THE MOTHER OF **ALL** RABBIT HOLES

THE INCREASINGLY COMPLEX, BURDENSOME AND CRAZY WORLD OF FEDERAL COMPLIANCE

BAND Conference, July 2024
Consortia Consulting
Dan Caldwell

WHICH ONE IS NORTH DAKOTA?

I'M A BOARD MEMBER NOT A STAFF MEMBER…

WHY DO I CARE ABOUT *COMPLIANCE* ISSUES?

Great Question…

- That brings us to my first, last (and probably middle) message.
- The "**don't miss this**" moment of the next 45 minutes.
- The "**I can take a quick nap after this point**"…point.

WHY IS COMPLIANCE GETTING SO COMPLEX?

Two Facts…and Three Theories!

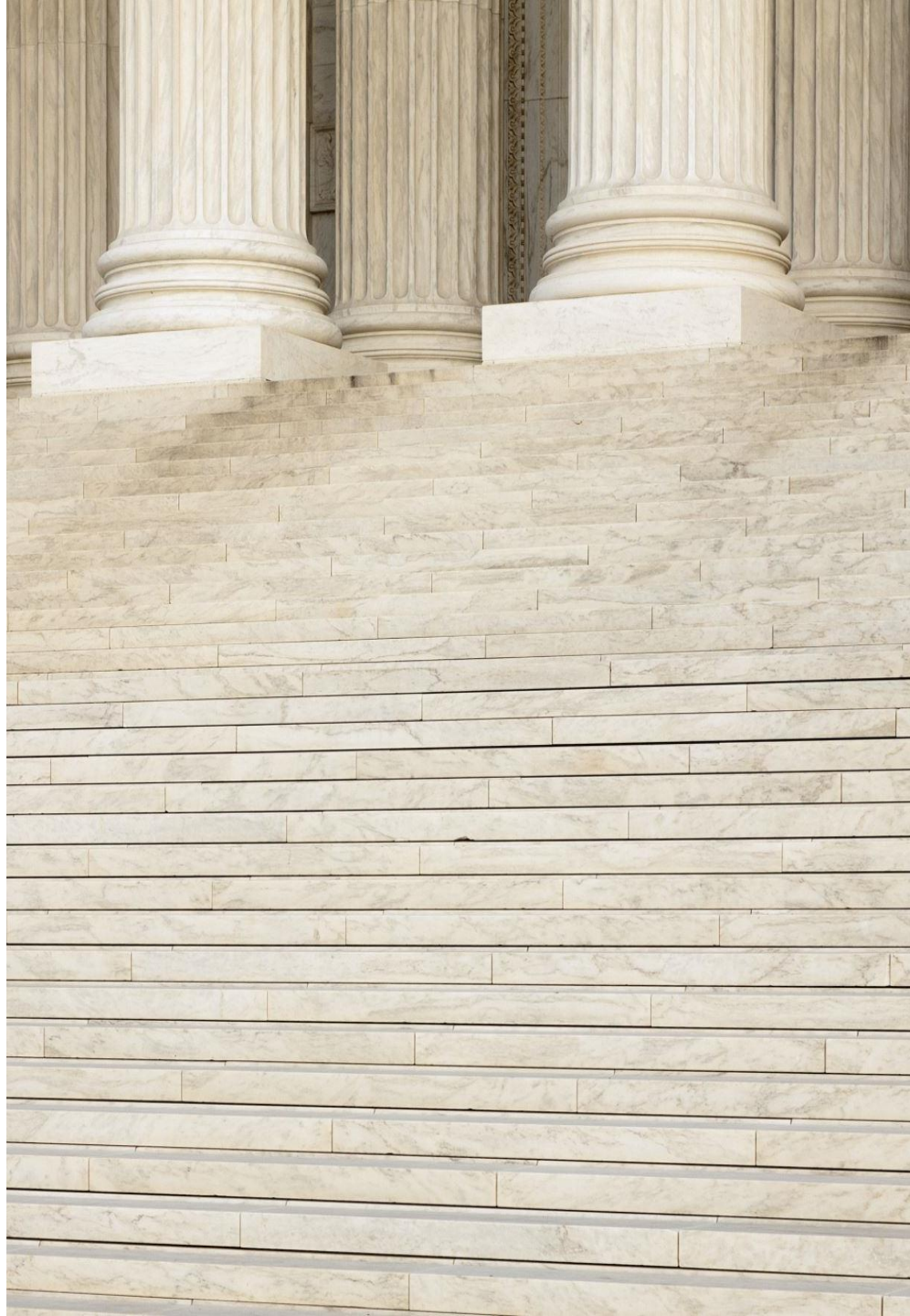
Fact #1 – Billions of $ spent on broadband funding

Fact #2 – A history of industry fraud and abuse

Theory #1 – Lots of $ = more engaged Agencies

Theory #2 – Agencies are (were?) wielding more power

Theory #3 – More programs = More compliance



OLD WORLD COMPLIANCE

High-level “verification” accomplished via corporate attestations and certified financial audits.

