

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

IN THE MATTER OF THE)	DOCKET NO. 11-2180-01
APPLICATION FOR USE)	
ELIGIBILITY FOR ALL WEST)	DPU Exhibit No. 2.0R
COMMUNICATIONS INC.		

REBUTTAL

TESTIMONY

OF

CLAIR OMAN

**DIVISION OF PUBLIC UTILITIES
DEPARTMENT OF COMMERCE
STATE OF UTAH**

October 24, 2011

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I. IDENTIFICATION OF WITNESS

Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION WITH THE DIVISION OF PUBLIC UTILITIES.

A. My name is Clair Oman. My business address is Heber M. Wells Building, 160 East 300 South, 4th Floor, Salt Lake City, Utah. I am employed as a Utility Analyst for the State of Utah in the Division of Public Utilities. I am testifying on behalf of the Division of Public Utilities (DPU).

Q. HAVE YOU TESTIFIED PREVIOUSLY IN THIS DOCKET?

A. Yes I filed Direct Testimony in this Docket.

Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE UTAH PUBLIC SERVICE COMMISSION?

A. Yes, I have testified before the Commission as an expert witness representing the DPU in Dockets 02-2270-01, 07-2419-03, 10-052-01 and 08-046-01.

II. PURPOSE OF TESTIMONY

Q. PLEASE STATE THE PURPOSE OF YOUR TESTIMONY.

22 A. I will respond to the Direct Testimony of Kevin J. Kelly representing
23 All West Communications Inc.

24

25 **Q. IN AWC DATA REQUEST 2.2 TO THE DPU, AWC INDICATES**
26 **THAT THE DPU IS NOT USING GROUP ASSET**
27 **DEPRECIATION FOR THE FULLY DEPRECIATED PLANT**
28 **CATEGORIES, WHICH WOULD BE A DEPARTURE FROM**
29 **PART 32.2000(g)(1) IS THAT THE CASE?**

30 A. No that is not the case. In AWC Data Request 2.2¹ to the DPU, AWC
31 asks: “Please provide the effective date at which Division Staff no
32 longer used group asset depreciation for each of the five categories
33 listed above.” The five categories above referring to the fully
34 depreciated plant listed on lines 136 – 144 on page 8 of my direct
35 testimony. This question seems to imply that the DPU intends to
36 change the application of the FCC require of group asset accounting in
37 the instances of these categories of plant. The DPU acknowledges and
38 understands Part 32 and its application in the telecommunications
39 industry. The DPU intent is to apply Part 32 as it is written and
40 informed by FCC interpretations, and the DPU disagrees with some of
41 the methods of its application by AWC.

42

¹ AWC Data Request 2.2 and the DPU Response are attached as DPU Rebuttal Exhibit 2.1R

43 **Q. PLEASE RESPOND TO MR. KELLY'S EXPLANATION AS TO**
44 **HOW AWC CALCULATES DEPRECIATION EXPENSE (LINE 9**
45 **OF PAGE 5) IN HIS DIRECT TESTIMONY.**

46 **A.** Mr. Kelly cites Part 32 and answers generally; however, he does not
47 address the fully depreciated plant issue that is the central for this
48 hearing. He omits the effect of the Part 32 section quoted by the FCC
49 WC Docket No. 08-236 on the calculation of depreciation whether fully
50 depreciated or not:

51 Part 32 of the Commission's rules sets forth the Uniform System of Accounts (USOA)
52 for telecommunications companies.² Incumbent local exchange carriers (LECs) are
53 required to use the USOA to maintain their financial accounting records in a consistent
54 and stable manner that adheres to the "well established body of accounting theories and
55 principles commonly referred to as generally accepted accounting principles."³ The
56 USOA, at section 32.2000(g)(2)(ii), requires incumbent LECs to compute depreciation
57 rates based on the difference between the net book cost of a class or subclass of plant and
58 its estimated net salvage value during the known or estimated remaining service life of
59 the plant.⁴

60 The depreciation rate calculated based upon the above parameters
61 modifies the rate applied to the plant balance and would be the same
62 rate in Exhibit 2.1 of my Direct Testimony on line 12 in column F of
63 what is titled FCC Method. This method produces the same results
64 (within \$25) of the method used by the DPU in its adjustment to
65 depreciation. The method used by the DPU, removes the fully

² 47 C.F.R. Part 32.

