Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Sandwich Isles Communications, Inc.	FCC 16-167 in WC Docket 10-90

To: The Commission

DECLARATION OF JAMES A. RENNARD

The undersigned hereby declares and states as follows:

1. My name is James A. Rennard and I am over the age of eighteen (18). I give this declaration based on my own knowledge and, if called, could testify competently to the facts attested to herein.

2. I am currently the Western Region Division Manager for GVNW Consulting, Inc. ("GVNW"). My primary duties involve regulatory and financial consulting to rural independent telecommunications companies. I work extensively with regulations both at the state and federal level. My job is to understand the impact of, and ensure the compliance with, these regulations. In this capacity, I have worked closely with the Oregon Exchange Carriers Association, our clients, and other consultants in the submission of the Annual Access Charge Rate Filing for Oregon pooling companies. I have testified in state universal service proceedings, rate cases, and competitive supplier proceedings before the Nevada Public Utilities Commission. I also prepare and oversee the preparation of annual cost studies as well as provide financial consulting and business consulting services. I am a Certified Public Accountant in the State of Oregon. I have a Masters degree from the J.L. Kellogg Graduate School of Management at Northwestern University in Evanston, Illinois, and a Bachelors degree in American History from Middlebury College in Middlebury, Vermont. I have over 30 years of work experience since receiving my graduate

degree with more than 20 years directly related to work with rural independent telecommunications companies. I spent five years at Aldrich, Kilbride and Tatone, an Oregon-based CPA firm where I was a Manager and focused on telecommunications taxation and regulatory consulting. I spent 10 years at Canby Telephone Association as Vice-President of Finance and Regulatory. I have worked at GVNW since February 2009.

3. GVNW has been retained by Sandwich Isles Communications, Inc. ("SIC") to provide its assessment of the December 5, 2016 Order of the Commission ("FCC 16-167 Order") in the above-referenced proceeding. Specifically, GVNW has been asked to review and respond to the Commission's finding that SIC "violated Part 36 and Part 54 of the Commission's rules by misclassifying account 2410 – cable and wire facilities costs, resulting in overpayments of high-cost support totaling $26,320,270." FCC 16-167 Order, at 16 ¶ 51.

4. GVNW has acted as SIC's cost consultants and assisted in the preparation of its cost studies. GVNW previously submitted a detailed report in connection with SIC's response to the Universal Service Administrative Company Final Audit Report and Memorandum dated May 13, 2016 ("USAC Final Audit Report"). *See* GVNW "Sandwich Isles Communications, Inc. Response to Category 1 Exceptions" ("GVNW Report"), attached as SIC Exhibit AA to SIC's Response to the Universal Service Administrative Company (USAC) Final Report ("SIC Response"). The GVNW Report, in which I was substantially involved in preparing, analyzed and responded to the USAC Final Audit Report.

5. The USAC Final Audit Report concluded that, with respect to Exception 1, "certain routes of cable were inappropriately allocated to Category 1" by SIC and that cable and wire facilities "along these routes did not meet the regulatory definition for Category 1, which is reimbursed at a higher rate than other categories of cable and wire for High Cost purposes." USAC

Final Audit Report, at 2. After removing certain cable and wire costs from Category 1, USAC concluded that "the resulting combined monetary recovery for reimbursements made to SIC from 2005 through 2015 was $26,320,270." USAC Final Audit Report, at 2.

6. The GVNW Report analyzed in detail the factual assumptions in, and data relied upon by, the USAC Final Audit Report and concluded that the combined monetary recovery for reimbursements made to SIC should be approximately $4,168,000, not $26,320,270. *See* GVNW Report, at 9.

7. The Commission's FCC 16-167 Order relies upon the USAC Final Audit Report to support its conclusion that SIC misclassified account 2410 – cable and wire facilities investment, resulting in overpayments of high-cost support totaling $26,320,270 – the same number as in the USAC Final Audit Report. *See* FCC 16-167 Order, at 16 ¶ 51.

8. Neither USAC nor the Commission has ever refuted the facts and the data analysis contained in the GVNW Report to demonstrate that the $26,320,270 in alleged overpayment of high-cost support is not supported by the record evidence. The GVNW Report, however, demonstrated that, with respect to several "routes" discussed in the USAC Final Audit Report, USAC's conclusion that there were no subscribers on those "routes" during certain time periods was factually incorrect. *See* GVNW Report, at 4-5 [redacted] The GVNW Report attached documentation from SIC demonstrating that each of these loops had active subscribers during the time period that USAC contended they did not. *See id.* at Attachments 2, 3, 4, 5 and 6. USAC and the FCC provide no evidence to the contrary.

9. The eight specific "routes" (segments) that USAC alleges should be removed from Category 1, totaling $108,263,270 (USAC Final Audit Report, at 15) of investment for the years

2004-2013 are shown on the attached Cat 1B Exception Summary (Exhibit 1 hereto). These are highlighted in red. The GVNW Report addresses each of these purported exceptions individually. Of the eight "routes" (segments), six of them served subscribers in the same year the plant was placed in service - [redacted] Each of these "routes" (segments) had subscriber lists provided as evidence supporting the analysis (*see* GVNW Report, at Attachments 2, 3, 4, and 6). The remaining two "routes" (segments) were completed and placed in service in accordance with the rules in Part 32. The first of these [redacted] was placed in service in 2005 and included in account 2410. These facilities were placed in service in accordance with SIC's understanding of the pending needs within its Hawaiian Homelands serving area. While there were delays beyond SIC's control in turning up customers until 2008, the investment remained in account 2410 since the plant was in service and SIC's continuing expectation was that customers would be added imminently. The second of these two remaining "routes" (segments) [redacted] is similar to "route" [redacted] These facilities were ready for use and placed in service in 2004 but the first customer was not turned up until 2006. Again, the delay in turning up customers was due to factors beyond SIC's control but the expectation was that these facilities would be serving customers imminently. In both of these latter cases, SIC's expectation that these facilities would be utilized was reasonable based on the facts and circumstances and evidence presented. As noted in the Response to Category 1 Exceptions, the investment was never transferred from account 2410 to account 2002 (plant held for future telecommunications use) since the expectation was that customers would be utilizing the network within the next year. *See* GVNW Report, at 5, 7-8.