Detailed compliance audits were rare, typically only performed when regulators suspected fraudulent practices by a carrier.

Support programs (USF, e.g.) were largely derived from actual company costs and national averages from financial filings.

NEW WORLD COMPLIANCE

Support is now largely based on financial models versus actual financial results.

And, even the cost-based programs (CAF-BLS, HCLS, etc) have added many more expense limitations, caps and performance-related requirements.

Compliance is trending away from verification of costs and focusing on network performance and social goals (network performance, service availability and consumer cost).

The new programs have driven regulators deeper into operational compliance with rapid growth in non-financial program requirements. Audits have now become “routine”.

COMPLIANCE OVERREACH IS EXPLODING!

Grant requirements

Broadband mapping

Broadband labels

Digital Discrimination

Net Neutrality order

Performance testing

Cybersecurity plans

All-in video pricing

Cyber incident reporting

Broadband outage reporting

CPNI, data breach reporting

USAC (and other) audits

THE VOLUME OF NEW REQUIREMENTS IS STAGGERING!

Mapping – initial three orders were 340+ pages, since then around 55 additional notices and clarifying orders have been published.

Labels – several orders and more than 125 pages of related rules

Digital Discrimination order – 235 pages of new requirements

Net Neutrality order – 512 pages

A BRIEF LOOK AT SOME OF THE NEWER FEDERAL COMPLIANCE PROGRAMS

NATIONAL BROADBAND MAP, THE BASICS

Initial order issued August 2019 (we are already five years in!)

BDC Goal - collect more granular (location-specific) data

The FCC envisioned the mapping effort as an ongoing (and apparently eternal) effort

The mapping effort included multiple data sources, and an ongoing challenge process.

NATIONAL BROADBAND MAP, THE CRAZY STUFF

The challenge process remains a “nightmare”

FCC’s administration of the challenges is slow and unpredictable.

Various data sources and lack of transparency make the process results hard to understand.

Challenges that are “rejected” are often disallowed from further challenge. Accepted and corrected challenges often “reappear” for unexplained reasons.

The data is slowly improving, but at an enormous ongoing cost and exhaustive ongoing effort.

