MINUTES OF THE CC COMMUNICATIONS MANAGEMENT

155 N. Taylor St., Fallon, NV 89406
September 20, 2023

Call to Order:
The regular meeting of the CC Communications was called to order at 10:00 AM on September 20, 2023.

PRESENT:	Commissioner Myles Getto Commissioner Justin Heath General Manager Mark Feest Chief Financial Officer Jamie Hyde Administrative Assistant Shelly Bunyard
ABSENT:	Commissioner Harry Scharmann

Public Comment:
Chairman Myles Getto asked if there was any public comment but there was none.

Verification of Posting of Agenda:
It was verified by Shelly Bunyard, Administrative Assistant, that the Agenda for this meeting was posted on the 14th day of September, 2023 between the hours of 1 pm and 5 pm at all of the locations listed on the Agenda, in accordance with NRS 241.

Consideration and possible action re: Approval of Agenda as submitted or revised:
Planning Commissioner Myles Getto made a motion to approve the Agenda as submitted. Commissioner Justin Heath seconded the motion, which carried by unanimous vote.

New Business:

A- Consideration and possible action re: Enhanced ACAM II election pursuant to WC Docket No.10-90
Mark Feest, CC Communications. We have our first iteration of what was provided to us by our cost accountants at Moss Adams. We are a legacy rate-of-return carrier which means for the areas in our ILEC territory where we are a provider of last resort obligation. It is just the boarders of Churchill County. The FCC calculates the average costs to serve within that footprint. We get a support amount for anything above the 135th percentile in the national average.

On the Enhanced ACAM II analysis first iteration report, lines 9 through 29 show the calculations with some assumptions of our legacy rate-of-return. That's where we are currently. In lines K and 29 shows a dollar amount of $5,781,082.00 which is the dollar amount Moss Adams is projecting for our 2024 net for legacy rate-of-return. Their projections on line 37 for comparison, where we list the Enhanced ACAM Support greater (less) than Rate of Return, they project in 2024 if we stay on legacy Rate-of-Return we would receive $160,000.00 less than if we chose Enhanced ACAM II. The following year we would receive $148,000.00 less and then out to 2026 we would receive $274,000.00 more. If we use their projections, over a 15-year period of ACAM, we would have been better off staying on the legacy rate-of-return.
On Line 10, under Legacy rate-of-return, there are a few big assumptions that comes into play

when they do this. One is we have to subtract out what is called the consumer broadband only loop, which is an imputed number. They say whether you receive $42.00 or not from every customer that takes CBOL and back that dollar amount. They subtract $1,780,280.00 from the $7,781,820.00 legacy rate-of return which equals $5,567,605.00. Then you compare that amount against what the ACAM support amount was. The dollar amount shows we made $160,000.00 less. The $42.00 is the amount that is imputed today.

The other adjustment they have listed is on line 16 called the Budget Control Mechanism. After all of the companies that are like CC Communications on legacy rate-of-return and the revenue requirement is calculated for those provider of last resort locations and add them all up together, you will see the FCC's budget won't cover that amount. It will only cover 90% of that amount. That's when the budget control mechanism kicks in and they will pro-rata pull back 10% or 18% from everyone. The budget control mechanism has occurred for the last 3 years in a row. The FCC has waived all 3 years in a row. Part of this order is taking that entire budget and resetting it to the projected 2024. For that reason, line 16 has no dollar amount in it for 2024, as you move forward through the next 14 years, the number grows based on an estimation of what the budget requirement is versus what the demand will be. That is one area where the money comes out.

The next area where money will be lost is on line 19. If you do the calculation with lines K and lines 10, $7,781.820.00 and subtract out the CBOL imputed $42.00 and what they call competitive overlap impact support. They have a rule saying they will not pay you where a unsupported competitor operates, in your ILEC territory. We call that the donut hole. When you think of Churchill County as a donut and the donut hole in the middle is where Charter overlaps us, the donut itself you will continue to be paid for.

