



7901 SKANSIE AVENUE,
SUITE 240
GIG HARBOR, WA 98335
TELEPHONE: 253.851.6700
FACSIMILE: 253.851.6474
HTTP://WWW.MILLERISAR.COM

No. 07-01

JANUARY 31, 2007

REGULATORY REVIEW

The Miller Isar, Inc. Regulatory Review is a monthly report designed to provide clients with information regarding regulatory and policy matters that may impact client business operations. The Regulatory Review is provided for informational purposes only and does not constitute legal opinion or legal counsel. Comments and suggestions are always welcome.

FEDERAL REGULATORY NEWS

PRETEXTING BILL SIGNED INTO LAW

President Bush has signed H.R. 4709, the national anti-“Pretexting” bill into law. The new law makes it a federal crime to buy, sell, or obtain personal telephone records unless provided to law enforcement or intelligence agencies as part of an investigation or action. “Pretexting,” the practice of pretending to be another individual for purposes of obtaining confidential telephone records, gained notoriety last year in the Hewlett Packard board scandal, where an agency was engaged by the Company to obtain Board member telephone records in an effort to stop alleged leaks of Company information.

FCC RELEASES INDUSTRY REPORTS

The Federal Communications Commission has released four key industry reports in January governing [number utilization](#), [telephone subscribership](#), [broadband usage](#), and [local telephone usage](#). The reports contain statistical data reflecting industry trends.

According to the number utilization report, as of December 31, 2005, numbering resource utilization was at 43.4%, up from 43.0% six months earlier. The subscribership report finds that telephone penetration in the U.S. was 94.6% as of July 2006, an increase of 0.6% over the rate from July 2005; the broadband usage report found that high-speed lines increased by 26% in the first half of 2006, from 51.2 million to 64.6 million; and the local telephone usage report found that, as of the end of June 2006, there were approximately 142.2 million Incumbent LEC switched

access lines in service and 29.8 million CLEC switched access lines, serving customers and 217.4 million mobile telephony service subscriptions. The reports and other industry data are available at the Commission’s Wireless Competition Bureau [Industry Analysis](#) web site.

STATE REGULATORY NEWS

CALIFORNIA – COMMISSION INITIATES PROCEEDING TO IMPROVE SERVICES FOR LIMITED ENGLISH SPEAKING TELEPHONE SUBSCRIBERS

The California Public Utilities Commission has initiated a proceeding to develop procedures to better serve telecommunications subscribers with limited English language skills. Following adoption of the Commission’s Consumer Protection Initiative in March 2006 – which ultimately replaced the Commission’s ill-fated Consumer Bill of Rights – the Commission committed to develop plans to better serve consumers who spoke little or no English. Fueled by concerns that those with limited or no English language proficiency may be vulnerable to fraud and abuse, Commission staff was directed to develop recommendations that would facilitate informed decision making by limited English speaking subscribers, minimize fraud, remain equitable, work within the Commission’s existing framework, and that could be implemented at reasonable cost. Comments regarding proposed implementation plans are due in mid-March. Additional workshops may be scheduled before a final plan is adopted.

KANSAS – USF ASSESSMENT RATE SET

The Kansas Corporation Commission has set the annual universal service fund assessment rate at 4.35% of intrastate revenues, effective March 1.

MISSOURI – COMCAST IP PHONE CERTIFICATION TO BE CONSIDERED BY PSC

U. S. District Court for the Western District of Missouri Central Division has denied an October 10, 2006 COMCAST motion which sought to preclude the Missouri Public Service Commission from requiring COMCAST to obtain intrastate operating authority for the Company’s voice over Internet protocol (VoIP) telephony service. Commission staff had directed COMCAST to obtain authority for its VoIP based services in September 2006, arguing that the Company’s service was effectively a replacement for conventional phone service because it was accessible at a single location. COMCAST argued that the Commission lacked jurisdiction, pending action in the FCC’s languishing VoIP Notice of Proposed Rulemaking. The Court found that in the absence of federal preemption, the Commission retains jurisdiction to decide whether COMCAST’s service is a “telecommunications” service subject to Commission jurisdiction. (Comcast IP Phone of Missouri v. The Missouri Public Service Commission, In the United States District Court for the Western District of Missouri Central Division, Case No. 06-4233-CV-C-NKL, [Order](#))

