

Wireless Roundup (November 2020)

November 2, 2020

*Published November 2, 2020

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Upcoming Filing and Comment Deadlines

FCC Seeks Input on WRC-23 Advisory Committee Draft

Recommendations: Comments are due November 2 on the Federal Communications Commission's (FCC or Commission) Public Notice, which seeks input on draft recommendations approved by the 2023 World Radiocommunications Conference (WRC-23) Advisory Committee in October 2020. Input will assist the Commission in its consultations with the U.S. Department of State and the National Telecommunications Information Administration (NTIA) to develop U.S. positions at WRC-23.

FASC Seeks Comment on Operation and Authority Over Supply

Chain Risk Information: Comments are due November 2 on the Federal Acquisition Security Council's (FASC) Interim Final Rule and Request for Comments on the laws governing the operation of the FASC, the sharing of supply chain risk information, and the exercise of its authorities to recommend issuances of removal and exclusion

orders to address supply chain security risks.

FCC Requests Comment on Methods to Dissuade 9-1-1 Fee Diversion: The FCC seeks comment through a Notice of Inquiry on methods to dissuade states and territories from diverting fees collected for 9-1-1 emergency services to other state programs. The Commission also seeks information regarding the effect that 9-1-1 fee diversion has had on the provision of emergency services in states that opt to divert fees. Comments are due November 2 and reply comments are due December 2.

FCC Seeks Feedback on Petitions for Reconsideration on Improving E9-1-1 Vertical Location Accuracy: Oppositions to Petitions for Reconsideration (Petitions) filed by the Association of Public-Safety Communications Officials-International, Inc. (available [here](#)) and CTIA (available [here](#)) are due November 3. Specifically, the Commission released a Public Notice seeking comment on the Petitions, which ask the agency to take additional steps beyond the Sixth Report and Order to improve vertical (z-axis) location accuracy for 9-1-1 calls. Replies are due November 13.

FCC Requests Feedback on the Impact of TRACED Act Requirements on TCPA Exemptions: The Commission seeks comment through a Notice of Proposed Rulemaking on how to implement Section 8 of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act of 2019 (TRACED Act) (a summary of the legislation is available [here](#)). Specifically, the FCC requests input on how Section 8 of the TRACED Act will impact the applicability of the Telephone Consumer Protection Act (TCPA). Reply comments are due November 3.

BIS Seeks Comment on Whether Certain Technologies are “Foundational”: The U.S. Department of Commerce Bureau of Industry and Security (BIS) seeks feedback through an Advance Notice of Proposed Rulemaking on whether certain technologies are “foundational” under the Export Control Reform Act (a summary of the item is available [here](#)). Comments are due November 9 (extended from October 26).

FCC Solicits Comment on Changes to the Wireless Priority Service Rules: Reply comments are due November 17 on a Notice of Proposed Rulemaking seeking comment on the Commission’s proposed modifications to its rules governing priority service programs. Among other things, the NPRM proposes to (1) allow priority treatment of voice, data, and video services for public safety personnel; and (2) remove requirements that may hinder the use of Internet protocol (IP)-based technologies.

NIST Seeks Comment on Performance Measurement Guide for Information Security: The National Institute of Standards and Technology (NIST) plans an update for NIST Special Publication (SP) 800-55 Revision 1, titled *Performance Measurement Guide for Information Security*. Among other things, NIST seeks input on how it can improve the performance measurement guide, along with feedback on how the guide is currently being used. Comments are due November 19.

FCC Requests Input on Coordination in the 3.1-3.55 GHz Band: The Commission seeks comment on its Further Notice of Proposed Rulemaking proposing to implement spectrum allocation changes to the 3.1-3.55 GHz band. Among other things, the FCC requests input on how best to develop coordination mechanisms between future commercial users and federal incumbents that will remain in the band. Comments are due

November 20 and reply comments are due December 7.

NIST Solicits Feedback on a Cybersecurity Profile for Responsible PNT Services: Comments are due November 23 on Draft NIST Interagency Report (NISTIR) 8323, titled *Cybersecurity Profile for the Responsible Use of Positioning, Navigation and Timing (PNT) Services*. The PNT cybersecurity profile is part of NIST's response to Executive Order 13905, Strengthening National Resilience Through Responsible Use of Positioning, Navigation, and Timing Services. NIST is particularly interested in comments that address issues such as what gaps in existing standards and practices associated with PNT services exist, and whether the current controls and informative references are adequate.

FERC Seeks Comment on the Use of Telecommunications Equipment Under Section 889 of the NDAA: Comments are due November 23 on the Federal Energy Regulatory Commission's (FERC) Notice of Inquiry seeking comment on the use of telecommunications equipment and services provided by entities covered by Section 889 of the John S. McCain National Defense Authorization Act of 2019 (NDAA), as they relate to bulk electric system operations. Specifically, FERC seeks input on the potential risks to the bulk electric system posed by certain entities identified as national security risks.

NIST Requests Input on Security Guidance for First Responder Devices: NIST seeks comment on its NISTIR 8196, titled Security Analysis of First Responder Mobile and Wearable Devices. NISTIR 8196 investigates the impact that new public safety devices, including smartphones, tablets, and wearables, have on the security of the first responder work environment. Through this effort, NIST intends to provide guidance that would enable jurisdictions to locate and purchase secure devices. NIST's goal is also to assist industry in developing and manufacturing secure first responder devices. Comments on NISTIR 8196 are due November 30.

