

FCC Warns Inactive/Non-Responsive C-Band Earth Stations: File or Be Terminated

by Paul Feldman
(703) 812-0403
feldman@fhhlaw.com

As readers of CommLawBlog [know](#), the Federal Communications Commission (“FCC” or the “Commission”) has reallocated the lower portion of the C-Band used for satellite communications and auctioned that portion of the spectrum for wireless services. In connection with that auction, operators of C-Band Fixed Satellite Service (“FSS”) earth stations will have to modify their operations out of (“transition”) the lower portion of the C-Band. The FCC structured the nationwide transition plan to include the involvement of the FSS Satellite operators as well as RSM US LLP (“RSM”), the designated C-Band Relocation Coordinator. Recently, the FCC’s International Bureau published a [Public Notice](#) regarding (1) operators of incumbent FSS C-Band earth station antennas that have been reported as no longer operational and (2) incumbent FSS C-Band earth station operators that have not responded to communications from RSM and/or incumbent C-Band satellite operators. That Public Notice requires C-Band Earth Station operators who are listed in attachments to the Notice to submit to the FCC by April 19, 2021, a statement affirming the continued operation of the identified earth station antennas and their intent to participate in the C-Band transition. Failure by those identified operators to make that submission will result in automatic termination of their earth station authorizations and removal from the list of “incumbent” earth stations entitled to protection from interference, and may deny the operator assistance and reimbursement in connection with the transition.

Under the Commission’s prior orders, RSM is responsible for coordinating with the five incumbent C-Band satellite operators – Eutelsat, Intelsat, SES, StarOne, and Telesat – to ensure that all incumbent earth stations are accounted for in the transition. The satellite operators have engaged in outreach to the earth stations known to be receiving service from these satellite operators. The overwhelming majority of incumbent earth stations have been “claimed” by the satellite operator from which they receive service and will be transitioned to the upper 200 megahertz of the band. But a limited number of incumbent earth stations remain unassociated with any of the satellite operators. In these cases, RSM, as the C-Band Relocation Coordinator, has conducted outreach and research to determine whether the earth station is still active and, if so, the satellite(s) from which the earth station receives its service so that RSM may assign, if possible, that earth station to a satellite operator for purposes of assisting in the transition.



Recently, RSM submitted a filing to the FCC that includes two lists of incumbent earth stations. [One list](#) identifies various individual earth station antennas that it reports, based on communications with earth station operators by RSM or satellite operators, or both, are no longer operational at the site address and GPS coordinates provided in the FCC’s latest incumbent earth station list. The inactive incumbent earth stations RSM identifies excludes any earth stations for which a lump sum election was made. In the [other list](#), RSM identifies earth station operators (and associated antennas) that it reports as unresponsive to multiple and varied C-Band transition outreach efforts by RSM, the satellite operators, or both, whether made via email, phone, and, in some cases, certified mail.

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Reported inactive earth station antennas will be presumed non-operational and terminated.

The FCC has announced that it will presume that earth station antennas reported by RSM as inactive to be no longer operational. Section 25.161(c) of the Commission's rules provides that an earth station authorization is automatically terminated if the station is not operational for more than 90 days. Section 25.115(b)(8) of the Commission's rules also requires earth station operators to take the steps necessary to remove non-operational antennas from the active records in the International Bureau Filing System ("IBFS").

Thus, the FCC has directed earth station operators with incumbent earth station antennas reported to Commission staff as inactive to make either one of two filings no later than April 19, 2021: (1) file to remove those antennas from IBFS as no longer operational; or (2) file in Electronic Comment Filing System ("ECFS") IB Docket No. 20-205 to assert that those antennas are still operational.

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Earth station operators that do not respond by April 19, 2021 to affirm the continued operation of their identified earth station antennas will be deemed to have had the authorizations for those antennas automatically terminated by rule. The IBFS records for those antennas will then be shown to have a terminated status. Such terminated earth stations will also be removed from the incumbent earth station list and will not be entitled to protection from interference from the network deployments of new wireless licenses or be eligible for reimbursement of any transition costs, including the cost of any filters, that those earth stations may decide to incur. [Antennas that

were included in a lump sum election can still collect the lump sum since such antennas include those that the earth station owner intends to discontinue operation.]

Unresponsive operators (and associated antennas) must confirm or be deemed terminated.