BROADBAND LABELS, THE BASICS

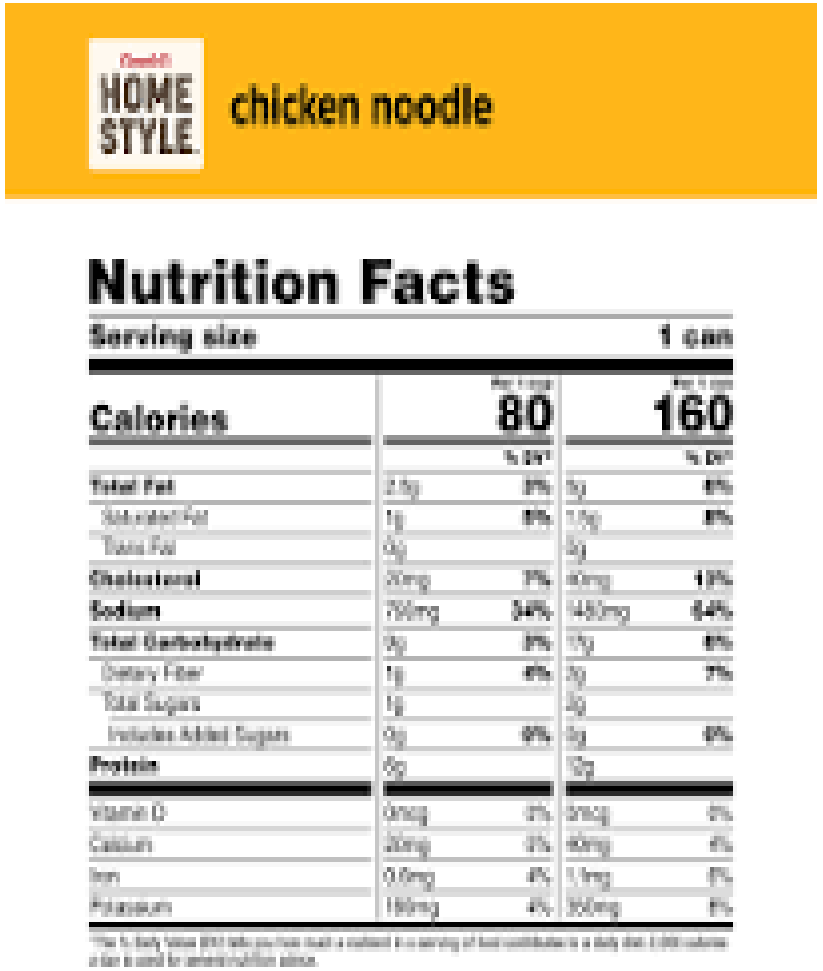
Order from FCC in November 2022

Requires Broadband Providers to implement “nutrition-style” labels for their broadband service plans.

Labels must be implemented by October 2024

Labels must be created for all service plans (active and grandfathered)

Data includes (but not limited to) pricing, performance, and network management.



BROADBAND LABELS, THE CRAZY STUFF

Tracking distribution of labels

Multiple languages and Machine readable

DIGITAL DISCRIMINATION ORDER, THE BASICS

FCC Order, November 2023

FCC points to Section 60506 of IIJA for authority

Attempts to create equal access to Broadband for everyone

Sets guidelines for “discriminatory” practices

DIGITAL DISCRIMINATION ORDER, THE CRAZY STUFF

Guilty until proven innocent mindset

Micromanages operations, including:

- Deployment priorities
- Pricing decisions

No defined process and it just takes one complaint!

NET NEUTRALITY ORDER - THE BASICS

Order passed by the FCC in April 2024

Classifies BIAS service as a Title II telecommunications service

Significant forbearance in the order makes regulation of broadband limited, including no application of:

- Tariffing, rate regulation, cost accounting, last-mile unbundling, certificate of public convenience, USF contributions, etc.

Other types of regulation will apply to BIAS, including:

- Customer and competitive protections, enforcement rules, data collection, discrimination protections, etc.

NET NEUTRALITY ORDER - THE CRAZY STUFF

- Guilty until proven innocent mindset!
- The political seesaw of Net Neutrality rules continues
- 60-day implementation
- Many lawsuits have been filed!

MORE COMPLIANCE REQUIREMENTS

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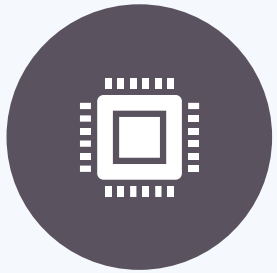
MORE COMPLIANCE ENFORCEMENT

Types of USAC Audits

BENEFICIARY AND CONTRIBUTOR AUDIT PROGRAM (BCAP)



PAYMENT QUALITY ASSURANCE PROGRAM (PQA)

CONTRIBUTOR AUDIT (499A REVIEW)

HUBB LOCATION VERIFICATIONS

Is the volume of USAC audits rising?

- USAC Audits (2022)
  - 80 BCAP Audits
  - 690 PQA Audits

- YES!
- From the FCC's Rural Broadband Accountability Plan, January 2022
  - The number of audits and verifications doubled in 2022 as compared to 2021…
  - USAC will conduct more verifications prior to a program's first required deployment milestone. Increased audits and verifications of large dollar and higher risk recipients…
  - The largest dollar recipients will be subject to an on-site audit in at least one state…
  - Higher risk recipients will be subject to additional audits and verifications…

Now…
Let's Make it Real!

- Company A
  - BCAP 499 Review
  - June 2021 – July 2022 (13 months)

- Company B
  - High-Cost (BCAP) Audit
  - Jan '23 – ??? (possibly eternal☹)

Company A's Survivor Story – USAC 499 Review

- Audit Timeline (June 2021 – July 2022)
  - June 10 2021 - received Notice of Audit
  - June 29 2021 – first call with USAC (process overview)

  - July 2021 thru February 2022 (**8 months of bi-weekly status calls**)

  - April 14 2022 – preliminary exit call w/ draft findings (2 wks to respond)
  - April 14 2022 – Company A responded to findings
  - April 21 2022 – USAC responded w "thank you for the quick response"
  - May 3 2022 – Exit conference
  - July 6 2022 – Final Audit Report w/ 60 days to respond
  - July 27 2022 – submitted revised 499A w/ written response
  - July 29 2022 – revised 499A was accepted

Company A's Survivor Story
USAC 499 review

- Annoyances from the audit experience:
  - Requested a fast track (i.e. 5 months) due to an anticipated key employee maternity leave…USAC thought that was doable.
  - Data requests were responded to within hours…no change in two week status call schedule
  - Same data was requested multiple times
  - Calls were drawn out to an hour regardless of content (33 "ya knows")
  - The audit shortcomings were evident in Week One, still took a year to wrap it up.

