

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

|                                               |   |                     |
|-----------------------------------------------|---|---------------------|
| In the Matter of                              | ) |                     |
|                                               | ) |                     |
| Request for Review by Copper Valley Telephone | ) | WC Docket No. 10-90 |
| Cooperative, Inc.                             | ) |                     |
|                                               | ) |                     |

**ORDER**

**Adopted: November 14, 2025**

**Released: November 14, 2025**

By the Chief, Wireline Competition Bureau:

**I. INTRODUCTION**

1. In this Order, we grant in-part and deny in-part Copper Valley Telephone Cooperative, Inc.'s (Copper Valley) Request for Review of the Universal Service Administrative Company (USAC) decision affirming findings of non-compliance by Copper Valley, which resulted in the request for recovery of high-cost universal service support during the audit period.<sup>1</sup> Copper Valley appeals USAC's decision to recover high-cost support for violating section 36.2(c)(2) of the Commission's separations rules with respect to the lease of dark fiber and purchase of transport service from its affiliate. We agree with Copper Valley because, as described below, the affiliate transactions at issue did not trigger section 36.2(c)(2). However, we separately conclude that Copper Valley failed to correctly record the interexchange transport service purchased from its affiliate. By incorrectly recording this expense, Copper Valley inflated its plant-specific operation expenses, resulting in a monetary effect of \$2,224,776 in high-cost support. After factoring in the \$697,826 underpayment from the audit, we direct USAC to proceed with recovering \$1,526,950 in high-cost support from Copper Valley.<sup>2</sup>

**II. BACKGROUND**

2. Copper Valley is an incumbent rate-of-return local exchange carrier offering exchange and exchange access telecommunications services in south central Alaska.<sup>3</sup> During the relevant audit

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<sup>1</sup> Copper Valley Telephone Cooperative, Inc. Request for Review, USAC Audit ID: HC2016BE030, WC Docket No. 10-90 (filed May 24, 2019) (Request for Review); Performance Audit on Compliance with Federal Universal Service Fund High Cost Support Mechanism Rules, USAC Audit No. HC2016BE030 (SAC 613006) (Sept. 5, 2018) (attached to Request for Review, Exh. 2) (Audit Report); USAC Decision on Appeal Letter to Gerard J. Duffy, Copper Valley (Mar. 27, 2019) (attached to Request for Review, Exh. 1) (USAC Appeal Decision).

<sup>2</sup> See *infra* Section III.D. Monetary Effect (describing the recalculated recovery amount). The revised recovery amount is a reduction of the previously calculated monetary effect of \$1,547,211. Audit Report at 3.

<sup>3</sup> Request for Review at 3-5. Copper Valley was established in 1961 but received its certificate of public convenience and necessity (CPCN) in 1964 and Eligible Telecommunications Carrier Designation in 1997. Alaska Public Utilities Commission, Order No. 11, Fifth Revision, Docket No. U-82-8 (Feb. 4, 1983) (identifying the initial certification and subsequent revisions since 1964); Alaska Public Utilities Commission, Order No. 1, Order Granting Eligible Carrier Status, et. al, Docket No. U-97-178 (Dec. 15, 1997) (ETC Designation). Copper Valley serves Study Area Code 613006, which includes two larger exchanges of Valdez and Glenallen, and four smaller exchanges: Chitina, McCarthy, Mentasta and Tatitlek. Request for Review at 3.

period,<sup>4</sup> Copper Valley received over \$53.4 million in High-Cost Loop Support (HCLS), Interstate Common Line Support (ICLS) and Local Switching Support (LSS).<sup>5</sup>

3. Incumbent local exchange carriers subject to rate-of-return regulation develop their revenue requirements, used to calculate both rates and high-cost universal service support, in accordance with a four-step regulatory process.<sup>6</sup> First, carriers record their costs, including investments and expenses, into various accounts in accordance with the Uniform System of Accounts (USOA) prescribed by Part 32 of the Commission's rules.<sup>7</sup> Second, carriers assign the costs in those accounts to regulated and nonregulated activities in accordance with Part 64 of the Commission's rules to ensure that the costs of nonregulated activities will not be recovered by regulated service rates or through universal service support.<sup>8</sup> Third, carriers separate the regulated costs between the interstate and intrastate jurisdictions, as well as among cost categories, in accordance with the Commission's Part 36 separations rules.<sup>9</sup> Finally, carriers apportion the interstate regulated costs among the interexchange services and rate elements that form the cost basis for its interstate access tariffs pursuant to the Commission's Part 69 rules, as well as for receiving high-cost universal service support pursuant to Part 54.<sup>10</sup>

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<sup>4</sup> The audit initially covered the 2015 disbursement period but was expanded to include disbursement years ending in 2012-2016, which is based on high-cost data filed by Copper Valley in years 2010-2014. Audit Report at 1, 7.