Based on their alleged failure to respond to multiple contact attempts by RSM and the incumbent satellite operators, the FCC will presume that the incumbent earth station antennas identified in Attachment B have ceased operations. To confirm whether or not these unresponsive station operators have discontinued the operation of these earth station antennas, the FCC requires those operators to submit a notification, no later than April 19, 2021, affirming that their facilities remain operational and that they intend to participate in the C-Band transition. Operators should submit this notification to the Bureau in ECFS IB Docket No. 20-205. In its response, an earth station operator who affirms that the identified earth station antennas remain operational should also identify the satellite from which each antenna is receiving service. Commission staff will forward all affirmations of continued operation to the RSM and/or relevant satellite operator(s), who will contact the earth station operators directly to initiate the transition.

Earth station operators that do not respond by April 19, 2021 to affirm the continued operation of the identified earth station antennas will be deemed to have had the authorizations for those antennas automatically terminated by rule. Such terminated earth stations will also be removed from the incumbent earth station list and will not be entitled to interference protection from interference from the network deployments of new wireless licenses or be eligible for reimbursement of any transition costs, including the cost of any filters, that those earth stations may decide to incur.

Earth station operators who have not communicated with a satellite operator or RSM about the transition, or who may have had their earth station reported as inactive, should closely check the FCC's Attachment lists linked above, and take appropriate action if their earth stations are improperly listed. If you have questions or need assistance in responding to the FCC, please contact us.

Kansas Corporation Commission Rules on Interconnection and Porting Obligations Applicable to VoIP Services

by Tony Lee
(703) 812-0442
lee@fhhlaw.com

On March 23, 2021, the Kansas Corporation Commission (“KCC”) issued a long-awaited Order resolving jurisdictional and other issues surrounding interconnection and porting issues between Voice over Internet Protocol (“VoIP”) providers and rural local exchange carriers (“LECs”) in Kansas. VoIP providers and rural LECs in Kansas have had a long-running and contentious battle regarding number porting requests made by VoIP carriers to rural LECs. VoIP providers argued that, because the FCC has ruled that VoIP carriers are entitled to local number portability (“LNP”) just like traditional landline carriers, rural LECs were obligated to port numbers without unreasonable delay. Rural LECs, on the other hand, asserted that unless a requesting VoIP provider had its own facilities located within a LEC’s exchange area, the port requests were a bridge too far. This was because the rural LEC would be required to route calls outside of its exchange and incur expensive out-of-area transport charges from other carriers in order to send those calls to the VoIP carrier. This fight raged on for years, with some rural LECs giving in to the VoIP carriers’ demands, while other LECs dug in their heels to avoid third-party transport charges and passing on those costs to their rural local telephone service customers.



This bubbled over when IdeaTek filed a complaint with the KCC in 2019 alleging that a rural LEC had refused to interconnect indirectly with IdeaTek by sending traffic through AT&T, to provide LNP, and to complete calls to VoIP providers. The LEC struck back and argued that it was not required to interconnect with VoIP carriers at all under Section 251/252 of the Communications Act of 1934, as amended, because Section 251/252 interconnection obligations only applied when the carrier requesting the port was a telecommunications provider, which VoIP providers were not since they only provided information services. The LEC also pointed out that rather than building its own transport facilities and network, IdeaTek was trying to get a free ride on the backs of the LEC’s rural customers by attempting to force the LEC to obtain third-party services to transport calls to IdeaTek’s facilities that were located far outside of the LEC’s exchange. The LEC asserted that this would ultimately require the LEC and its local telephone service customers to subsidize service for IdeaTek’s customers because the LEC and its customers would have to pay for the third-party transport services, rather than IdeaTek and its customers.

Because IdeaTek’s complaint implicated issues that affected the telecommunications industry generally in Kansas, the KCC opened up a general investigation to determine how it should regulate, if at all, the porting of numbers for VoIP providers’ customers and VoIP interconnection in rural areas. AT&T weighed in, and informed the KCC that IdeaTek was directly connected to its network through an interconnection agreement, and that the connection could be used by IdeaTek to transit traffic to other carriers connected to AT&T for calls to and from AT&T’s service area. However, AT&T also said that IdeaTek wanted to use its interconnection with AT&T to indirectly route long distance traffic to rural LECs, and the FCC has determined that interconnection arrangements could not be used just for the transmission of long distance traffic. A coalition of rural LECs filed briefs with the KCC arguing, among other things, that while they were obligated to port numbers to VoIP carriers pursuant to the FCC’s rules, they were only required to do so to the extent that it was technically feasible to do so. Because IdeaTek could not use AT&T’s interconnection to route traffic indirectly to rural LECs, they asserted that the only technically feasible way for ports to be completed would be for

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IdeaTek to build its own facilities in the rural LECs' exchanges.

