

# BloostonLaw Telecom Update

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## REMINDER: Regulatory Fees due September 25

As we reported in a previous edition of the BloostonLaw Telecom Update, **regulatory fee payments must be received by the FCC no later than 11:59 PM, Eastern Daylight Time, on Friday, September 25, 2020.** The FCC is able to impose a late payment penalty of 25 percent of the unpaid amount on the first day following the deadline for filing these fees. In addition, failure to pay regulatory fees and/or any late penalty will subject regulatees to sanctions, including withholding action on applications, including license applications, petitions for reconsideration, any application for review of a fee determination, or requests for authorization. The FCC also assesses interest and administrative processing charges on delinquent debts to recover costs incurred in processing and handling the debt, in addition to the 25 percent late charge penalty.

The FCC has recognized that due to the ongoing economic effects of the COVID-19 pandemic, some regulatees will require some form of regulatory relief. The FCC is permitted to waive or defer the payment of a regulatory fee in a specific instance if the regulatee is able to demonstrate good cause. **Carriers that believe they may require a waiver of the upcoming deadline may contact the firm for more information.**

BloostonLaw Contact: [Richard Rubino](#).

## *In this Issue*

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### Headlines

[FCC Adopts Final Steps for All-Electronic Wireless Filings; Sets Six Month Transition Deadline](#)

[FCC Waives Number Aging Rule for Carriers Affected by Wildfires](#)

[FCC Waives Invoice Filing Deadline for Rural Healthcare Program](#)

### Law and Regulation

[Senators Introduce Small Business Broadband Access Legislation](#)

[Comments on Priority Services NPRM Due October 19](#)

### Industry

[Fourth Meeting of Precision Agriculture Task Force Scheduled for October 28](#)

[FCC Releases Internet Access Service Reports for June and December 2018](#)

### Deadlines

# Headlines

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## **FCC Adopts Final Steps for All-Electronic Wireless Filings; Sets Six Month Transition Deadline**

On September 18, the FCC issued a *Report and Order* taking the final steps to transition to an electronic-only submission of all filings in the Universal Licensing System (“ULS”) and related systems (e.g., Antenna Structure Registration System (“ASR”), Tower Construction Notification System (“TCNS”) and Electronic Section 106 (“E-106”) System. **Once this *Report and Order* is published in the Federal Register, the FCC will no longer print and mail paper authorizations, and the transition to all-electronic filing will be required six months after that.**

Specifically, in the *Order* the FCC (i) removes the remaining exemptions to mandatory electronic filing in ULS and required electronic filing in the ASR System; (ii) requires electronic filing of pleadings related to Wireless Radio Services licenses and applications in these systems and require electronic service where service of such pleadings is required; (iii) requires that all applicants, licensees, and registrants in the Wireless Radio Services include at least one valid e-mail address on the relevant FCC Forms; and (iv) shifts from U.S. Postal Service to electronic delivery of correspondence generated from these systems to applicants, licensees, and registrants in the Wireless Radio Services.

**Absent a waiver, any manually filed applications for wireless services submitted after the transition deadline will be dismissed without prejudice, and any service not effectuated electronically will be deemed ineffective.**

BloostonLaw Contacts: [John Prendergast](#) and [Cary Mitchell](#).

## **FCC Waives Number Aging Rule for Carriers Affected by Wildfires**

On September 22, the FCC adopted an *Order* waiving, of its own motion, a temporary partial waiver of the Commission’s telephone number “aging” rule. Specifically, the FCC waived the maximum aging requirement in the rule, which states that service providers may only age telephone numbers that have been disconnected for up to 90 days before assigning them to other customers. **This waiver applies to carriers affected by the wildfires in California and Oregon, and expires on June 22, 2021.**

In granting the waiver, the FCC considered the fact that, due to the catastrophic nature of the damage to telecommunications systems in California and Oregon, in many cases displaced customers may seek to reinstate their service after the 90-day period has lapsed. As such, a waiver of the aging rule will allow service providers in the affected areas, upon customers’ request, to disconnect temporarily customers’ telephone service to avoid billing issues, and then reinstate the customers’ same numbers when service is reconnected. **This partial waiver applies to all companies that provide service in areas of California and Oregon covered by the Major Disaster and Emergency Declarations, and will also apply to residential customers in other areas subject to future Major Disaster or Emergency Declarations signed by the President, due to wildfires during the 2020-21 wildfire season.** Any future waivers will expire 270 days from the date the President declares a state of emergency or major disaster for affected areas.

BloostonLaw Contacts: [Ben Dickens](#) and [Sal Taillefer](#).