- Biggest surprise – USAC's ability to drag the process out!

Company B in the Trenches – BCAP Audit in Progress

- Company B BCAP Overview
  - Notified in late January 2023…audit period 2019
  - Third party auditors
  - Provided with two weeks to upload massive amounts of data
  - Bi-weekly update Teams calls
  - On-site visit undetermined at this point
- Here is an overview of the data required during the two-week period
  - Next **6** slides!

Financials, Audit Reports, Tariffs, Policies and Procedures

Items #1 and #2 below are 120 questions…

#	Request Date	Audit Area	Request Description
1	1/26/2023	Planning	Completed Background Questionnaire
2	1/26/2023	Planning	Completed Internal Controls Questionnaire
3	1/26/2023	Planning	Written policies and procedures (if any) describing processes related to filing High Cost Program forms, including (but not limited to), A. process for recording asset and expense transactions to the appropriate Part 32 account, B. process for entering into leases (i.e. operating vs. capital), C. process for recording payroll time to the appropriate account (Part 32), and D. process for categorizing assets to the correct category based on the functionality of the asset (Part 36).
4	1/26/2023	Planning	Annual report, to include management's discussion and analysis, financial statements, and financial statement footnotes for FYs 2019 and 2020 for each of the following: A. All affiliated entities (both regulated and non-regulated) B. Parent/holding company
5	1/26/2023	Planning	All audit report(s) that include or relate to calendar years 2019 and 2020. This includes all financial, internal control, or other audits conducted by your internal audit department, external auditors, the FCC, state commission, or any other entities. The provided audits should include all audits conducted by Rural Utilities Service (RUS) and the State Commission.
6	1/26/2023	Planning	Local exchange tariffs in effect during 2018, 2019, 2020, and 2021. If the carrier does not have a local exchange tariff, please provide price listings for the requested periods.
7	1/26/2023	Planning	Organizational Charts and Corporate Structure for each of the following : a. Auditee b. All affiliated entities (both regulated and non-regulated) c. Parent/holding company
8	1/26/2023	Planning	If audited financial statements are: (1) as of the High Cost data period and (2) identify financial balances separate from any affiliates and/or parent company, provide a reconciliation of the general ledger balances to the audited financial statements.

Cost Study Data

9	1/26/2023	Cost Study	A .csv file format of the monthly general ledger for calendar year 2019. Note: If a quarterly update (dash) filing was submitted for HCL data, please also provide the general ledger for the twelve-months ending with the "as of" date for the final HCL quarterly update filing. For example, if a Dash 4 filing (data as of September 30) was submitted, please also provide the general ledger for the twelve-months ending September 30, 2020.
10	1/26/2023	Cost Study	If not included in the general ledger, names for each of the general ledger account, including identification of regulated and non-regulated accounts.
11	1/26/2023	Cost Study	Identification of accounts that include both regulated and non-regulated amounts.
12	1/26/2023	Cost Study	A .csv file format of the monthly sub-ledgers (i.e.., transaction detail) that support the monthly general ledger(s) requested above. The sub-ledgers should include the following: a. Part 32 account b. Amount recorded c. Transaction description d. Vendor name
13	1/26/2023	Cost Study	A .csv file format of the trial balance that supports the monthly general ledger(s) requested above.
14	1/26/2023	Cost Study	Part 36, 64, and 69 Cost Studies as of December 31, 2019. Note: If a quarterly update (dash) filing was submitted for HCL data, please also provide the Part 64 Cost Study for the twelve-months ending with the "as of" date for the final HCL quarterly update filing.
15	1/26/2023	Cost Study	Cost study adjustments, along with detailed documentation to support the adjustments, for the provided Part 64 Cost Study(-ies). Note: If a quarterly update (dash) filing was submitted for HCL data, please also provide the detailed documentation to support the adjustments for the twelve-months ending with the "as of" date for the final HCL quarterly update filing.
16	1/26/2023	Cost Study	Cost Allocation Manual(s) (CAM(s)) in effect for the data reported in the provided Part 64 Cost Study(-ies). If a CAM is not prepared, please provide a detailed narrative describing the allocation methodology.
17	1/26/2023	Cost Study	Allocation factors frozen at the levels calculated during the twelve month period ending December 31, **2000** for (1) jurisdictional allocations and (2) if applicable, Part 32 category separations
18	1/26/2023	Cost Study	If (1) jurisdictional allocations and (2) if applicable, Part 32 category separations allocation factors have been updated since December 31, **2000** and applicable as of December 31, 2019, provide documentation to support these allocation factors.
19	1/26/2023	Cost Study	Detailed calculation (in electronic format) for the determination of any allocation factors used in the provided Part 64 Cost Study(-ies), along with detailed documentation to support the calculation of these allocation factors. Allocation factors may include (but are not limited to), general allocators, allocation factors used to remove non-regulated amounts from accounts used to record both regulated and non-regulated amounts, and allocation factors used to distribute overhead costs to applicable accounts.