<sup>5</sup> See Audit Report at 8. Copper Valley also received Connect America Fund-Intercarrier Compensation (CAF ICC) support after the mechanism was revised and later elected and is currently a recipient of Alaska Plan/Alaska Connect Fund high-cost support. Request for Review at 3; see also *Wireline Competition Bureau Authorizes Alaska Plan Support for 13 Alaskan Rate-of-Return Companies*, WC Docket Nos. 10-90, 16-271, Public Notice, 31 FCC Rcd 13347 (WCB 2016) (identifying annual support amounts for AK Plan recipients from 2017-2026). HCLS provides support to rate-of-return carriers that experience high loop-related costs by deducting costs in excess of a specified benchmark from the state jurisdiction and adding them to the interstate jurisdiction. See 47 CFR § 54.1301(a). ICLS also supports high local loop costs by providing rate-of-return carriers with the difference between their interstate common line costs (*i.e.*, the portion of the local loop assigned to the interstate jurisdiction) and their interstate common line end-user revenues, which are limited due to the cap on subscriber line charges. In 2016, the Commission transformed ICLS into the Connect America Fund Broadband Loop Support (CAF BLS) mechanism, which subsidizes carriers with high local loop costs in the interstate jurisdiction for both voice and consumer broadband-only loops. See *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, 31 FCC Rcd 3087, 3091, para. 5 (2016) (*2016 Rate-of-Return Reform Order*). LSS support was provided to small carriers because, historically, it was difficult for small carriers to scale switching expenses for operations with fewer customers. In the *USF/ICC Transformation Order*, the Commission eliminated LSS and moved recovery of associated expenses to the Access Recovery Charge (ARC), a monthly fee assessed on end-users, and CAF ICC, which provides support to the extent otherwise-eligible revenue cannot be recovered through the ARC. *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17760, para. 257 (2011) (*USF/ICC Transformation Order*), *aff'd*, *In re: FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014).

<sup>6</sup> Although some rate-of-return carriers remain subject to the regulatory processes described here, including Copper Valley for the audit period in question, the Commission in 2018 adopted forbearance from these rules for carriers that had elected Alternative Connect America Model (A-CAM) I or II and also elected incentive regulation for their broadband data services offerings. *Regulation of Business Data Services for Rate-of-Return Local Exchange Carriers*, WC Docket No. 17-144 et al., Report and Order, Second Further Notice of Proposed Rulemaking, and Further Notice of Proposed Rulemaking, 33 FCC Rcd 10403, 10447-51, paras. 125-37 (2018). While Copper Valley opted into the Alaska Plan in 2016, Copper Valley remained subject to the Commission's separations process while it continued to receive cost-based support.

<sup>7</sup> 47 CFR Part 32.

<sup>8</sup> 47 CFR §§ 64.901-64.904.

<sup>9</sup> 47 CFR Part 36.

<sup>10</sup> 47 CFR Parts 54 and 69.

4. USAC engaged Moss Adams LLP (Auditor) in 2018 to audit Copper Valley's compliance with the Commission's high-cost program rules.<sup>11</sup> In the Audit Report, the Auditor identified two findings of non-compliance related to affiliate transactions between Copper Valley and its wholly-owned subsidiary Copper Valley Long Distance, Inc. (CVLD) for the relevant audit disbursement period.<sup>12</sup> The Auditor recommended a recovery action for the combined effect of the findings in the amount of \$1,547,112.<sup>13</sup> USAC concurred with the audit findings and on September 12, 2018 issued a letter to Copper Valley seeking recovery of \$1,547,112.<sup>14</sup> On November 12, 2018, Copper Valley filed an appeal with USAC regarding only Finding 2, involving the incorrect treatment of substantial rent expense paid to an affiliate for the use of Copper Valley's dark fiber per section 36.2(c)(2) of the Commission's rules, which resulted in a calculated overpayment of more than \$2.24 million.<sup>15</sup>