## **FCC Waives Invoice Filing Deadline for Rural Healthcare Program**

On September 16, the FCC issued an *Order* waiving, of its own motion, the Rural Health Care (RHC) Program's Healthcare Connect Fund Program invoice filing deadline in section 54.645(b) of the rules. **Instead, invoices must be submitted to the Universal Service Administrative Company (USAC) within 180 days from the later of the release date of this *Order* or the issuance of a funding commitment letter (FCL) by USAC.**

Under normal circumstances, after an applicant for Healthcare Connect Fund support has completed its competitive bidding process, it must file an FCC Form 462 to request a funding commitment for the selected eligible services, network equipment, and/or facilities. Once the applicant has received a funding commitment from USAC, the service provider has installed or commenced the requested eligible services, equipment, and/or facilities, and the applicant has received a bill from the service provider, the applicant and service provider must jointly submit an FCC Form 463 to USAC for disbursement of funding from the Program for the services, equipment, and/or facilities in the applicant's funding commitment letter. Pursuant to section 54.645(b) of the Commission's rules, invoices for the Healthcare Connect Fund Program must be submitted to USAC within six months of the end date of the funding commitment.

USAC is still processing funding requests for FY 2019 and continues to issue FY 2019 FCLs; thus, the FCC finds that there may be other applicants and service providers that will receive FCLs after the invoicing filing deadline has lapsed or will have insufficient time to submit invoices by the filing deadline. A non-exhaustive list of funding requests that USAC has already identified for which it issued FCLs after or within 180 days of the invoice filing deadline can be found in the appendix [here](#).

BloostonLaw Contacts: [Sal Taillefer](#).

## ***Law and Regulation***

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### **Senators Introduce Small Business Broadband Access Legislation**

On September 21, Sen. John Kennedy (R-La.) and Sen. Jeanne Shaheen (D-N.H.) introduced legislation designed to prioritize broadband access for small businesses. According to a press release on the legislation, the Small Business Broadband and Emerging Information Technology Enhancement Act "would improve Small Business Administration (SBA) programs to address the lack of broadband internet and other emerging information technology resources available in rural areas.

- Specifically, the Small Business Broadband and Emerging Information Technology Enhancement Act would make the following improvements to the SBA's approach to broadband:
- Direct the SBA Office of Investment and Innovation to designate a senior employee to serve as the broadband and emerging information technology (BEIT) coordinator;
- Provide SBA employees with BEIT training to help small businesses use such technologies;
- Report on the SBA's work related to broadband and other emerging information technologies;

- Require the SBA Chief Counsel for Advocacy to evaluate the impact of broadband speed and price on small businesses; and
- Authorize small business development centers to help businesses access and use BEIT

“Between a pandemic and historic hurricane, small businesses in Louisiana are facing incredible challenges. Helping them access broadband and put new technology to use is a smart way to protect jobs. Small businesses represent 97% of Louisiana employers, I’m glad to help introduce a bill that serves these job creators,” said Kennedy.

“The economic fallout from COVID-19 has exposed and exacerbated existing problems that for too long have hurt small businesses, particularly those in rural areas where access to broadband is limited. This bill will improve SBA programs to help them meet these challenges. This is a common-sense, bipartisan bill that will prioritize broadband access at the federal level. I urge members on both sides of the aisle to join us in this effort,” said Shaheen.

BloostonLaw Contacts: [Ben Dickens](#) and [Sal Taillefer](#).

### **Comments on Priority Services NPRM Due October 19**

On September 18, the FCC published in the Federal Register its *Notice of Proposed Rulemaking* of July 16, 2020, in which it proposes to modernize its rules by removing certain requirements that may impede the use of Internet Protocol (IP)-based technologies, clarifying the government’s division of labor regarding the priority services programs, and eliminating certain administrative requirements. **Comments are due October 19, 2020 and reply comments are due November 17, 2020.**

The three priority service programs, which the Department of Homeland Security manages and operates to help national security and emergency preparedness personnel communicate during emergencies, are: the Telecommunications Service Priority (TSP) System, which requires service providers to prioritize the provisioning and restoration of wired communications facilities; Wireless Priority Service (WPS), a voluntary program that involves service providers prioritizing voice calls on wireless networks; and the Government Emergency Telecommunications Service (GETS), a voluntary program that involves service providers prioritizing voice calls on landline networks.

The rules for these services have not been updated since their inception in 1988 (for TSP) and 2000 (for WPS). The proposals in the *NPRM* are aimed at addressing the advanced capabilities of IP-based communications supporting data as well as voice services, and to enhance the ability of users at different priority levels to share network capacity and resources.

BloostonLaw Contacts: [Ben Dickens](#), [John Prendergast](#), and [Sal Taillefer](#).

# Industry

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## **Fourth Meeting of Precision Agriculture Task Force Scheduled for October 28**

On September 21, the FCC issued a *Public Notice* announcing the next meeting of the Task Force for Reviewing the Connectivity and Technology Needs of Precision Agriculture in the United States (Precision Ag Connectivity Task Force or Task Force). The meeting will be held Wednesday, October 28, 2020, beginning at 9:30 am EDT.

At this meeting, the Task Force will consider and vote on reports from its Data and Mapping, Examining Current and Future Connectivity Demand for Precision Agriculture, and Encouraging Adoption of Precision Agriculture and Availability of High-Quality Jobs on Connected Farms working groups. The Task Force will also discuss the progress of its other working groups. This agenda may be modified at the discretion of the Task Force Chair and the Designated Federal Officer.

The meeting will be wholly electronic and is open to the public on the Internet via live feed from the FCC's web page at [www.fcc.gov/live](http://www.fcc.gov/live).