In lines K and 19 -$1,048,206.00, they have taken out the exact number of locations that the FCC says is served by an unsupported competitor, which in this case is Charter. They then multiply that number by the pro-rata share of every location in Churchill County which tells us we will lose $1,048,206.00. On lines K and 37 shows $160,016.00 for enhanced ACAM II. That's because we started with $7,781,820.00 and subtracted out the competitive overlap, CBOL and budget control mechanism. In the year 2024 down $160,016.00 and 2025 down $148,481.00. The down is because of the competitive overlap that hits. The FCC rules says we need to do something to account for competitive overlap, we don't want to pay you for that donut hole. When you take a pro-rata share looking at Churchill County, the donut and the donut hole and let's say there are 1,000 locations and each location costs $10.00 to serve totaling $10,000.00, if you pull out 50% then you have lost half. That isn't necessary how the rule works, it simply says we shouldn't pay you for competitive overlap.

There is a further notice of proposed rule that says, how do we account for that. This is the most draconian method of accounting for that, because it's a one for one. I don't believe that this will happen. It's just a guess and a guess shared by many people in the industry, including Moss Adams. Moss Adams advised they wanted to give us the worst-case scenario. The reason I don't believe they will just take out the donut hole, is because we average our costs between Stillwater and Keddie Street. If we get $10.00 per location on Keddie Street and $10.00 per location on Stillwater, we are actually being underpaid for Stillwater. If you get rid of all of the locations inside the donut hole and then recalculate the average costs of the locations that are left, the average cost goes up with locations sitting on the donut at Bench, Stillwater and Lake Lahontan. You don't actually pro-rate lose the same amount for these low-cost locations that were removed and recalculated your average. I don't believe that $1,171,683.00 will be the recalculated rate for those lost locations. You will lose support of the donut hole and recalculate your average costs outside the donut hole, for example on 1 acre, 5 acres, 20 acres and out. The average costs on the remaining locations will go up and you will get more per location and will end up somewhere between zero dollars of impact and $1,171,683.00 of impact. We don't know where we will fall on that, but it is our opinion it will be lower than the $1,171,683.00. We don't know how much lower but when we look at 2024 on lines K & L and 37, we see a shortcoming of $160,016.00 and $148,481.00. It doesn't have to come in that much better in order to flip the first two years in favor of remaining in legacy rate-of return support. It's better to remain on legacy rate-of-return support with the 15 years out projection. The pain we might feel by staying on legacy rate-of-return will most likely be felt over the next few years and then be outweighed by the benefit going forward after that.

The other contingency and unknown, is the budget control mechanism. On lines K and 16, the budget control mechanism shows that in 2024 the budget is reset but the dollar amount grows in the years out. The calculation shows that you're better off by staying in legacy rate-of return support. I don't believe the dollar amount will grow as much as they are projecting. If you get out of legacy rate-of return support and go to enhanced ACAM II, it's because it's clearly more money for you. The reason it's more money is because you didn't build out fiber-to-the-home. That's why this hits us hard, because we are 95% fiber-to-the-home. The ACAM model pays you for all the building out you still need to do. If you don't have a lot of building, it doesn't pay and won't work out. The companies will receive a lot of money, because they spent the last 20 years not building fiber-to-the-home and doing something else with the money. Basically, they did nothing and are now being rewarded for it with big offers. There are companies whose calculations are $7 million under legacy rate-of-return and now they're receiving twice as much money to do something they were supposed to be doing for years.

