



Monday, August 18, 2008 12:17 PM ET **Exclusive**

Tate and Adelstein could be out in the cold

By [Tim Doyle](#)

FCC Commissioners Jonathan Adelstein, a Democrat, and Deborah Taylor Tate, a Republican, are swinging in the election-year winds.

Though Adelstein was renominated to another five-year term in December 2007, and Tate [in](#) June 2007, Democratic leaders of the Senate Committee on Commerce, Science and Transportation have sat on those nominations amid election-year uncertainties.

Democrats are ostensibly stalling the nominations in the event Sen. Barack Obama, D-Ill., wins the presidency. Should Tate be reconfirmed, party control of the FCC remains in question. Further, FCC Chairman Kevin Martin is mum on his future plans. If Martin elects to stay, there would still be three Republican commissioners.

According to a March 5 *Multichannel News* [report](#), the Republican chairman scrapped a deal this spring between the White House and Senate Majority Leader Harry Reid, D-Nev., to extend new terms to Tate and Adelstein. Individuals familiar with the matter told *Multichannel News* that the deal would have required Martin to commit to resigning from his post in January 2009 if a Democrat wins the presidency.

An unnamed FCC source in the *Multichannel News* report said Martin is not prepared to step down at a certain date or say he will automatically resign.

"That would be unprecedented," a Washington industry source told SNL Kagan under the condition of anonymity. "That would formally make him a lame duck."

In December 2007, Martin [indicated](#) that he planned to stay on as chairman until the end of President George Bush's term. Since then, however, he has said little about his future with the commission.



Commissioner Jonathan Adelstein was sworn in by then-Sen. Tom Daschle in December 2004.

Source: Adelstein's office

With Martin not bowing out, senators are likely not to move on Tate or Adelstein for differing reasons.

Tate filled an expiring two-year term in 2005 and without confirmation would have to leave office at the end of this Congress, according to rules in the Communications Act. Those rules stipulate that a commissioner must leave office at end of the congressional session following the expiration of their term, but the president could make a recess appointment to leave him or her in place for a year or until the office is filled.

Adelstein, as a Democrat, also faces the election-year limbo with legislators and possibly Obama deciding his fate at some point in 2009. The Democratic commissioner, a past aide to former Majority Leader Sen. Tom Daschle, D-S.D., has a term that runs until the end of 2009. And Daschle, a key player in the Obama campaign, could help Adelstein stay in office if the junior senator from Illinois takes the White House.

Further, the Washington source told SNL Kagan that Sen. Jay Rockefeller, D-W.Va., could become the next chairman of the commerce committee and would probably want his own commissioner, or even a chairman, in place, in an effort to have some influence on the commission's agenda.

At a December 2007 oversight hearing of the FCC, Rockefeller vowed to block the nominations, as he objected to the FCC's management of late. Rockefeller specifically called for legislation to overhaul the commission's structure, the terms of the commissioners and the agency's mission.

"In 2009, we're going to have a new administration. In all likelihood, we'll have a new chairman, and we have two pending FCC nominations," he said. "Without passing judgment on any of the nominees or commissioners, I believe that it's best to postpone action on the nominees until a new administration is determined."

Rockefeller advocated using 2008 as a time to examine "what exactly the FCC is, what we want from it," as it will be a "very difficult year to get anything done at all."

In fact, legislative activity lately has slowed. A Commerce Committee staffer confirmed to SNL Kagan that no hearings are set for when the Senate returns after Labor Day, and legislators may only be in session for about a month with the November elections approaching.

Since that oversight hearing, Rep. John Dingell, D-Mich., also has launched an inquiry into the FCC's practices, possibly fueling Rockefeller and others' trepidation with the agency.

"It's not so much a partisan thing," Consumers Union Senior Counsel Chris Murray told SNL Kagan. "It's a reaction to Martin thing; people have wanted to see more process and transparency from the commission, and until that happens, they're probably not going to act."

Whether it is a reaction to Martin's leadership or just political maneuvering, Tate's fate seems almost sealed at this point — unless Bush comes through with a recess appointment if Sen. John McCain, R.-Ariz., wins the presidency. When this Congress adjourns, most likely at the end of the year, the former chairwoman of the Tennessee Regulatory Authority is likely to leave the FCC, marking the beginning of the reformulation of the commission.

Adelstein's office declined to comment on the confirmation process, and Tate's office did not return calls requesting comment from SNL Kagan.