priorities would suggest that Congress wants broadband projects that share lines with competitors.

"At first glance, these two priorities appear to be in direct conflict," Free Press wrote. "If a project will result in an end user having service from more than a single provider, then that service by definition will be provided to residents that already have access to broadband service. If we assume that Congress did not intend to saddle RUS with such conflicting priorities, we must assume that the first provision directs the agency to prioritize applications that will deploy broadband services that are sold on a wholesale basis to multiple retail providers."

BloostonLaw contacts: Hal Mordkofsky, Ben Dickens, Gerry Duffy, John Prendergast, Mary Sisak and Cary Mitchell.

## KING STREET AND USCC POTENTIALLY LIABLE FOR FRAUD IN CONNECTION WITH 700 MHz AUCTION

Documents released last week by the FCC indicate that the U.S. Attorney's Office in Washington, DC, is prosecuting a Federal False Civil Claims Act case against King Street Wireless, LP, and its affiliates and investors including United States Cellular Corp., for allegedly defrauding the Federal Government of over \$164 million in revenues resulting from undeserved small business bid credits in FCC Auction No. 58 (PCS), Auction No. 66 (AWS-1) and 700 MHz Auction No. 73.

In particular, the first amended complaint in *U.S., ex rel. [REDACTED] v. Carroll Wireless, L.P., et al. (D.D.C. filed Jan. 14, 2009)*, which was partially unsealed to allow the FCC to disclose and refer to the suit in proceedings involving King Street's Auction No. 73 long-form application, alleges that the defendants formed sham "very small business" bidding entities for purposes of obtaining 25 percent credits against their gross winning bids in three FCC auctions.

The complaint further alleges that the Defendants made material misstatements and omissions in their FCC auction applications, and were not identified as "real parties in interest" for the license acquisition or affiliates of the bidders. As a result, the Government alleges that such parties controlled the bidders, and that the revenues were required to be disclosed.

The False Claims Act provides that any person who knowingly makes, uses, or causes to be made or used a false or fraudulent record or statement to conceal, avoid or decrease an obligation to pay or transmit money to the U.S. Government is liable for a civil penalty of up to \$11,000 for each such claim, *plus three times the amount of the damages sustained by the Government*. Liability attaches when a defendant knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money to the Government.

On a separate track from the Federal "whistle-blower" lawsuit, King Street will have an opportunity to respond to the Government's allegations by submitting relevant documentation and a written reply to the FCC by May 4, 2009.

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

## LAW & REGULATION

**USDA OIG REPORT RAISES QUESTIONS ABOUT RUS BROADBAND LOANS:** The U.S. Department of Agriculture's inspector general issued a report this week that said the Rural Utilities Service (RUS) continues to grant loans to areas that already have broadband access and to communities near major cities, according to ProPublica. The RUS already has about \$1 billion in its budget to loan to companies willing to build broadband in rural areas. The RUS program faced tough criticism in 2005 when auditors then found irregularities with a quarter of the funds the program issued in its first four years of operation. In one instance, the RUS program loaned \$45 million to wire wealthy subdivisions in the Houston suburbs. The recent audit found the RUS continues to give loans to areas already serviced by broadband and to major communities. "We remain concerned with RUS' current direction of the broadband program, particularly as they receive greater funding under the American Recovery and Reinvestment Act," Assistant Inspector General Robert W. Young wrote, according to the ProPublica report. "RUS' broadband program may not meet the Recovery Act's objective of awarding funds to projects that provide service to the most rural residents that do not have access to broadband service." In written comments attached to the report, the Agriculture Department said

the law creating the broadband program contained no restrictions as to proximity to major cities. "Rural" was defined only as a community with fewer than 20,000 people. More than 90 percent of the loan applications the agency has approved since the critical report in 2005 went to areas that already had broadband service, the report said. "OIG remains concerned because the overwhelming majority of communities...receiving service through the broadband program already have access to the technology," Young wrote. BloostonLaw contacts: Hal Mordkofsky, Ben Dickens, Gerry Duffy, John Prendergast, Mary Sisak and Cary Mitchell.