NEBRASKA – BILL WOULD GIVE COMMISSION AUTHORITY TO RESOLVE WIRELESS SERVICE COMPLAINTS

A new bill has been introduced in the Nebraska Senate that, if enacted, would authorize the Nebraska Public Service Commission to resolve consumer disputes with wireless providers. LB 330 would specifically give the Commission authority to investigate consumer wireless service billing disputes, while precluding the carrier from disconnected service for non-payment of disputed portions of consumer bills. Under the bill, the Commission would be able to set disputes for hearing, void service agreements, impose fines, and order customer payments or discharges from payment. The Commission would still be precluded from regulation of rates and deployment of facilities under federal law.

NEW JERSEY – ASSEMBLY COMMITTEE SUPPORTS CALLING CARD DISCLOSURE BILL

The New Jersey Assembly’s Consumer Affairs Committee has passed a measure that would make it illegal to sell a prepaid calling card unless all the terms and conditions are printed on the card or accompanying packaging so prospective buyers can read them before purchasing. HB 1361 would require companies to indicate how the card could be used, toll free access numbers, rates and the amount of available calling time. First time violators would be subject to a \$10,000 fine and \$20,000 for each subsequent violation.

NEW YORK – PREPAID CALLING CARD ESCROW ACCOUNTS WOULD BE REQUIRED UNDER LEGISLATION

Legislation that would require prepaid calling card distributors to deposit revenues from prepaid calling cards into an escrow account or savings account, has been introduced in the Senate Committee on Energy and Telecommunications. SB 1009 would also require that the funds be retained in accounts until services were provided. Customers would retain a property interest in the amounts paid, until the cards were used.

NEW YORK – BILL WOULD REQUIRE CUSTOMER SERVICE LINE

A new bill has been introduced which would require telephone companies to maintain a customer complaint line for subscribers. HB 1135 would require that live operators answer the line during normal business hours. Companies could use menu-based, automated answering systems, so long as consumers could elect to be connected to a live operator, or would be connected automatically if taking no action. If enacted, the law would be come effective on January 1, 2009.

OREGON – BILL WOULD RETAIN 911 TAX

A new House bill has been introduced that would retain the current telephone line subscriber tax used to fund emergency 911 services. HB 2197 would remove the current surcharge expiration date, effectively leaving the surcharge in place indefinitely.

SOUTH DAKOTA – TARIFF FILING BILL PASSES SENATE

A bill which would require tariff filings by telecommunications carriers only for “emerging” and non-competitive services has passed the Senate. Under SB 22, companies would be required to make clear information regarding service rates, terms, and conditions available to the public at company offices during business hours, would be required to post service information on company web sites, and would be required to inform subscribers of changes no less that on 30 days notice.

COMPLIANCE REPORTING FEBRUARY 2005

FEDERAL REPORTS DUE IN FEBRUARY

| Due Date | Jurisdiction | Report Name |
|-----------------|---------------------|--|
| February 1 | Federal | 499Q <i>de minimis</i> determination notice (ad hoc as may apply) |
| February 1 | Federal | FCC Form 499-Q Telecommunications Reporting Worksheet (Quarterly) |

| Due Date | Jurisdiction | Report Name |
|-----------------|---------------------|--|
| February 1 | Federal | FCC Form 502 due NANPA |
| March 1 | Federal | FCC Form 477 Statement of Number and Type of Private Lines Connected to the US public switched network |

Companies should also be anticipating FCC Form 499A, the annual universal service fund (worksheet) report, submissions on or before April 1.

Copies of FCC forms are available on the Internet at: <http://www.fcc.gov/formpage.html>.

