

Before the
Federal Communications Commission
Washington, D.C. 20554

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

NOTICE OF PROPOSED RULEMAKING

Adopted: August 18, 2014

Released: August 20, 2014

Comment Date: (60 days after date of publication in the Federal Register)
Reply Comment Date: (90 days after date of publication in the Federal Register)

By the Commission: Commissioners Pai and O’Rielly issuing separate statements

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I. INTRODUCTION

1. In this Notice of Proposed Rulemaking (Notice), we initiate a proceeding to review our Part 32 Uniform System of Accounts (USOA) to consider ways to minimize the compliance burdens on carriers while ensuring that the agency retains access to the information it needs to fulfill its regulatory duties.1 Section 220 of the Communications Act of 1934, as amended (the Act), authorizes the Commission to prescribe the system of accounts to be used by carriers subject to the Act,2 and the USOA

1 See 47 C.F.R. Part 32.

2 See 47 U.S.C. § 220(a)(2) (“The Commission shall, by rule, prescribe a uniform system of accounts for use by telephone companies. Such uniform system shall require that each common carrier shall maintain a system of accounting methods, procedures, and techniques (including accounts and supporting records and memoranda) which shall ensure a proper allocation of all costs to and among telecommunications services, facilities, and products (and to and among classes of such services, facilities, and products) which are developed, manufactured, or offered by such common carrier”); see also 47 U.S.C. § 220(a)(1) (“The Commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by carriers subject to this chapter, including the

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and its predecessors have historically performed this function for regulated telephone companies. In the *USTelecom Forbearance Order*, the Commission denied the request that the Commission forbear completely from applying the requirement that price cap carriers maintain the USOA.³ At the same time, the Commission recognized that, in light of the Commission's actions in areas of price cap regulation, universal service reform, and intercarrier compensation reform, it is likely appropriate to streamline the existing rules even though those reforms may not have eliminated the need for accounting data for some purposes. Accordingly, we seek comment now on streamlining Part 32 to reduce regulatory burdens while maintaining access to the data the Commission needs to fulfill its statutory and regulatory obligations.⁴ We will complete this proceeding no later than the end of 2015.

II. BACKGROUND

2. Section 220 of the Act requires the Commission to “prescribe a uniform system of accounts for use by telephone companies.”⁵ The Commission adopted its first accounting system in 1935 as parts 31 and 33 of the Commission's rules “when a rigid institutionalized regulatory environment was expected to continue forever.”⁶ In 1986, the Commission adopted the USOA contained in Part 32 to respond to the “introduction of competition and an explosion of new products and services to which the existing systems could not respond without massive modification.”⁷

3. The Commission intended the USOA to “accommodate generally accepted accounting principles (GAAP) to the extent regulatory considerations permit.”⁸ As the Commission explained:

GAAP is that common set of accounting concepts, standards, procedures and conventions which are recognized by the accounting profession as a whole and upon which most nonregulated enterprises base their external financial statements and reports. It directs the recording of financial events and transactions and relates to how assets, liabilities, revenues and expenses are to be identified, measured, and reported.⁹

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accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of moneys”).

³ See *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, WC Docket No. 12-61 et al., 28 FCC Rcd 7627, 7665, para. 77 (2013) (*USTelecom Forbearance Order*), *pets. for review pending, Verizon and AT&T, Inc., v. FCC & USA*, No. 13-1220 (D.C. Cir. filed July 15, 2013).

⁴ This Notice is consistent with the Commission's Data Innovation Initiative -- a whole-agency effort to modernize and streamline how we collect, use, and disseminate data. See FCC, Data Innovation Initiative, <http://www.fcc.gov/data/data-innovation-initiative.shtml> (last visited Aug. 15, 2014).

⁵ 47 U.S.C. § 220(a)(2).

⁶ See *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)*, CC Docket No. 78-196, Report and Order, 60 Rad. Reg. 2d (P&F) 1111, para. 2 (1986) (*Part 32 USOA Order*).

⁷ *Id.*

⁸ See *id.* at 1111, para. 3; see also *infra* Section III.A.2.

⁹ *Revision of the Uniform System of Accounts for Telephone Companies to Accommodate Generally Accepted Accounting Principles (Parts 31, 33, 42, and 43 of the FCC's Rules)*, CC Docket No. 84-469, Report and Order, 102 FCC 2d 964, 964, para. 1 n.1 (1985) (*GAAP Accounting Order*). The Commission stated at the time, “In very broad terms, these principles can be summarized as requiring that assets and liabilities be recorded at historical cost; that revenue be realized when the earning process is complete and an exchange transaction has occurred; that costs be matched with the revenues they helped to generate; that disclosure be full and adequate; that accounting principles

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While Part 32 specifies a chart of accounts and the types of transactions to be maintained in each account, GAAP allows companies to determine their own system of accounts subject to certain principles.

4. The Commission adopted the USOA “at a time when regulators were required or inclined to organize telecommunications costs in a manner that allowed a logical mapping of these costs to telecommunications rate structures.”¹⁰ At that time, virtually all interstate access rates were subject to rate-of-return regulation, under which rates are set to cover an entity’s regulated operating expenses and provide a pre-specified return on the capital the company uses to provide regulated services.

5. Accordingly, Part 32 deviated from GAAP to the extent needed to support cost-based regulatory activities such as jurisdictional separations, cost assignment, and rate-of-return ratemaking. Part 32 specifies the revenue and expense accounts that must be maintained to record amounts for preparation of a carrier’s income statement for its regulated activities, as well as accounts that must be used for recording nonregulated activities. Carriers then directly assign, or allocate if direct assignment is not possible, the investment, expenses, and revenues between regulated and nonregulated activities using the cost assignment rules in Part 64.¹¹ The regulated investment, expenses and revenues are then separated between the interstate and intrastate jurisdictions as specified in Part 36.¹² The Commission and each state regulatory jurisdiction applies its own ratemaking processes to the amounts assigned to its jurisdiction.¹³ In the interstate jurisdiction, the access charge rules in Part 69 specify how carriers assign or allocate regulated costs among the interexchange service category and access categories.¹⁴ These rules, taken together, were designed to permit incumbent LECs to comply with rate-of-return regulation.

6. In 1991, the Commission adopted price cap regulation for the largest incumbent LECs while making it optional for other incumbents.¹⁵ Price cap regulation is a form of incentive regulation that relies on a series of Price Cap Indexes (PCIs) to limit the prices carriers charge for services to levels that are presumed to be just and reasonable.¹⁶ Unlike rate-of-return regulation, “price cap regulation eliminates the direct link between changes in allocated accounting costs and change in price [but] it does not sever the connection between accounting costs and prices entirely.”¹⁷ Today, fewer than five percent

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be applied consistently between accounting periods; and that accounting data be objectively determined and verifiable.” *Id.*

¹⁰ *2000 Biennial Regulatory Review -- Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2 et al.*, CC Docket Nos. 00-199, 97-212, 80-286, 99-301, Report and Order and Further Notice of Proposed Rulemaking, 16 FCC Rcd 19911, 19916, para. 8 (2001) (*2000 Biennial Regulatory Review: Phase 2 Order*).

¹¹ 47 C.F.R. §§ 64.901-.905.

¹² See 47 C.F.R. Part 36.

¹³ See, e.g., *Appropriate Framework for Broadband Access to the Internet over Wireline Facilities*, WC Docket No. 05-271, 04-242, CC Docket Nos. 02-33, 01-337, 95-20, 98-10, Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 14853, 14924, para. 129 (2005), *aff’d sub nom. Time Warner Telecom v. FCC*, 507 F.3d 205 (3rd Cir. 2007).