10. There is an inconsistency between the alleged misclassified Cat 1 C&WF and the purported overpayment. Page 15 of the USAC Final Audit Report shows a purported overpayment of $612,809 in disbursement year 2005. This would relate to plant adjustments from 2003.

However, the USAC Final Audit Report only includes plant adjustments beginning in 2004 which would have its first impact in disbursement year 2006, not 2005. It is unclear why USAC is asserting this purported overpayment.

11. There is an apparent misunderstanding of the USAC Final Audit Report in the FCC 16-167 Order at paragraph 73 and in the FCC 16-165 Order at paragraph 50 regarding the findings in the USAC Final Audit Report. SIC provided evidence regarding the proper classification of facilities between central offices. *See* SIC Response, at 3-4; GVNW Report, at 1-4. The USAC Final Audit Report did not make any adjustments for the facilities connecting central offices based on the evidence SIC provided regarding the functionality of the equipment and an analysis of the Part 32 allocation rules. *See* GVNW Report, at 1-9 (explanation of Part 32 rules).

12. Notwithstanding the fact there were, in fact, existing subscribers on the facilities in question as explained in paragraphs 8 and 9 above that support SIC's Category 1 categorization, the statements in paragraph 68 of the FCC 16-167 Order and paragraph 52 of the FCC 16-165 Order regarding properly includible investment and categorization are even more troubling. The FCC 16-167 Order, paragraph 68 states: "Allocating costs based on the number of working loops in each subcategory presumes that the only costs included are those associated with 'working loops.'" This statement is incorrect. The costs to be allocated are those included in account 2410. The allocation of those costs is based on the number of working loops in each subcategory. The total eligible costs remain the same regardless of the number of "working loops." The allocation of those costs between the subcategories will change as the ratio of working loops changes. This paragraph, as well as the following one confuses the role of working loops, costs and the operation of the allocation methodologies under the cost separations rules. The FCC 16-165 Order states that "...SIC acted in contravention of Section 36.154(a)." *See* FCC 16-165 Order, at 19 ¶ 52. It

appears to me that this statement is made based on the reasoning in paragraphs 68 and 69 of the FCC 16-167 Order. Section 36.154 discusses apportionment procedures, not includible investment. In my opinion, SIC complied with Section 36.154 as the total Category 1 C&WF investment is allocated by the number of working loops in each subcategory as described in this rule. GVNW applied the separations rules to these cost studies in a similar manner as it has with its other clients using the client-prepared schedules and audited financial statements. Furthermore, if this were a correct interpretation, then C&WF investment would need to be removed from service when a customer disconnects service as there would no longer be a "working loop." This would be a radical shift from the current industry practice and a completely new interpretation of the separations rules. Such an interpretation would have wide-ranging implications for the entire rate-of-return ILEC industry. Moreover, applying such an interpretation retroactively would be grossly unfair.

13. The FCC 16-165 Order, paragraph 53 states: "The evidence uncovered in this investigation suggests that SIC purposely allocated most of its C&WF costs as Category 1 because those costs are supported by the high-cost program under the applicable rules. In so doing, SIC apparently facilitated a scheme that allowed it to receive more support than it was entitled to under program Rules. The evidence established that SIC apparently utilized this scheme from at least 2003-2013." I believe that this is a completely unfounded claim. First, if the factual evidence that was presented regarding subscribers had been properly considered, the overpayment would be substantially less. Second, the FCC's conclusions rely on a new interpretation, if not a misunderstanding, of how the separations rules work. Importantly, the argument that SIC was "scheming to receive more support than it was entitled" is undermined by the fact that SIC would have received, according to my estimates, $21.3-$23.3 million of additional support from the

NECA pools and, subsequent to reforms adopted in 2011, from CAF-ICC. This would have substantially offset, if not exceeded, even the overstated overpayment computed in the USAC Final Audit Report. Furthermore, based on the information I have available from the USAC auditors, I am unable to recalculate USAC's figures. However, based on what information they have provided regarding their findings, I estimate that the alleged overpayment may be overstated by perhaps $1.7 million in ICLS and $4.0 million in HCLS. It would also appear that the USAC Final Audit Report computed the HCLS overpayment assuming the company received annual HCLS payments based entirely on the latest quarterly update. If that is indeed correct, this would result in a clear and obvious overstatement in the USAC Final Audit Report of the HCLS adjustment.

14. As stated in the GVNW Report, based upon my professional opinion, I believe the combined monetary recovery for alleged overpayments to SIC relating to cable and wire facilities should be approximately $4,168,000 (and perhaps even less). *See* GVNW Report, at 9.

I declare under penalty of perjury that the foregoing is true and correct. Executed on January 4, 2017.

s/James A. Rennard

James A. Rennard

EXHIBIT 1

Cat 1B Exception Summary

CONFIDENTIAL - Exhibit filed with Commission