5. On March 27, 2019, USAC denied the appeal and confirmed the recommended recovery amount.<sup>16</sup> On May 24, 2019, Copper Valley then timely filed a request seeking review of USAC's denial with the Wireline Competition Bureau (Bureau).<sup>17</sup> In its filing, Copper Valley asks the Commission to: (a) calculate its high-cost support disbursement from 2012-2016 using Parts 32, 36, and 54 of the Commission's rules; (b) not apply rule 36.2(c)(2) to the lease of interexchange dark fibers from Copper Valley to its affiliate, CVLD, because Copper Valley was prohibited by Alaska law from using such fibers in its local exchange operations and the leases were not "sale and lease-back" arrangements in form, intent, or operation; and (c) order that no recovery of high-cost program support for 2012-2016 should be made.<sup>18</sup> Requests for review of USAC decisions are subject to *de novo* review by the Bureau.<sup>19</sup>

### III. DISCUSSION

6. We find that although the Audit Report erred in certain explanations and application of the rules related to the lease of dark fiber and the purchase of interexchange service between Copper Valley and CVLD, the proper application of our rules requires a similar result and monetary recovery. Specifically, we find that Copper Valley improperly accounted for its purchase of interexchange services from CVLD under Part 32 by using accounts 6123, 6124, 6212 and 6232 when it should have used account 6540.

#### A. The Affiliate Transactions Did Not Trigger Section 36.2(c)(2) of the Commission's Rules

7. In 2005, Copper Valley installed a 117 mile buried fiber optic cable facility between the central offices of its Glennallen and Valdez exchanges to connect the two communities.<sup>20</sup> In 2007 and

<sup>11</sup> See Audit Report at 1-2; *see also* USAC Appeal Decision at 1-2.

<sup>12</sup> Audit Report at 3-4.

<sup>13</sup> See Audit Report at 3-4. The two findings were netted to achieve the ultimate recovery amount. *Id.* at 4.

<sup>14</sup> Letter from USAC to Laura Kompkoff, Action to Be Taken Resulting from High-Cost Audit of Copper Valley Telephone Company – SAC#613006-Audit Report HC2016BE030, September 12, 2018 (USAC Recovery Letter); *see also* USAC Appeal Decision at 1.

<sup>15</sup> USAC Appeal Decision at 1; *see also* Audit Report at 3, 12 (Beneficiary Response states Copper Valley "accepts this finding and will incorporate the changes recommended by the auditor going forward."). Copper Valley does not appeal Finding No. 1, where the auditor found an underpayment of \$697,826.

<sup>16</sup> USAC Appeal Decision at 1, 4.

<sup>17</sup> See Request for Review; *see also* 47 CFR §§ 54.719(b) and 54.722(a).

<sup>18</sup> Request for Review at ii, 1, 23.

<sup>19</sup> 47 CFR § 54.723(a); *see also* Request for Review at ii (requesting *de novo* review of USAC's decision).

<sup>20</sup> Request for Review at 6-7. This fiber facility was comprised of 24 strands of dark fiber, of which 18 strands are branched off before the boundary for use by Copper Valley within its local exchange area, two strands were reserved

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2008, Copper Valley constructed two additional fiber optic routes: a 34 mile route between the central offices of the Glennallen and Chitina exchanges and a 100 mile route between the central offices of the Glennallen and Mentasta exchanges.<sup>21</sup> Copper Valley utilizes the majority of the fiber strands for its local exchange service in these four exchanges.<sup>22</sup>

8. CVLD, a wholly-owned subsidiary of Copper Valley, was granted a certificate of public convenience and necessity (CPCN) in 1999 to provide intrastate interexchange services within Alaska by the Alaska Public Utilities Commission (APUC).<sup>23</sup> The state imposed several conditions on the CPCN to ensure separation of operations and finances between CVLD and Copper Valley.<sup>24</sup> After Copper Valley constructed the Valdez-Glennallen fiber facility in 2005, Copper Valley leased four strands allocated for interexchange traffic between the Valdez and Glennallen exchanges to its affiliate, CVLD.<sup>25</sup> After leasing the four strands of dark fiber, CVLD added equipment, lit the strands, and otherwise improved the fiber to provide interexchange telecommunications services that it offered to other carriers, businesses and residential customers at state-approved tariffed rates.<sup>26</sup> Copper Valley is one of the carriers that purchases interexchange services from CVLD.<sup>27</sup>