¹⁴ See 47 C.F.R. §§ 69.300 *et seq.* and 69.400 *et seq.*

¹⁵ *Policy and Rules Concerning Rates for Dominant Carriers*, CC Docket No. 87-313, Second Report and Order, 5 FCC Rcd 6786, 6787, para. 2 (1990) (*LEC Price Cap Order*), *aff’d sub nom. National Rural Telecom Ass’n v. FCC*, 988 F.2d 174 (D.C. Cir. 1993).

¹⁶ *Id.* at 6792, para. 47. By setting price limits that are defined by changes in input costs, the formula is intended to prevent aggregate rates charged by carriers from fluctuating beyond a “zone of reasonableness.” *Id.* at 6792, para. 49.

¹⁷ *Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers*, CC Docket Nos. 96-262 and 94-1, Sixth Report and Order, *Low-Volume Long Distance Users*, CC Docket No. 99-249, Report and Order, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Eleventh Report and Order, 15 FCC Rcd

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of access lines are served by rate-of-return carriers—the incumbent LEC for most consumers is a price cap carrier.¹⁸

7. The Commission has reviewed and streamlined its accounting rules on several occasions in the years following passage of the Telecommunications Act of 1996. The Commission clarified that “only incumbent local exchange carriers” are subject to the USOA and other accounting rules.¹⁹ In 2000, the Commission streamlined Part 32 obligations by eliminating the expense matrix filing requirement, reducing the cost allocation manual audit requirement, relaxing certain affiliate transactions requirements for services, and eliminating the reclassification requirement for certain plant under construction.²⁰ In 2001, it consolidated and streamlined Class A accounting requirements, relaxed additional aspects of the affiliate transactions rules, reduced the cost of regulatory compliance with cost allocation rules for mid-sized carriers, and reduced financial reporting requirements.²¹ And in 2008, the Commission forbore from applying its cost assignment rules and financial reporting rules to AT&T, Verizon, and Qwest, finding that its need for cost data had significantly diminished with continuing refinement of price cap ratemaking and universal service reforms.²²

8. *USTelecom Forbearance Order*. On February 16, 2012, USTelecom filed a petition pursuant to section 10 of the Act requesting that the Commission forbear from enforcing certain “legacy

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12962, 12969, para. 17 (2000) (*CALLS Order*), *aff’d in part, rev’d in part, and remanded in part*, *Texas Office of Public Util. Counsel et al. v. FCC*, 265 F.3d 313 (5th Cir. 2001), *cert. denied*, *National Ass’n of State Utility Consumer Advocates v. FCC*, 535 U.S. 986 (2002); *on remand*, *Access Charge Reform; Price Cap Performance Review for LECs; Low-Volume Long Distance Users; Federal-State Joint Board on Universal Service*, CC Docket Nos. 96-262, 94-1, 99-249 and 96-45, Order on Remand, 18 FCC Rcd 14976 (2003).

¹⁸ *Connect America Fund High-Cost Universal Service Support*, WC Docket Nos. 10-90, 05-337, Sixth Order on Reconsideration and Memorandum Opinion and Order, 28 FCC Rcd 2572, 2572, para. 1 (2013). Carriers currently subject to price cap regulation are the ACS Companies; the Ameritech Operating Companies; BellSouth Telecommunications, Inc.; CenturyTel Operating Companies; Cincinnati Bell Telephone; Consolidated Communications; Embarq Local Telephone Companies; Frontier Telephone Companies; Hawaiian Telecom, Inc.; Illinois Consolidated Telephone Company; Micronesian Telecommunications, Corp.; Nevada Bell Telephone Company; Pacific Bell Telephone Company; Puerto Rico Telephone Company; Qwest Corporation; Southern New England Telephone; Southwestern Bell Telephone; SureWest Telephone; The FairPoint Telephone Companies; The Verizon Telephone Companies; Virgin Islands Telephone Company and Windstream Telephone System.

¹⁹ See e.g., *Implementation of the Telecommunications Act of 1996*, CC Docket No. 96-193, Report and Order, 12 FCC Rcd 8071, 8095, para. 53 (1997).

²⁰ See *Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase I*, CC Docket No. 99-253, Report and Order, 15 FCC Rcd 8690, 8692-93, paras. 3-4 (2000).

²¹ *2000 Biennial Regulatory Review: Phase 2 Order*, 16 FCC Rcd at 19914-15, paras. 5-6.

²² *Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160 from Enforcement of Certain of the Commission’s Cost Assignment Rules*, WC Docket Nos. 07-21, 05-342, Memorandum Opinion and Order, 23 FCC Rcd 7302 (2008) (*AT&T Cost Assignment Forbearance Order*), *recon. denied*, *USTelecom Forbearance Order*, 28 FCC Rcd at 7654-56, paras. 52–55, *pet. for review pending*, *NASUCA v. FCC*, Case No. 08-1226 (D.C. Cir. filed June 23, 2008); *Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering, Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of Certain of the Commission’s ARMIS Reporting Requirements et al.*, WC Docket Nos. 08-190, 07-139, 07-204, 07-273, 07-21, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 23 FCC Rcd 13647 (2008), *recon. denied*, *USTelecom Forbearance Order*, 28 FCC Rcd at 7654-56, paras. 52-55, *pet. for review pending*, *NASUCA v. FCC*, Case No. 08-1353 (D.C. Cir. filed Nov. 4, 2008); *Petition of Qwest Corporation for Forbearance from Enforcement of the Commission’s ARMIS and 492A Reporting Requirements Pursuant to 47 U.S.C. § 160(c), et al.*, WC Docket Nos. 07-204, 07-273, Memorandum Opinion and Order, 23 FCC Rcd 18483, 18487, para. 8 (2008) (*Qwest ARMIS Forbearance Order*).

telecommunications regulations.”²³ The Commission resolved that petition on May 17, 2013 in the *USTelecom Forbearance Order*. There, the Commission extended the forbearance it had granted to AT&T, Verizon, and Qwest to other price cap carriers,²⁴ but declined to forbear altogether from applying the USOA to price cap carriers.²⁵ Nevertheless, the Commission “acknowledge[d] that further streamlining of our rules is likely appropriate,” and promised to “conduct a comprehensive review of the Part 32 Uniform System of Accounts” through a Notice of Proposed Rulemaking, with the aim of “minimiz[ing] the compliance burdens of our regulations while ensuring our continued access to the relevant financial information necessary to fulfill our duties.”²⁶

III. DISCUSSION

9. In this proceeding, we seek comment on the extent to which we can reform our accounting rules. We divide our analysis and proposals into three parts. *First*, we propose to streamline our USOA accounting rules while preserving their existing structure. *Second*, we seek more focused comment on the accounting requirements needed for price cap carriers to address our statutory and regulatory obligations. *Third*, we seek comment on several related issues, including state requirements, rate effects, implementation, continuing property records, and legal authority.

A. Streamlining the USOA

10. In this section, we propose rules to streamline our Part 32 accounting rules. First, we propose to collapse the Class A and Class B distinctions in our rules, which would reduce the number of accounts required to be maintained by Class A carriers by over 40 percent. Second, we examine the differences between GAAP and the Part 32 USOA and propose to better align Part 32 with modern accounting standards where feasible.

1. Consolidating the Class A and Class B Accounts

11. Part 32 divides incumbent LECs into two classes for accounting purposes: Class A (carriers with annual revenues exceeding \$150.2 million) and Class B (smaller carriers).²⁷ Class A carriers that do not qualify as mid-sized incumbent LECs are required to maintain 138 Class A accounts,²⁸ which provide more detailed records of investment, expense, and revenue than the 80 Class B accounts that Class B carriers are required to maintain. When the Commission adopted this regime, it drew this line to “adopt a far less burdensome system” for smaller carriers—but one that was nevertheless sufficient to meet its statutory obligations.²⁹

12. We propose to eliminate the classification of carriers, so that all carriers subject to Part 32 would be required to keep the streamlined Class B accounts.³⁰ Collapsing the distinction between Class A

²³ Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) from Enforcement of Certain Legacy Telecommunications Regulations, WC Docket No. 12-61 (filed Feb. 16, 2012).