**LAWMAKERS EXPRESS CONCERNS OVER USF AUDITS:** U.S. Rep. Sam Graves (R-Mo.) and 12 other lawmakers have written the leadership of the House Appropriations Subcommittee on Financial Services to complain about the high costs and minimal public benefit of the universal service audit initiative that have been underway for nearly three years at the direction of the FCC's Office of the Inspector General (OIG). The lawmakers asked the subcommittee to consider these costs as it develops its FY 2010 funding recommendations for the FCC, and to give serious thought "to directing the OIG to consider more reasonable and cost effective oversight approaches to the USF [Universal Service Fund]." Citing a February 2009 Universal Service Administrative Company report, the letter states: "The USAC report methodically notes how over the course of approximately three years, tens of millions of USF dollars have been diverted from universal service program objectives to conduct 1,100 separate audits. Yet even more telling is that all these dollars later, the OIG audit reports have identified no instances of fraud or gross non-compliance with the program's parameters." Continuing, the letter states: "The OIG approach to statistically extrapolating and then reporting anticipated program erroneous payments is wholly inconsistent with actual final audit results, thus leaving policymakers and the public alike with a faulty perception of program operations and compliance." Rep. Stephanie Herseth-Sandlin (D-S.D.) expressed similar concerns with the audit's costs in a separate letter. BloostonLaw contacts: Ben Dickens, Gerry Duffy, and Mary Sisak.

**FCC APPROVES FUNDING FOR RURAL HEALTH CARE PILOT PROGRAM:** The FCC has announced the approval of funding under its Rural Health Care Pilot Program (RHCPP) for the build-out of five broadband telehealth networks that will link hundreds of hospitals regionally in Iowa, Minnesota, Montana, Nebraska, North Dakota, South Carolina, South Dakota, Wisconsin, and Wyoming. In addition, funding has been approved for the design of a telehealth project in Alaska. Collectively, these projects are eligible to receive \$46 million in reimbursement for the engineering and construction of their regional telehealth networks. Funding commitments for these projects were issued by the Universal Service Ad-

ministrative Company, or USAC, which administers the RHCPP for the FCC.

The FCC established the \$417 million RHCPP to increase patient access to care via telemedicine and support the transfer of electronic medical records, which will improve the quality of care for patients. Nationwide, 67 projects are eligible to receive RHCPP funding for telehealth networks serving 6,000 health care facilities in 42 states and three U.S. territories, using broadband technology to bring state-of-the-art medical practices to isolated rural communities. At this time, 29 of these projects have developed or posted requests for proposals to select vendors to build out their broadband networks, while the remaining projects are preparing their requests for proposals as part of the competitive bidding process.

The following is an update on specific RHCPP projects:

#### Network Construction

**Health Information Exchange of Montana (\$13.6 million)** – In an area with no connections to Internet2 or National Lambda Rail - nationwide dedicated Internet backbones - a new fiber network will connect health care providers in Montana to enable distance consultation, electronic record keeping and exchange, disaster readiness, clinical research, and distance education services.

**Palmetto State Providers Network (\$7.9 million)** – This project will connect health care providers to a fiber optic backbone to enhance simulation training, remote intensive care unit monitoring, and medical education programs across South Carolina.

**Iowa Health System (\$7.8 million)** – This project will use new network connections to link health care providers in Iowa to an existing statewide, dedicated, broadband healthcare network, Internet2, and National LambdaRail.

**Heartland Unified Broadband Network (\$4.7 million)** – This project is expanding and enhancing an existing network to increase the use and quality of teleradiology and increase distance education activities throughout Iowa, Minnesota, Nebraska, North Dakota, South Dakota, and Wyoming.

**Rural Wisconsin Health Cooperative (\$1.6 million)** – This project has augmented an existing shared electronic health records project that will provide health care providers in Wisconsin with access to redundant connectivity and data centers, as well as higher speeds that will range from 10 to 100 Mbps.

#### Network Design

**Alaska Native Tribal Health Consortium (\$10.4 million)** – The consortium's network, which will serve primarily rural health care practitioners, will unify and increase the capacity of disparate healthcare networks throughout Alaska, allowing them to connect with urban

health centers and access services in the lower 48 states.