³ 47 C.F.R. § 32.1.

⁴ 47 C.F.R. § 32.2000(g)(2)(ii). The net salvage value commonly refers to the salvage value, i.e., the amount received for property retired, if sold (47 C.F.R. § 32.9000, Glossary of terms) minus the cost of removal, i.e., the cost of demolishing, removing, or otherwise disposing of telecommunications plant and recovering the salvage (47 C.F.R. § 32.9000, Glossary of terms). *See* Petition at 4.

66 depreciated plant balance which produces very similar depreciation
67 amounts. The majority of AWC plant classifications are more than 50%
68 depreciated and should be reviewed and rates recalculated based upon
69 a depreciation study or in the interim the rates should be revised using
70 the formula cited above by the FCC.

71

72 **Q. PLEASE RESPOND TO MR. KELLY'S DIRECT TESTIMONY**
73 **(PAGE 5 LINE 16) EXPLANATION OF THE PART 32**
74 **REQUIREMENT FOR GROUP ASSET ACCOUNTING.**

75 **A.** Mr. Kelly states that simplicity is the primary attribute of mass asset
76 accounting, which if relied on solely would leave any accounting
77 system without the structure to provide meaningful results. Simplicity
78 alone will not provide consistency and stability in any accounting
79 system. The FCC has indeed employed mass asset accounting, but it
80 has not done so without periodic review and prescription of rates for
81 various carriers. The purpose is not to average anomalies but rather to
82 provide consistent inter-period allocation of costs of plant over the
83 determined useful life of the plant. The AWC depreciation rates need
84 to be reviewed and revised to produce depreciation expense that will
85 allocate a just and reasonable amount to all years during the service

86 life of the plant and not provide spurious accelerated depreciation
87 amounts.

88

89 **Q. DOES LINE 17 PAGE 2 OF MR. KELLY'S TESTIMONY**
90 **ACCURATLY STATE THE RESUMPTION OF DEPRECIATION**
91 **FOR FULLY DEPRECIATED PLANT?**

92 **A.** Again there are areas of agreement and disagreement, but the crux of
93 the matter is ascertaining an appropriate depreciation amount taking
94 into account the accumulated depreciation ratio of the plant. Those
95 amounts can be approximated using the method prescribed by Part
96 32.2000(g) (2) (ii) or a depreciation study would provide even more
97 appropriate rates. As stated by the FCC in FCC 00-306⁵, "the
98 depreciation rate for an account is a function of the associated plant's
99 average remaining life, future net salvage, and *depreciation reserve*
100 *ratio*." Therefore it would be necessary to review and change one or
101 more of those elements in order to resume depreciation that spreads
102 the costs of the newly added plant costs over the estimated life
103 determined for them. If AWC does not recognize the need to review
104 depreciation rates and lives as their plant ages the DPU would

⁵ FCC 00-306 is attached as DPU Rebuttal Exhibit 2.2R

105 encourage the Commission to require a procedure not unlike the FCC.

106 In FCC 96-485⁶ the FCC states:

107 “In prescribing depreciation rates, we review two types of studies: full
108 studies and annual update studies. It has been our practice to review
109 full studies of each major local exchange carrier every three years.
110 Carriers' full studies include data related to their recent plant retirements and
111 plans for future plant additions and retirements, along with their
112 preliminary depreciation proposals. State commissions are encouraged to
113 provide proposals and many do. The Common Carrier Bureau ("Bureau")
114 then independently analyzes carriers' depreciation data and proposals and
115 prepares its own preliminary proposals that are then forwarded to the state
116 commissions and the carriers. Representatives from the Bureau, the state
117 commissions and the carriers jointly discuss the various proposals. At the
118 conclusion of those discussions, the Bureau makes its recommendations to
119 the carriers and the state commission staffs.”
120

121 There would be changes in the players involved but the procedure
122 could be similar in the state of Utah. The failure of AWC to have a
123 depreciation study completed and provided to the Commission is key
124 element of the concerns the DPU has with the manner in which AWC
125 has performed its group asset depreciation accounting in the past and
126 specifically in this Docket. For this reason the DPU is recommending
127 AWC be ordered to conduct a depreciation study to resolve these
128 depreciation issues.