²⁴ *USTelecom Forbearance Order*, 28 FCC Rcd at 7648-49, para. 36.

²⁵ *Id.* at 7657, para. 59.

²⁶ *Id.* at 7665, para. 77.

²⁷ See 47 C.F.R. § 32.11(b); *Wireline Competition Bureau Announces Annual Adjustment of Revenue Thresholds*, Public Notice, DA 14-873 (Wireline Comp. Bur. June 25, 2014).

²⁸ See 47 C.F.R. § 32.11(c).

²⁹ *Part 32 USOA Order*, 60 Rad. Reg. 2d at para. 109.

³⁰ We note that section 402(c) of the Telecommunications Act of 1996 requires that “[i]n classifying carriers according to section 32.11 of [the FCC’s] regulations . . . the Commission shall adjust the revenue requirements to account for inflation . . . annually.” Pub. L. No. 104-104, § 402(c), 110 Stat. 56, 130 (1996). We do not read this provision to require the Commission to classify carriers for purposes of Part 32 accounting rules, but instead to

and Class B carriers would simplify our rules and reduce the number of accounts that Class A carriers must keep by one third. Furthermore, it appears that using only Class B accounts should be sufficient to meet our regulatory needs, since no rate-of-return carrier is required today to keep Class A accounts. We seek comment on this proposal and this analysis. To the extent commenters believe that this proposal would compromise any of the Commission's specific data needs, it should specify the particular accounts or subaccounts at issue, their use, and explain why the benefit of maintaining such accounts or subaccounts outweighs the cost.

13. We note there are other differences in the treatment of Class A carriers and Class B carriers for purposes of Part 32. For example, rule 32.2000(b) sets different thresholds for Class A and Class B carriers for when to account for assets using original cost or acquisition cost.³¹ Rule 32.2682(c) requires Class A carriers to maintain additional records for amortized leasehold improvements.³² And rule 32.2690(b) requires Class A carriers to maintain "subsidiary records for general purpose computer software and for network software."³³ We propose to use the Class B treatment in all such circumstances, since the Commission designed the Class B requirements to reduce the burdens of compliance while maintaining the detail necessary for regulatory purposes. We seek comment on this proposal, and whether there are any particular requirements where the distinction between Class A and Class B treatment continues to be important to the Commission's statutory obligations, or where the Class A treatment would actually reduce the burden on affected companies.

2. Aligning the USOA with GAAP

14. In this section, we seek to develop a record on how our rules differ from GAAP accounting and the extent to which GAAP or other accounting principles or systems provide a basis for further streamlining of the USOA. In the following paragraphs, we identify several instances in which the USOA and GAAP accounting differ. We seek comment on the differences articulated here between GAAP accounting principles and our current accounting rules and whether there are other differences that we should be aware of.³⁴ To the extent that parties are shifting from GAAP to International Financial Reporting Standards (IFRS), we also seek comment on the differences among USOA, GAAP, and IFRS generally, and as relevant to specific issues raised below.

15. We also invite parties to identify other areas in which the USOA and GAAP requirements vary, or where the USOA provides definition to a particular data point whereas GAAP would not. For each such item, parties should specify the difference(s) between the USOA and GAAP treatment, the implications of these differences, and whether such differences are material to the Commission's ability to carry out our statutory and regulatory obligations. Parties should also address the extent to which GAAP or IFRS accounting would affect the Commission's ability to make accurate comparisons among carriers in carrying out our statutory and regulatory responsibilities, as well as whether any changes proposed would require revision of any existing reports.

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require annual adjustments so long as the Commission continues to classify carriers for these purposes. We seek comment on this interpretation.

³¹ 47 U.S.C. § 32.2000(b) (setting a purchase price of \$100,000 for Class A carriers and \$25,000 for class B carriers).

³² 47 U.S.C. § 32.2682(c).

³³ 47 U.S.C. § 32.2690(b).

³⁴ We note that the USOA dictates a chart of accounts and the types of transactions that are to be maintained in each account whereas GAAP allows companies to determine their own accounting system. We set aside this key difference between the USOA and GAAP for purposes of this discussion and instead focus on better aligning other aspects of USOA accounting more closely with modern accounting standards.

16. *Asset Accounting.* Carriers acquire assets to be used in providing service to customers, and both the USOA and GAAP generally require assets to be recorded at cost. But the two part ways (to some degree) when it comes to determining the specific cost of certain assets.

17. For example, the USOA requires acquired assets to be accounted for at “original cost” except for assets where the purchase price is below a set threshold, in which case they are to be accounted for at “acquisition cost.”³⁵ The USOA in turn defines original cost to mean “the actual money cost of (or the current money value of any consideration other than money exchanged for) property at the time when it was first dedicated to use by a regulated telecommunications entity, whether the accounting company or by predecessors.”³⁶ Thus, original cost is the cost when the asset was first used for regulated activities—even if that use does not occur until long after its purchase. By comparison, GAAP accounting allows a company to carry an asset at its purchase price when it was acquired, even if its value has increased or has declined when it goes into regulated service. Similarly, GAAP allows a carrier to re-price an asset at market value after a merger or acquisition.³⁷ Thus, under a GAAP-based approach, a carrier’s recorded amounts can vary from that recorded under the USOA. Different asset values also result in depreciation expense being different under GAAP going forward.

18. We propose to revise the USOA’s asset accounting to better align with GAAP. Do carriers generally record assets based on acquisition costs or original costs under GAAP? What regulatory purpose is served by requiring certain assets to be accounted for using original cost and others using acquisition cost? If the Commission gave carriers discretion to account for assets based on acquisition or original costs, so long as they acted consistent with GAAP, what effect would that have, if any, on our regulatory needs? We seek comment on this proposal.

19. *Depreciation.* The USOA and GAAP both require assets to be depreciated over their useful lives.³⁸ The USOA requires that the loss in service value of the plant be distributed under the straight-line method during the service life of the property.³⁹ For example, if an asset has a 10-year expected life, a depreciation rate of 10 percent would be applied to the original cost each year to calculate the depreciation. Today, a carrier may use a depreciation rate (which may vary by year) that is within a prescribed range of rates for a particular plant category.⁴⁰ In contrast, GAAP accounting does not require the use of straight-line depreciation and allows depreciation rates that are not restricted by the ranges like those prescribed by the Commission. Specifically, GAAP allows carriers to use shorter lives, as well as accelerated depreciation methods.⁴¹ Depreciation expense under GAAP is also higher because early

³⁵ 47 C.F.R. § 32.2000(b)(1).

³⁶ 47 C.F.R. § 32.9000.

³⁷ See Summary of Statement No. 141 – Business Combinations (Issued 6/01), Financial Accounting Standards Board (FASB), available at <http://www.fasb.org/summary/stsum141.shtml> (last visited Aug. 13, 2014).

³⁸ Depreciation is the process by which the original cost of an asset is ratably allocated over the expected life of the asset so that the cost of the asset is matched to the period of time during which the asset is in service and generating revenues.

³⁹ The straight-line method assigns an equal charge for depreciation in each of the periods of the service life of the asset. See 47 C.F.R. § 32.2000(g)(1)(ii) (Companies “shall apply such depreciation rate...as will ratably distribute on a straight line basis the difference between the net book cost of a class or subclass of plant and its estimated net salvage during the known or estimated remaining service life of the plant.”).

⁴⁰ 1998 Biennial Regulatory Review – Review of Depreciation Requirements for Incumbent Local Exchange Carriers, CC Docket No. 98-137, Report and Order, 15 FCC Rcd 242, 247, para. 11 (1999). A carrier must seek approval to use a rate outside the provided range. *Id.* at 247, para. 12.