STATE REPORTS DUE IN FEBRUARY

| Due Date | Jurisdiction | Report Name |
|-----------------|---------------------|--|
| February | Alaska | Access Minutes Report |
| February | Alaska | Carrier and Area Specific Bulk Billed Report |
| February | Missouri | Relay Missouri Statement |
| February | Rhode Island | Telecommunication Education Access Fund |
| February | Rhode Island | Telecommunications Relay Service Report |
| February 1 | Idaho | ID Universal Service Fund Form |
| February 9 | California | Combined California PUC Telephone Surcharge Transmittal |
| February 9 | Oregon | Oregon Universal Service Contribution Worksheet |
| February 10 | Alaska | Alaska Telecommunications Relay Services Fund - Remittance of Surcharges Collected |
| February 10 | Arkansas | State of Arkansas Universal Service Fund |
| February 10 | Arkansas | State of Arkansas Universal Service Fund |
| February 10 | California | Employee Compensation, Dues, and Subscriptions |
| February 10 | Georgia | Local Service Indicators Data Requests |
| February 10 | New York | Service Quality Performance |
| February 10 | Oregon | Oregon Universal Service Identification Worksheet |
| February 14 | Missouri | Quarterly Quality of Service Report |
| February 14 | North Carolina | Public Utility Regulatory Fee Report |

| Due Date | Jurisdiction | Report Name |
|-----------------|---------------------|--|
| February 14 | Texas | CTP (Certified Telecommunications Provider) Quarterly Reporting pursuant to HB 1777 |
| February 14 | Utah | Hearing and/or Speech Impaired Relay Report |
| February 15 | Alabama | Revised Survey of Competitive Local Exchange Carriers |
| February 15 | Florida | Florida Telecommunications Relay, Inc. (FTRI) Monthly Surcharge Collection Report |
| February 15 | Georgia | Georgia Telecommunications Relay Service (TRS) Monthly Surcharge Collection Report |
| February 15 | Kansas | Kansas Universal Service Fund 2004/2005 Wireless and Wireline Carrier Remittance Worksheet |
| February 15 | Kentucky | Commonwealth of Kentucky Telecommunications Relay Service Fund |
| February 15 | Kentucky | Telecommunications Devices for the Deaf Distribution Fund |
| February 15 | Kentucky | Commonwealth of Kentucky Universal Service Fund |
| February 15 | Nebraska | Nebraska USF & E911 Remittance Worksheet |
| February 15 | North Carolina | North Carolina Access Line Report - Rule 17-2(K) |
| February 15 | North Carolina | Questions for Competing Carriers Report |
| February 15 | Oklahoma | State of Oklahoma Universal Service Fund Carrier Remittance Worksheet |
| February 15 | Pennsylvania | Pennsylvania Universal Service Fund, FY2004 Carrier Remittance Monthly Worksheet |
| February 15 | Puerto Rico | Puerto Rico Universal Service Fund |
| February 15 | Puerto Rico | July 2004 - December 2004 Carrier Remittance Worksheet |
| February 15 | Rhode Island | E911 |
| February 15 | South Carolina | The Public Service Commission of South Carolina SC Dual Party Relay System Invoice |
| February 15 | Vermont | Vermont Universal Service Fund Carrier Remittance Worksheet |
| February 15 | Virginia | Telecommunications Relay Service Monthly Report |

This report is prepared for informational purposes only and does not constitute legal opinion or counsel. While the data herein is believed accurate at the time of publication, Miller Isar cannot and does not guarantee its accuracy or completeness, nor does it make any warranties, express or implied, regarding its usage.

| Due Date | Jurisdiction | Report Name |
|-------------|---------------|--|
| February 15 | Wyoming | WY USF Annual Report |
| February 20 | Alaska | State of Alaska Universal Service Fund Monthly Carrier Remittance Worksheet |
| February 20 | Arizona | Arizona Universal Service Fund Carrier Remittance Worksheet |
| February 20 | Colorado | CO Telecommunications Relay Service Surcharge |
| February 20 | Idaho | Idaho Telecommunications Service Assistance Plan (ITSAP) |
| February 20 | New Hampshire | Telecommunications Relay Service Remittance |
| February 20 | Pennsylvania | Remittance Form for Monthly Telecommunications Relay Service (TRS) Surcharge Collections |
| February 20 | Utah | Utah Universal Service Fund Surcharge Remittal Statement |
| February 20 | Washington | Telecommunications Relay Service, Washington Telecommunications Assistance Program, and E911 |
| February 21 | New York | TAF Adjustment Input Form |
| February 21 | New York | Targeted Accessibility Fund Monthly Online Reporting Form |
| February 21 | Oregon | Residential Services Protection Fund Surcharge Remittance Form |
| February 22 | Arkansas | Arkansas Intrastate Carrier Common Line Pool Report |
| February 25 | Minnesota | Minnesota Annual 911/TAM/TAP Fees Report Form |
| February 25 | Texas | Texas Universal Service Fund Worksheet |
| February 28 | Michigan | End User Count for Previous Year (Status of Competition Report) |
| February 28 | Mississippi | Mississippi Dual Party Fund Statement of Revenues |
| February 28 | Nebraska | State of Nebraska Dual Party Relay Surcharge Form |
| February 28 | Oregon | Oregon Telephone Assistance Program Reimbursement Form |
| February 28 | Tennessee | Wireline Activity Tennessee-CCN Authority |
| February 28 | Vermont | Monthly Disconnect Report |