Asset Details

20	1/26/2023	Assets	A .csv file format of Continuing Property Records (CPRs) to support the assets reported in the provided Part 64 Cost Study(-ies), to include the following: Part 32 account number; Separations category (Category 1, 4.13, etc.); Identifying numbers; Asset description; Specific location of the asset to spot-check for proof of physical existence; Work order number under which the asset was constructed; Installation year; Unit quantity; Original cost, split between Material cost and Overhead cost
21	1/26/2023	Assets	List identifying which assets in the CPRs requested above were purchased using **RUS** grants.
22	1/26/2023	Assets	Electronic list of the additions for the accounts listed below during calendar years 2017 through 2020. Account 2210, Central Office Equipment (COE) Switching Account 2230, COE Transmission Account 2410, Cable and Wire Facilities (C&WF) The list should have the following data for each of the retired assets: Part 32 account number; Identifying numbers; Asset description; Installation year; Original cost, split between Material cost and Overhead cost
23	1/26/2023	Assets	Electronic list of the assets retired for the accounts listed below during calendar years 2017 through 2020. Account 2210, Central Office Equipment (COE) Switching Account 2230, COE Transmission Account 2410, Cable and Wire Facilities (C&WF) The list should have the following data for each of the retired assets: Part 32 account number; Retired date; Identifying numbers; Asset description; Retired amount; Salvage value (if any).
24	1/26/2023	Assets	Detailed calculation (csv file format including formulas) for the determination of the power and common spread included in the provided Part 64 Cost Study(-ies).
25	1/26/2023	Assets	Detailed calculation (csv file format including formulas) for the determination of the net non-current and current deferred operating income taxes included in the provided Part 64 Cost Study(-ies).
26	1/26/2023	Assets	Detailed documentation to support any tax adjustments reported in the provided Part 64 Cost Study(-ies).
27	1/26/2023	Assets	Detailed calculation for the determination of depreciation expense and accumulated depreciation/amortization, including the depreciation rates, beginning asset balances, and ending asset balances, for the data reported in the provided Part 64 Cost Study(-ies). If approval was obtained for an alternate method of determining depreciation expense, provide documentation to support this approval and alternate method.
28	1/26/2023	Assets	Network diagram(s) with sufficient detail to determine the type of facilities that make-up the network, including: a. Network diagram(s) by exchange that display exchange boundaries; b. Legend explaining the symbols used on the network diagram(s); and c. Route labels (if possible, the route labels should be consistent with the Cable and Wire CPRs or route allocation documentation).
29	1/26/2023	Assets	Detailed route allocation information, to include the following information: a. Route Identifier; Route Section; Exchange; Length of the Route Section in feet; Cost of the Route Section in feet; b.Portion of the Working Pairs assigned to: Interexchange (IX) Access; DSL D1; DSL D3; Extended Area Service (EAS); Host/Remote (H/R); Trunk; Exchange c. Total Working Pairs per Route Section d. Portion of the Investment assigned to: IX Access; DSL D1; DSL D3; EAS; H/R; Trunk; Exchange e. Total Investment per Route Section
30	1/26/2023	Assets	Provide a listing of switches and remotes documenting functionality (i.e: DLC function) and asset category.