9. Copper Valley's Request for Review asserts that the lease of dark fiber to its affiliate and the purchase of service from its affiliate does not amount to a "sale and lease-back" arrangement and, as such, asks that the Commission reject the application of rule 36.2(c)(2).<sup>28</sup> Copper Valley also argues that the leasing arrangement was required to comply with the terms of its CPCN and state law, which prohibit it from providing interexchange service.<sup>29</sup> USAC denied the appeal of the Audit Report, stating that even though the affiliate transactions were not labeled as a sale and lease-back arrangement, the effect of the transactions of leasing dark fiber and purchasing service, when viewed together, nevertheless create a *de facto* sale and leaseback.<sup>30</sup> On appeal, USAC affirmed the Audit Report's application of 36.2(c)(2) to the purchase of service by Copper Valley from CVLD.<sup>31</sup> We disagree and find that the affiliate transactions

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by Copper Valley for "internal use," and four strands were leased to CVLD so that CVLD can provide interexchange service across the Valdez-Glenallen boundary. *See id.*

<sup>21</sup> Request for Review at 8-9. These fiber facilities also each have 24 fiber strands. For the Glennallen-Chitina and Glennallen-Mentasta fiber, 20 of the strands branch off before the exchange boundary, so that they can be used for local exchange service and the remaining four strands are leased to CVLD so that CVLD can provide interexchange service across the Glennallen-Chitina and Glennallen-Mentasta boundaries. *See id.*

<sup>22</sup> Request for Review at 6.

<sup>23</sup> Request for Review at 5; *see also* Alaska Public Utilities Commission, Order No. 1, Docket No. U-98-176 (Mar. 15, 1999) (CVLD CPCN).

<sup>24</sup> Request for Review at 5; Audit Report at 14.

<sup>25</sup> *See supra* notes 25, 26 (discussing Copper Valley's use of the fiber strands). Under the terms of its CPCN, Copper Valley was not allowed to provide its own transport service between the exchanges that crossed the local service boundaries. Request for Review at 6-7.

<sup>26</sup> Request for Review at 7-8.

<sup>27</sup> Request for Review at 9.

<sup>28</sup> Request for Review at 12-19. We note that despite acknowledging its transactions with CVLD were affiliate transactions, Copper Valley does not assert which affiliate rule it believes *should* be applicable.

<sup>29</sup> Request for Review at 6-7, 11-12, 15, 19-21.

<sup>30</sup> USAC Appeal Decision at 4; Audit Report at 12-13, 17-20.

<sup>31</sup> USAC Appeal Decision at 3-4; Audit Report at 17 (stating that 36.2(c)(2) is applicable even if the transactions cannot be characterized as a sale and lease-back). *See also Request for Review of a Decision of the Universal Service Administrator by Cross Telephone Company, L.L.C.*, WC Docket No. 10-90, Order, DA 25-818 (Sept. 10,

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are not a “sale and lease-back.” Further, we find that the purchase of service is not a lease of property, and thus section 36.2(c)(2) is inapplicable.

10. The affiliate transactions rules in section 36.2(c) governing the treatment of rented property, related expenses, and lease payments between affiliated carriers have been included as fundamental principles in separations procedures since the publication of the first NARUC-FCC Separations Manual in 1947, and have been consistently enforced by the Commission.<sup>32</sup> Section 36.2(c) directs incumbent carriers on the proper treatment of property rented to or from affiliates and related costs (i.e., reserves, revenues, expenses, lease payments) in the performance of a Part 36 cost study. Under the Commission’s Part 36 rules, each carrier’s basic components of plant, such as Cable and Wire Facilities (C&WF), are allocated (i.e., separated) between the intrastate and interstate jurisdictions based on either direct assignment or actual usage.<sup>33</sup> Once separated, these basic plant costs provide a foundation upon which most other related plant, reserve, and expense accounts are allocated between the jurisdictions.<sup>34</sup> Because the categories used to determine high-cost loop support pursuant to Subpart F of Part 36 are based upon the categorization rules set forth in other sections of Part 36, it is important for incumbent LECs to ensure that their high-cost loop support submissions to NECA conform with all other sections of Part 36, including section 36.2(c).<sup>35</sup>

11. The dark fiber lease arrangement between Copper Valley and CVLD for the Valdez-Glennallen exchange was permitted by the Regulatory Commission of Alaska (RCA)<sup>36</sup> through approval of a Special Contract, which also contained several conditions for the purpose of ensuring separation and arm’s length transactions between the two companies.<sup>37</sup> Later, in 2009, Copper Valley and CVLD entered into two other Special Contracts for the lease of dark fiber between the Glennallen exchange and two other Copper Valley exchanges – the Glennallen-Chitina<sup>38</sup> and Glennallen-Mentasta fiber routes.<sup>39</sup> These Special Contracts, each titled as a “Dark Fiber Lease,” include established monthly payments from CVLD to Copper Valley for access to and use of the four dark fiber strands for the applicable interexchange route.<sup>40</sup> Each lease contains an initial term of either two years or ten years, renewable on a

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2025) (*Cross Telephone*) (concluding the purchase of interexchange service from an affiliate was not a violation of section 36.2(c)(2) of the Commission’s rules).

