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Communications Law Bulletin, May 2009

May 2009
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- The Month in Brief
- FCC, NTIA Nomination Processes Advance
- Frontier Communications to Acquire Verizon Assets
- AT&T to Acquire Verizon Wireless Assets
- D.C. Circuit Upholds FCC's Ban on Exclusive Cable Agreements
- Trend towards Telecommunications Network Outsourcing Continues
- Recent Consent Orders Reflect Strict Enforcement Approach
- Intercarrier Interconnection and Compensation Developments
  - *Eighth Circuit Interconnection Decision*
  - *MAP Mobile Order*
- FCC Adopts Consumer Protection Measures by Imposing Discontinuance Requirements on VoIP Providers and Shortening Porting Interval
  - *VoIP Discontinuance*
  - *Porting Interval*
- Wireless Developments: Maryland Seeks Wireless Jamming Test
- FCC Eliminates Conditions from Satellite Earth Station Licenses
- May Communications Legislative Developments
- FCC Releases Annual Regulatory Fee Proposals
- Broadcast Developments: Supreme Court Remands Janet Jackson Case to 3rd Circuit; FCC Improved Data Gathering on Minority- and Female-Owned Broadcast Stations; Arbitron NOI Released.
- Alabama and Tennessee Deregulate Basic Telephone Services
- Upcoming Deadlines for Your Calendar

The Month in Brief

As we go to press, maneuvering continues over key appointments at the Federal Communications Commission ("FCC" or "Commission") and the National Telecommunications and Information Administration ("NTIA"), and the FCC has just released a report outlining its policy for bringing greater broadband deployment to rural America. The rural broadband report will be discussed at greater length in the next issue of our Bulletin. The FCC and NTIA developments, other news from across the entire spectrum of wireline and wireless communications, and a look at the trend of telecommunications network outsourcing are covered here, along with our usual list of deadlines for your calendar.

FCC, NTIA Nomination Processes Advance

The FCC continues to suffer from a two-commissioner shortfall and soon will dwindle to three members unless Congress acts to fill Republican and Democratic vacancies.

As we previously reported, Julius Genachowski is the Administration's choice for Chairman, but Senate Commerce Committee hearings on that nomination were cancelled amidst reports that Republicans intended to support Meredith Baker, formerly of the Commerce Department, to fill a Republican seat. Senators on both sides of the aisle apparently are hoping now to put together a full slate of four candidates to fill all of the FCC vacancies. One of the Democratic vacancies apparently will be filled by Mignon Clyburn of the South Carolina Public Service Commission, who has the announced support of the White House.

Meanwhile, a Senate vote on the nomination of Lawrence Strickling as NTIA Administrator was delayed, reportedly by questions concerning his position on Net neutrality.

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Frontier Communications to Acquire Verizon Assets

Frontier Communications Corporation (“Frontier”) will acquire about 4.8 million subscriber access lines from Verizon Communications Inc. (“Verizon”), which will give Frontier a substantial presence in voice and broadband services in 27 states. Frontier reported that the acquisition will make it “the largest pure rural communications provider of voice, broadband and video services in the U.S.”

The purchase, an all-stock transaction, reportedly is valued at $8.6 billion.

AT&T to Acquire Verizon Wireless Assets

In another major acquisition, AT&T Inc. will purchase wireless assets that Verizon Wireless was required to divest as part of its purchase of Alltel. AT&T reportedly put up $2.35 billion in cash to buy licenses, 1.5 million subscribers, and other assets in 18 states. Most of the assets and subscribers are in rural areas.

D.C. Circuit Upholds FCC’s Ban on Exclusive Cable Agreements

As this edition was going to press, the U.S. Court of Appeals for the D.C. Circuit issued a ruling that upheld the FCC’s ban on exclusive cable agreements. The FCC had found that such exclusive agreements between cable companies and owners of apartment buildings and other multi-unit developments are anti-competitive, the FCC accordingly banned such agreements – both the entry into new exclusive agreements, and also the enforcement of old agreements. The court rejected petitioners’ arguments that the statutory provision at issue – Section 628 of the Communications Act – was intended to address only *programming* discrimination, not anti-competitive barriers to competing services generally. Instead, the court found that the FCC’s broader interpretation was reasonable and permissible under the *Chevron* doctrine, which generally requires the courts to defer to agency judgment in questions of statutory interpretation that are within the agencies’ expertise.

