

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)
) WC Docket No. 14-130
Comprehensive Review of the)
Part 32 Uniform System of Accounts)

COMMENTS OF VERIZON¹

The Commission has acknowledged that it likely is appropriate to streamline its existing rules and lessen the administrative burdens that the Part 32 Uniform System of Accounts (USOA) imposes on price-cap carriers. As to price-cap carriers, Part 32 lost its fundamental purpose more than 20 years ago when the Commission moved away from rate-of-return regulation. The Commission should abolish the Part 32 accounting rules entirely as applied to price cap carriers. There are less onerous ways to address the concerns the Commission raised in the *USTelecom Forbearance Order*² than requiring price-cap carriers to continue to maintain a separate set of accounts. At a minimum the Commission should adopt all of the proposals and suggestions in the latest Notice of Proposed Rulemaking³ to better align USOA with Generally Accepted Accounting Principles (GAAP).

¹ In addition to Verizon Wireless, the Verizon companies participating in this filing are the regulated, wholly owned subsidiaries of Verizon Communications Inc.

² *Petition of USTelecom for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of Certain Legacy Telecommunications Regulations, et al.*, Memorandum Opinion and Order and Report and Order and Further Notice of Proposed Rulemaking and Second Further Notice of Proposed Rulemaking, 28 FCC Rcd 7627 (2013) (“*USTelecom Forbearance Order*”).

³ *Comprehensive Review of the Part 32 Uniform System of Accounts*, Notice of Proposed Rulemaking, 29 FCC Rcd 10638 (2014) (“*NPRM*”).

DISCUSSION

I. The Part 32 accounting requirements long ago outlived their usefulness, and the Commission should eliminate them.

The Uniform System of Accounts prescribes though 67 pages of detailed rules how incumbent LECs must record and allocate revenues and costs. The Commission adopted them when “virtually all interstate access rates were subject to rate-of-return regulation.”⁴ The Commission set the incumbent LECs’ rates based on their costs of providing service, and customers had no choice but the incumbent LEC for phone service.

The circumstances for which the Commission designed Part 32 no longer exist. All of the largest incumbent LECs now are subject to price-cap regulation, which the Commission introduced in 1991. Under price-cap regulation, the Commission does not set incumbent LECs’ rates, which renders the Part 32 revenue and cost accounts unnecessary. The Commission should do more than just streamline these rules. It should eliminate them.

A. Part 32 was designed for a bygone era.

The Part 32 accounting rules provided the Commission with data upon which it could set the incumbent LECs’ access rates when those carriers were under a rate-of-return regulation system. When in 1935 the Commission adopted the Uniform System of Accounts, incumbent LECs were monopolies, and “a rigid institutionalized regulatory environment was expected to continue forever.”⁵ Under rate-of-return regulation, the Commission relied upon the cost data reflected in Part 32 accounts to set “ceilings on the basis of cost estimates, in turn based in large part on past costs.”⁶

⁴ *NPRM*, ¶ 4.

⁵ *NPRM* ¶ 2, quoting *Revision of the Uniform System of Accounts and Financial Reporting Requirements for Class A and Class B Telephone Companies (Parts 31, 33, 42, and 43 of the FCC’s Rules)*, Report and Order, 51 FR 43498, 60 Rad. Reg. 2d (P&F) 1111, ¶ 2 (1986) (“*Part 32 USOA Order*”).

⁶ *Id.*, ¶ 178. See also *Sw. Bell Tel. Co. v. FCC*, 28 F.3d 165, 167 (D.C. Cir. 1994).

Virtually none of that matters any more. The Commission has explained that “price cap regulation severs the direct link between regulated costs and prices.”⁷ Unlike a rate-of-return regime, in a price-cap system, “costs do not generally affect the prices LECs may charge;”⁸ “the regulator sets a maximum price, and the firm selects rates at or below the cap;”⁹ Price-cap regulation eliminates the need to rely on telephone company’s costs (as reflected in Part 32 accounts) to ensure just and reasonable rates.

As a result the Commission “has less need to collect detailed cost data from the regulated firms or to devise formulae for allocating the costs among the firm’s services.”¹⁰ In fact the D.C. Circuit Court of Appeals observed that except with respect to pole attachment rates -- where the Court found the record to be sparse¹¹ -- the current need for Part 32 data appears marginal.¹²

B. The Commission can address the concerns it identified in the *USTelecom Forbearance Order* through less onerous means than Part 32.