<sup>32</sup> See NARUC-FCC Special Cooperative Committee on Telephone Regulatory Problems, *Separations Manual* at 12, para. 2.13(b) (1947); see, e.g., *U.S. West Communications, Inc.*, AAD Docket No. 93-152, Order to Show Cause, 10 FCC Rcd 5523, 5525, para. 11 (1995); *id.* at 5530-31, Attach. A, paras. 25-27 (discussing apparent violations of section 36.2(c)(1)).

<sup>33</sup> See 47 CFR § 36.2(a).

<sup>34</sup> 47 CFR § 36.1.

<sup>35</sup> For example, sections 36.611(a)-(g) set forth certain cost categories, defined and outlined in other portions of Part 36, that a carrier must submit to NECA when it applies for high-cost loop support. See 47 C.F.R. § 36.611(a)-(g).

<sup>36</sup> The Alaska PUC later became the Regulatory Commission of Alaska.

<sup>37</sup> Request for Review at 6-7, Exh. No. 4 (Special Contract for the Valdez-Glennallen Route). There is a Special Contract for each of the three exchanges for which CVLD provides interexchange services.

<sup>38</sup> Request for Review at Exh. No. 6 (Special Contract for the Glennallen-Chitina Route).

<sup>39</sup> Request for Review at 8-9 & Exh. No. 7 (Special Contract for the Glennallen-Mentasta Route). These contracts have been in renewal since that time. Request for Review at 8.

<sup>40</sup> Request for Review, Exh. No. 4 (Special Contract for the Valdez-Glennallen Route and the RCA Documents Considering and Approving it) (initial term of two years); Exh. No. 5 (RCA Extension of Term of Special Contract for the Valdez-Glennallen Route) (approving extension of initial term with “automatic renewal of the special contract on a year per year basis”); Exh. No. 6 (Special Contract for the Glennallen-Chitina Route) (initial term of

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year-to-year basis thereafter.<sup>41</sup> Further, all lease contracts can be terminated at the will of either party with proper notice.<sup>42</sup> The leases do not contain terms or payments for the sale of or purchase of the asset at any time during or at the conclusion of the lease term.<sup>43</sup> The common meaning of “sale” is the transfer of ownership of and title to property for a price.<sup>44</sup> Nothing in the Special Contracts indicates that Copper Valley transferred ownership of the fiber strands to its affiliate. Therefore, we find none of the arrangements to lease dark fiber to CVLD involved the “sale” of an asset based on the common meaning of the word.

12. Moreover, even if the lease of dark fiber could be viewed as a sale, there was no “lease-back.”<sup>45</sup> Copper Valley did not lease the dark fiber that it leased to CVLD. Instead, Copper Valley *purchased* an interexchange *service* from its affiliate, CVLD, at tariffed rates.<sup>46</sup> Section 36.2(c)(2) states that it applies to “property rented from affiliates,” and provides directions for the treatment of “the property and related expenses . . . and the rent expenses.”<sup>47</sup> This rule does not discuss the purchase of *service*, nor does it discuss the treatment for property rented *to* an affiliate. The USAC Appeal Decision and the Audit Report rely on *Moultrie* to justify the application of section 36.2(c)(2),<sup>48</sup> but the facts of that case are distinguishable. In *Moultrie*, the Commission found a sale and lease-back arrangement justified the application of 36.2(c)(2) because it involved assets that were sold to an affiliate, and the same assets were leased back to the carrier.<sup>49</sup>

13. In this case, Copper Valley *leased* the interexchange dark fibers on each route *to* its affiliate in one transaction and purchased a *service* from the affiliate in another transaction – the two transactions are separate and cannot be reasonably considered together to be a sale and lease-back

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10 years); Exh. No. 7 (Special Contract for the Glennallen-Mentasta Route) (initial term of 10 years); *see also* Audit Report at 14.