⁴¹ For example, a carrier could use the double declining balance method, which is a method of accelerating depreciation recovery. Under this method, the depreciation rate used is *double* the straight line rate, and the rate is applied to the declining book value, e.g., original cost less accumulated depreciation reserve. Companies using the

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retirements and other losses are recognized under GAAP when they occur rather than being amortized over a longer period of time.⁴²

20. We seek comment on whether to revise the USOA's depreciation procedures to better align with GAAP. We invite parties to comment on how doing so would affect depreciation rates for new investment in today's telecommunications market, including how projected service lives today vary from those underlying those used in developing the depreciation ranges. If possible, parties should quantify and attribute the effects among lives, salvage, and cost of removal effects by class of depreciable plant. We seek comment on whether these differences are materially relevant to our ability to achieve our statutory and regulatory obligations.

21. *Cost of Removal and Salvage.* The USOA requires that estimates of cost of removal and salvage be included in the calculation of depreciation rates, so that upon actual retirement of the plant, the original cost of the plant and the actual cost of removal are charged (debited) to Account 3100, Accumulated Depreciation, and the actual value of salvage received, if any, is credited to Account 3100.⁴³ In effect, this practice results in an accrual for cost of removal and salvage. Conversely, GAAP requires that the cost of removal and salvage not be included in the calculation of depreciation rates; cost of removal would be charged to expense at the time the expense is incurred, while salvage would be recognized as current income when received. Thus, the differences between the USOA and GAAP approaches are essentially timing differences.

22. We seek comment on whether to revise the USOA's removal-and-salvage accounting rules to better align with GAAP. If we adopted the GAAP approach, a carrier's depreciation expense would be lower (since it would no longer include cost of removal) but its operating expenses would be higher whenever plant is actually removed (because those expenses would not have been pre-accrued in the depreciation process). Companies would also see increased current income from current salvage. What would the effect of these changes be on consumers? Specifically, we recognize that the removal-and-salvage rules are particularly pertinent for developing pole-attachment rates. Would those rates generally be higher or lower if we adopted this change? We invite parties to address this aspect of any changes that might be adopted in this area.

23. *Calculation of AFUDC.* The USOA uses imputed interest on equity funds in addition to interest on debt when calculating Interest During Construction (Allowance for Funds Used During Construction, or AFUDC).⁴⁴ GAAP uses the cost of debt in determining AFUDC.

24. We propose to revise the USOA's AFUDC rules to better align with GAAP. If the Commission were to rely on GAAP accounting instead of the USOA, it would negligibly decrease recorded asset values and depreciation expense. We seek comment on this analysis and this proposal.

25. *Materiality.* The USOA requires that all transactions be booked regardless of any materiality consideration.⁴⁵ By contrast, as used in GAAP, materiality means that the nature of the economic event(s), including the dollar amount being accounted for and the overall economic environment, should be considered in determining how a particular transaction should be treated for

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double declining balance method have increased depreciation expense in the initial years and lower depreciation in later years, resulting in offsetting income effects.

⁴² Remaining life depreciation under the group depreciation method used by Part 32 builds this amortization in over the remaining life of the total assets in the group. In the case of extraordinary retirements, the Commission specifies the amortization period. See 47 C.F.R. § 32.1438.

⁴³ 47 C.F.R. § 32.3100(c).

⁴⁴ See 47 C.F.R. § 32.2000(c)(2)(x); see also *GAAP Accounting Order*, 102 FCC 2d at 989, para. 91. At the time, the Commission noted that the difference would be immaterial. *Id.*

⁴⁵ *Id.* at 987, para. 80; 47 C.F.R. § 32.26.

reporting purposes.⁴⁶ An item is considered to be material if the accounting and reporting will affect the decision of a user of financial statements.

26. We propose to revise the USOA's treatment of materiality to better align with GAAP. We tentatively conclude that the Commission's current approach to materiality is more restrictive than necessary to meet our statutory obligations. We specifically seek comment on whether the Commission should incorporate the concept of materiality into the USOA, and how it could do so. For example, should the Commission set dollar threshold amounts for classes of assets, costs, or income to draw the materiality line, or should we establish a more general baseline of materiality that can be refined through case-by-case adjudication as needed?

27. Parties asking the Commission to adopt a particular materiality standard should provide a clear definition of the proposed standard, explain how the definition would be implemented, including examples of the major types of occurrences it would affect, and propose specific language for our rules. Would failure to continue to record all transactions possibly result in any material distortions of accounting data?

28. *Pre-Approval of PPAs and Extraordinary Items.* The Commission requires that carriers submit all prior period adjustments (PPAs) and unusual or extraordinary items to the Commission for review and approval before booking to insure that allowable costs are recovered by the carriers and gains and other credits are given to the ratepayers.⁴⁷ Under GAAP, companies typically account for such transactions consistent with accounting principles, which generally recognize materiality concepts.

29. We propose to revise the USOA's treatments of PPAs and extraordinary items to better align with GAAP. Specifically, we propose to relax our requirement so that carriers only need to seek Commission review and approval for material changes. We seek comment on this proposal, and whether materiality should be more specifically defined for these purposes.

30. *Effect on Rate-of-Return Carriers.* Unlike carriers subject to price cap regulation, those subject to rate-of-return regulation maintain cost-based rates for many interstate services.⁴⁸ For these services, rates are based on costs and are developed today using the regulatory process that begins with standardized accounting under the USOA. The changes proposed in this section would directly affect the accounting data used by rate-of-return carriers in establishing tariffed rates for services that remain subject to rate-of-return regulation. We invite parties to comment on whether the streamlining proposals discussed in this section should be limited to price cap regulated carriers. How would modifying the accounting systems affect the rates assessed by rate-of-return carriers, or the Commission's ability to evaluate rates for services that remain subject to rate-of-return regulation consistent with its statutory obligations? As noted above, many of the changes affect the timing of the recognition of certain amounts. For example, the proposals would alter the recognition of the cost of removal and salvage. Some of these amounts have already been accrued. Parties should address whether any accounting or ratemaking requirements should be adopted to ensure that any rate revisions do not adversely affect either customers or carriers.⁴⁹ We seek comment on whether any of the changes could require adjustments to a carrier's

⁴⁶ For example, in booking a correction to a previous transaction, or in booking a delayed transaction, an expense item with a relatively small dollar value would be expensed in the ordinary course of current period accounting, while the same transaction for a significant dollar amount might be treated as an expense affecting a prior period, which would affect the reported operating earnings for the current and prior period.

⁴⁷ See *GAAP Accounting Order*, 102 FCC 2d at 990, para. 95.

⁴⁸ See *Price Cap Performance Review for Local Exchange Carriers*, CC Docket No. 94-1, Notice of Proposed Rulemaking, 9 FCC Rcd 1687, 1688, para. 11 (1994) (observing that "rate of return regulation requires elaborate regulatory oversight of all the carrier's costs").

⁴⁹ Parties should specifically describe the accounting entries that would be made to address any timing difference that would result if the proposed changes are adopted.

universal service support. If the Commission applies these changes to rate-of-return carriers, should we consider variations for rate-of-return carriers, which typically have much smaller operations than price cap carriers? For example, should the Commission consider adopting a different materiality threshold for these carriers if a specific dollar amount is used to define materiality? Are there other proposals that should be adjusted for rate-of-return carriers? Should the Commission consider specific transitional rules for these carriers? Finally, we ask whether there are implications for the National Exchange Carrier Association pooling process.

