

Commission complete and issue a proposed rule and provide an appropriate time period for public comment, the Commission within the 270-day period will be required to analyze those public comments, complete a draft final rule that responds to the comments, and hold a vote on a final rule. Under any circumstances this would be a demanding rulemaking schedule, but it is particularly so here because, as the Commission detailed in its summary judgment filings, it has been—and continues to be—engaged in an unprecedented volume of enforcement, rulemaking, and other regulatory work. And, of course, the rulemaking required under Section 13(q) is one that raises a number of difficult policy issues that have consistently involved sharp disagreement among members of the public, which further complicates the task of completing the rulemaking on an expedited basis.²

Second, because adoption of any rule will require a majority vote of the participating Commissioners, the Commission cannot guarantee that a final rule will be adopted when it holds a vote. It is particularly difficult at this juncture to commit to adoption of a final rule during the proposed June 2016 Commission vote because the Commission's composition will likely change to a significant degree before that time.³

Finally, exigencies may arise during the rulemaking (*e.g.*, a government shut-down, further relevant international developments, unexpected relevant legal developments) that may make it impracticable for the Commission to complete the rulemaking in a manner that is

² In light of the Commission's demanding workload—much of which is Congressionally mandated—and the complexities involved with this rulemaking, the Commission continues to believe that the multi-factor analysis of *Telecommunications Research & Action Center v. FCC*, 750 F.2d 70 (D.C. Cir. 1984), is the appropriate framework to apply in determining whether injunctive relief is warranted under Section 706(1) of the Administrative Procedure Act.

³ See, *e.g.*, <http://www.sec.gov/news/statement/commissioner-gallagher-statement-090415.html> (announcing October 2, 2015 as the date for Commissioner Gallagher to leave the Commission).

consistent with the Administrative Procedure Act within the 270-day period. If this should occur, the Commission will promptly notify the Court and seek an appropriate extension of time to complete the rulemaking. That said, if this Court adopts the proposed expedited schedule, the Commission will in good faith strive to complete the rulemaking within the 270-day period.

Accordingly, the Commission respectfully requests that the Court adopt its proposed expedited rulemaking schedule pursuant to which the Commission will hold a vote on the adoption of a final rule within 270 days of this submission.

Dated: October 2, 2015

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 2, 2015, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF System, which will send notice of such filing to counsel of record registered to receive notice of electronic filings, and that I served paper copies via U.S. Mail on:

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