



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 13-1617
Released: July 23, 2013

PARTIES ASKED TO REFRESH THE RECORD REGARDING PROPERTY RECORDS FOR RATE-OF-RETURN CARRIERS

CC Docket Nos. 00-199, 99-301

Comment Date: [30 days after Federal Register publication]
Reply Comment Date: [45 days after Federal Register publication]

On May 10, 2013, the Commission adopted the *USTelecom Forbearance Long Order*, which granted conditional forbearance from section 32.2000(e) and (f) (the “property record rules”) to price cap carriers.¹ The Commission denied forbearance from those same rules to rate-of-return carriers because, among other things, it concluded that property records enable the Commission to verify the accuracy of such carriers’ costs, which impacts the reasonableness of their rates.² However, in an effort to obtain a record sufficient to assess whether further Commission action on property records was proper, it sought to update the record received on those issues in an earlier, pending rulemaking on accounting and reporting matters.³

Specifically, in the *USTelecom Forbearance Long Order*, the Commission decided to refresh the record to assist in determining “whether there are changes we can make to our property records rules that would reduce record-keeping burdens for rate-of-return carriers by focusing on substantial assets and investments while maintaining sufficiently detailed records for the Commission’s needs.”⁴ The

¹ *Petition of USTelecom for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of Certain Legacy Telecommunications Regulations et al.*, WC Docket No. 12-61 et al., Memorandum Opinion and Order and Report and Order in WC Docket No. 10-132 and Further Notice of Proposed Rulemaking and Second Further Notice of Proposed Rulemaking, 28 FCC Rcd 7627, 7668, para. 86 (2013) (*USTelecom Forbearance Long Order*).

² See *USTelecom Forbearance Long Order*, 28 FCC Rcd at 7669-70, paras. 90-91. The term “property records” refers to basic property records, 47 C.F.R. § 32.2000(e), and continuing property records (CPR), 47 C.F.R. § 32.2000(f).

³ See *USTelecom Forbearance Long Order*, 28 FCC Rcd at 7670, para. 92; see also *2000 Biennial Regulatory Review, Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2; Amendments to the Uniform System of Accounts for Interconnection, Jurisdictional Separations Reform and Referral to the Federal-State Joint Board, Local Competition and Broadband Reporting*, CC Docket Nos. 00-199, 97-212, 80-286, 99-301, Report and Order in CC Docket Nos. 00-199, 97-212, and 80-286, Further Notice of Proposed Rulemaking in CC Docket Nos. 00-199, 99-301, and 80-286, 16 FCC Rcd 19911, 19984, 19987-88, paras. 205, 212-13 (2001) (*Property Records FNPRM*).

⁴ *USTelecom Forbearance Long Order*, 28 FCC Rcd at 7670, para. 92.

Commission noted that there have been “significant regulatory and marketplace changes [that] have occurred” since 2001 when the Commission adopted the *Property Records FNPRM*.⁵ Therefore, we ask parties to comment on property records issues as they relate to rate-of-return carriers in light of such changes, including the *USTelecom Forbearance Long Order*.

The 2001 *Property Records FNPRM* sought comment “on alternative approaches to streamline our [property records] rules.”⁶ Consistent with that objective and the Commission’s stated intent in the *USTelecom Forbearance Long Order* to examine what changes to the property records rules would reduce record-keeping burdens for rate-of-return carriers, we request comment on the feasibility of alternative approaches to property records requirements in rules 32.2000(e) and (f). We ask that parties suggesting alternatives:

- (1) Identify from which sections and subsections of rules 32.2000(e) and (f) are “more burdensome than necessary;”⁷
- (2) Explain how rate-of-return carriers presently comply with property record requirements, describe the current burdens with specific costs if possible, and provide a cost-benefit analysis of any proposed rule changes;⁸
- (3) Propose changes to the rules, including clearly stating which subsections should be deleted or modified, and if so, in what manner;
- (4) Explain how their alternative proposals would achieve the Commission’s objectives to ensure just and reasonable rates and compliance with its universal service rules, and would provide adequate property record information in support of any requests for waiver of Commission rules; and
- (5) Explain how any changes to the rules would continue to allow independent auditors to reconcile property records to the carriers’ general ledgers and provide audit assurance that carriers are meeting regulatory accounting requirements.

With respect to the third point above, we request specific examples of the level of detail and type of information that should be maintained, and what information is of limited or no value to achieving the Commission’s objectives. If there are examples of less burdensome property record rules that are applicable to regulated companies in other industries, we seek more information about these rules and whether they could be applied to rate-of-return carriers in the telecommunications industry. Further, we seek comment on alternative approaches, including whether and how possible changes to retirement units might reduce record-keeping burdens.⁹ We note that the current rules allow for some flexibility in the

⁵ *Id.*

⁶ *Property Records FNPRM*, 16 FCC Rcd at 19987, para. 213.