B. Accounting Requirements for Price Cap Carriers

31. We next turn to the specific accounting requirements that should be applied to price cap carriers. Unlike rate-of-return carriers, price cap carriers do not directly rely on reported costs to set rates.⁵⁰ And as the Commission has previously said, the “need for cost data for the purposes of price caps has been significantly decreased with the adoption of various reforms that eliminated features of the original price cap regime that required rate-of-return regulation accounting inputs.”⁵¹

32. Nevertheless the *USTelecom Forbearance Order* identified “a variety of current circumstances for which the Commission relies on Part 32 accounting,”⁵² specifically, determining pole attachment rates under section 224, preventing cross-subsidization between local and long distance service under section 272(e), and ensuring no cross-subsidization between competitive and non-competitive services under section 254(k).⁵³ The Commission also noted that it would need to consider the impact of forbearing from the USOA accounting rules on its previous decisions to forbear from its cost assignment rules and ARMIS reporting requirements.⁵⁴

33. In this section, we explore options for reducing the accounting burdens on price cap carriers while securing the data we need for federal regulatory purposes. We see two primary options for doing so: maintaining the USOA for price cap carriers, streamlining it as proposed in section III.A, or eliminating the requirement that price cap carriers comply with the USOA and imposing targeted accounting requirements that fit our specific statutory needs. We seek comment on whether we should adopt targeted accounting requirements in lieu of the continued maintenance of the USOA for price cap carriers and, if so, what those targeted requirements should be. We explore each option in turn and seek comment on its benefits and costs in the modern communications marketplace. Alternatively, we seek comment on whether the Commission has other means to meet these specific needs, or if there are safe harbors we could adopt to further streamline any remaining requirements.

1. Requiring Price Cap Carriers to Comply with the USOA

34. One option is to require price cap carriers to comply with the USOA, streamlining it as proposed in section III.A. We invite carriers to describe their current accounting systems and the relationship between the accounting systems they use to comply with the USOA requirements and their accounting for other purposes (such as financial reporting), including whether and how they derive GAAP financial statements from the current USOA accounting records. We seek detailed descriptions of the accounting process used by price cap carriers to convert the USOA financial data to GAAP-equivalent data. For example, are adjusting entries actually booked in the accounting system to get to GAAP, or is there simply an overlay of GAAP amounts?⁵⁵ If the former, how are the adjusting entries calculated and

⁵⁰ *CALLS Order*, 15 FCC Rcd at 12968, para. 15.

⁵¹ *AT&T Cost Assignment Forbearance Order*, 23 FCC Rcd at 7312-13, para. 19.

⁵² *USTelecom Forbearance Order*, 28 FCC Rcd at 7658, para. 62.

⁵³ *Id.* at 7658, paras. 63-67.

⁵⁴ *Id.* at 7660-61, para. 68.

⁵⁵ An “adjusting entry” is an accounting transaction that is recorded after the Part 32 books are closed for the accounting period that “adjusts” the balances in the accounts to be GAAP-equivalent.

what is the basis for the adjustments? If the latter, where and how are the GAAP amounts determined? We are also interested in obtaining information regarding how price cap carriers keep the USOA information necessary to convert to GAAP. Is the information maintained through the use of subsidiary records,⁵⁶ separate subaccounts, or some other mechanism?

35. If the Commission were to pursue this option, what further reforms, if any, of the USOA would be appropriate for price cap carriers? For example, we propose several reforms to the USOA generally above,⁵⁷ but we seek specific comment on whether any of those reforms would be appropriate only for price cap carriers. We also seek comment on other differences between GAAP accounting and the USOA that could be eliminated for price cap carriers. For example, could we eliminate the requirement to include jurisdictional accounts (1500, 4370, and 7910) for price cap carriers?⁵⁸ Or could we eliminate the specific rules for accounting for nonregulated activities in favor of GAAP principles?⁵⁹

2. Requiring Price Cap Carriers to Comply with Targeted Accounting Rules

36. A second option is to require price cap carriers to comply with a more limited set of accounting rules targeted to our particular statutory needs. In this section, we review the statutory needs identified in the *USTelecom Forbearance Order* and explore whether targeted accounting rules could satisfy those ends. We also seek comment on whether we need targeted accounting data for any other particular statutory obligations.

37. *Pole Attachment Rates.* Section 224 of the Act allows state commissions to regulate pole attachment rates so long as they certify to the FCC that they will do so; elsewhere, the Commission's rules apply.⁶⁰ Under the Commission's rules, pole attachment rates are set in the first instance through private negotiation using cost data reported by carriers. Because many poles and conduits are owned by electric or other utilities not regulated by the Commission, our rules do not require all pole attachments to be based on USOA data, but instead require that the "data and information should be based upon historical or original methodology" and "should be derived from ARMIS, FERC 1, or other reports filed with state or federal regulatory agencies."⁶¹ For incumbent LECs, however, the Commission has relied on data from "various Part 32 accounts (e.g., gross pole investment, gross plant investment, accumulated

⁵⁶ Most companies use both a general ledger and one or more subsidiary records. For each subsidiary record there is a related control account in the general ledger. The control account reflects summary information, while the subsidiary record reflects the details that support the control account. For example, individual accounts receivable by debtor may be kept in a subsidiary record that totals to the amount reflected for the control account "accounts receivable" in the general ledger.

⁵⁷ See *supra* paras. 10-30.

⁵⁸ *Compare GAAP Accounting Order*, 102 FCC 2d at 987-88, para. 83, with Summary of Statement No. 71 – Accounting for the Effects of Certain Types of Regulation (Issued 12/82), Financial Accounting Standards Board (FASB), available at <http://www.fasb.org/summary/stsum71.shtml> (last visited Aug. 13, 2014) (provides guidelines on how companies are to reflect the economic effects of the ratemaking process in published financial statements).

⁵⁹ Under Part 32, when a nonregulated activity does not involve the joint use of regulated assets or resources in the provision of the product or service, such activities are to be accounted for as set forth in sections 32.1406 and 32.7990 of our rules. 47 C.F.R. § 32.23(b). If a nonregulated activity does involve the joint use of assets and resources, the assets and expenses are to be tracked in subsidiary records to the regulated accounts, and the revenues recorded in Account 5280. 47 C.F.R. § 32.23(c). In contrast, GAAP does not require a carrier to maintain such distinctions in the accounting records.

⁶⁰ See 47 U.S.C. § 224(c).

⁶¹ 47 C.F.R. § 1.1404(g)(2), (h)(2).

depreciation—poles, maintenance expense—poles etc.).”⁶² And the Commission has used the USOA data to modify the formula by which pole attachment rates are calculated.⁶³

38. We seek comment on whether a targeted accounting rule would provide the Commission and the public with sufficient information to set pole attachment rates in compliance with section 224. One such targeted requirement would be to require the USOA accounting for price cap carriers only to the extent necessary to produce relevant pole attachment data. The Commission has previously recognized that pole attachment data may be severable from other data for accounting purposes.⁶⁴ Would such a targeted Part 32 requirement be feasible for price cap carriers to implement? How burdensome would such a requirement be?

39. Another targeted accounting requirement could be to require price cap carriers to publicly report the same information, but do so using expense information maintained in accordance with GAAP. Presumably, such a requirement would be less burdensome for price cap carriers. What would be the impact of such a change on pole attachment rates? If we were to institute such a change, should we cap price cap carriers’ pole attachment rates at current levels for a reasonable period of time, such as five years, to minimize the burden on attaching parties? Should we require price cap carriers to maintain the USOA data for a shorter duration, such as two years, so that the Commission can audit and understand any discrepancies between pole attachment rates under GAAP and under the USOA rules?

