

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

In the Matter of)	
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Connect America Fund)	WC Docket No. 10-90
)	
ETC Annual Reports and Certifications)	WC Docket No. 14-58
)	
Developing a Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
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COMMENTS OF THE PUBLIC UTILITIES COMMISSION OF NEVADA

I. INTRODUCTION

The Public Utilities Commission of Nevada (“PUCN”) has the legislative mandate to regulate public utilities in the State of Nevada to the extent of its jurisdiction and, with regard to telecommunication service, to regulate competitive suppliers in a manner that allows customers to benefit from full competition regarding rates and services; to provide for basic network service to economically disadvantaged persons who are eligible for a reduction in rates for telephone service pursuant to statute; and to maintain the availability of telephone service to rural, insular and high-cost areas through the levy and collection of a uniform and equitable assessment from all persons furnishing intrastate telecommunication service or the functional equivalent of such service through any form of telephony technology.

II. DISCUSSION

In response to the Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking seeking comment (in paragraphs 327-363) on the proposed changes to permitted expenses, cost allocation, and affiliate transactions released March 30, 2016, the PUCN submits these comments.

The PUCN generally supports the intent of the Federal Communications Commission (“Commission”) to streamline and standardize the accounting in part 64 and part 32 and believes that such standardization and simplification would be beneficial to telecommunication providers and their customers. Within that general support, the PUCN, hereinafter, provides some responses to specific paragraphs in the Notice of Proposed Rulemaking.

For example, the PUCN supports the Commission’s proposal to exclude the expenses enumerated in paragraphs 341-343 from the interstate revenue requirement. Similarly, the PUCN may examine excluding such expenses from intrastate revenue requirements in Nevada, as applicable.

Regarding the requests for comment in paragraphs 345-346, the PUCN shares the Commission’s concern related to high compensation for executives, especially when executives are family members subjectively setting the compensation of other family members. To ensure that such compensation is market based, the PUCN compares executive compensation to the Bureau of Labor Statistics Wireline compensation average wages when evaluating the intrastate revenue requirement. The PUCN has also encountered instances in which healthcare benefits are provided as compensation to older or elderly family members who are on the boards of directors of small telecommunications providers. In such cases, it is not always clear whether there is a business reason for the person to be on the board or whether board membership is merely a vehicle through which to provide health care benefits to relatives via a regulated entity’s rates. The PUCN supports exclusion of inappropriate costs from the interstate and intrastate revenue requirements under the Commission’s jurisdiction, as well as from the calculations that determine federal and state high-cost support.

Regarding the cost of excessive square footage discussed in paragraph 347, the PUCN agrees that the cost of excessive square footage of office or warehouse space should be excluded from the calculation of the revenue requirement. However, the existence of “excessive space” may be difficult to establish absent a codified standard or an entity-specific contested case involving expert witnesses. There are “rule of thumb” metrics that could be adopted as a standard, with the burden resting with the carrier to justify anything above the standard. For example, Officefinder.com contains suggested square footage for various job positions. The federal government formerly specified office space requirements based on pay grade or maximum area per person via Federal Property Management Regulations. However, those regulations were withdrawn in 1995. Current regulations state that “[s]pace allowances are derived from specific studies of the operations of the agencies, and are directed toward providing each employee with enough space to work efficiently.”¹ The cost per square foot is location-specific; therefore, it would be difficult to establish a standard cost per square foot.

Regarding plant held for future use, discussed in paragraph 348, Nevada does not typically allow plant held for future use in rate base for determining revenue requirement or universal service support. The PUCN believes it would be reasonable to remove plant held for future use from the interstate revenue requirement if it has not become used and useful within the initial two-year period. Subsequently, it could be included in rate base only when it becomes used and useful for providing service to customers.

The PUCN agrees with the assertion in paragraph 350 that close family relationships and cross-participation on boards of directors are situations that warrant a high level of scrutiny of even non-affiliate transactions, as such relationships could influence bargaining.

¹ See: <http://www.gsa.gov/portal/content/104177>, Frequently Asked Questions

Perhaps most crucial to the PUCN are the questions raised in paragraph 352. The PUCN believes that the best way to implement the exclusion of expenses would be through Part 32 account revisions. For example, expenses that are on their face disallowed from inclusion in the revenue requirement² could be recorded in specific accounts or segment of accounts, making them readily identifiable to all users of the financial statements. Further, the PUCN believes that each carrier should be required to identify its cost consultants, if any, in its FCC Form 481. This identification would allow closer scrutiny of any forms prepared by a consultant found to be incorrectly assigning revenue and expenses.

The PUCN agrees with the Commission's assertion in paragraph 353 that it is time to revisit the allocation rules to provide greater clarity regarding how to determine allocation of costs between regulated and non-regulated activities. The PUCN has found that there is currently an incentive for carriers to interpret the allocation rules to allocate as many costs as possible to regulated activities, while concurrently allocating as much revenue as possible to non-regulated activities. Greater clarity in the allocation rules could prevent such misconduct.

Regarding the request for comment on new rules to prevent misallocation, contained in paragraph 355, the PUCN has some suggestions. With respect to the detection of misallocation of costs, it has been the PUCN's experience that a cost study information reasonableness test is a fairly good indicator of misallocation. For example, large amounts of unregulated revenues but small amounts of part 64 allocations to unregulated services indicates misallocation of costs. Further, the PUCN supports classifying certain costs as common costs and precluding carriers from including all of these expenses in the regulated revenue requirement. Such expenses should include: accounts 6610, Marketing, 6611, Product management and sales, 6613, product

² *e.g.*, expenses listed in paragraph 340.

advertising, 6620, Services, 6623, customer services and 6720, general and administrative services. With respect to allocation of costs based on the number of regulated lines to total number of lines (regulated plus non-regulated), some carriers continue to require customers to buy at least basic telephone service to receive broadband service, which might blunt the effectiveness of such a cost-allocation method.

The PUCN has also encountered the issues discussed in paragraphs 356-357. One solution is to simply rely on market costs when the fully-distributed cost studies are incomplete, or completed incorrectly, assuming a market comparable exists.

Regarding the question of the most effective way to ensure compliance asked in paragraph 360 and other compliance issues discussed in paragraphs 362-363, the PUCN believes carriers should certify that they have not included any prohibited expenses in their cost submissions. If a carrier inaccurately certifies, cost recovery should be used to reduce revenue requirement for the following tariff period, with interest at the authorized rate of return. Finally, carriers who are found to intentionally be including expenses barred by Commission rules should be barred from the NECA pool, at least for some length of time, with re-admission to the pool being based on a showing of compliance with Commission rules.

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III. CONCLUSION

The PUCN generally supports the Commission's intent to streamline and standardize the accounting in part 64 and part 32, as expressed in the Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking released March 30, 2016, and believes that such standardization and simplification would be beneficial to telecommunication providers and their customers. The PUCN firmly believes that the best way to implement the exclusion of expenses would be through Part 32 account revisions and supports the Commission moving in that direction.

Respectfully submitted,

/s/

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