Although the FCC has issued decisions prohibiting the use of interconnection agreements for the routing of long distance traffic, VoIP number porting, and call completion in rural areas, it has also steadfastly buried its head in the sand and refused to rule on whether VoIP is a telecommunications or an information service for Section 251/252 interconnection purposes. In the absence of FCC guidance in this area, the Eighth Circuit determined in *Charter Advanced Servs. (MN) LLC v. Lange*, 903 F.3d 715 (8th Cir. 2018) that VoIP was an information service not subject to state oversight or entitled to interconnection under Section 251 of the Act. In its Order, the KCC stated that the Eighth Circuit's decision was not binding on the KCC (Kansas is in the Tenth Circuit). Nonetheless, the KCC determined that it should remain consistent with the Charter decision to avoid creating conflicting rules across various jurisdictions and ruled that VoIP providers are not telecommunications carriers under Kansas law, and are therefore not entitled to interconnection rights applicable to telecommunication carriers. The KCC also ruled that rural LECs are required to port numbers and fulfill rural area call completion obligations consistent with FCC rules and orders.

The Order is a relatively "safe" one for the KCC in that it does not break any new ground and is consistent with prior court and FCC rulings. It does, however, make clear that VoIP providers in Kansas, like IdeaTek, cannot route calls indirectly to rural LECs through interconnection arrangements with other carriers, that VoIP carriers are not entitled to Section 251/252 interconnection arrangements with rural LECs, and that if VoIP carriers want to port numbers from a rural LEC, they will first have to have their own facilities in the rural LEC's service area so that it will be technically feasible for those ports to be able to be performed, and for calls to be able to be completed.

Selected New Developments in Broadband – Through March 30

by Jeff Mitchell

(703) 812-0450

mitchell@fhhlaw.com

Capitol Hill

President Biden on March 11, 2021 signed a further Coronavirus emergency spending package into law – the [American Rescue Plan \(ARP\) Act](#) (\$1.9 trillion). A very high-level summary of the major spending components of the legislation can be found [here](#) (courtesy of CTC Technology & Energy) – but the notable highlights include a \$10 billion "capital projects" grant fund for states (made available through the Department of Treasury) and \$7.1 billion appropriated to the E-rate Program to support broadband to students outside of the classroom (more below on this in the E-rate section). The Treasury Department's regulations for the capital projects grant fund are due by May 10, 2021.



Attention now shifts to non-emergency infrastructure packages that will include major broadband spending. On the House side, the Democrats introduced [HR-1848](#), the Leading Infrastructure for Tomorrow's America (LITA) Act (sponsored by Rep. Frank Pallone (D-PA)). On the Senate side, Sen. Amy Klobuchar (D-MN) introduced [S-745](#), the Accessible and Affordable Internet for All (AAIA) Act – which has a companion bill in the House introduced by Rep. James Clyburn (D-SC) (a House Majority Whip summary of this bill is [available here](#)). The AAIA is a reintroduction of the Democrats \$80 billion broadband funding legislation from [last year](#), but with some notable differences, including the replacement of a reverse auction requirement with a "system of competitive bidding." Here is the summary of that section from the House Majority Whip:

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Authorizes \$80 billion to fund competitive bidding systems to build broadband infrastructure. Seventy-five percent of the funding is to be used for a nationwide system of competitive bidding to fund broadband deployment in unserved areas, defined as areas with service below 25/25 Megabits per second (Mbps), and areas with low-tier service, defined as areas with service between 25/25 and 100/100 Mbps. The remaining funds (25 percent) are to be distributed among States, by population with a minimum guarantee for each State, to conduct statewide systems of competitive bidding for broadband deployment in unserved areas, areas with low-tier service, and to unserved anchor institutions (anchor institutions with speeds less than 1 gigabit per 1,000 users). Both the Commission and State must first hold a system of competitive bidding exclusively for bidders offering gigabit symmetrical service.