In 2012 USTelecom petitioned the Commission to forbear from applying many outdated regulations, including applying Part 32 to price-cap LECs.¹³ The Commission did not grant this aspect of USTelecom’s petition because it concluded that the record evidence was insufficient to

⁷ *Petition of AT&T Inc. For Forbearance Under 47 U.S.C. § 160 From Enforcement of Certain of the Commission’s Cost Assignment Rules*, Memorandum Opinion and Order, 23 FCC Rcd 7302, ¶ 8 (2008) (“*AT&T Cost Assignment Forbearance Order*”).

⁸ *AT&T Corp. v. FCC*, 448 F.3d 426, 428 (D.C. Cir. 2006).

⁹ *Nat’l Rural Telecom Ass’n v. FCC*, 988 F. 2d 174, 178 (D.C. Cir. 1993).

¹⁰ *Id.*; see also *Sw. Bell*, 28 F.3d at 167.

¹¹ See *Verizon and AT&T v FCC*, No. 13-1220, 2014 U.S. App. LEXIS 20962, *13 (D.C. Cir. Oct. 31, 2014)

¹² See *id.* at *15.

¹³ See *Petition of USTelecom for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of Certain Legacy Telecommunications Regulations*, Petition, WC Docket No. 12-61 (filed Feb. 16, 2012).

enable it to forbear under the statute.¹⁴ Nonetheless, the Commission conceded that “further streamlining of our rules is likely appropriate,”¹⁵ and as a result the Commission initiated this review of Part 32.

In its review of the *USTelecom Forbearance Order*, the DC Circuit agreed that “[t]he shift from rate-of-return to price cap regulation undoubtedly obviated *some* of the need to maintain detailed cost accounts because the Commission no longer sets rates based primarily on costs.”¹⁶ The Court then focused on whether Part 32 remains relevant at all, and it upheld the Commission’s “interpretation and application of Section 10.”¹⁷ But the Commission’s finding that USTelecom did not meet its burden of proof in the forbearance proceeding does not mean that there is a reason in this rulemaking to maintain Part 32. In fact the Court conceded that this rulemaking may show that Part 32 data is no longer justified by the expense of maintaining its second set of accounting books.

There are far less burdensome ways than maintaining an entire set of regulatory books for the Commission to address the concerns it raised in the *USTelecom Forbearance Order* related to pole attachment rates and compliance with Section 272(e)(3) and Section 254(k) requirements.¹⁸ For example, USTelecom and member companies committed to maintain and file equivalent pole attachment data, to map relevant accounts for Section 272 purposes, and to file a

¹⁴ See *USTelecom Forbearance Order* ¶¶ 59 (“USTelecom has not demonstrated that Part 32 is not necessary to ensure that charges and practices are just and reasonable, that Part 32 is not necessary for the protection of consumers, and that forbearance from Part 32 would be consistent with the public interest.”), 76 (“Although we are conscious of our obligation to reduce administrative burdens when possible, such decisions must be based on record evidence, which is lacking here.”).

¹⁵ *Id.* ¶ 77.

¹⁶ *Verizon and AT&T*, 2014 U.S. App. LEXIS 20962 at *5.

¹⁷ *Id.* at *2.

¹⁸ See *USTelecom Forbearance Order* ¶¶ 63-67.

certification with respect to Section 254(k) compliance.¹⁹ Although the Commission declined to address these commitments in the *USTelecom Forbearance Order*, asserting that they came too late in the proceeding,²⁰ the USTelecom commitments offer a complete solution that addresses the Commission’s concerns at a much more manageable cost than having to maintain an entirely separate system of accounts, including duplicate systems and personnel.