Some of the petitioners from the real estate industry also attacked the FCC’s decision on the ground that it impermissibly regulates the real estate industry, over which the FCC has no jurisdiction. The court, however, stated that the FCC’s prohibition applied only to the entry into, or enforcement of, exclusive agreements *by cable companies*, and thus did not impermissibly regulate the multiple dwelling unit (“MDU”) industry.

The petitioners additionally argued that the FCC could not change its view after having permitted such exclusive arrangements earlier. The court found that the FCC had not affirmatively approved such exclusive arrangements previously; rather, the FCC had only stated that it did not at that time have a sufficient record to make a decision. The court found that the FCC this time had a substantial record and conducted extensive analysis before reaching its decision to ban such exclusive arrangements.

Finally, petitioners challenged the retroactive application of the FCC’s decision to existing agreements. The court found that the FCC’s decision was not impermissibly retroactive, as the FCC did not render the past agreements illegal or sanctionable, but merely no longer enforceable by the cable operators.

Trend towards Telecommunications Network Outsourcing Continues

Sprint Nextel, the third largest mobile operator in the US, has reportedly signed a deal with Ericsson under which Ericsson will take over the management of Sprint’s mobile network. Reports have estimated the value of the deal at $2 billion.

This is significant news for both parties and also for other companies operating in the telecommunications services market. For a company in Sprint’s position, it represents a way to cut key costs and refocus attention on other areas of its business, in order to protect subscriber numbers (especially if those numbers are dwindling). In this case, reports indicate that, as part of the deal, up to 7,000 network management employees will be transferred from Sprint to Ericsson, which will help Sprint to cut its network costs by around 20%. For Ericsson, the deal is one of the largest that it has landed to date and adds impetus to its push into the North American market. The deal may also encourage other potential customers and suppliers to conclude that transactions of this sort represent a way to unlock longer term value.

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Although it once may have been unthinkable for a telecommunications operator to hand over the management of its critical infrastructure to a third party, network management outsourcings have become increasingly common over the past few years, particularly outside North America. For example, this year Nokia Siemens Networks has won a deal to manage Orange UK's mobile networks and Ericsson has been awarded a contract to maintain Vodafone UK's mobile networks. And in India, Bharti Airtel has outsourced both its mobile and fixed networks. This trend is confirmed in a recent report from Infonetics Research, which found that equipment vendors generated $62 billion in worldwide service revenue in 2008, an increase of 17% from 2007.

The move towards outsourcing can be explained by a number of factors:

- As network operations have become increasingly commoditized, they no longer represent a key differentiator that can help operators win new business. As such, operators have grown more focussed on other aspects of their service delivery, such as product development, mobile content, and customer interaction.

- Facing increasing competition and difficult economic conditions, some operators are searching for ways to cut costs and shift risk. Outsourcing day-to-day network operations is a way to achieve very significant cost savings.

- Operators increasingly want to leverage the technical expertise and experience that the larger suppliers have built up from their worldwide operations. These suppliers may be able to use their experience to realize network efficiencies that operators would not be able to achieve by themselves.

The trend also makes sense from the perspective of equipment suppliers, who have also been confronted with an increasingly competitive market place. Companies like Ericsson and Nokia Siemens Networks are facing tough competition on price from the likes of Huawei and other Chinese and Asian equipment suppliers. Selling technical expertise and experience in the form of network services is one way that "traditional" equipment vendors can continue to differentiate themselves and hold on to market share, particularly as the newer vendors do not necessarily have staff in place in Europe and North America to offer competing network services. In addition, some telecommunications operators that have very strong internal skill-sets as network operators, such as COLT Telecommunications, have launched new managed services offerings to further grow their businesses.

With these different factors pushing both sides of the market toward outsourcing, it will be interesting to see what impact further outsourcing has on the telecommunications world.

Recent Consent Orders Reflect Strict Enforcement Approach

On May 14, the Enforcement Bureau ("Bureau") released orders adopting consent decrees with Windstream Corporation and ARINC, Inc.