## **FCC Releases Internet Access Service Reports for June and December 2018**

On September 18, the FCC released two reports that summarize information about Internet access connections in the United States as of June 30, 2018 and as of December 31, 2018, as collected by FCC Form 477. For purposes of these reports, Internet access connections are those in service, over 200 kilobits per second (kbps) in at least one direction, and reported to the FCC through Form 477.

The reports include data on total and residential Internet access connections by downstream and upstream speed, by technology, by geography, and over time. They presents nationwide statistics; state-level data; data on the subscribership differences among counties and census tracts; and an analysis of the correlations between subscribership ratios and various demographic measures. Maps depicting the number of fixed connections per 1,000 households by census tract are available online [here](#).

Highlights from the more-recent December report include:

- Total Internet connections increased by about 4.9% between December 2017 and December 2018 to 441 million. Mobile Internet connections increased 5.7% year-over-year to 331 million in December 2018, while fixed connections grew to 111 million – up about 2.5% from December 2017.
- The percentage of fixed connections with a downstream speed of at least 25 Mbps has grown from 54% (or 55 million connections) in December 2015 to 76% (or 85 million connections) in December 2018. Over the same period, the percentage of fixed connections with downstream speeds of less than 3 Mbps has decreased from 6% (or 6 million connections) in December 2015 to 2% (or about 2.4 million connections) in December 2018
- Between December 2008 and December 2018, total (business and residential) fixed connections grew from 76 million connections to 111 million connections – at a compound annual growth rate of 4% per year.
- Over the same ten-year period, residential fixed connections grew from 69 million connections to 101 million connections – also at a compound annual growth rate of 4% per year.

- From June 2008 to June 2018, the number of residential fixed connections per 100 U.S. households increased from 57 to 76.7.
- The median downstream speed of all reported fixed connections was 75 Mbps and the median upstream speed was 10 Mbps. For residential fixed connections, the median downstream speed was 90 Mbps and the median upstream speed was 10 Mbps.

A full copy of the reports can be found [here](#), for June, and [here](#), for December.

## **Deadlines**

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**SEPTEMBER 30: FCC FORM 396-C, MVPD EEO PROGRAM REPORTING FORM.** Each year on September 30, multi-channel video program distributors (“MVPDs”) must file with the FCC an FCC Form 396-C, Multi-Channel Video Programming Distributor EEO Program Annual Report, for employment units with six or more full-time employees. Users must access the FCC’s electronic filing system via the Internet in order to submit the form; it will not be accepted if filed on paper unless accompanied by an appropriate request for waiver of the electronic filing requirement. Certain MVPDs also will be required to complete portions of the Supplemental Investigation Sheet (“SIS”) located at the end of the Form. These MVPDs are specifically identified in a Public Notice each year by the FCC.

BloostonLaw Contacts: [Gerry Duffy](#) and [Sal Taillefer](#).

**OCTOBER 15: 911 RELIABILITY CERTIFICATION.** Covered 911 Service Providers, which are defined as entities that “[p]rovide[] 911, E911, or NG911 capabilities such as call routing, automatic location information (ALI), automatic number identification (ANI), or the functional equivalent of those capabilities, directly to a public safety answering point (PSAP), statewide default answering point, or appropriate local emergency authority,” or that “[o]perate[] one or more central offices that directly serve a PSAP,” are required certify that they have taken reasonable measures to provide reliable 911 service with respect to three substantive requirements: (i) 911 circuit diversity; (ii) central office backup power; and (iii) diverse network monitoring by October 15. Certifications must be made through the FCC’s portal.

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**NOVEMBER 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. The FCC has modified this form in light of its 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 499-A that is due April 1.

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

# *Calendar At-a-Glance*

## **September**

Sep. 17 – Reply comments are due on Broadband Mapping Third FNPRM.

Sep. 17 – Reply comments are due on NCTA Pole Attachment Petition for Declaratory Ruling.

Sep. 17 – Auction 105 Long Form, Upfront Payments are due.

Sep. 25 – Regulatory fee filing deadline.

Sep. 29 – Reply comments on Fourth Robocall NPRM are due.

**Sep. 30 – FCC Form 396-C (MVPD EEO Program Annual Report).**

## **October**

**Oct. 15 – 911 Reliability Certification.**

Oct. 15 – Petitions to Deny 2.5 GHz Tribal Spectrum License Applications are due.

Oct. 16 – Second E-Rate Application Window closes.

Oct. 19 – Comments are due on Priority Services NPRM.

Oct. 26 – Oppositions to Petitions to Deny 2.5 GHz Tribal Spectrum License Applications are due.

Oct. 29 – Comments on Rural Call Completion Report and Request for Comment are due.

## **November**

**Nov. 1 – FCC Form 499-Q (Quarterly Telecommunications Reporting Worksheet) is due.**

Nov. 2 – Replies to Oppositions to Petitions to Deny 2.5 GHz Tribal Spectrum License Applications are due.

Nov. 17 – Reply comments are due on Priority Services NPRM.

Nov. 30 – Lifeline Income Documentation, De-Enrollment/Reverification Requirement waivers expire.