Affiliated Transactions, Expense Details, Payroll details

31	1/26/2023	Affiliates	Detailed list (in electronic format) of related-party and affiliate general ledger transactions reported in the provided Part 64 Cost Study(-ies), to include the following for each related-party/affiliate transaction reported: a. Part 32 account b. Amount recorded c. Transaction description d. Related-party/affiliate name
32	1/26/2023	Affiliates	Detailed list of leases, contracts, and management agreements with affiliates and/or parent/holding companies, to include the following information for each lease, contract, and/or management agreement: a. Purpose b. Terms c. Length of time lease, contract, or management agreement is in effect
33	1/26/2023	Affiliates	Copy of all lease and management agreements with affiliates and/or parent/holding companies.
34	1/26/2023	Expenses	Documentation to demonstrate the overhead amounts in the accounts below were posted to construction and/or plant-specific operations expense accounts: Accounts 6110, 6112, 6113, 6114, 6512, 6534 (construction only), 6535 (construction only)
35	1/26/2023	Expenses	Documentation to demonstrate the overhead amounts in the accounts below were allocated based on direct labor hours: Accounts 6110, 6112, 6113, 6114, 6512, 6534, 6535
36	1/26/2023	Payroll	Electronic (via Excel) monthly payroll distribution report(s) by (1)employee and (2) account.
37	1/26/2023	Payroll	Name and position title for each of ‘s employees who are included in the payroll expense reported in the provided Part 64 Cost Study(-ies).

Revenue Details, Line Count details, CBOL data

38	1/26/2023	Revenue	Schedule of uncollectible Subscriber Line Charge (SLC) revenue write-offs for calendar year 2019 or, if the uncollectible SLC revenue write-offs have their own account(s), identification of the account(s) for these amounts in the general ledger.
39	1/26/2023	Revenue	24 Month Latest View with the data for calendar year 2018 and calendar year 2019.
40	1/26/2023	Revenue	25 Month Latest View (AS3060-L) with the data for calendar year 2019.
41	1/26/2023	Revenue	EC Review Form with CAF BLS true-up data for calendar year 2019.
42	1/26/2023	General	Source documentation to report Annual Consumer Broadband-only Loop cost in FCC Form 509.
43	1/26/2023	General	Calculation of the average monthly broadband-only Loops.
44	1/26/2023	General	Loop and Access Line Count report as of December 31, 2019. Note: If a quarterly update (dash) filing was submitted for HCL data, please also provide the loop count report for the twelve-months ending with the “as of” date for the final HCL quarterly update filing
45	1/26/2023	General	Provide CBOL Rate tariff that was in effective for calendar 2019 that goes along with the FCC Form 509 submitted.

CAF-ICC Details

In total over 180 data requests!