40. *Section 272(e)(3) Imputation.* Before 1996, Bell Operating Companies (BOCs) were prohibited from entering the long-distance market (*i.e.*, from offering interexchange service) out of concern that they could use their local monopoly to subsidize competitive operations in the long-distance market. The Telecommunications Act created a path for BOCs to enter that market, requiring, among other things, that a BOC that offers its long-distance service to “impute to itself . . . an amount for access to its telephone exchange service and exchange access that is no less than the amount charged to any unaffiliated interexchange carriers for such service.”⁶⁵ In 2007, the Commission permitted BOCs to offer interexchange and exchange access services on an integrated basis,⁶⁶ and later relieved BOCs from complying with the Commission’s cost assignment rules so long as those carriers could “demonstrate that [their] access charge imputation methodologies remain consistent with section 272(e)(3).”⁶⁷

⁶² See *USTelecom Forbearance Order*, 28 FCC Rcd at 7658, para. 62; 47 C.F.R. § 1.1404(g)(2). Data derived from these accounts can also potentially be used by parties in both private negotiations and complaint filings. See 47 C.F.R. Part 1, Subpart J.

⁶³ See *Implementation of Section 224 of the Act; A National Broadband Plan for Our Future*, WC Docket No. 07-245, GN Docket No. 09-51, Order and Further Notice of Proposed Rulemaking, 25 FCC Rcd 11864, 11923, para. 140, n.378 (2010); *Implementation of Section 224 of the Act; A National Broadband Plan for Our Future*, WC Docket No. 07-245, GN Docket No. 09-51, Report and Order and Order on Reconsideration, 26 FCC Rcd 5240, 5298-5306, paras. 135-52 & n.456 (2011) (referencing the Commission’s rate calculations using Part 32 data from ARMIS that formed the basis of its telecom rate proposal).

⁶⁴ See, e.g., *Qwest ARMIS Forbearance Order*, 23 FCC Rcd at 18490-91, para. 13 (granting forbearance from filing ARMIS Report 43-01, which contains cost data for rate calculations required by its pole attachment rules, on the condition that those carriers continue to publicly file the relevant revenue and expense data).

⁶⁵ 47 U.S.C. § 272(e)(3).

⁶⁶ *Section 272(f)(1) Sunset of the BOC Separate Affiliate and Related Requirements; 2000 Biennial Regulatory Review Separate Affiliate Requirements of Section 64.1903 of the Commission’s Rules; Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160(c) with Regard to Certain Dominant Carrier Regulations for In-Region, Interexchange Services*, WC Docket Nos. 02-112, 06-120, CC Docket No. 00-175, Report and Order, 22 FCC Rcd 16440, 16486-87, para. 94, 16491-92, para. 104 (2007).

⁶⁷ *AT&T Cost Assignment Forbearance Order*, 23 FCC Rcd at 7318-19, para. 29.

41. We invite parties to comment on the use of USOA data for purposes of Section 272(e)(3) enforcement or whether alternative approaches would suffice to meet the requirements of our rules.

42. We propose to adopt a targeted accounting rule that ensures our ability to continue to enforce section 272(e)(3), such as requiring price cap carriers that must comply with section 272(e)(3) to use a subsidiary record or some other identifier in their accounting books to track imputation transactions. Would such a targeted requirement be less onerous than the historical requirement to include such imputed charges in account 5280? If we were to institute this change, should we require price cap carriers to certify that they will be able to report such imputed charges to the Commission upon reasonable request?

43. We also seek comment on the continued applicability of section 272(e)(3). In the historic *USF/ICC Transformation Order*, the Commission placed terminating intercarrier compensation charges on a path toward bill and keep, which may reduce the need for imputation charges in the future. Furthermore, we note that many other local exchange carriers that provide integrated long-distance service, such as cable operators, over-the-top voice over Internet Protocol companies, and commercial mobile radio service providers, are not required to impute charges between their local and long-distance affiliates (to the extent they offer those service through separate affiliates). We seek comment on whether the harm to be addressed by section 272(e)(3) continues to be a concern, or whether the Commission should consider forbearing from section 272(e)(3)'s imputation requirement, either now or at the end of the transition path laid out by the *USF/ICC Transformation Order*.

44. *Section 254(k)*. Section 254(k) of the Act prohibits a telecommunications carrier from “us[ing] services that are not competitive to subsidize services that are subject to competition.”⁶⁸ Prior forbearance from the Cost Assignment Rules was conditioned on the requirements that price cap carriers annually certify that they have complied with section 254(k) and will maintain and provide any requested cost accounting information necessary to prove such compliance in the event of an administrative action, investigation, or audit.⁶⁹ To the extent the Commission has reason to believe a particular carrier has violated section 254(k), it can order the carrier to provide any requested information necessary to prove compliance with the statute.⁷⁰ Today, that data would likely come from a price cap carrier’s USOA accounts. While the Commission has been presented with allegations of violations of section 254(k) in the past, it never found it necessary to seek accounting data to address those specific allegations.

45. We invite parties to comment on the use of USOA data for purposes of Section 254(k) enforcement or whether alternative approaches would suffice to meet the requirements of our rules.

46. We propose to adopt a targeted accounting rule that ensures our ability to continue to enforce section 254(k), such as requiring price cap carriers to certify continued compliance with section 254(k) and certify that they can and will provide any requested cost accounting information necessary to prove compliance to the Commission upon reasonable request. Would such a requirement be sufficient to meet our statutory obligation without incurring the burden of requiring each carrier to maintain all of the USOA? Should such certifications occur annually, perhaps on a form carriers must already file with certain accounting information, such as the FCC Form 499-A?

47. *The USOA as a Condition to Other Forbearance Decisions*. The *USTelecom Forbearance Order* noted that the Commission had conditioned previous forbearance grants on the assumption that carriers would maintain their USOA accounts.⁷¹ For example, the *AT&T Cost Assignment Forbearance Order* made forbearance contingent on AT&T filing a compliance plan that

⁶⁸ 47 U.S.C. § 254(k).

⁶⁹ See, e.g., *AT&T Cost Assignment Forbearance Order*, 23 FCC Rcd at 7319, para. 30.

⁷⁰ *USTelecom Forbearance Order*, 28 FCC Rcd at 7660, para. 67.

⁷¹ *Id.* at 7663, para. 68.

“ensure[s] that accounting data requested by the Commission in the future will be available and reliable.”⁷² Although the Commission noted that the USOA accounting data would “continue to be maintained and available to the Commission on request,” AT&T had not sought relief from the USOA requirements. The *USTelecom Forbearance Order* stated that “the Commission concluded that there may be a ‘federal need for this accounting information in the future to adjust our existing price cap regime or in our consideration of reforms moving forward.’”⁷³ And the Commission has stated that the USOA provides the raw data used to “gauge whether improper cost accounting has occurred.”⁷⁴

48. If the Commission were to replace the USOA with targeted accounting requirements for price cap carriers, should the Commission require all such carriers to file a compliance plan ensuring that the Commission can continue to request the accounting data it needs for regulatory purposes? How should we weigh our prior decisions to condition forbearance on continued access to accounting data, and continued compliance with the USOA, in reforming our accounting rules?

49. What, if any, special accounting rules are necessary for price cap carriers that have received forbearance conditioned on access to the USOA or other accounting data? We invite parties to comment on the extent to which the Commission’s ability to enforce carriers’ commitments in compliance plans filed in connection with forbearance proceedings that rely on the USOA accounting data would be affected if the USOA requirements were altered. What revisions to those compliance plans would be required if we were to adopt targeted accounting requirements for price cap carriers?

C. Other Issues

50. We seek comment on several issues related to reforming Part 32 below. We also seek comment on any other issue, not specifically addressed herein, that relates to updating the USOA to minimize the burdens on carriers.

51. *State Requirements.* We note that several state commissions require USOA accounting data for use in performing their regulatory functions. We invite comment on how many states have adopted, or otherwise mirror, the USOA accounting requirements. As the Commission noted in the *USTelecom Forbearance Order*,⁷⁵ federal regulation does not preclude states from requiring accounting data and we do not propose to preempt states here.