| Due Date | Jurisdiction | Report Name |
|-------------|--------------|--|
| February 28 | Vermont | Vermont Service Quality Performance Index Report |
| February 28 | Virginia | Monitoring Competition in the Intrastate, Interexchange Telecommunications Market in Virginia Certificated Interexchange Carriers Annual Reporting |
| February 28 | Virginia | Service Quality Report |
| February 28 | Wyoming | Telecommunication Companies Revenue & Assessment Report (Wyoming Universal Service Fund) |
| | Wyoming | WY USF Assessment True Up Form |
| February 28 | CANADA | Reporting Entity Profile (REP) |

MILLER ISAR NEWS

In late January the media was abuzz with stories about the majority Democratic U. S. Congress' new scrutiny of the FCC. Ostensibly this was focused on the AT&T/BellSouth merger, which made analysis of past FCC telecom mergers, such as the NYNEX merger, look like a cakewalk. Chairman Martin has recently been the subject of pointed Congressional questions regarding ongoing Commission merger safeguards, as well as how the Commission develops and implements policy. Meanwhile, Martin told a recent Citigroup conference, that the FCC will continue pursuing a communications environment that enables companies to deliver new services to more consumers at "fair" prices. The skeptic in me has to wonder what companies he may be talking about. So far, the best bets would be placed on his actually referring to the ILECs and cable companies, and not smaller competitors. One has to wonder if the new Democratic led Congress' scrutiny will result in a more competitive environment for smaller companies or will ultimately remain politics as usual, with little, if any meaningful result.

Miller Isar, Inc. recently completed supporting a client through a Universal Service Administrative Company audit of 2005 Universal Service Fund reporting. The audit, conducted under the auspices of KPMG Consulting, is the start of a full audit of every company that files the FCC Form 499A. The audits may in part be fueled over concerns of carrier underreporting and contributions to the fund, among growing concern over the fund's future. Our client's audit went well. Nevertheless, the experience underscores several things:

1. It is critical to have all relevant documentation readily available;

2. End user assessments should be consistent and based on supportable methodology;
3. Any presumptions used in calculating reported numbers should be supported by data; and
4. It is imperative to file reports on time.

In the scheme of things, the universal service fund contribution process may seem like just one more thing to do, and one more thing that few want to focus on – not unlike taxes. Yet if any regulatory reports deserves particular attention, they are the FCC Forms 499A and Q. It is worth spending the extra time to ensure they are completed accurately and can be supported.

MILLER ISAR, INC. VOIP REGULATORY OVERVIEW

Miller Isar, Inc. with the assistance of The Klein Law Group, PLLC, has developed a VoIP regulatory Overview. The Overview is a detailed compendium of federal and state regulatory requirements applicable to VoIP providers. Nearly 60 pages long, the Overview provides perhaps the most comprehensive summary of VoIP regulation available. To obtain a copy, or additional information, please contact Andrew Isar at 253.851.6700 or aisar@millerisar.com.

MILLER ISAR, INC. ONLINE

Miller Isar, Inc.'s web site is designed to provide clients and the public with access to important regulatory information. Please visit us at www.millerisar.com.

For additional information, please contact Andrew Isar at aisar@millerisar.com, call 253.851.6700.