The Windstream decree terminated an investigation of its possible violations of the FCC's rules regarding the reporting of network outages. In 2007, the Bureau sent letters of inquiry to Windstream regarding its compliance with the outage reporting rules, which require wireline carriers to report electronically any significant network outages of 30 minutes or more within two hours and to submit an initial outage report within 72 hours. Under the decree, Windstream agreed to develop and implement a two-year compliance plan, including a network outage reporting training program for all employees involved in outage analysis, recording, or reporting, and the filing of periodic certified compliance reports to the Bureau. Windstream also agreed to make a significant voluntary contribution to the U.S. Treasury of $200,000.

The ARINC consent decree terminated an investigation of the possible unauthorized transfer of control of ARINC's licenses and authorizations. The investigation grew out of the elimination of an intermediate holding company indirectly controlling ARINC in a corporate reorganization, which resulted in a *pro forma* transfer of control of licenses and authorizations held by ARINC. ARINC did not apply for prior approval for such transfer but discovered and voluntarily disclosed its oversight two months later. ARINC subsequently filed the appropriate remedial applications with the FCC, all of which were granted. Under the decree, ARINC agreed to develop and implement a two-year compliance plan regarding the transfer or assignment of FCC licenses and authorizations, including: a compliance training program for all employees engaged in the purchase, sale, assignment or transfer of control of companies or assets subject to FCC regulation; coordination with its parent to ensure that it will be notified in advance of any

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transactions involving a change in control; and annual reports verifying its compliance. ARINC also agreed to make a voluntary contribution to the U.S. Treasury of $15,000. This consent decree illustrates the importance of strict adherence to the FCC's transfer of control and assignment requirements, given that the licenses and authorizations remained under the control of the same ultimate parent, and the *pro formaa* transfer was voluntarily disclosed fairly promptly.

Intercarrier Interconnection and Compensation Developments

A recent court decision and agency proceedings have clarified or highlighted wireless carriers' interconnection and intercarrier compensation rights and obligations in a variety of circumstances.

Eighth Circuit Interconnection Decision

On April 28, the U.S. Court of Appeals for the Eighth Circuit, in *Iowa Telecommunications Services, Inc., et al. v. Iowa Utilities Board*, affirmed a district court ruling upholding an Iowa Utilities Board ("IUB") decision involving the interconnection rights of Sprint Communications LP, acting as a wholesale provider of telephone service to a cable company. The IUB held that, in this wholesale context, Sprint is a telecommunications carrier under Section 251(c)(2) of the Communications Act ("the Act") and thus entitled to interconnect with local exchange carrier ("LEC") networks. Under the wholesale arrangement at issue, Sprint provides the interconnection facilities and switch, and MCC Telephony of Iowa, L.L.C. ("MCC") provides the retail service, including the local subscriber line. In response to Sprint's request to various Iowa LECs to interconnect in order to implement its arrangement with MCC, Iowa Telecom refused on the ground that MCC or Sprint acting as MCC's agent, rather than Sprint in its own capacity, was the proper party.

Sprint filed an arbitration petition with the IUB, which Iowa Telecom moved to dismiss on the ground that, in this context, Sprint was not holding itself out as a carrier. After an initial dismissal of Sprint's petition, the IUB held on rehearing that Sprint met the definition of "telecommunications carrier" because it "indiscriminately offers its services to a class of users," in this case, entities such as MCC that are "capable of offering their own last-mile facilities." The IUB also found it immaterial that Sprint tailored its contracts to each resale entity. ;;

The Eighth Circuit agreed, holding that a provider need not publicize its rates and contracts to be deemed a common carrier, as opposed to a private carrier. The court also found that the record supported the IUB's finding of common carriage because it reflects that Sprint certified that it is a common carrier, it is making public its intent to act a common carrier, and Sprint has entered into a public interconnection agreement with Iowa Telecom (albeit involuntarily on Iowa Telecom's part). The court distinguished cases finding non-common carriage on the basis of individually negotiated private contracts on the ground that those carriers were seeking to maintain their private carrier status over other parties' objections and, unlike Sprint, were not holding themselves out to serve all potential users.

