

RICA REPORT

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RICA Report is published semi-monthly by RICA, exclusively for RICA's CLEC members. With 80+ carrier members, RICA is the premier trade association representing the independent rural competitive local exchange carrier industry. *RICA Report* concisely captures regulatory and legal news, commentary, and insight relevant to rural CLECs.

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RICA Report welcomes your feedback and commentary. Membership submissions—opinions, success stories, Q&A, etc.—are encouraged. Please contact the editors at:

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HAPPY NEW YEAR!

RICA Report and the legal and administrative staffs extend their best wishes to all readers for a happy and prosperous new year. We wish all member rural CLECs continued success in expanding state-of-the-art communications services to rural subscribers. On the advocacy front RICA will continue to press regulators and legislators for rational rules which offer members a fair opportunity to compete. On the member education side, RICA will strive to continue to provide relevant and critical information members need to prosper in the rapidly changing environment. In order to best serve our member rural CLECs, RICA needs member input to improve both the substance and direction of its advocacy and content of its member communications. RICA Report solicits member comments and will publish items of general interest, with or without attribution at the preference of the sender.

COPPS AND TATE SWORN IN; FCC BACK TO 50/50 SPLIT, ONE VACANCY REMAINS

On January 3, the FCC closed out almost a month of having a Democratic majority when Chairman Kevin Martin swore in Deborah Taylor Tate as the second Republican Commissioner. On the same day, Chairman Martin also swore in Democrat Michael J. Copps who began his second term on the Commission.

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NARUC SPONSORED INTERCARRIER COMPENSATION DISCUSSIONS CONTINUE

The Workshop on Inter-carrier Compensation, sponsored by the National Association of Regulatory Utility Commissioners and led by Commissioners Ray Baum (OR) and Larry Landis (IN) is set to convene again this week at FCC headquarters in Washington. In addition to RICA, industry groups participating include the Rural Alliance, the Inter-carrier Compensation Forum, NTCA, CTIA, and various large carriers. The state officials have been pushing hard for the industry to reach agreement on at least some basic principles which could be presented at the NARUC winter meeting next month. At this point such agreement appears to be a long way off, but breakthroughs are always possible.

FCC/NARUC/NASUCA WORKING GROUP SEEKS IDEAS FOR EFFECTIVE OUTREACH TO LOW-INCOME CONSUMERS

Last summer the FCC, NARUC and NASUCA (National Association of State Utility Consumer Advocates) formed a working group to develop targeted outreach materials regarding Lifeline and Link-up services. In a Public Notice this week the Working Group asked for industry input toward development of a “best practices” list to ensure that eligible consumers are aware of these practices. The Group requests, specifically, examples of how successful outreach programs are requested, comments on how to measure success of an outreach program, whether the 2005 hurricanes will increase the need for the Lifeline and Link-up programs and what are the challenges and obstacles to success. Comments are requested by March 1, 2006.

Tate, formerly a director of the Tennessee Regulatory Authority was nominated by President Bush to succeed Kathleen Abernathy who left the Commission on December 9th. Tate stated she would work to be a voice for families and consumers and to “bring a spirit of consensus and bi- partisanship to the FCC.” Tate is an attorney who had worked closely with two previous Tennessee Governors and had been very active in mental health issues. While on the TRA, she was appointed to the Federal-State Joint Board on Advanced Telecommunications Services. Tate’s term at the FCC runs through June of 2007.

After four and a half years on the Commission, Copps now begins a term that runs through June of 2010. Copps, who has a PhD from University of North Carolina, Chapel Hill, was a long time aide and Chief of Staff to former South Carolina Senator Ernest Hollings, and subsequently an Assistant Secretary of Commerce for Trade Development. At his confirmation hearing, Copps stated his belief that in the 21st Century, access to advanced communication and information services by every citizen is as important, if not more so, as access to basic telephone service was in the 20th Century. Commissioner Copps attended and spoke at the RICA Fall Conference in 2002.

The President has not announced his nomination for the remaining vacant seat on the Commission, which will presumably be a Republican. Chairman Martin, who controls the FCC agenda, has indicated that he will not move the big-ticket items before the Commission until the additional Commissioner is confirmed. The Washington rumor mill has mentioned as possible nominees: Comptel General Counsel Robert McDowell, communications attorney William Crispin; and Thaddeus Bingel, congressional liaison for the Customs and Border Protection division of Homeland Security, whose wife has worked in telecom issues on the hill and as a lobbyist.

RETURNING CONGRESS TO FACE ELECTION YEAR FIGHTS OVER TELECOM AND TECHNOLOGY POLICY ISSUES

The New Year will see the members of Congress focused on the Fall elections. Because the Democrats will again try to regain control of the Senate, even the two-thirds of the

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Senators not up for re-election will have some personal stake in the outcome, as will, of course, the 435 members of the House.