129 **Q. WOULD IT BE IN ACCORDANCE WITH PART 32 AND THE**
130 **FCC DEPRECIATION RATE PRESCRIPTION PROCEDURES**
131 **USED IN THE PAST TO RESUME DEPRECIATION ON THE**

⁶ FCC Order 96-485 is attached as DPU Rebuttal Exhibit 2.3R

132 **ENTIRE BALANCE OF THE PLANT ACCOUNT AS INDICATED**
133 **ON LINE 5-6 OF PAGE 7 OF MR. KELLY’S TESTIMONY?**

134 **A.** Not without taking into consideration the effect of the depreciation
135 reserve ratio on the depreciation rate going forward as indicated in
136 FCC 00-306 which follows the procedure in 47 CFR 32.2000(g)(2)(ii).

137

138 **Q.** **WOULD IT BE IMPROPER UNDER PART 32 TO USE A**
139 **METHOD OTHER THAN THAT INDICATED ON LINES 5-6**
140 **PAGE 7 OF MR. KELLY’S TESTIMONY?**

141 **A.** I do not believe that to be the case. I would, however let the FCC
142 rulings and Part 32 speak to what would be proper, that reference can
143 be found at FCC WC Docket No. 08-236⁷ interpreting Part 32 at
144 Section 32.2000(g)(2)(ii).

145

146 **Q.** **MR. KELLY INDICATES ON LINE 6 OF PAGE 8 OF HIS**
147 **TESTIMONY THAT AWC’S METHOD OF RECORDING**
148 **DEPRECIATION IS CONSISTENT WITH THE**
149 **REQUIREMENTS OF THE FEDERAL JURISDICTION, WOULD**
150 **YOU AGREE?**

151 **A.** No. NECA and USAC require that financial information be properly
152 recorded following FCC Part 32 accounting requirements. Based upon

⁷ FCC Order WC Docket No. 08-236 attached as DPU Rebuttal Exhibit 2.6R

153 my research and findings I would conclude that AWC is not following
154 requirements of the federal jurisdiction in properly calculating group
155 asset depreciation.

156

157 **Q. WHAT IMPACT WOULD THE PROPOSED ADJUSTMENTS**
158 **HAVE ON AWC'S INDEPENDENT AUDITORS OPINION.**

159 **A.** I cannot speak to the likelihood of any change in opinion as a result of
160 the proposed changes but again I strongly disagree with Mr. Kelly's
161 ascertain that the proposed adjustments are not in accordance with
162 FCC rules.

163

164 **Q. DO YOU FIND THE REFERENCE MADE BY MR KELLY TO**
165 **THE USAC AUDIT OF AWC GERMANE TO THE ISSUES IN**
166 **THIS DOCKET?**

167 **A. No.** The DPU requested a copy of the USAC audit from AWC and
168 received an opinion page with no schedules or attachments in
169 response⁸. No data or other information relied on by USAC in issuing
170 its audit opinion was provided for review and analysis. Therefore the
171 DPU cannot confirm whether AWC's depreciation calculation was even
172 reviewed by USAC. Without more documentation, one can only suggest

⁸ DPU Data Requests 13.1 and 13.2 and AWC's Response attached as DPU Rebuttal Exhibits 2.4R and 2.5R respectively.

173 that Mr. Kelly is speculating as to any foundation for his assertion that
174 AWC's depreciation accounting practices were part of USAC's audit.
175 Further the last paragraph of the opinion reads as follows: "This report
176 is intended solely for the information and use of the Universal Service
177 Administrative Company and the Federal Communications
178 Commission, and is not intended to be and should not be used by
179 anyone other than these specified parties." Therefore the DPU finds
180 no information for reliance to support the AWC position in this docket.

181

182 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

183 **A.** Yes it does.

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