MAP Mobile Order

On May 13, the FCC's Enforcement Bureau released a Memorandum Opinion and Order ("Order") in *MAP Mobile Communications Inc. v. Illinois Bell Telephone Company et al.*, a Section 208 complaint proceeding regarding CMRS interconnection issues. MAP Mobile, a paging carrier, alleged that the defendant ILECs violated Sections 201(b), 251(b)(5), and 415 of the Act and the FCC's rules by unlawfully charging MAP for facilities that MAP used to terminate ILEC-originated traffic and failing to pay MAP for terminating local traffic, among other claims. Although the FCC dismissed most of the allegations on factual grounds, the Order reaffirmed that, in the absence of an interconnection agreement to the contrary, Section 51.703(b) of the FCC's rules prohibits any LEC from charging a CMRS carrier for facilities used to terminate LEC-originated traffic within the same MTA.

The ILECs argued that Rule 51.703(b) prohibits them only from charging a wireless carrier for facilities used to deliver ILEC-originated intraMTA traffic *to* the wireless carrier's point of interconnection ("POI") and that they therefore can still charge for facilities that the wireless carrier orders from them to connect points on the wireless carrier's side of the POI. They argued that the facilities in question were outside their networks and thus not covered by the rule or Section 251(c)(2) of the Act, which sets forth carriers' interconnection rights with ILECs. The Bureau rejected this argument, explaining that the rule covers the costs of all ILEC facilities within the MTA used to deliver traffic to the wireless carrier. The Bureau also held, however, that MAP has to pay charges for transiting traffic originated by customers of other carriers and routed to the ILECs for delivery to MAP. The Bureau also rejected MAP's claim that the ILECs violated Rule 20.11 by failing to compensate it for its termination of traffic originated on their networks finding that it had never sent the ILECs any bills. Rule 20.11 is not self-effectuating, and a wireless carrier must bill for its terminating services in order to collect for them under the rule.

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FCC Adopts Consumer Protection Measures by Imposing Discontinuance Requirements on VoIP Providers and Shortening Porting Interval

The FCC adopted two items unanimously at its May 13 open meeting that are designed to better serve and protect consumers. First, the FCC imposed service discontinuance requirements on interconnected Voice-over-Internet-Protocol ("VoIP") service providers. Second, the FCC shortened the porting interval from four business days to one business day for wireline-to-wireline and intermodal (including wireless and VoIP) carrier changes. Both actions likely will require service providers to make technical and business changes to their service offerings.

VoIP Discontinuance

The FCC agreed that interconnected VoIP service providers would be subject to the same "streamlined" discontinuance requirements that currently apply to non-dominant, domestic wireline carriers. Specifically, at least 30 days prior to discontinuing services VoIP, service providers must notify the FCC, consumers, and officials in the states where the affected services are provided. Service providers then could discontinue service after 30 days absent further FCC action. The FCC stated that it has authority to impose the discontinuance requirements on VoIP providers under Sections 1 (FCC ancillary authority), 214 (facilities), and 706 (advanced services) of the Communications Act. According to the FCC, the proliferation of VoIP services, and consumers' increasing substitution of VoIP services for traditional wireline services, necessitates additional rules to ensure consumers do not lose their communications services without sufficient prior notice.

Porting Interval

According to the FCC, decreasing the porting interval for wireline-to-wireline and intermodal porting will bring the interval closer to the wireless-to-wireless porting interval of 2.5 hours that the wireless industry voluntarily established, and will help promote competition. Technological advances have made simple porting quicker and easier, thus necessitating the modernization of the FCC's porting requirements. However, many local exchange carriers LECs opposed narrowing the porting interval, arguing that the necessary technology is too costly.

Recognizing that wireline carriers will have to make various network modifications, the FCC adopted an extended implementation period. The FCC instructed the North American Numbering Council to craft new technical porting procedures within 90 days. Large incumbent LECs then have nine months to implement the procedures. Small LECs that serve less than two percent of the access lines in the United State have 15 months for implementation.

The porting order was accompanied by a further notice of proposed rulemaking seeking comment on how the porting process can be further improved and whether the FCC should modify the procedures for non-simple ports. Comments and replies are due 30 and 60 days, respectively, after the further notice is published in the Federal Register.