Despite this focus there will at least be some noise made about telecommunications and related technology issues left over from the first session and newly arising. Among the subjects likely to be considered:

* Telecommunications Act Rewrite. A bill proposal circulated last Fall by the House Energy and Commerce Committee Chairman Joe Barton would establish a new regulatory structure for broadband service providers. Among the more controversial provisions are those dealing with “net neutrality” and cable TV franchising.

“Net neutrality” is a concept being pushed by Microsoft, Google, eBay and others who want no controls or restrictions by service providers that would favor their own content. FCC Chairman Martin, however was reported to have said at the Consumer Electronics Show last week that while blocking should be prohibited to ensure the access for everybody, service providers should have the right to charge more for premium services.

In December, Senator Jim DeMint (R-SC) introduced a bill that reflects the viewpoint of the conservative Policy and Freedom Foundation’s proposed Digital Age Communications Act which presumes that economic regulation of communication markets is unnecessary and would refocus the FCC on adjudicating unfair competition disputes instead of developing policy prescriptions. The Foundation immediately endorsed the bill. The Coalition to Keep America Connected (www.keepamericaconnected.org) opposed the bill, saying it would “lead to higher phone bills and reduce network investment in rural areas.” The Coalition objected to the proposed cap on Universal Service Funds, state block grants for USF distribution and changes in federal/state jurisdiction.

* Digital Television. Late in the last session, the House and Senate apparently reached agreement on the transition of broadcast television stations from analog to digital which will ultimately make large blocks of frequency available for auction. The FCC is directed to require full power television stations to stop analog broadcasting by February 18, 2009. TV channels 52 to 62 and 65 to 67 will be auctioned and channels 63, 64, 68 and 69 will be converted to public safety uses. The FCC will be required to conduct auctions of the spectrum beginning January 28, 2008 and its authority extends through September 30, 2011. A portion of the auction proceeds will go to the Treasury’s General Fund, and up to \$990 million will be allocated to NTIA to establish a “converter box assistance program” to assist viewers using analog only TV receivers not connected by cable or satellite. Consumers will be required to affirmatively request coupons. Although not all issues regarding the transition were resolved, Congress is not expected to spend further time on this issue except for the steps necessary to finalize the agreement. That will probably occur next month.

* Patriot Act Reauthorization. After much back and forth in December, Congress reached an agreement to extend otherwise expiring provisions of the Patriot Act to February 3, 2006. Heated discussions are now continuing in the search for the proper balance between the needs of law enforcement to conduct anti-terrorism operations and a proper respect for civil liberties. Included in these discussions are provisions that affect the obligations of communications carriers to provide information regarding their subscribers.

FCC CHARIMAN NAMES NEW ACTING COMMUNICATIONS ACT AMENDED TO INCLUDE INSPECTOR GENERAL HARRASING BY INTERNET

The FCC announced this week that Chairman Martin has named Dr. Kent Nilsson as Acting Inspector General. Dr. Nilsson, most recently Deputy Chief of the FCC Network Technology Division, is very familiar with the rural telecommunications industry as a result of his previous positions in the then Common Carrier Bureau where he was Chief of the Cost Analysis Branch of the former Accounting and Audits Division. Dr. Nilsson holds a Ph.D. in Economics and Finance from Lehigh University and a law degree from William and Mary. The Office of Inspector General has recently been engaged in evaluation of the administration of the Universal Service Fund, an activity that is expected to continue for some time.

Section 223 of the Communications Act establishes criminal penalties for persons who make telephone calls or utilize a telecommunications device without disclosing their identity and with intent to annoy, abuse, threaten or harass any person at the called number or who receives the communication. Last week President Bush signed legislation amending the definition of “telecommunications device” to include “any device or software that can be used to originate telecommunications, in whole or in part, by the Internet.” Although an apparent purpose of this change is simply to be sure that persons making otherwise illegal harassing calls can’t claim innocence on the basis that they were using a VOIP telephone, privacy advocates attacked it as a stealth measure to criminalize activities of bloggers who post statements that annoy somebody, especially government officials. The amendment was included in a bill which amended various portions of the Violence Against Women Act and provided authorization for the Justice Department.

RICA Board Plans for Future

The RICA Board of Directors held a strategic planning retreat the first week of January to plan for RICA’s future and growth and member services. The session included an in-depth discussion on where the rural CLEC industry is today and what changes the Association might consider in meeting member needs, as well as reconsideration of the Mission Statement, Goals and Objectives. A major outcome of that discussion is possible modification of RICA’s outreach to include all small, rural local exchange carriers who provide competitive services. Final determination of a new Mission Statement and outreach will be made at the Board’s February meeting.