While there is talk of passing [a partisan infrastructure package using the “reconciliation” process](#) (which allows Senate passage with a simple majority), bipartisan alternatives include the \$10 billion [Eliminate the Digital Divide Act](#) re-introduced on March 23 by Senators Joe Manchin (D-WV) and

John Cornyn (R-TX). Among other things, [this legislation](#) would “distribute \$10 billion to states to build out broadband infrastructure in unserved areas [and would] create a process to deliver funds directly to states based on their proportion of unserved areas and includes a \$1 billion set-aside for high-cost areas like West Virginia.”

National Telecommunications and Information Administration (NTIA)

The March 2021 NTIA webinar addressed [NTIA Grant Programs in the Consolidated Appropriations Act of 2021](#), providing an overview of the new [NTIA grant programs](#), including the Tribal Broadband Connectivity Grants (\$1 billion), Broadband Infrastructure Deployment Grants (\$300 million), and the Connecting Minority Communities Pilot Program (\$285 million). Part 2 of this important webinar is [scheduled for April 21, 2021](#). Archived NTIA webinars are [here](#).

There was no March BroadbandUSA Newsletter. The [February BroadbandUSA Newsletter](#) links to articles on state funding for broadband infrastructure in Pennsylvania and Virginia (among others) – see also [this article about CARES broadband funding in Iowa](#). A [November 2020 PEW article](#) provides an overview of states’ efforts to tap CARES Act funding for broadband, with links to resources to track those efforts. [The U.S. Department Of Education has a portal](#) to track state usage of the \$31 billion CARES Act Education Stabilization Fund and the National Governors Association reported in November 2020 on [broadband projects](#) using CARES Act funds. Somewhat related, Education Superhighway has published a comprehensive summary of [federal funding sources for K-12 Home Connectivity](#).

U.S. Department of Agriculture (USDA) – Rural Utilities Service

The Consolidated Appropriations Act of 2021 allocated \$100 million to the USDA Reconnect program. [USDA is currently seeking comments](#) on proposed changes for the next round of the ReConnect Program funding – comments are due April 27, 2021, the same day as the proposed changes become effective. There is a USDA webinar on April 14, 2021 at 2:00 PM ET providing an overview of the last two rounds of funding and discussing the rule changes – [register here](#).

Proposed Reconnect projects can be viewed [here](#) (must create free log-in to access); 2019 awardees are identified [here](#); 2020 awardees are [here](#); proposed and funded projects are depicted on an interactive map [here](#). The most recent RUS [Community Connect Grant](#) program application window is now closed; the [Distance](#)

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[Learning & Telemedicine Grant Program](#) is currently closed.

Precision Agriculture

The most recent meeting of the FCC's [Precision Agriculture Connectivity Advisory Task Force](#) was March 12, 2021 and can be viewed [here](#). Background and links to prior meetings are available [here](#). The FCC's Office of Economics and Analytics on December 15, 2020, [released a working paper](#) on the impact of broadband availability on agriculture:

The working paper analyzes the impact of increased broadband availability in rural areas on the productivity of U.S. farms, drawing on both FCC data on broadband availability by census tract and U.S. Department of Agriculture data on agricultural productivity by county, for key row crops like corn, cotton, hay, and soybeans. The working paper finds statistically significant effects of increased broadband service, both in terms of lower costs (fertilizer, fuel, seed, etc.) and higher production (yield). To cite one striking result, the analysis finds that a 1% increase in the number of 25 Mbps/3 Mbps or better broadband connections per 1,000 households is associated with a 3.6% increase in corn yields, as measured in bushels per acre.

The FCC's recently-approved [\\$9 billion 5G Rural Fund](#) will include a \$1 billion set-aside for agricultural use in Phase 2. [Farms are already using private LTE networks with CBRS spectrum](#), including greenhouse monitoring in Missouri and supporting drone-mounted cameras to make real-time decisions on herbicide applications in North Dakota.

Federal Communications Commission

With [Commissioner Jessica Rosenworcel elevated to Acting Chair of the Commission](#), the FCC is deadlocked with a 2-2 tie (Ds Rosenworcel and Geoffrey Starks; Rs Brendan Carr and Nathan Simington). Until a third Democrat is nominated and confirmed by the Senate, Commission actions will be limited to those that can garner at least one Republican vote.

The agenda for the April 22, 2021 FCC Open Meeting has not been announced. The [March 2021 Open Meeting](#) included two items addressing the 3.45 GHz band of spectrum (more below) and an item addressing [5G Open Radio Access Networks](#). The [February Open Meeting](#) mainly included staff presentations on new programs or spending recently authorized by Congress, including: the \$3.2 billion for Emergency Broadband Benefit Program; the \$249.95 million for another round of the COVID-19 Telehealth Program; and the \$65 million for the Commission finally move forward on broadband mapping.