Wireless Developments: Maryland Seeks Wireless Jamming Test

Maryland Governor Martin O'Malley (D.) intends to petition the FCC to hold a demonstration of cell phone jamming technology at a prison facility. The petition would come after a series of attempts by CellAntenna Corporation to obtain Special Temporary Authority to conduct jamming tests that were rejected by the FCC pursuant to Section 333 of the Communications Act, which bars the use of jamming equipment. Prison administrators and other government officials want to use jamming equipment to obstruct inmates' efforts to smuggle illegal cell phones into prisons. Governor O'Malley also indicated that he may hold the demonstration even if the FCC does not authorize the test. The Governor's announcement comes on the heels of recently introduced legislation that would allow states to jam cell phone signals inside prison facilities.

Congress also is considering various legislation concerning other wireless issues, which are discussed in the Legislative Developments article below.

FCC Eliminates Conditions from Satellite Earth Station Licenses

The FCC's International Bureau has eliminated two conditions from satellite earth station licenses. Each earth station license includes a range of frequencies on which the licensee can operate. To help resolve interference complaints, however, licensees also have been required to identify the precise frequencies they use and update those frequencies within seven days of any modification. Within the past decade only a few interference complaints were lodged with the FCC. Accordingly, to reduce the burden on licensees, the Bureau abolished the requirements to identify and update the precise frequencies they use.

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May Communications Legislative Developments

- **Spectrum Bill Advances in Senate; NTIA Spectrum Audit Under Consideration:** On March 19, Senator Kerry (D.-Mass.) introduced S. 649, the Radio Spectrum Inventory Act, requiring a national accounting to identify federal spectrum that could be reallocated or auctioned for commercial use. Though no action has been taken since the bill's introduction, press reports indicate the bill is slowly gathering bipartisan support. Comments on the FCC's National Broadband Plan are due June 8, and substantial numbers of parties are likely to call for making more spectrum available for mobile broadband uses.

The House Communications Subcommittee, led by Chairman Boucher (D.-Va.), is reportedly drafting related legislation, which would require NTIA to conduct an audit to identify all unused federal spectrum. The audit would be included within a broader wireless consumer protection bill. On May 7, the Communications Subcommittee held a hearing trying to reach agreement on the legislation, however consensus may be elusive because of ongoing disputes about special access rules, exclusive handset deals, and data roaming requirements.

- **House Considers Legislation to Scrutinize Exclusive Handset Agreements:** The House is reportedly drafting legislation authorizing the FCC to investigating wireless handset exclusivity agreements. Such agreements currently provide, for example, AT&T's exclusive offering of the Apple iPhone. The Commission would be directed to adopt rules prohibiting exclusive handset agreements, if it finds the agreements harm the public interest.

- **FCC Reform Bill Introduced:** Representatives Barton (R.-Tex.) and Stearns (R.-Fla.) introduced legislation in late April to reform the FCC's "byzantine regulatory processes." The bill requires, among other things, that the Commission publish the text of proposed rules for comment before adopting them and a 30-day deadline for releasing the texts of decisions after adoption. All notices of proposed rulemaking would have to provide at least a 30-day window for both comments and reply comments, and the Commission could not make a final decision until at least 30 days after the close of the comment cycle. To prevent applications and petitions from languishing on the FCC's docket for years, the bill also would require deadlines to be set for action on all filings.

- **Telephone Tax Repeal Bill:** In early May, Representative Connolly (D.-Va.) introduced a bill repealing taxes on local telephone service. The tax currently is applied only to local landline service, but not to wireless phones, long distance calls, and VoIP service.

- **Universal Service Fund Exemption Bill:** Also in late April, Representatives Rehberg (R.-Mont.) and Markey (D.-Colo.) introduced legislation to permanently exempt the FCC's Universal Service Fund (USF) program from the Anti-Deficiency Act (ADA).

- **Broadband Conduits Bill:** On May 14, Representative Eshoo (D.-Calif.) introduced the Broadband Conduit Deployment Act, a bill to require all new federal highway construction to include conduit for installation of fiber-optic cable. The Department of Transportation could waive the conduit requirement for any new construction, and would coordinate with the FCC to study the need for broadband service in a given area.