52. *Rate Effects.* If we adopt revisions that adopt GAAP in whole or in part, or that revise the USOA in some other manner, those changes could alter the amount a carrier records in its accounts. Price cap carriers’ rates may change through exogenous adjustments, which are designed to reflect changes outside the carrier’s control.⁷⁶ We invite parties to address the extent to which they believe any changes should have ratemaking effects through exogenous adjustments to existing rates.⁷⁷ Because carriers contend that the changes are necessary to reduce existing burdens, should any changes be adopted on the

⁷² *AT&T Cost Assignment Forbearance Order*, 23 FCC Rcd at 7314, para. 21.

⁷³ *USTelecom Forbearance Order*, 28 FCC Rcd at 7661, para. 68.

⁷⁴ *Id.* at 7651, para. 43; *see also id.* at 7660, n.302 (“Although price cap regulation diminished the direct link between changes in allocated accounting costs and change in prices, it did not sever the connection between accounting costs and prices entirely.” (quoting *Special Access for Price Cap Local Exchange Carriers*, Order and Notice of Proposed Rulemaking, 20 FCC Rcd 1994, 1999, para. 12 (2005))).

⁷⁵ *See USTelecom Forbearance Order*, 28 FCC Rcd at 7653–54, paras. 49-50.

⁷⁶ 47 C.F.R. § 61.45(d).

⁷⁷ Section 61.45(d)(1)(ii) provides that exogenous costs include “changes in the Uniform System of Accounts, including changes in the Uniform System of Accounts requirements made pursuant to § 32.16 of this chapter, as the Commission shall permit or require be treated as exogenous by rule, rule waiver, or declaratory ruling.” 47 C.F.R. § 61.45(d)(1)(ii).

condition that no rate increases occur simply as a result of the accounting changes, or should rate changes be addressed in some other matter?

53. *Implementation.* We invite parties to comment on the timing of any changes that may be adopted. Section 220(g) of the Act requires that six months' notice of accounting changes be given to carriers. Parties should address whether any proposed change would require more than six months' notice to implement, and, if so, should indicate how much more time is needed and explain the reason why more time is needed. Should any of the changes be transitioned in and, if so, over what time period? Should the changes be implemented at the beginning of a calendar year or midyear, when annual tariffs are filed?

54. *Continuing Property Records.* The *USTelecom Forbearance Order* found forbearance from the continuing property records requirements found in sections 32.2000(e) and (f) was warranted for price cap carriers, so long as they could demonstrate in compliance plans how they would “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.”⁷⁸ Notably, the only requirement of section 32.2000(e) that is applicable today to rate-of-return carriers is section 32.2000(e)(7)(i)(A), which requires that a carrier’s “continuing property records shall be compiled on the basis of original cost (or other book cost consistent with this system of accounts)” and “maintained . . . in such manner as will . . . [p]rovide for the verification of property record units by physical examination.”⁷⁹ We accordingly propose to consolidate this one remaining rule from subsection (e) into subsection (f), and to replace subsection (e) with a rule that price cap carriers “maintain property records necessary to track substantial assets and investments in an accurate, auditable manner that enables them to verify their accounting books, make such property information available to the Commission upon request, and ensure the maintenance of such data” and for each price cap carrier to file a compliance plan with the Commission to that effect. We seek comment on this proposal.

55. *Legal Authority.* Section 220 of the Act gives the Commission broad authority to establish a uniform system of accounts,⁸⁰ while section 219 authorizes the Commission to require annual reports from carriers.⁸¹ These provisions are cited in section 32.3 of our rules.⁸² Coupled with our clear authority to implement our statutory obligations,⁸³ this appears to provide sufficient authority to make such changes as are being considered here. We seek comment on this view. Would any of the proposals made herein require revisions to section 32.3? Also, would anything proposed herein require us to invoke, or be more readily achievable if we invoke, our section 10 forbearance authority?

IV. PROCEDURAL MATTERS

A. *Ex Parte Rules –Permit-But Disclose*

56. The proceeding this Notice initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.⁸⁴ 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

⁷⁸ *USTelecom Forbearance Order*, 28 FCC Rcd at 7668, para. 86.

⁷⁹ 47 C.F.R. § 32.2000(e)(7)(i)(A).

⁸⁰ 47 U.S.C. § 220(a)(2).

⁸¹ 47 U.S.C. § 219(a).

⁸² *See* 47 C.F.R. § 32.3.

⁸³ *See, e.g.*, 47 U.S.C. §§ 151, 154(i), 201(b).

⁸⁴ 47 C.F.R. §§ 1.1200 *et seq.*

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

B. Comment Filing Procedures

57. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply 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).

- 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 St., 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 DC 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), 202-418-0432 (tty).

C. Initial Regulatory Flexibility Analysis

58. As required by the Regulatory Flexibility Act of 1980 (RFA),⁸⁵ the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules proposed in this document. The analysis is found in Appendix A. We request written public comment on the analysis. Comments must be filed by the same dates as listed in the first page of this document, and must have a separate and distinct heading designating them as responses to the IRFA. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this Notice, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

D. Paperwork Reduction Analysis

59. This document contains proposed new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget ("OMB") to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Pub. L. No. 107-198, *see* 44 U.S.C. § 3506(c)(4), we seek specific comment on how we might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

V. ORDERING CLAUSES

60. Accordingly, IT IS ORDERED that pursuant to Sections 1, 10, 201(b), 219-220, 224, 254(k), 272(e)(3), 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 160, 201(b), 219-220, 224, 254(k), 272(e)(3), 303(r), 403, this NOTICE OF PROPOSED RULEMAKING is hereby ADOPTED.

61. IT IS FURTHER ORDERED that the Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of this NOTICE OF PROPOSED RULEMAKING, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁸⁵ 5 U.S.C. § 603.

APPENDIX

Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),¹ the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this Notice of Proposed Rulemaking (NPRM). Written comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).² In addition, the NPRM and IRFA (or summaries thereof) will be published in the Federal Register.³

A. Need for, and Objectives of, the Proposed Rules

2. In the NPRM we initiate a comprehensive review of Part 32 Uniform System of Accounts (USOA). We seek comment to develop a record on how Part 32 might be streamlined to provide the data the Commission needs to fulfill its statutory and regulatory obligations with the smallest burden on carriers.

B. Legal Basis

3. The legal basis for any action that may be taken pursuant to the NPRM is contained in sections 1, 10, 201(b), 219-220, 224, 254(k), 272(e)(3), 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 160, 201(b), 219-220, 224, 254(k), 272(e)(3), 303(r), 403.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

4. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.⁴ The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”⁵ In addition, the term “small business” has the same meaning as the term “small-business concern” under the Small Business Act.⁶ A small-business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.⁷

¹ See 5 U.S.C. § 603. The RFA, see 5 U.S.C. §§ 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

² See 5 U.S.C. § 603(a).

³ *Id.*

⁴ See 5 U.S.C. § 603(b)(3).

⁵ See 5 U.S.C. § 601(6).

⁶ See 5 U.S.C. § 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

⁷ See 15 U.S.C. § 632.

5. **Small Businesses.** A small business is an independent business having less than 500 employees. Nationwide, there are a total of approximately 27.9 million small businesses, according to the SBA.⁸ Affected small entities as defined by industry are as follows.

6. **Incumbent Local Exchange Carriers (incumbent LECs).** Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to incumbent local exchange services. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.⁹ According to Commission data, 1,307 carriers reported that they were incumbent local exchange service providers.¹⁰ Of these 1,307 carriers, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees.¹¹ Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by rules adopted pursuant to the NPRM.