Universal Service/Digital Equity

The FCC has released the [2020 Universal Service Monitoring Report](#) containing summary data for all universal service programs (data through September 2020). The current universal service construct, which is over 25 years old, is straining to address the equitable distribution of limited broadband resources – partly reflected in a universal service fund contribution factor that just jumped in one quarter from 27% [to almost 32%](#). In March 2021 the FCC announced that the [2nd Quarter 2021 Contribution factor will be 33.4%](#). Notably, the related concepts of universal service and digital equity seem to be merging, as illustrated by this recent comprehensive Benton report: [“Broadband for America NOW”](#).

COVID-19: New Telehealth Programs

Connected Care Pilot Program: The Commission in January issued a public notice with the first group of awardees in the \$100 million Connected Care pilot program (application window closed December 7): [\\$26.6 million for a group of 14 projects](#), including awards to University of Virginia, University of Mississippi, Duke University, and Temple University. The FCC's [Connected Care Pilot](#) webpage has full background on the program.

COVID-19 Telehealth Program: Congress in December 2020 authorized a further \$249.95 million for another round of COVID-19 Telehealth Program awards (Round 2). After [briefly seeking public comment](#) on selection criteria for Round 2 [the FCC on March 30](#) released program rules for Round 2. They indicated that an application window for Round 2 will be announced shortly.

E-rate

With Congress authorizing a [\\$7.1 billion E-rate](#)

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[“Emergency Connectivity Fund” providing support for off-campus use](#) (from the Treasury, not from the USF), events have overtaken the [petition filed](#) by the Schools, Health & Libraries Broadband Coalition (SHLB) and a group of education advocacy organizations seeking to use regular E-rate funding for the same. Rules for what is essentially a new program must be enacted within 60 days of enactment (by May 10). The Commission on March 16 [initiated an expedited public comment cycle](#), with initial comments due April 5 and replies due by April 23. The Commission noted the scope of funding as follows:

In providing support through the Emergency Connectivity Fund, the American Rescue Plan directs the Commission to reimburse 100% of the costs associated with the purchase of eligible equipment and/or advanced telecommunications and information services, “except that any reimbursement of a school or library for the costs associated with any eligible equipment may not exceed an amount that the Commission determines, with respect to the request by the school or library, is reasonable.” Section 7402 of the American Rescue Plan defines eligible equipment to mean (1) Wi-Fi hotspots, (2) modems, (3) routers, (4) devices that combine a modem and router, and (5) connected devices. It also provides that the term “advanced telecommunications and information services” means advanced telecommunications and information services, as such term is used in section 254(h) of the Communications Act.

Rural Health Care (RHC)

The FCC on February 12, 2021, extended the RHC filing window to June 1, 2021, granting [SHLB’s request for the same](#). On March 12, 2021, the FCC announced that [the inflation-adjusted RHC program caps for funding year 2021](#) (July 1, 2021 through June 30, 2022) would be \$612 million for the overall program and \$154.5 million for upfront payments and multi-year commitments under the Healthcare Connect Fund Program. The problems rolling out the 2019 reforms to the Telecommunications Program are reflected in two recent Commission actions: in [late December](#) directing USAC to update the database to include the most recent approved rates; and in [January](#) allowing Alaska health care providers to use rural rates from prior years, thereby exempting from rates in the new database for the next funding year. SHLB [in the letter linked above](#) also asked the Commission to adopt a similar waiver for the lower 48 but extend it to urban rates as well. That request remains pending.

Net Neutrality

[Tech lobbying](#) for the FCC to restore net neutrality has begun – however, it is unlikely the Commission will consider acting until the Democratic majority is in place sometime later this year. [Net neutrality legislation in the Democratic congress](#) is also back under consideration. In the meantime, litigation at the state level continues. Recall the DC Circuit in upholding the FCC’s repeal of net neutrality rules reversed the FCC claim of blanket preemption of state-specific rules. In addition to California and Vermont, four other states have enacted some form of net neutrality law: [Colorado, Maine, Oregon, and Washington](#), none of which have yet been challenged by industry or the federal government. The likely reason for no new cases is potential litigants were looking to the California and Vermont cases to see what those courts do (litigation update below). Meanwhile, Public Knowledge [highlights some of what carriers are up to](#) in the absence of fed-

FLETCHER, HEALD & HILDRETH, P.L.C.