- **House Approves Ban on Wireless Phone Use on Airplanes:** On May 21, the House of Representatives passed H.R. 915, the Federal Aviation Administration reauthorization bill, which includes a provision banning the use of wireless phones for voice calls on commercial airplanes while in flight. The bill does not ban wireless Internet use on flights (assuming airlines make it available).

FCC Releases Annual Regulatory Fee Proposals

On May 14, the FCC released its annual regulatory fee notice of proposed rulemaking ("NPRM") setting forth the proposed regulatory fees that will be due this fall. In general, the FCC proposed few changes to the system for this year, but sought comment on some additional changes for next year.

For 2009, because the TV broadcast industry is transitioning from analog to digital on June 12, 2009, the FCC will require TV broadcasters to pay regulatory fees only on their analog licenses, in order to avoid duplicative payments.

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For 2010, once the digital transition is complete, the FCC proposes to collect regulatory fees based upon digital broadcast licenses.

Earlier this year, as discussed in the March 2009 issue of this Bulletin, the FCC adopted new rules and a new payment structure for the regulatory fees paid by submarine cable operators. The NPRM now proposes specific dollar figures for this new fee methodology, which will be assessed per submarine cable system. The fees consist of five different tiers based upon the capacity of the submarine cable system, with the smallest systems (less than 2.5 Gbps capacity) owing $14,189 and the largest systems (20 Gbps or greater capacity) owing $227,029 in regulatory fees. The NPRM includes a sample certification that the FCC will ask each submarine cable operator to complete to inform the FCC of their system's capacity. These new proposed fees will be implemented unless Congress objects to the new submarine cable fee methodology by July 15, 2009.

The NPRM also seeks comment on whether the regulatory fees paid by carriers providing service over international terrestrial circuits (e.g., on the U.S.-Canada route or the U.S.-Mexico route) should be revised. These terrestrial international bearer circuit ("IBC") fees continue to be assessed based on increments of 64K of capacity. The current fees apply only to common carriers, and the NPRM asks if these fees should also be paid on non-common carrier circuits.

Comments on the NPRM are due June 4, and replies are due June 11. After this pleading cycle closes, the FCC will release an order setting forth the final fees that will be due this fall.

Broadcast Developments: Supreme Court Remands Janet Jackson Case to 3rd Circuit; FCC Improved Data Gathering on Minority- and Female-Owned Broadcast Stations; Arbitron NOI Released.

***Ruling in FCC v. CBS**:* In early May, the Supreme Court rendered a decision in *FCC v. CBS*, which vacated the remand of the U.S. Court of Appeals for the 3rd Circuit decision on the FCC's $550,000 fine against CBS for showing Janet Jackson's nipple during the 2004 Super Bowl halftime show. The remand was based in part on the Supreme Court's decision in *FCC v. Fox*, the fleeting expletives case out of the 2nd Circuit. In *Fox*, the Court upheld the FCC's policy change under which it began issuing fines for fleeting foul language on live broadcast television. *See* April Communications Law Bulletin, *Supreme Court Upholds FCC's "Fleeting Expletives" Indecency Rule*. The FCC now has a second chance in both cases to defend its heightened enforcement regime for broadcast indecency.

***FCC Updates Data Collection for Minority- and Women-Owned Broadcast Stations**:* On May 5, the FCC released an Order and a Further Notice of Proposed Rulemaking adopted at the April 8 Open Meeting designed to improve collection of data on minority and female broadcast ownership. The enhanced data will help the agency promote diversity of ownership in the broadcast industry. The Order revises reporting requirements on FCC Form 323 (Ownership Report for Commercial Broadcast Stations), required to be filed by full power commercial AM, FM, and television broadcasters to identify their organizational and ownership structures and to provide information on owners' race, ethnicity, and gender. The Form 323 has been changed to correct deficiencies in data-gathering methods that were identified by the U.S. Government Accountability Office and public commenters.