<sup>41</sup> *See id.*

<sup>42</sup> *See id.*

<sup>43</sup> *See id.*

<sup>44</sup> *See* Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/sale> (last visited Aug. 28, 2025).

<sup>45</sup> *See Moultrie Indep. Tel. Co.*, CC Docket No. 96-45, Order, 16 FCC Rcd 18242 (2001) (finding section 36.2(c) applicable to a sale and lease-back transaction) (*Moultrie*). We note that the text of section 36.2(c)(2) is not limited to sale and lease-back transactions and applies more broadly to transactions involving the rent or lease of property from an affiliate when substantial in amount. 47 CFR § 36.2(c)(2). We reject Copper Valley’s argument that “the Commission made it absolutely clear in the *Moultrie Order* that Section 36.2(c) applies expressly to sale and lease-back transactions with affiliates and does not extend to different types of transactions that might have similar separations or high-cost support effects.” Request for Review at 18. The text of section 36.2(c)(2) applies, as it states, “[i]n the case of property rented from affiliates” when the property is substantial in amount 47 CFR § 36.2(c)(2). Although *Moultrie* applied section 36.2(c)(2) to a situation in which the carrier had engaged in a sale and lease-back arrangement, there is nothing in *Moultrie* or, more importantly, the text of section 36.2(c)(2) that suggests that the rule’s application is limited to *only* sale and lease-back arrangements. The language quoted by Copper Valley from *Moultrie* applies to any situation in which a carrier rents a substantial amount of property from an affiliate—not just a sale and lease-back arrangement. *See* Request for Review at 18.

<sup>46</sup> *See* Request for Review at 10 (stating that Copper Valley “is one of the multiple carrier and business customers that purchase the tariffed telecommunications services that are provided by CVLD over the leased interexchange dark fiber strands”); *see also id.* at 11, 12.

<sup>47</sup> 47 CFR § 36.2(c)(2); *see also Moultrie*, 16 FCC Rcd at 18247, para. 10.

<sup>48</sup> *See* USAC Appeal Decision at 4; Audit Report at 18-20.

<sup>49</sup> *Moultrie*, 16 FCC Rcd at 18244, para. 4.

arrangement that would require the application of section 36.2(c)(2).<sup>50</sup> As Copper Valley explained, CVLD significantly changed and improved the leased dark fiber and created a new interexchange service that was offered publicly, at tariffed rates approved by the state.<sup>51</sup> While it is true that the service CVLD created operates on the fiber it leases from Copper Valley, the asset is changed considerably in the process of lighting the fiber, adding equipment, and creating the various interexchange services that CVLD offers. We find that it is not reasonable to interpret Copper Valley's purchase of an interexchange service from CVLD as a lease of the dark fiber that is used to provide that service. Therefore, we find that Copper Valley did not "lease-back" the underlying dark fiber from CVLD when it purchased the interexchange service. Rather than the sale of property, which is then leased back to the seller (as prohibited under section 36.2), this was a lease of property on which service was subsequently purchased by the lessor.

14. Because Copper Valley owns the dark fiber and did not rent this property from its affiliate, we find section 36.2(c)(2) inapplicable here and grant Copper Valley's request on this issue.

**B. The Interexchange Transport Expense Was Improperly Recorded**

15. Copper Valley purchased an interexchange *service* from CVLD.<sup>52</sup> Copper Valley should have recorded the expenses in Account 6540, access expense, which includes "amounts paid by interexchange carriers or other exchange carriers to another exchange carrier for the provision of carrier's carrier access."<sup>53</sup> Amounts recorded in Account 6540 are not included in the calculation of legacy high-cost support, which supports working last mile connections to customer premises.<sup>54</sup> The misallocation of the interexchange transport service expense resulted in the monetary recovery by Copper Valley of more than \$2.2 million of high-cost support during the relevant audit period.<sup>55</sup>

16. The USOA in Part 32 provides instructions to carriers for maintaining a system of financial accounts in a manner that permits uniform application of the Commission's other regulatory processes. The four major expense account groups recorded under the USOA are Plant Specific Operations, Plant Nonspecific Operations, Customer Operations, and Corporate Operations.<sup>56</sup> Plant Specific Operations expense accounts are used to record "costs related to specific kinds of telecommunications plant" investment owned by the recording carrier.<sup>57</sup> Plant Nonspecific Operations expense accounts are used to record a variety of expenses associated with the operation of the telecommunications network but not directly associated with the reporting carrier's plant specific investment.<sup>58</sup> Customer Operations expenses accounts include expenses related to sales and marketing and other customer service-related expenses.<sup>59</sup> Corporate Operations expenses include costs associated with executive and administrative activities.<sup>60</sup> Sections 32.27(a)-(c) address affiliate transactions and

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<sup>50</sup> We note that sale and lease-back arrangements are not the only transactions covered by 36.2(c)(2) and that the rule can apply to any substantial rent of property from an affiliate.