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

**FCC ADOPTS NPRM TO PROMOTE RURAL BROADCAST SERVICE:** The FCC has adopted a *Notice of Proposed Rulemaking* (NPRM) to consider a number of specific changes to its rules and procedures to carry out the statutory goal of distributing radio service fairly and equitably, and to increase the transparency and efficiency of radio broadcast auction and licensing processes. This NPRM seeks comment on a wide range of the procedures currently used to award commercial broadcast spectrum in the standard AM and FM broadcast bands, some of which will also apply to other auctioned services. The Media Bureau, in conjunction with the Wireless Telecommunications Bureau, has used these rules successfully to license commercial AM, FM, television, FM translator, low power television (LPTV), and television translator stations. Based on the experience the staff has gained in conducting previous auctions, and in processing applications for new or modified services, however, the FCC believes that it is appropriate for the Commission to consider rule and procedural changes to better encourage the fair distribution of broadcast licenses, particularly in smaller communities, rural areas, and tribal areas, afford greater opportunities to participate in competitive bidding, promote the filing of technically sound applications, and deter speculation. The *Notice* also proposes to modify the noncommercial educational (NCE) fair distribution comparative criterion by establishing a tribal priority. **Comments in this MB Docket No. 09-52, RM-11528 proceeding will be due 60 days after publication of the item in the Federal register, and replies will be due 30 days thereafter.** BloostonLaw contacts: Hal Mordkofsky, John Prendergast, and Cary Mitchell.

## DEADLINES

**MAY 1: 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. 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 499Q. BloostonLaw contacts: Ben Dickens, Gerry Duffy, and Mary Sisak.

**MAY 1: RATE INTEGRATION CERTIFICATION.** Non-dominant interexchange carriers (IXCs), including facilities-based and resellers, that provide detariffed domestic interstate services must certify that they are providing such services in compliance with their geographic rate averaging and rate integration obligations. An officer of the company must sign this annual certification under oath. The FCC has issued the following guidelines: (1) Any carrier that provides interstate services must charge its subscribers in rural and high-cost areas rates that do not exceed the rates that the carrier charges subscribers in urban areas; (2) to the extent that a carrier offers optional calling plans, contract tariffs, discounts, promotions, and private line services to its interstate subscribers in one state, it must use the same ratemaking methodology and rate structure when offering such services in any other state; (3) an interstate carrier may depart from geographic rate averaging when offering contract tariffs, Tariff 12 offerings, optional calling plans, temporary promotions, and private line services; and (4) carriers may offer optional calling plans on a geographically limited basis as part of a temporary promotion that does not exceed 90 days. But this limited exception does not exempt optional calling plans from geographic rate averaging requirements. Clients with questions about the FCC's detariffing or rate integration requirements should contact us. We have a model rate integration certification letter that may be printed on your letterhead. BloostonLaw contacts: Ben Dickens and Gerry Duffy.

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

**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 March 31, 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](http://www.universalservice.org). 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.*

## FCC Meetings and Deadlines

*Apr. 28* – Deadline for comments on various recon petitions regarding unlicensed devices below 900 MHz and in the 3 GHz band (ET Docket No. 04-186, 02-380).

***May 1* – FTC begins enforcement of Red Flag Rules.**

***May 1* – Rate Integration Certification is due.**

***May 1* – FCC Form 499-Q, Telecommunications Reporting Worksheet, is due.**

*May 1* – Deadline for price cap carriers to file short form Tariff Review Plan (TRP) associated with annual access tariff filing due July 1.

*May 5* – Deadline for reply comments on NTCA petition requesting that FCC clarify and/or waive Part 36 jurisdictional separations rules concerning allocation of general and administrative costs (CC Docket No. 80-286).

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

*May 8* – 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).

***May 13* – FCC open meeting.**

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

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

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

*June 23* – Deadline for petitions to suspend or reject annual access tariffs filed on 15 days' notice (by carriers proposing to increase any of their rates).

*June 24* – Deadline for ILECs filing annual access tariffs on seven day's notice (carriers proposing to decrease all of their rates).