



# Reminder: Federal Communications Commission – January / February Filings

January 8, 2024

Each month, Kelley Drye’s Communications Group offers this reminder of upcoming filing deadlines that may affect our clients and friends. Please review the deadlines below and contact us if you would like assistance or have any questions.

## **I. Featured Upcoming Compliance Deadlines**

## **II. Filing Deadlines in Select Rulemakings, Inquiries, and Other Proceedings**

## **III. Select Ongoing Filing Requirements**

### **I. Featured Upcoming Compliance Deadlines**

The following are reminders for upcoming Federal Communications Commission (“FCC”) reports and compliance requirements:

#### **A. Responses of All International Section 214 Holders to the Commission’s Mandatory Ownership Information Collection are due by January 22, 2024**

On April 20, 2023, the FCC adopted an [Order](#) in IB Docket No. 23-119 (and MD Docket No. 23-134), imposing a one-time foreign ownership-related data request (the “Information Collection”). **All holders of Section 214 authority to provide international telecommunications services (i.e., common carrier services between U.S. and non-U.S. points) (“International 214 Holders”) must respond, whether they have reportable foreign ownership or not.** In a related NPRM, the FCC is considering whether to revoke the international Section 214 authority of any holder that does not respond timely to the Information Collection. “Forfeitures or other measures” are also under consideration for any holder that does not respond timely and completely.

Guidance materials have been issued by the Office of International Affairs (“OIA”), including the December 13, 2023, [Public Notice](#) overview of the process, the detailed 24-page [Handbook](#) with a walk-through of how to respond to the information requests, a dedicated [webpage](#) established by OIA to gather all the related materials and information in one location, and several “how-to” [videos](#) on the FCC YouTube channel. .

International 214 Holders that received a grant of authority from the FCC for a substantive (non pro forma) transaction, such as a transfer of control or an assignment, within the last three years may be eligible for an exemption and will want to examine the criteria for an exemption closely. International 214 Holders qualifying for the exemption will be able to file a considerably more streamlined response to the Information Collection requirement.

Responses must be submitted through a newly created [One-Time Information Filing System](#). Login

requires the International 214 Holder to have a current FRN (FCC Registration Number, associated with a registered user ID) that is associated in the International Communications Filing System, or ICFS, database with the specific international Section 214 authorization(s) for which responses are being submitted. Instructions for confirming this association are provided in both the Public Notice and the Handbook. Arranging new associations and/or correcting existing associations must be coordinated through FCC Staff.

The response filing system has a number of strict requirements. Parties planning to submit responses are advised to closely review the Public Notice and Handbook before submitting responses to the Information Collection in order to minimize complications during the process.

### **B. Form 855: Hearing Aid Compatibility Certification (due January 31, 2024)**

The annual Form 855 Hearing Aid Compatibility (“HAC”) Certification must be filed by all digital mobile service providers within the scope of FCC Rule 20.19, including mobile virtual network operators (“MVNOs”) and resellers. Among other requirements, filers must:

- certify whether or not they are in full compliance with Commission hearing aid compatibility rules;
- explain any instances of noncompliance;
- provide the percentage of hearing aid compatible (“HAC”) handsets offered during the time period covered by the certification; and
- provide a link to the public webpage that lists information on HAC handsets, insofar as required by the rules.

The Form 855 Certification covers the preceding calendar year (January 1, 2023 – December 31, 2023) and is **due to the FCC by January 31, 2024**. The Form 855 Certification must be completed online and the link to the filing portal and instructions for the form are available [here](#).

Note that digital mobile service providers that are otherwise exempt from HAC rules, pursuant to the *de minimis* exception of FCC Rule 20.19(e), still are required to file the HAC Certification. Providers may also be subject to website content and record retention requirements and should be sure to review the FCC rules to confirm any HAC compliance obligations.

### **C. Form 499-Q Quarterly Telecommunications Reporting Worksheet (due February 1, 2024)**

Carriers and providers of interstate and international telecommunications, including, but not limited to, interconnected Voice over Internet Protocol providers, providers offering interstate telecommunications for a fee on a non-common carrier basis, and payphone providers that are aggregators, are required to file the FCC Form 499-Q on a quarterly basis. Carriers and providers must report their actual and projected end user and carrier’s carrier interstate and international revenues for each calendar quarter by filing the Form 499-Q.

The Form 499-Q filing reporting historical revenue for October 1 through December 31 of 2023 and projected revenues for April 1 through June 30 of 2024 must be submitted to the Universal Service Administrative Company on or before **February 1, 2024**.

Carriers and providers do not have to submit the Form 499-Q provided they are not required to contribute directly to the universal service support mechanisms, including but not limited to carriers

and providers whose annual interstate and international revenues will be *de minimis* or which are international-only carriers and providers.

**Note:** Post-filing revisions to this Form 499-Q filing, if any, must be filed within 45 days after February 1, 2024, *i.e.*, **by Monday, March 18, 2024** (because the 45<sup>th</sup> day falls on a Sunday).