Pole Attachments: Neither the statute nor the Commission’s rules require that pole attachment rates be based on Uniform System of Accounts data.²¹ Nevertheless the Commission has said that it relies on Part 32 data to adjudicate disputed pole attachment rates. As a practical matter, pole attachments are just a small part of price-cap LECs operations, and the FCC has seen very few complaints against phone companies regarding pole-attachment rates. And if in the future there were a challenge to a price-cap LEC’s pole-attachment rates, the Commission does not need Part 32 to determine whether those rates are just and reasonable. Nothing in Section 224 or the Commission’s rules mandates that Part 32 data be used to populate the formula that price-cap LECs use to determine the maximum allowable pole-attachment rates. Congress did not specify a specific methodology that must be used. The Commission has determined that providers should use “historical costs,”²² but the Commission’s rules specifically allow providers to derive historical costs from sources other than Part 32.²³ The formulae used to derive pole attachment rates could just as easily be populated with GAAP-based data in full compliance with

¹⁹ See Letter from Bennett L. Ross, counsel to USTelecom, to Marlene H. Dortch, FCC, WC Docket No. 12-61, at 4, 5-6 (Apr. 18, 2013) (“USTelecom April 18 *Ex Parte*”); Letter from Bennett L. Ross, counsel to USTelecom, to Marlene H. Dortch, FCC, WC Docket No. 12-61, at 3 (Apr. 25, 2013) (“US Telecom April 25 *Ex Parte*”).

²⁰ See FCC *Verizon and AT&T* Br. at 54 (D.C. Cir filed Feb. 19, 2014).

²¹ See *Verizon and AT&T*, 2014 U.S. App. LEXIS 20962 at *12; see also *NPRM* ¶ 37.

²² *Amendment of Commission’s Rules and Policies Governing Pole Attachments*, Consolidated Partial Order on Reconsideration, 16 FCC Rcd 12103, ¶¶ 15, 22 (2001).

²³ 47 CFR §1.1404(g)(2).

Section 224. Whatever needs the Commission may have for pole attachment data in the future could be satisfied by “requir[ing] price cap carriers to publicly report the same information, but to do so using expense information maintained in accordance with GAAP.”²⁴ USTelecom and its price-cap member companies have volunteered to maintain and file this information, which would assure the continued public availability of cost data that a party challenging a pole attachment rate could include in its complaint. To the extent a need arises to verify this data, price cap carriers can provide the same expense information maintained in accordance with GAAP.²⁵ This approach would satisfy the Commission’s needs while at the same time avoid the burdens associated with maintaining hundreds of Part 32 accounts just to generate pole attachment data that are seldom if ever used.

Section 272: Part 32 data are unnecessary to ensure compliance with Section 272(e)(3)’s access-imputation requirements. Section 272(e)(3) deals with the imputation of actual charges for access services but it does not require that the Commission calculate the cost of access service. Section 272(e)(3) and Part 32 are related only because the imputed amounts are recorded in three of Part 32’s 164 accounts. That is, when a Bell Operating Company determines the account of access charges it must impute – a determination that has nothing to do with Part 32 – it then must record that amount as a debit to one Part 32 account and a credit to another. But as long as the Commission can review and audit those amounts, it does not matter where they are recorded, whether in Part 32 or elsewhere. As the Commission proposes in the *NPRM*, it can adopt a targeted rule that enables it to enforce Section 272(e)(3) without reference to Part 32. And USTelecom and its price-cap member companies have volunteered to commit to track

²⁴ *NPRM* ¶ 39.

²⁵ See USTelecom April 18 *Ex Parte* at 5; Letter from Walter McCormick, USTelecom, to Chairman Genachowski, *et al.*, FCC, WC Docket No. 12-61, at 4 (May 3, 2013).

imputation transactions subject to Section 272(e)(3) through a subaccount/identifier or other record, which would satisfy the Commission's needs.²⁶

Section 254(k): Part 32 is not necessary to ensure compliance with Section 254(k), which prohibits cross-subsidization. Because Part 32 accounts contain only raw data they cannot be used to determine whether carriers are cross-subsidizing competitive services with noncompetitive services. The Commission noted when it adopted the Section 254(k) implementing rules that monitoring cross-subsidization could not be accomplished with Part 32 data alone.²⁷ Furthermore the Commission has never requested that a price-cap carrier supply Part 32 data to demonstrate compliance with Section 254(k). And the Commission has other tools available to enforce Section 254(k) without Part 32 data. It has to, in fact, because CLECs must comply with the statute, and they are not subject to Part 32.²⁸ As the Commission proposes it can adopt a targeted accounting rule to ensure Section 254(k) enforcement without reference Part 32. One such way is to require price cap carriers to certify compliance and to certify that they can and will provide requested cost accounting information necessary to prove compliance upon request, as USTelecom has suggested²⁹ and as the Commission proposes in the *NPRM*.³⁰

The Commission therefore should eliminate the Part 32 Uniform System of Accounts requirements. The costs and regulatory lag associated with Part 32 have real-world consequences that can delay efficiencies and innovation as carriers invest in next-generation networks and systems. While a necessary safeguard in a rate-of-return monopoly era world, Part 32 and the USOA now are anachronisms. The costs to maintain those separate "regulatory" books cannot be

²⁶ See USTelecom April 18 *Ex Parte* at 7.