46	1/26/2023	CAF ICC	For both NECA Traffic Sensitive Pool Participants and non-NECA Pool Participants, general ledger detail for all revenue accounts for July 1, 2018 to June 30, 2020.
47	1/26/2023	CAF ICC	Source documentation used to report the CAF ICC true-up data for July 1, 2018 to June 30, 2019 submitted Program Year 2020 – 2021. Please ensure to incude the 24 Month (EC2060-L) with an April view.
48	1/26/2023	CAF ICC	Source documentation used to report the CAF ICC true-up data for July 1, 2019 to June 30, 2020 submitted for Program Year 2021 – 2022.Please ensure to incude the 24 Month (EC2060-L) with an April view.
49	1/26/2023	CAF ICC	If applicable, for non-NECA Pool Participants, please provide the Tariff Review Plan for the company under audit to include but not limited to the following: • 2020 CAF ICC Rate Ceiling • 2020 CAF ICC Data • 2020 CAF ICC ROR Summary • 2020 CAF ICC True-Up • 2020 CAF ICC Tariff Rate Comparison • 2021 CAF ICC Rate Ceiling • 2021 CAF ICC Data • 2021 CAF ICC ROR Summary • 2021 CAF ICC True-Up • 2021 CAF ICC Tariff Rate Comparison
50	1/26/2023	CAF ICC	Source documentation used to report the ARC Revenue Projection for July 1, 2018 to June 30, 2019 submitted for Program Year 2020 – 2021.
51	1/26/2023	CAF ICC	Source documentation used to report the ARC Revenue Projection for July 1, 2019 to June 30, 2020 submitted for Program Year 2021 – 2022.
52	1/26/2023	CAF ICC	For NECA-Pool Participants, please provide CABS Bills to support the Intrastate Terminating Access Revenue, Intrastate VoIP Terminating Revenue reported on the 24 Month Latest View (EC2060-L) for July 1, 2018 to June 30, 2019 submitted for Program Year 2020 – 2021 and July 1, 2019 to June 30, 2020 submitted for Program Year 2021 – 2022.
53	1/26/2023	CAF ICC	Source documentation to support any Reciprocal Compensation & State Funds Revenue reported for the program CAF ICC true-up data for July 1, 2018 to June 30, 2019 submitted Program Year 2020 – 2021.
54	1/26/2023	CAF ICC	Source documentation to support any Reciprocal Compensation & State Funds Revenue reported for the program CAF ICC true-up data for July 1, 2019 to June 30, 2020 submitted Program Year 2021 – 2022.
55	1/26/2023	CAF ICC	Source documentation to support any Bad Debt Expense and Uncollectible Revenue reported for the program CAF ICC true-up data for July 1, 2018 to June 30, 2019 submitted Program Year 2020 – 2021.
56	1/26/2023	CAF ICC	Source documentation to support any Bad Debt Expense and Uncollectible Revenue reported for the program CAF ICC true-up data for July 1, 2019 to June 30, 2020 submitted Program Year 2021 – 2022.
57	1/26/2023	CAF ICC	Reconciliation demonstrating the original and terminating Intrastate Access Revenue amounts agree to the general ledger.
58	1/26/2023	CAF ICC	If the Residential ARC Recovery rate fell below the maximum allowed per 47 C.F.R. § 51.917(e)(6)(1) for the applicable audit period, please provide access charge rate documentation that shows the components of the rate ceiling or provide documentation demonstrating that the maximum rate charge was applied. The rate ceiling components consist of the following: •Federal End User Common Line Charge •Access Recovery Charge •Flat Rate for Residential Local Service •Mandatory Extended Area Service Charges •State Subscriber Line Charges •Per-line State High Cost and/or State Access Replacement Universal Service Contributions •State E911 Charges •State TRS Charges The applicable audit period is CAF ICC true-up data for July 1, 2018 to June 30, 2019 submitted for Program Year 2020 – 2021 and July 1, 2019 to June 30, 2020 submitted for Program Year 2021 – 2022.
59	1/26/2023	CAF ICC	For non-NECA Pool Participants, please provide line counts used for the reporting of ARC Revenue including CBOL line counts for the applicable audit period (July 1, 2018 to June 30, 2019 submitted for Program Year 2020 – 2021 and July 1, 2019 to June 30, 2020 submitted for Program Year 2021 – 2022). Line counts should be distinguished as Residential (excluding Lifeline), Single-Line-Business, and Multi-Line-Business.
60	1/26/2023	CAF ICC	For non-NECA Pool Participants, please provide CABS Bills to support the Interstate Switched Access Revenue, Intrastate Terminating Access Revenue, and Intrastate VoIP Terminating Revenue reported on your company's Tariff Review Plan for July 1, 2018 to June 30, 2019 submitted for Program Year 2020 – 2021 and July 1, 2019 to June 30, 2020 submitted for Program Year 2021 – 2022.

AND NOW (FINALLY) THE IMPORTANT STUFF…

HOW THIS "NEW" WORLD IMPACTS YOU!