<sup>51</sup> Request for Review at 8, 10, 12.

<sup>52</sup> See *supra* Section III.A. See also *Cross Telephone* (finding the purchase of interexchange service from an affiliate was improperly recorded).

<sup>53</sup> 47 CFR § 32.6540.

<sup>54</sup> 47 CFR § 54.1308.

<sup>55</sup> See *infra* Section III.D, Table A (identifying the revised calculations).

<sup>56</sup> See 47 CFR § 32.5999(a)(2).

<sup>57</sup> 47 CFR § 32.5999(b)(1); see also 47 CFR §§ 32.6110-32.6441 (plant specific expense accounts).

<sup>58</sup> See 47 CFR § 32.5999(c); see also 47 CFR §§ 32.6510-32.6565 (plant nonspecific expense accounts).

<sup>59</sup> See 47 CFR § 32.5999(d); see also 47 CFR §§ 32.6610-32.6623 (customer operations expense accounts).

<sup>60</sup> See 47 CFR § 32.5999(e); see also 47 CFR §§ 32.6720-32.6790 (corporate operations expense accounts).

direct incumbent local exchange carriers on how to value the assets or services involved in transactions with their affiliates, and how to account for such transactions on the carrier's financial records.<sup>61</sup>

17. We find the rates charged by CVLD to Copper Valley are not at issue here. As Copper Valley correctly identifies, section 32.27(c) of the Commission's rules addresses services provided between a carrier and its affiliate pursuant to a tariff and requires those transactions to be recorded in the appropriate revenue accounts at the tariffed rate.<sup>62</sup> The CPCN for CVLD clearly evidences that CVLD sought appropriate approvals of its tariffed rates with the state of Alaska and that several conditions were imposed by the state to create separation and help ensure arm's length transactions between the companies.<sup>63</sup> As such, the rates charged by CVLD for the interexchange service are not relevant to our finding of recovery.

18. Copper Valley purchased interexchange transport service from CVLD, an interexchange carrier, for several routes using dark fiber leased by CVLD from Copper Valley.<sup>64</sup> Copper Valley reported the expenses associated with this transport purchased from CVLD in the following four accounts during the audit period: 6123 (Office equipment expense), 6124 (General purpose computers expense), 6212 (Digital electronic switching expense), and 6232 (Circuit equipment expense).<sup>65</sup> These accounts are plant specific operation expense accounts for plant that is used and operated by Copper Valley, and are not appropriate accounts for recording interexchange access service expenses purchased from an affiliate. Copper Valley appears to have done this for every year at issue in the Audit Report.<sup>66</sup>

19. The Universal Service Fund (USF) legacy high-cost support mechanisms are intended to support a carrier's local loop or switching costs. As a result of including the interexchange service expense in its Plant Specific Operations accounts, Copper Valley received high-cost universal service support for this transport expense even though the expense is not associated with Plant Specific Operations investment placed in service by Copper Valley. The Audit Report states: "The Beneficiary incurred substantial interexchange expenses from [the purchase of service from] its affiliate, and without associated or representative interexchange plant included in its cost studies, the interexchange expenses were improperly assigned to jurisdictions and Part 69 access elements based on the Beneficiary's existing plant categories, which is largely loop or subscriber plant in nature. We believe this results in grossly overstated loop costs recovered from HCLS and ICLS."<sup>67</sup> We agree.

20. Copper Valley argues that its accounting treatment had never been challenged during previous reviews and audits covering the audit period here.<sup>68</sup> We find this unpersuasive. The Commission has previously stated, "[n]either the Bureau nor USAC is precluded from reaching a finding of non-compliance in subsequent audits when an earlier audit failed to make such findings."<sup>69</sup> As such,

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<sup>61</sup> 47 C.F.R. §§ 32.27(a)-(c); *see Moultrie*, 16 FCC Rcd at 18246-47, para. 9.

<sup>62</sup> *See* Request for Review at 18; 47 C.F.R. § 32.27(c).