1300 N. 17th Street - 11th Floor
Arlington, Virginia 22209
(703) 812-0400

On Twitter @CommLawBlog

E-Mail: Office@fhhlaw.com

Website: www.fhhlaw.com

Blog: www.commlawblog.com

Contributing Writers

Paul Feldman
Tony Lee
Jeff Mitchell

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eral net neutrality rules.

Federal Courts:

Eastern District of California. In October 2018, SB 822, the [California Internet Consumer Protection and Net Neutrality Act of 2018](#) was [challenged in federal district court in California by the U.S. Department of Justice \(DOJ\)](#) and [several industry groups in a separate suit](#). The Biden DOJ in early February withdrew its challenge and in late February 2021 [the District Court denied the industry groups' request for an injunction](#) – allowing the law to finally go into effect. The wireless trade group CTIA has appealed this decision to the 9th Circuit Court of appeals.

Vermont District Court. In October 2018 the same industry groups – American Cable Association (ACA), The Wireless Association (CTIA), The Internet & Television Association (NCTA), and USTelecom challenged Vermont's net neutrality law and executive order in federal district court there and in January 2019 [sought summary judgment](#). [The parties agreed to stay the case](#), first pending the outcome of the Mozilla case, and then the motions for injunctions in the California litigation. With the California injunction denied, [we will be watching Vermont as well as laws in other states](#).

Controversy over enforcement of the California law erupted immediately [as wireless carriers began claiming](#) the California law prevents them from providing zero-rated bandwidth for a veterans telehealth service provided via mobile devices. [While the carrier claims are contested](#), talks underway are expected to quickly resolve this particular situation.

New Webinar Available: Writing Contracts for a Post-Covid World

On March 23, Fletcher Heald attorney Thomas Urban presented a webinar on how COVID-19 has affected contract litigation and how companies should be prepared for future public health emergencies. During the presentation, Tom broke down the differences in contract doctrines and provided viewers with specific case law that could be applicable in potential lawsuits. The webinar ended with an in-depth look at where contract law could be moving post-COVID as well as a discussion on the many other challenges businesses could face. If you have not updated your contracts or are interested in learning more about this area of the law, this is an exceptional educational opportunity.

If you would like a copy of the PowerPoint, please reach out to potischman@fhhlaw.com. Otherwise, you can watch the webinar on our [YouTube](#) channel. Be sure to subscribe to receive all the latest legal webinar content and feel free to ask any questions you may have.

Thomas Urban Elected Member of Fletcher, Heald & Hildreth

The Members of Fletcher, Heald & Hildreth, PLC are proud to announce that they have elected Thomas F. Urban II as a Member of the Firm effective immediately. Joining the firm in January 2020, Mr. Urban had an impactful first year with his active litigation practice, especially in response to COVID-19. Not only has Mr. Urban continued to have a substantial hearing and deposition schedule (remotely); he has even written on the effect of the COVID-19 pandemic on contract law and is in the process of authoring a piece on the proposed adoption of class actions in Virginia.



“It is an honor to join the membership at FHH,” said Mr. Urban. “I am looking forward to bolstering the firm’s already outstanding litigation practice for many years to come.”

Mr. Urban is an experienced class action litigator, as well as a veteran trial lawyer in both federal and Virginia state courts, with particular knowledge in serving as local counsel in the U.S. District Court for the Eastern District of Virginia. Thomas F. Urban II began his career as an attorney for the large national law firms of Williams & Connolly and King & Spalding, defending international corporations such as General Electric Aircraft Engines, Novartis Pharmaceuticals, and USAA Insurance Company. Since he began practicing law in 1991, Mr. Urban has engaged in high-stakes litigation across the United States.

Mr. Urban’s practice has included a wide variety of civil litigation, previously including matters involving class actions, RICO cases, complex civil fraud lawsuits, trade secret litigation, and computer crime proceedings, as well as complex commercial and product liability cases. In the past, Mr. Urban has served as national coordinating counsel for a drug company in products liability litigation, successfully defending a corporate client in a jury trial in Galveston, Texas, and has prevailed in several jury trials in D.C. and Virginia, as well as a complex appeal before the Supreme Court of Virginia. His other representations have included issues involving antitrust, qui tam, sex and race discrimination, Americans with Disabilities, attorney ethics, and First Amendment disputes.