The companies with big spends ahead of them will move out to ACAM II. They will leave behind companies that are like us. We have small capital expenses going forward thus small fluctuations in the budget to actual. I don't think it will grow at near the rate this projection says. These projections are based upon the pool of companies right now that are getting the money. We don't know what the pool will look like later. It is my anticipation; the pool will be the companies that have less spent and less fluctuation where the budget control mechanism won't hit as hard. Another reason the budget control mechanism won't hit us as hard is because there will be some amount of competitive overlap impact. Every dollar lost in competitive overlap is not needed for that total budget, therefore the budget control mechanism doesn't kick in. Then there is the imputed consumer broadband only of $42.00. In the further notice of proposed rulemaking, the FCC asks if the amount should still be $42.00. They said, since it was first indicated at $42.00 and if you followed straight inflation it will go to $48.12. They have another methodology saying it will go all the way up to $52.00. That is a dollar-for-dollar loss. If you increase that number on the spreadsheet, the cost just keeps going up. Any dollar-for-dollar loss for imputed CBOL rate will come off the budget and make the budget control mechanism less impactful. Their worst-case scenario consists of all three contingencies at one time. Without the final rules from the FCC, which we will not get before we have to make a decision. I think that's still a bit of a carrot of being still concerned about what could happen that you opt into something that isn't good for the company. Until the rules are finalized, we don't know how the imputed number will impact the budget control mechanism and we don't know how the competitive overlap will impact the budget control mechanism. Dollar for dollar any money you don't receive because of competitive overlap and imputed rate, is less demand and will be a less impactful budget control mechanism. I don't think we will hit worst case scenario. Our cost accountants say over the 15 years and even in all worst-case scenarios, we will be better off even though it will cost us money over the next few years. We are on Enhanced ACAM II, we were offered ACAM I in the amount of $1.8 million dollars. The only people who took the ACAM I offer received the ACAM II offers. We didn't get an ACAM II offer. The Enhanced ACAM III offer will go to people who received the ACAM II offer and people who have never selected ACAM. Our offer now is $3.85 million. As an industry, we anticipate in three to five years an ACAM III offer. In ACAM I you had to do 25/3 to certain locations, ACAM II you had to do 25/3 to all locations and Enhanced ACAM II, you have to do 100/20. I anticipate in Enhanced ACAM III which will require again a calculation of their model of what it will cost to do a GB to all locations. It will not work if everyone asks for a GB, because there is not enough bandwidth out to a given system. We already have a plan in please to beef that up as more people who choose 250, 500 and a GB. There will be spending to meet a theoretical ACAM III offer.

Are there any questions or clarifications needed? Our request is a motion that we remain on legacy rate of return. We have until September 29, 2023, to give them an answer. In the next eight days, NTCA, WTA and Moss Adams have meetings scheduled with the FCC trying to get clarification on the direction the FCC is going on this competitive overlap rule that they are coming out with. They're also wanting to know what the FCC is thinking on the budget control mechanism and on the Consumer only broadband loop imputed rate. It is not outside the realm of possibility that they could have a last-minute change to where they think those three issues are going that will change our recommendation. If that comes up, would that be a valid reason for an emergency meeting?

Joe Sanford, Chief Civil Deputy District Attorney. Yes.

Mark Feest, CC Communications. Ok. I will just say there is a potential for an emergency meeting. They have exparte meetings on the fifth floor of the FCC building, they meet with staff and all 5 commissioners plus the Chief of staff. If they get a different feeling that what they have been communicating to us directly and to us through our two major trade associations, that makes us feel differently about the Cosumer only broadband loop and budget control mechanism and the overlap is going a different direction that what we think it is now, we might need an emergency meeting.

A requirement of ACAM II is 50.1% of all locations selected to move into ACAM II through your carriers. So, you take enough carriers that own 50.1% of the locations in the model. If 50.1% of those locations do not opt into ACAM II, then there is no ACAM II. They will probably recycle it and try to get 50.1%. There is one company that has 45% of all of the locations. If they choose in, then it will probably go. If they choose out, it probably will not go. They have not indicated which direction they are leaning towards. They own a bunch of companies our size and some are even smaller. They are having a hard time understanding in the aggregate what is best for them. That is the one caveat that this vote might be moved.

Commissioner Justin Heath made a motion to Motion to decline participation in Enhanced ACAM II and remain on the legacy rate of return. Commissioner Myles Getto seconded the motion, which carried by unanimous vote.

Affidavit of Posting:

Public Comment:
Chairman Myles Getto asked if there was any public comment but there was none.

Adjournment:

The meeting was adjourned at 10:26 a.m.

APPROVED: ______________________
Myles Getto, Chairman

APPROVED: ABSENT______________
Harry Scharmann, Vice, Chairman

APPROVED: ______________________
Justin Heath, Commissioner

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Shelly Bunyard, Administrative Assistant

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Mark Feest, General Manager/CEO