⁷ *USTelecom Forbearance Long Order*, 28 FCC Rcd at 7670, para. 92.

⁸ We request that companies provide a cost-benefit analysis that includes the cost of maintaining the current rule and the cost savings of the change. We seek specific data, e.g., hours spent, cost per hour, etc., of maintaining the current records versus any proposed change, taking into consideration that records in today’s systems are usually automated. Companies should include the anticipated costs of re-programming record-keeping systems to accommodate any changes.

⁹ A retirement unit is the smallest, unique physical piece of plant that is tracked in the property records. It is a specific item of property that is capitalized and depreciated until it is no longer used, at which time it is retired or returned to supply for reuse. For example, a central office switch, although considered one switch that might be retired all at once, is usually made up of several retirement units, e.g., plug-ins, relay racks, etc. Treatment of retirement units is discussed in Part 32 of the Commission’s rules. *See* 47 C.F.R. § 32.2000(d)(2)(i).

maintenance of property records. For example, section 32.2000(f)(2) states that companies may request a revision to the list of retirement units used in the basic property records, or exemption from the retirement units previously used. Therefore, we seek input on how our rules on retirement units might be changed to ease the record-keeping burden.

With regard to the fourth point above, we request that parties suggesting alternatives to our present requirements explain in detail how rate-of-return carriers would maintain property records going forward under any new system in a manner that would enable the Commission to satisfy its statutory responsibility to ensure just and reasonable rates, particularly considering that rate-of-return carriers' rates are directly tied to the cost of their investment. For example, would the conditional forbearance we granted to price cap carriers enable the Commission to satisfy this statutory obligation for rate-of-return carriers?¹⁰ We also request that commenters address how such alternatives would be sufficient to verify expenditures that are supported under the universal service high-cost program rules.¹¹ We also generally ask parties to demonstrate how their alternative approach would satisfy basic requirements of property records.¹²

The *USTelecom Forbearance Long Order* sought comments and replies refreshing the record 30 days and 45 days after the accompanying Report and Order eliminating CEI/ONA narrowband reporting requirements was published in the Federal Register.¹³ That Report and Order was published on July 2, 2013.¹⁴ To ensure all interested parties have a sufficient opportunity to consider and respond to the issues identified above, we are extending the comment and reply comment deadlines. Comments and reply comments are now due 30 days and 45 days after this Public Notice is published in the Federal Register.

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

¹⁰ In the *USTelecom Forbearance Long Order*, the Commission conditionally forbore from section 32.2000(e) and (f) for price cap carriers, subject to approval of compliance plans that require such carriers to, among other things, "maintain the records necessary to track substantial assets and investment in an accurate, auditable manner that enables them to verify account balances in their Part 32 Uniform System of Accounts, make such property information available to the Commission upon request, and ensure maintenance of such data." *USTelecom Forbearance Long Order*, 28 FCC Rcd at 7668, para. 86.

¹¹ 47 C.F.R. § 54.320(b) (requiring such documentation to be maintained for at least ten years from the receipt of funding); see also *Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight*, WC Docket Nos. 05-195, 02-60, 03-109, CC Docket Nos. 96-45, 02-6, 97-21, Report and Order, 22 FCC Rcd 16372, 16383-84, para. 24 (2007). In particular, the Administrator of the Fund, the Universal Service Administrative Company, requires cost companies to produce, among other things, continuing property records when it conducts beneficiary compliance audits. Universal Service Administrative Company, Program Integrity, Beneficiary Compliance Audits, available at <http://www.usac.org/res/documents/hc/pdf/audit/hc-audit-information.pdf>; see also Letter from Dana R. Shaffer, Deputy Managing Director, FCC, to Scott Barash, Acting Chief Executive Officer, USAC (Oct. 13, 2010) (providing guidance on audits), available at <http://transition.fcc.gov/omd/usac-letters/2010/101310CPA-USAC.pdf>.

¹² See 47 C.F.R. § 32.2000(e)(2) (requiring property records to be subject to internal accounting controls, auditable, equal in the aggregate to the total investment reflected in the financial accounts, and maintained for the life of the property).

¹³ *USTelecom Forbearance Long Order*, 28 FCC Rcd at 7670, para. 92 (referencing section IV of the *USTelecom Forbearance Long Order* at 7709, para. 188, adopting a Report and Order in WC Docket No. 10-132 that relieved the Bell Operating Companies of legacy reporting obligations associated with the *Computer Inquiry* requirements).

¹⁴ 78 FR 39617.

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street, SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington D.C. 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (tty).

The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.¹⁵ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt,

¹⁵ 47 C.F.R. §§ 1.1200 *et seq.*

searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

For further information, please contact Marvin F. Sacks, Wireline Competition Bureau, Pricing Policy Division, at (202) 418-1520 or via e-mail at Marvin.Sacks@fcc.gov.

– FCC –