In addition, Mr. Urban has maintained a substantial pro bono practice, representing children with autism in Northern Virginia, pursuing a prisoners’ rights case before the D.C. Court of Appeals, filing an opposition to a petition for certiorari in a highly publicized case for the Southern Poverty Law Center in the U.S. Supreme Court, and representing TransAfrica protestors in the U.S. District Court for the District of Columbia. He has also served as an attorney in the Special Litigation section of the U.S. Department of Justice’s Civil Rights Division.

He holds a J.D. from Georgetown University where he graduated *magna cum laude*, as well as a B.S. in Aerospace Engineering from Texas A&M University. We welcome Tom to the membership.

Upcoming FCC Broadcast and Telecom Deadlines for April – June

Broadcast Deadlines:

April 1, 2021

Radio License Renewal Applications Due – Applications for renewal of license for radio stations located in Texas must be filed in the FCC's Licensing and Management System ("LMS"). These applications must be accompanied by Schedule 396, the Broadcast Equal Employment Opportunity Program Report ("EEO"), also filed in LMS, regardless of the station's number of full-time employees. Under the new public notice rules, radio stations filing renewal applications must begin broadcasts of their post-filing announcements concerning their license renewal applications between the date the application is accepted for filing and five business days thereafter and must continue for a period of four weeks. Once complete, a certification of broadcast, with a copy of the announcement's text, must be posted to the station's Online Public Inspection File ("OPIF").

Television License Renewal Applications Due – Applications for renewal of license for television stations located in Indiana, Kentucky, and Tennessee must be filed in LMS. These applications must be accompanied by Schedule 396, the Broadcast EEO Program Report, also filed in LMS, regardless of the station's number of full-time employees. Under the new public notice rules, radio stations filing renewal applications must begin broadcasts of their post-filing announcements concerning their license renewal applications between the date the application is accepted for filing and five business days thereafter and must continue for a period of four weeks. Once complete, a certification of broadcast, with a copy of the announcement's text, must be posted to the OPIF within seven days.

EEO Public File Reports – All radio and television station employment units with five or more full-time employees and located in Delaware, Indiana, Kentucky, Pennsylvania, Tennessee, and Texas must place EEO Public File Reports in their OPIFs. For all stations with websites, the report must be posted there as well. Per announced FCC policy, the reporting period may end ten days before the report is due, and the reporting period for the next year will begin on the following day.

April 10, 2021

Issues/Programs Lists – For all commercial and noncommercial radio, television, and Class A television stations, listings of each station's most significant treatment of community issues during the first quarter of 2021 must be placed in the station's online public inspection file. The lists should include brief narratives describing the issues covered and the programs which provided the coverage, with information concerning the time, date, duration, and title of each program with a brief description of the program.

Class A Television Stations Continuing Eligibility Documentation – The Commission requires that all Class A Television Stations maintain in their OPIF documentation sufficient to demonstrate that the station is continuing to meet the eligibility requirements of broadcasting at least 18 hours per day and broadcasting an average of at least three hours per week of locally produced programming. While the Commission has given no guidance as to what this documentation must include or when it must be added to the public file, we believe that a quarterly certification which states that the station continues to broadcast at least 18 hours per day, that it broadcasts on average at least three hours per week of locally produced programming, and lists the titles of such locally produced programs should be sufficient.

Telecom Deadlines:

April 1, 2021

Form 499-A – The annual Form 499 filing, Form 499-A, must be filed by telecommunications carriers and interconnected Voice over Internet Protocol (VoIP) providers. Carriers report their prior year's annual revenues using the form, and the FCC uses that information to reconcile, or true-up, a carrier's Universal Service Fund (USF) contributions over the past year based on the carriers quarterly Form 499-Q revenue projections. Carriers that overpaid their contributions will receive a credit, and Universal Service Administration Company (USAC) will bill carriers that underpaid their USF contributions.

Rate of Return Reporting FCC Form 492 – Local exchange carriers (LECs) groups of affiliated carriers must file FCC

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Form 492 within three months of the end of each calendar year. Each LEC or group of affiliated carriers may make corrections to the report within 6 months of the due date for the report. Two copies of the report must be filed with the Secretary of the Commission with an additional copy filed with the Wireline Competition Bureau, Industry Analysis, and Technology Division.