7. We have included small incumbent LECs in this present RFA analysis. As noted above, a “small business” under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and “is not dominant in its field of operation.”¹² The SBA’s Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not “national” in scope.¹³ We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

8. The NPRM seeks comment on changes to the Commission’s current Part 32 USOA, which may result in revised information collection, reporting, and recordkeeping requirements. To develop an appropriate record, we seek comment on costs and burdens of our Part 32 rules, including how price cap carriers’ obligations to comply with Part 32 accounting requirements intersect with their other accounting obligations, such as for financial or securities regulation or other corporate needs. Because many parties have suggested that we simply rely on GAAP accounting, we seek to understand precisely how our current requirements differ from GAAP. We also seek comment on the specific purposes for which we need accounting data for price cap carriers, and invite comment on how our needs for accounting data could be met through rules less costly or burdensome than our current Part 32 rules, including greater reliance on GAAP or other alternatives. Finally, we seek comment on several related issues, including state requirements, rate effects, implementation, continuing property records, and legal authority.

⁸ See SBA, Office of Advocacy, “Frequently Asked Questions,” available at http://www.sba.gov/sites/default/files/FAQ_Sept_2012.pdf (last visited Aug. 8, 2014).

⁹ See 13 C.F.R. § 121.201, NAICS code 517110.

¹⁰ See *Trends in Telephone Service* at Table 5.3.

¹¹ See *id.*

¹² 5 U.S.C. § 601(3).

¹³ See Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (May 27, 1999). The Small Business Act contains a definition of “small business concern,” which the RFA incorporates into its own definition of “small business.” See 15 U.S.C. § 632(a); see also 5 U.S.C. § 601(3). SBA regulations interpret “small business concern” to include the concept of dominance on a national basis. See 13 C.F.R. § 121.102(b).

E. Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

9. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): “(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rules for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.”¹⁴

10. The NPRM seeks comment on measures to streamline Part 32 to minimize or eliminate the costs and burdens of compliance with Part 32. The Commission expects to consider the economic impact on small entities, as identified in comments filed in response to the NPRM, in reaching its final conclusions and taking action in this proceeding. The Commission believes that any impact of such requirements is outweighed by the accompanying benefits to the public and to the operation and efficiency of the telecommunications industry.

F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

11. As discussed in the NPRM, the Part 32 rules require carriers to account for certain activities in a manner different than those employed by GAAP, which governs the financial reporting required by the Securities and Exchange Commission.

¹⁴ 5 U.S.C. § 603(c)(1)–(c)(4).

STATEMENT OF COMMISSIONER AJIT PAI

Re: *Comprehensive Review of the Part 32 Uniform System of Accounts*, WC Docket No. 14-130.

Today's Notice of Proposed Rulemaking has been a long time coming. The FCC first adopted detailed accounting rules for telephone companies in the 1930s, when command-and-control was the preferred approach to regulation and legal monopolies dominated. But since the passage of the Telecommunications Act of 1996, competition has blossomed and our Part 32 accounting rules now apply to a small and shrinking percentage of the market. Indeed, these rules require some competitors (but not others) to divert funds from building broadband networks to hiring and training specialized accountants to maintain a reticulated set of 148 accounts and subaccounts designed for TDM-based telephone service—and to do so even when there is no federal use for such data. We have repeatedly acknowledged the need to revise and update these rules to reflect the changing regulatory landscape, both in last year's bipartisan *USTelecom Forbearance Order*¹ and again today as we commence this proceeding.

I am particularly grateful that my colleagues agreed to adopt a number of my suggestions to improve this Notice and make regulatory reform a priority. Specifically, we now propose to consolidate the Class A and Class B accounts² and to better align our asset accounting rules,³ our materiality rules,⁴ and our preapproval-for-extraordinary-items rules with generally accepted accounting principles (GAAP).⁵ These are changes that will reduce the burdens of compliance for everyone subject to Part 32 accounting, rate-of-return and price-cap carriers alike. I also appreciate their willingness to explore eliminating entirely the Part 32 rules for price-cap carriers and replacing them with targeted accounting rules to satisfy the statutory obligations we identified in the *USTelecom Forbearance Order*.⁶

I look forward to working with my colleagues to complete this important proceeding—and the other proceedings launched by last year's order⁷—in the near future. Exploring arcana like the distinction between our rules and GAAP with respect to the allowance for funds used during construction (or AFUDC) or the cost basis of telecommunications assets may not catch the headlines, but it is important if our rules are going to keep pace with the modern world.

Finally, today's Notice would not have been possible but for our dedicated staff. I want to thank Robin Cohn, Victoria Goldberg, Diane Griffin Holland, Kalpak Gude, Athula Gunaratne, Doug Klein, Marcus Maher, Rick Mallen, Carol Matthey, Deena Shetler, Doug Slotten, Jamie Susskind, and Julie Veach for their dedicated work in poring over—and helping us decipher—the dozens of dense pages of Part 32 accounting rules. Their expertise and stamina are critical Commission assets.

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, WC Docket No. 12-61 et al., 28 FCC Rcd 7627 (2013), *pets. for review pending*, *Verizon and AT&T, Inc., v. FCC & USA*, No. 13-1220 (D.C. Cir. filed July 15, 2013).

² *Notice* at paras. 11–13.

³ *Notice* at para. 18.

⁴ *Notice* at para. 26.

⁵ *Notice* at para. 29.

⁶ *Compare Notice* at paras. 36–49, with *USTelecom Forbearance Order*, 28 FCC Rcd at 7658–61, paras. 63–68.

⁷ *See US Telecom Forbearance Order*, 28 FCC Rcd at 7712–7720, paras. 194–210 (seeking comment on streamlining or eliminating legacy regulations contained in the *Computer Inquiry* proceedings); *id.* at 7720–36, paras. 211–43 (seeking comment on eliminating the structural separation requirements for rate-of-return carriers providing facilities-based long-distance services).

STATEMENT OF COMMISSIONER MICHAEL O'RIELLY

Re: *Comprehensive Review of the Part 32 Uniform System of Accounts*, WC Docket No. 14-130.

I am pleased that the Commission is finally acting on the commitment it made last year to comprehensively review its regulatory accounting requirements. These arcane rules were put in place almost three decades ago, when all incumbent carriers were subject to rate-of-return ratemaking and specialized cost data were central to the Commission's work. Times have changed. The advent of price cap regulation, increased competition from a variety of providers not subject to Part 32 requirements, and universal service and intercarrier compensation reforms, among other things, have significantly eroded the benefits of these rules. Yet they continue to impose real costs on carriers, and therefore on consumers in one form or another. According to one filing, price cap carriers collectively "incur millions of dollars in maintaining two separate sets of books – costs that continue to grow with the expanding divergence between Part 32 rules, developed more than 25 years ago, and the ever changing modern accounting techniques under GAAP." That is real money that could be spent on broadband deployment or used to reduce rates.

I commend Chairman Wheeler and his staff for their efforts in this item. This is the latest example of the Commission's needed effort to reduce unnecessary burdens and compliance costs. I also acknowledge the hard work of Commissioner Pai and his staff, which helped get us to this NPRM.

I am appreciative to the Chairman and my colleagues for their willingness to accommodate my requests to further strengthen this NPRM. It now proposes—rather than just raising questions—to streamline the rules in a couple of key respects, which I hope will generate more focused and detailed comments, and signals our collective agreement to curtail, at a minimum, the application of Part 32 in these instances. It also seeks comment on whether the Commission has other tools in its toolbox (besides relying on burdensome accounting rules) to satisfy any remaining regulatory needs, or if there are safe harbors we could adopt to further streamline any remaining requirements. If we have other means at our disposal to get information, if truly necessary, then we can certainly eliminate or significantly reduce the scope of Part 32. Indeed, I would have preferred even more proposals to simplify the rules, including for rate-of-return carriers. I recognize that Part 32 has more relevance to rate-of-return regulation, but if there are instances where our rules impose costs and the benefits are de minimis or minor, we should seek those out and eliminate them regardless of how a carrier is classified. Finally, to keep us all on task, the Commission commits to complete this rulemaking at my ask within 16 months. I hope that we will get a robust record, and I look forward to acting on it no later than the end of 2015.