As a reminder, Form 499-Q filers are required to submit the form electronically through USAC's E-File system, available at <https://www.usac.org/service-providers/>.

#### **D. Form 502: Numbering Resource Utilization/Forecast Report (due February 1, 2024)**

Section 52.15(f) of the FCC's rules requires carriers that receive numbers from the North American Numbering Plan Administrator ("NANPA"), a pooling administrator, or another telecommunications carrier, to file Form 502 twice annually to report numbering usage and to forecast future numbering resource needs.

The next Form 502 must be submitted to NANPA by February 1, 2023, and reflects information for the preceding 6-month period ending December 31, 2023. Form 502 and related information can be found [here](#).

## **II. Filing Deadlines in Select Rulemakings, Inquiries, and Other Proceedings**

**Space/Earth Station Applications.** On September 21, 2023, the FCC adopted a [Further Notice of Proposed Rulemaking](#) in IB dockets 22-411 and 22-271, seeking comment regarding proposals to improve the processing of space station and earth station applications. Following publication in the December 8, 2023, [Federal Register](#), the comment deadline was set as **Jan. 8, 2024**, with reply comments due on **Feb. 6, 2024**.

**E-Rate Program and Remote Learning Needs (UPDATED DEADLINES).** On November 8, 2023, the FCC released a [Notice of Proposed Rulemaking](#) ("NPRM") in WC Docket No. 21-31 (with [Erratum](#) issued on November 15, 2023) seeking comment on proposed updates to the E-Rate program aimed at effectively addressing the continuing remote learning needs of students, school staff and library patrons. The NPRM was published in the December 7, 2023, [Federal Register](#) with comments due by January 8, 2024, and reply comments due by January 22, 2024. In response to a petition for extension of these deadlines, the FCC issued an [Order](#) on December 21, 2023, pursuant to which comments are now due on **January 16, 2024**, with reply comments due on **January 29, 2024**.

**AI Technology Implications for Robocall/Robotext Management.** On November 16, 2023, the FCC released a [Notice of Inquiry](#) ("NOI") in CG Docket No. 23-362, seeking comment on the implications of artificial intelligence ("AI") technologies for continuing efforts to protect consumers from unwanted and illegal robocalls and robotexts. Comments were due on December 18, 2023, with reply comments due on **January 16, 2024**.

**SIM Swap/Port-Out Fraud Protection.** On November 16, 2023, the FCC released a [Report and Order and Further Notice of Proposed Rulemaking](#) ("NPRM") in WC Docket No. 21-341. Building upon the steps regarding Subscriber Identity Module ("SIM") change authentication and protection adopted in the Report and Order, the NPRM seeks comment whether to align the new measures with existing protocols for customer access to CPNI as well as possible actions the FCC might take to "harmonize government efforts to address SIM swap and port-out fraud." Following publication in the December 14, 2023, [Federal Register](#), comments are due on **January 16, 2024**, with reply comments due on **February 12, 2024**. Paperwork Reduction Act comments on proposed

information collection requirements are also due on **February 12, 2024**.

**Title II Classification of BIAS.** On October 19, 2023, the FCC adopted a [Notice of Proposed Rulemaking](#) (“NPRM”) in WC Docket No. 23-320, proposing to reestablish the Commission's authority over broadband internet access service (“BIAS”) by classifying it as a telecommunications service under Title II of the Communications Act. Reply comments are due on **January 17, 2024**, following opening comments which were due by December 14, 2023.

**Restoring Internet Freedom (“RIF”) Remand Order.** On October 19, 2023, the FCC issued a [Public Notice](#) in WC Docket Nos. 17-108, 17-287, and 11-42 requesting comments on four February, 2021, petitions for reconsideration of the 2020 RIF Remand Order, including how the issues currently being addressed in the BIAS Classification proceeding (WC Docket No. 23-320 – see preceding entry) may intersect with the consideration of these petitions. Comments were due by December 14, 2023. Reply comments are due on **January 17, 2024**.

**Cable Operator/DBS Provider Billing Practices.** On December 14, 2023, the FCC released a [Notice of Proposed Rulemaking](#) in MB Docket No. 23-405, proposing to restrict the imposition of early termination fees (“ETFs”) and billing cycle fees (refusal to pro-rate charges for a customer cancelling service prior to the end of a billing cycle). Following publication in the January 5, 2024, [Federal Register](#), comments are due on **February 5, 2024**, with reply comments due on **March 5, 2024**.

**FTC Rulemaking on Unfair or Deceptive Fees.** The Federal Trade Commission has opened a rulemaking to develop a trade regulation rule against “unfair or deceptive practices relating to fees for goods or services, specifically, misrepresenting the total costs of goods and services by omitting mandatory fees from advertised prices and misrepresenting the nature and purpose of fees.” The deadline for comments, originally due on January 8, 2024, has been [extended to February 7, 2024](#). Filing details are available in the November 9, 2023, [Federal Register](#).