Automated Reporting Management Information System (ARMIS) Reporting – Certain incumbent local exchange carriers (ILECs) must file ARMIS reports annually by April 1. The Commission has made significant changes to ARMIS reporting over the years to reduce the reporting burden. That said, carriers subject to the reporting thresholds are still required to report some ARMIS information, including pole attachment reporting. Information subject to ARMIS reporting also may vary depending on whether a carrier is a mid-size or large ILEC or a mandatory price-cap, elective price-cap, or non-price-cap ILEC. If you have any questions about the FCC's changes to ARMIS reporting, you should contact experienced telecommunications counsel.

Section 43.21(c) Letter – Common carriers with operating revenue over the indexed revenue threshold must file a letter with the Chief of the Wireline Competition Bureau showing the carriers operating revenues for the prior year and the value of its total communications plant at the end of the year. The indexed revenue threshold is defined in Section 32.9000 of the Commission's rules. The threshold is an inflation-adjusted amount calculated based on the annual revenue of \$100 million in 1992.

Recordkeeping Compliance Certification and Contact Information Registration ("RCCCI") – Each year, equipment manufacturers and service providers (including traditional telephone providers, interconnected VoIP providers, and Advanced Communications Services, such as non-interconnected VoIP, electronic messaging, and interoperable video conferencing providers) must certify compliance with the FCC's recordkeeping rules related to accessibility of their service by individuals with disabilities. Section 14.31(a) of the FCC's rules requires equipment manufacturers and service providers to maintain certain records related to making telecommunications services accessible to individuals with disabilities. The RCCCI certification requires manufacturers and service providers to certify that they have procedures in place to meet those recordkeeping requirements. The certification is filed online and must be signed by an officer of each company under penalty of perjury.

May 1, 2021 (May 3, 2021 because May 1 falls on a Saturday)

Quarterly Telecommunications Reporting Worksheet (FCC Form 499-Q) – FCC rules require telecommunications carriers and interconnected VoIP providers to file quarterly revenue statements reporting historical revenue for the prior quarter and projecting revenue for the next quarter. The projected revenue is used to calculate contributions to the USF for high cost, rural, insular and tribal areas as well as to support telecommunications services for schools, libraries, and rural health care providers. USF assessments are billed monthly.

Geographic Rate Averaging Certification – Non-dominant interstate interexchange providers operating on a detariffed must certify that their service complies with the provider's geographic rate average and rate integration obligations. The certification is due annually by May 1 and must be signed by an officer of the company under oath. Certifications should be sent to the FCC's Office of the Secretary, directed to the attention of:

Office of the Secretary
Attn: Chief, Pricing Policy Division
45 L Street NE
Washington, DC 20554

Numbering Resource Utilization Forecast (NRUF) (FCC Form 502) – Twice a year, service providers with numbers from the North American Numbering Plan Administrator (NANPA), a Pooling Administrator, or another telecommunications carrier must file a numbering resource utilization forecast. Subscriber toll-free numbers are not included in the report. Interconnected VoIP providers are subject to the reporting requirement along with other service providers who receive NANPA numbers, such as wireless carriers, paging companies, ILECs, and CLECs.

May 15, 2021 (May 17, 2021 because May 15 falls on a Saturday)

Quarterly Percentage of Internet Usage (PIU) Certification – USF prepaid calling card providers must file a certification stating that it is making the required USF contributions. The certification must be signed by an officer of the company under penalty of perjury and can be filed electronically using the FCC's Electronic Comment Filing System (ECFS). The Quarterly PIU Certification due May 15, 2020 will cover the First Quarter of 2020 (January 1, 2020 through March 31,

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2020).

May 31, 2021

Annual Employment Report and Discrimination Complaint Requirement (FCC Form 395) – FCC licensees or permittees of common carrier stations **with 16 or more full-time employees** must complete FCC Form 395 and file it with the Commission by May 31 annually. The report should be filed in Docket No. 16-233 of the FCC's ECFS filing systems. However, filers should not submit any confidential information using ECFS. If a filer seeks confidential treatment of any information in its Form 395 filing, the filer should submit a redacted version of the report using ECFS and send a request for confidential treatment along with its non-redacted Form 395 filing to the FCC at:

Office of the Secretary
Federal Communications Commission
Attn: Industry Analysis Division, Office of Economics Analytics
45 L Street, N.E.
Washington, DC 20554

In addition to the Form 395 filing, all licensees or permittees of common carrier stations, **regardless of the number of employees**, must submit discrimination reports to the Commission. Filers that submit Form 395 can satisfy this requirement by completing Section V of Form 395 and need not submit a separate report.