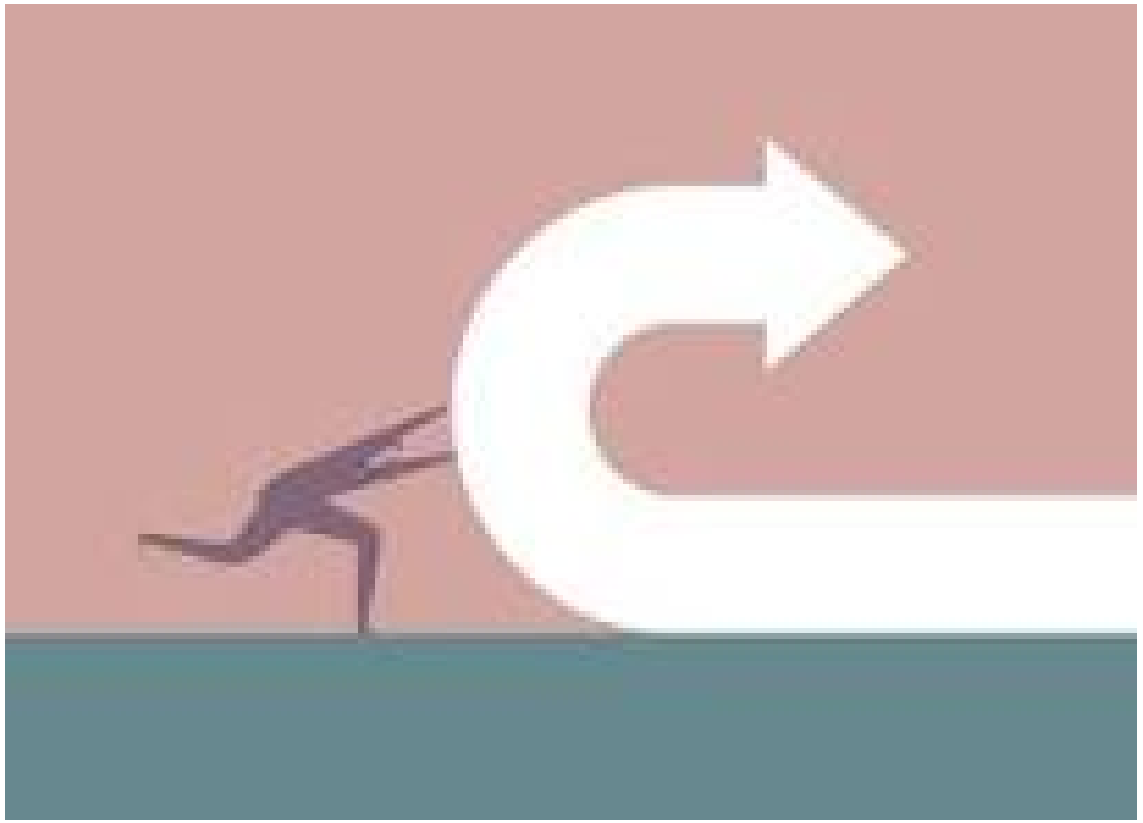
The mountain of compliance adds up to a strain on your staff and distracts from your organization's core mission.

Are you spending more time keeping the government happy than making your customers happy?

Doing compliance "company by company" is highly inefficient and involves many members of every organizational staff.

From a management perspective it is very important to continually assess the benefits of doing a growing pile of compliance tasks internally versus proactively farming out some of the requirements to keep staff burdens limited.

FUTURE LOBBYING AND LEGAL EFFORTS WILL PUSH BACK ON THE COMPLIANCE DEMANDS

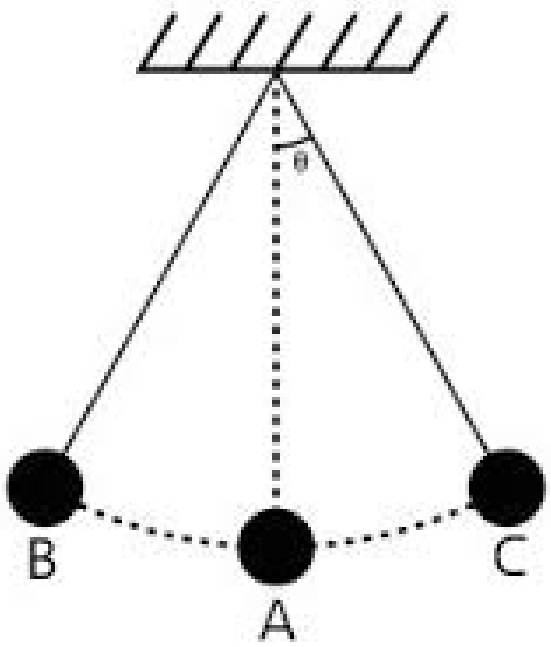


It is safe to assume, based on history, that the industry will continue efforts to reduce the compliance burdens on industry members.

However, success will take time (years not months) and in the meantime compliance will remain a significant burden.

Assess how best to use your staff resources and how to keep your organization focused on serving your customers…not the government!

IS "REGULATION" OUR ENEMY?



Another great question…

For decades regulation has provided protections to both consumers and to small providers like YOU!

Think of regulation like a pendulum that can swing back and forth…having it swing too far in either direction is probably not good for consumers or our industry.

Our goal should be the sweet spot between heavy burdens and big money wins every time!

A WORD ABOUT THE CHEVRON DECISION

Will the decision make Congress better at passing detailed laws…or will it bring lawmaking to a grinding halt?

Will agencies take ambiguous laws and attempt to police them “as is”?

Will the courts be swamped with industries challenging the many policies created over the past 10 years by federal agencies?

THE TIMES, THEY ARE A-CHANGIN’

Come gather 'round people
Wherever you roam
And admit that the waters
Around you have grown
And accept it that soon
You'll be drenched to the bone
If your time to you is worth savin'
And you better start swimmin'
Or you'll sink like a stone
For the times they are a-changin'

Thank you, BAND! (Q&A?)