The revisions include, among other things:

- Removing the filing exemptions currently applicable to full-power commercial stations owned by individuals or partnerships of natural persons, which has the effect of overlooking a significant group of minority and female owners and prevents the FCC from obtaining information resulting from ownership changes that do not require prior FCC approval.
- Adding Low Power Television and Class A television stations, many of which may be minority or female owned, to the class of stations required to file ownership information on Form 323.
- Expanding the scope of reportable interests to include not only all interests in the licensee that are attributable but also minority interests in a corporation with a single majority shareholder and interests in an eligible entity that would otherwise be attributable but for the operation of the higher Equity/Debt Plus attribution threshold applicable to financial interests in eligible entities. (The Order does not affect the Commission's attribution rules, which continue in effect unchanged. The Order just requires that certain non-attributable interests be reported on the Form 323 to ensure that the Commission's data on minority and female ownership are complete.)

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The Further Notice seeks comment on potential changes to the Ownership Report filed by non-commercial licensees of AM, FM and TV broadcast stations (FCC Form 323-E), which currently does not ask gender, race, or ethnicity questions. It also asks whether the Commission should collect similar information from Low Power FM licensees.

Arbitron Notice of Inquiry Released: On May 18, the Commission released a Notice of Inquiry ("NOI") seeking comment on commercial use of the "portable people meter" ("PPM"), a radio audience measurement device developed by Arbitron, Inc. ("Arbitron"). The PPM enables more accurate measurement of consumption of radio programming, analogous to the Nielsen rating system for television programs. The NOI is designed to address concerns raised by broadcasters, media, and consumer organization that the PPM methodology undercounts and misrepresents the number and loyalty of minority radio listeners, which could negatively affect the audience ratings (and thus the financial viability) of stations that air programming targeted to minority audiences. The NOI seeks comment on the impact of PPMs on the broadcast industry overall and specifically on whether the audience ratings data is sufficiently accurate and reliable for the Commission to rely on it in crafting broadcast rules and policies and procedures. Comments will be accepted for 30 days after publication in Federal Register, reply comments 30 days later.

Alabama and Tennessee Deregulate Basic Telephone Services

Alabama enacted a bill (SB 373) deregulating telephone services, despite some concerns that it would result in an increase in landline telephone rates. AT&T, Inc., the largest telephone company in the state, had been lobbying strongly for the new law. Under the new law, as of December 31, 2010, the Alabama Public Service Commission no longer has oversight over basic residential telephone service and business services with four or fewer landline phones. The bill generally puts traditional landline telephone services on the same regulatory footing as mobile and Voice-over-Internet-Protocol services. The Alabama Senate approved the bill 19-8 in April, and the House approved it 67-24. Governor Bob Riley (R.) subsequently signed the bill into law.

Tennessee also enacted new legislation (SB 1954/HB 1698) to deregulate basic telephone services. To respond to rural concerns, the bill includes an amendment that prevents AT&T from raising rates in most rural areas for one year, after which AT&T could only increase rates in those areas if the Tennessee Regulatory Authority makes a finding of sufficient competition. Without such a finding, pricing flexibility in those areas would be delayed until no later than 2015.

Upcoming Deadlines for Your Calendar

Note: Although we try to ensure that the dates listed below are accurate as of the day this edition goes to press, please be aware that these deadlines are subject to frequent change. If there is a proceeding in which you are particularly interested, we suggest that you confirm the applicable deadline. In addition, although we try to list deadlines and proceedings of general interest, the list below does not contain all proceedings in which you may be interested.

May 29, 2009	Reply comments due on **competitive bidding procedures for Auction No. 86 (Broadband Radio Service)**.
May 29, 2009	Comments due on petition for rulemaking regarding **migratory birds**.
June 4, 2009	Comments due on **annual regulatory fee NPRM**.
June 8, 2009	Reply comments due on **USF NOI.**
June 8, 2009	Comments due on **National Broadband Plan NOI**.
June 11, 2009	Reply comments due on **annual regulatory fee NPRM**.
June 15, 2009	Reply comments due on petition for rulemaking regarding **migratory birds**.
June 15, 2009	Comments due on **CMRS market competition**.

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June 15, 2009	Comments due on **satellite market competition**.
June 15, 2009	Comments due on **commercial broadcasting on board school buses**.
June 29, 2009	Reply comments due on **CMRS market competition**.
June 29, 2009	Reply comments due on **commercial broadcasting on board school buses**.
June 30, 2009	Reply comments due on **satellite market competition**.
July 7, 2009	Reply comments due on **National Broadband Plan NOI**.
July 31, 2009	Annual **traffic and revenue report** due for international carriers.