**Pole Attachments.** On December 15, 2023, the FCC released a [Fourth Report and Order, Declaratory Ruling, and Third Further Notice of Proposed Rulemaking](#) (“FNPRM”) in WC Docket No. 17-84, addressing a number of pole attachment issues as key to the success of federal and state-funded broadband access projects. The FNPRM seeks comments on additional ways to facilitate the processing of pole attachment applications and make-ready to speed broadband deployment. Comments are due on **February 13, 2024**, with reply comments due on **February 28, 2024**.

**Commercial Space Launch Spectrum.** In conjunction with the Second Report and Order in ET Docket No. 13-115 adopted at the FCC’s September Open Meeting, the Commission issued a [Second Further Notice of Proposed Rulemaking](#) (“Second FNPRM”) seeking comment on the possible expansion of commercial space launch operators’ access to spectrum in the 1435-1525 and 2360-2395 MHz flight test bands, and the possible use of commercial space launch spectrum for on-orbit communications. The Second FNPRM has not yet been published in the Federal Register. Consequently, the comments dates have not yet been established. The opening comments will be due 30 days after publication. Similarly, several Wireless Telecommunications Bureau public notices described in the Second Report and Order have not yet been issued, including one seeking comment on the designation of a third-party coordinator for commercial space flight operations – as well as the coordination process – in the recently adopted non-Federal 2200-2290 and 2025-2110 MHz Space Launch Service band allocations. These public notices have yet to be issued, establishing comment deadlines on the coordination issues.

### **III. Select Ongoing Filing Requirements**

## Pro Forma Assignments and Transfers

Assignments of Authorization and Transfers of Control can be filed either as *pro forma* applications or non-*pro forma* applications.

A pro forma assignment or transfer is one in which the form of ownership changes but actual control of the license remains with the same entity or person. Pro forma assignments and transfers may be approved under streamlined Forbearance procedures in the case of most telecommunications carriers (*e.g.*, Section 214 authorization holders, wireless licensees (excluding those with installment payment or designated entity issues) and earth station licensees). These *pro forma* requests do not require prior FCC approval provided that the parties **notify the FCC of the change within 30 days**. Note that private licenses are not subject to forbearance. FCC approval generally is required for *pro forma* transfers and assignments of private licenses.

## Change in FCC Form 499 Filer Information

Filers must update their registration information, including a DC Agent for Service of Process in accordance with these instructions to the FCC Form 499-A. Filers must file updated information within one week of the contact information change. Filers wishing to update Preparer information, headquarters address, billing contact information, or DC Agent for Service of Process, can submit either an FCC Form 499-A or an FCC Form 499-Q or, for billing-related matters only, email USAC's billing department. Filers wishing to update any other information must submit a revised FCC Form 499-A. For more information, see <https://www.usac.org/service-providers/contributing-to-the-usf/making-revisions/>.

Filers that cease providing telecommunications must deactivate their Filer ID with USAC by submitting a letter with termination date and information on their successor entity to USAC. Filers must also update their CORES ID information with the Commission

**Filers must file within 30 days of the date that the company ceases to provide telecommunications service or telecommunications.**

FCC: <https://apps.fcc.gov/cores/userLogin.do>

USAC: [www.usac.org/service-providers/contributing-to-the-usf/manage-your-499-id](http://www.usac.org/service-providers/contributing-to-the-usf/manage-your-499-id)

## Change in Robocall Mitigation Plans

A voice service provider that has not fully implemented the STIR/SHAKEN call authentication framework for all calls must submit a robocall mitigation plan pursuant to 47 CFR § 64.6305(b). Any provider that makes a change in any of the following information **must submit a revised robocall mitigation plan within 10 business days of the change**. See 47 CFR § 64.6305(b)(5).

- Its certification as to the implementation of STIR/SHAKEN in its network;
- The extension(s) that apply to its implementation of the STIR/SHAKEN framework;
- The specific reasonable steps the voice service provider has taken to avoid originating illegal robocall traffic as part of its robocall mitigation program;
- Its commitment to respond to all traceback requests and law enforcement requests for information on illegal robocalling; and

- The provider's business name, d/b/a name(s), former name(s), its legal address and contact information for one person within the company responsible for addressing robocall mitigation-related issues.

The link for submitting a revised robocall mitigation plan is available [here](#).

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Attorneys in Kelley Drye's Communications Practice Group are experienced in addressing a full range of communications business and regulatory issues, providing investors, lenders, and communications companies with end-to-end guidance for the legal and practical aspects of ownership, asset and financing transactions, with a particular expertise in helping clients successfully negotiate their way through regulatory due diligence, any Federal, State, or local approvals that may be required, and national security reviews by the Executive Branch agencies (*e.g.*, Team Telecom and CFIUS reviews). For more information, please contact your current Kelley Drye attorney or any member of the [Communications Practice Group](#).