Upcoming Effective Dates

FCC Adopts Changes to Rules Governing Administrative Hearings: The Report and Order goes into effect on November 5, adopting changes to the FCC's procedural rules governing administrative hearings. Changes include codifying and expanding the use of a process that relies on written testimony and documentary evidence in lieu of live testimony and cross-examination; authorizing Commission staff to act as a case manager to supervise development of the written hearing record when the Commission designates itself as the presiding officer at a hearing; and dispensing with the preparation of an initial opinion whenever the record of a proceeding can be certified to the Commission for final decision.

FCC Adopts Rules to Facilitate Shared Use in 3100-3550 MHz Band: The Report and Order goes into effect on November 9. The adopted rules remove the secondary, non-federal allocations from the 3.3-3.55 GHz band. The Report and Order relocates non-federal radiolocation licensees to the 2.9-3.0 GHz band, allowing them to continue operating there on a secondary basis to federal operations. It also allows amateur licensees to individually determine appropriate alternative spectrum from existing available spectrum allocations.

FCC Seeks to Reduce Rates and Charges for Inmate Calling Services: The Report and Order goes into effect on November 23. In response to a directive from the D.C. Circuit, the Commission determined that, except in limited circumstances, it is impractical to separate out the interstate and intrastate components of ancillary service charges imposed in connection with inmate calling services. The Commission also reinstated its rule prohibiting providers from marking up mandatory taxes or fees and adopted rule changes in response to the D.C. Circuit that clarify that the Commission's inmate calling service rate and fee cap rules apply only to interstate and international inmate calling services.

Upcoming Meetings and Events

Nominations Hearing: The Senate Committee on Commerce, Science, and Transportation will convene a hearing to consider presidential nominations to the National Aeronautics and Space Administration (NASA), Department of Commerce (DOC), and FCC. Witnesses are Greg Autry, for NASA Chief Financial Officer, Daniel Huff, for DOC Assistant Secretary, and Nathan Simington, for FCC Commissioner. The hearing is scheduled for November 10. More information and a link to live stream the hearing is available [here](#).

NSTAC Meeting: The National Security Telecommunications Advisory Committee (NSTAC) will meet on November 12 via conference call, which will be open to the public. More information is available [here](#).

FCC Open Meeting: The next FCC Open Meeting is scheduled for November 18. The following items are on the agenda for consideration:

- Modernizing the 5.9 GHz Band,
- Further Streamlining of Satellite Regulations,
- Facilitating Next Generation Fixed-Satellite Services in the 17 GHz Band,
- Expanding the Contribution Base for Accessible Communications Services,
- Revising Rules for Resolution of Program Carriage Complaints, and
- An Enforcement Bureau Action.

Draft copies of the items for consideration, as well as a link to the live webcast, are available [here](#).

New Items on Circulation

The following item of interest went on circulation before the full Commission in the past month and remains pending as of publication of this Wireless Roundup.

Transforming the 2.5 GHz Band, WT Docket No. 18-120, Order on Reconsideration (circulated October 16 by the Wireless Telecommunications Bureau)

Licensing Matter (circulated October 21 by the Office of General Counsel and the Wireless Telecommunications Bureau)

Protecting Consumers from One-Ring Scams, Report and Order (circulated October 23 by the Consumer and Governmental Affairs Bureau)

Coming Up Next...

The FCC's Technological Advisory Council (TAC) will meet on December 1.

Reply comments are due December 2 on the FCC's Notice of Inquiry seeking comment on ways to combat 9-1-1 fee diversion.

The next Open Commission Meeting is scheduled for December 10. The meeting agenda, once posted, will be available here.

Did You Know?

TMT Co-Chair and Partner Kathleen Kirby was profiled by Law360 as a 2020 'MVP' in Telecommunications. Read it here.

November 12: Partners Megan Brown and Matthew Gardner will host a webinar alongside Simmons-Simmons partners Alexander Brown and Camilla de Silva on the "Transatlantic Law Enforcement: The U.S.-UK Data Access Agreement." Learn more and RSVP here.

Recent Wiley Client Alerts, IoT Blog Posts, and Podcasts

Justice Thomas Lays Blueprint for Supreme Court to Limit Section 230 In a Future Case

White House Strategy on Critical and Emerging Technologies Previews Regulation and Possible Export Controls

Third Circuit Sharply Limits FTC Authority to Obtain Monetary Relief as Supreme Court Prepares to Weigh In

National Security Interest in Tech Continues: ODNI Seeks Info

The Telephone Consumer Protection Act and the 2020 Election

FCC Unanimously Agrees to Increase Caller ID Authentication, Other Requirements

Wiley Consumer Protection Download (September 14, 2020)

Wiley Consumer Protection Download (September 28, 2020)

California AG Proposes Additional Changes to CCPA Regulations; Seeks Comment

Privacy in Focus (October 2020)

FCC Publishes Repeal of Radio Duplication Rule

Robocall Update: New Call Authentication Order and Obligations, Explained

Information Blocking: How Will the New Rule Impact the Health Care Industry?

FCC Clarifies Obligations Under New FCC Broadcast Public Notice Requirements That Become Effective October 30, 2020

Commission Unanimously Approves All-Digital AM Radio Broadcasting

New FCC Broadcast Public Notice Requirements Effective October 30, 2020

Media Bureau Lifts Freezes for Television Minor Modification Applications and Rulemaking Petitions

Roundup Disclaimer: Information in the Wireless Roundup is current as of November 2, 2020. This document is for informational purposes only and does not intend to be a comprehensive review of all proceedings and deadlines. Deadlines and dates are subject to change. Please contact your relevant Wiley attorney for further information on the content of this document.