²⁷ See *Implementation of Section 254(k) of the Communications Act of 1934*, Order, 12 FCC Rcd 6415, ¶¶ 4-5 (1997) ("*Section 254(k) Order*").

²⁸ *Section 254(k) Order*, ¶ 9.

²⁹ USTelecom April 18 *Ex Parte* at 12.

³⁰ *NPRM* ¶ 46.

justified. As the Commission has recognized, “USOA may increase an incumbent LEC’s costs of performing internal accounting services”³¹ and “uniform cost accounting rules are slow to change and may not adapt to the quickly evolving characteristics of competitive markets.”³² In light of those costs and their negative effects, and because Part 32 is not needed to maintain just, reasonable, and non-discriminatory rates, protect consumers, or serve the public interest, the Commission should eliminate the Part 32 accounting requirements. Verizon and other price-cap LECs must follow GAAP or a successor standardized accounting regime, are subject to SEC scrutiny, and must adhere to the Sarbanes-Oxley Act and Foreign Corrupt Practices Act, which require detailed records accurately and fairly reflecting transactions and dispositions of assets. These and other governmental protections ensure the integrity of carriers’ financial records through financial transparency or accountability.³³

II. If the Commission elects only to streamline Part 32, it should adopt all of the NPRM’s recommendations to align the Uniform System of Accounts with GAAP.

The Commission in the *NPRM* proposes to streamline the Part 32 accounting rules in two ways: by consolidating the Class A and Class B accounts, and by aligning the Uniform System of Accounts with GAAP. Verizon has no objection to consolidating Class A and Class B accounts, but this is largely window dressing that would not significantly reduce the burden associated with maintaining the Uniform System of Accounts. Aligning the USOA with GAAP, in contrast, would reduce administrative costs, and to the extent the Commission decides to maintain Part 32 or the USOA, it should adopt all of the GAAP-aligning proposals.

The Commission in the *NPRM* proposes to revise the Uniform System of Accounts’ asset accounting, calculation of Allowance for Funds Used During Construction, materiality, and pre-

³¹ *Wireline Competition Bureau Biennial Regulatory Review 2002*, Staff Report, 18 FCC Rcd 4622, at 4642 (2002).

³² *AT&T Cost Assignment Forbearance Order* ¶ 23.

³³ *AT&T Cost Assignment Forbearance Order* ¶ 38.

approval of prior period adjustments and extraordinary items to better align with GAAP. The Commission should adopt those proposals. The Commission also should align with GAAP USOA's treatment of depreciation and cost of removal with salvage.

The proposals to align the Uniform System of Accounts with GAAP would provide relief from the burden of maintaining two separate sets of accounting books. If, for example, carriers no longer had to depreciate assets using a straight-line method for USOA purposes and a different depreciation rate or method for GAAP, that would eliminate unnecessary work effort. Similarly if carriers could account for assets the same way under USOA as they do under GAAP, they would not have to generate and record unnecessary asset accounting transactions just for USOA purposes.

Whatever purpose once was served by requiring monopoly-era carriers to follow accounting rules that diverged from GAAP requirements and therefore required carriers to maintain two different accounting transactions in two different sets of book, that purpose has long faded into history. Today these differences needlessly add costs and cumbersomeness. If the Commission persists in maintaining Part 32, it should align the Uniform System of Accounts with GAAP in every way it has proposed in order to reduce those unnecessary burdens.

CONCLUSION

For these reasons the Commission should eliminate the Part 32 accounting rules and the Uniform System of Accounts. At a minimum it should align the Uniform System of Accounts with GAAP in all of the ways it has proposed and suggested in the *NPRM*.

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