<sup>63</sup> *See generally* CVLD CPCN (providing approval for CVLD to provide interexchange service, approving its tariff sheet, and outlining the arm's length conditions placed on CVLD and Copper Valley); *see also* Audit Report at 10 (stating that the purchase transactions for interexchange service are at tariffed rates).

<sup>64</sup> *See supra* para. 10; *see also* Request for Review at 8-9.

<sup>65</sup> Audit Report at 12, 17.

<sup>66</sup> Copper Valley states this has been occurring since 2005. Audit Report at 17. We note that it is hard to understand why Copper Valley assigns these accounts despite arguing on appeal that the interexchange service was the purchase and not a rent of property from its affiliate.

<sup>67</sup> Audit Report at 19.

<sup>68</sup> Request for Review at 18.

<sup>69</sup> *Request for Review of a Decision of the Universal Service Administrator by Big Bend Telephone Company, Inc.*, WC Docket No. 10-90, Order, DA 25-489 at 4, paras. 11 (June 6, 2025) (*Big Bend*) (citing *Sandwich Isles*

(continued....)

the fact that previous reviews by USAC or other auditors never identified the violations discussed above does not prevent us from now identifying them.

21. The Bureau worked with USAC to reassign assets, revenues and associated expenses to the proper accounts, and has recalculated the impact of the errors. These reassignments result in recovery in the revised amount of \$2,224,776 as shown in the Tables below.<sup>70</sup>

**C. Alaska State Law is Not in Conflict with the Commission's Rules**

22. Copper Valley argues that the Alaska State Law regarding interexchange carrier requirements conflicts with the Commission's rules regarding affiliate transactions and that it is being penalized for complying with Alaska State Law. Specifically, Copper Valley states that if the position of the Audit Report is upheld, "it would effectively put the FCC in the position of preempting Alaska's certification and regulation of the intrastate services of Alaskan local exchange carriers and Alaskan long distance and other interexchange carriers."<sup>71</sup> We disagree. There is no conflict between the state and federal law.

23. The accounting rules of Part 32, 36, 54, and 64 exist for the purposes of calculating USF support based upon how a carrier operates, and not for the purpose of dictating how a carrier operates. The Commission has stated, "[c]arriers are free to sell plant to, or lease plant and equipment from, affiliates or non-affiliates. They are not free, however, to ignore the Commission's rules and safeguards designed to prevent abuse of affiliate transactions by incumbent LECs."<sup>72</sup> The rules do not dictate the operations of a carrier, but a support recipient is nevertheless required to correctly account for its operations under the Commission's rules.

24. In this case, as Copper Valley explains, the state of Alaska has rules prohibiting the provision of interexchange service by a local exchange carrier.<sup>73</sup> However, Alaska State Law does not prescribe what Copper Valley must do in the alternative, and Alaska law does not require that Copper Valley lease its fiber to its affiliate or purchase interexchange service from its affiliate.<sup>74</sup> Nor does Alaska State Law speak to how Copper Valley must account for the purchase of service on its books for purposes of obtaining federal USF support. Copper Valley made a business decision on its own to transact with its affiliate, and it was careful to obtain the proper state approvals and meet the requirements to do so.

25. However, at issue here is not the way Copper Valley structured the transactions with its affiliate, but rather how it accounted for those transactions for the purposes of receiving federal USF support. Therefore, the fact that state law prohibits Copper Valley from providing certain services has no bearing on whether Copper Valley is able to account for its costs appropriately for USF support. As such, the Commission has not preempted state law by its adoption of the Part 32 and Part 36 separations rules, or in finding Copper Valley has violated them. Copper Valley placed its expense for the purchase of interexchange service in the wrong accounts. For Copper Valley, this error resulted in receiving USF high-cost support it was not permitted to receive, and for which the Commission is obligated to seek reimbursement in accordance with its duty to be a good steward of the USF and the high-cost program.

(Continued from previous page) \_\_\_\_\_  
*Communications, Inc.*, WC Docket No. 10-90, Order on Reconsideration, 34 FCC Rcd 577, 631, para. 141 (2019) (rejecting petitioner's suggestion that the Commission is precluded from holding petitioner responsible for compliance with its rules because it was previously subject to audits where no such findings were made)).

<sup>70</sup> See *infra* Section III.D (showing the combined recovery amount of both Finding 1 and the revised finding).

<sup>71</sup> Request for Review at 21.

<sup>72</sup> *Moultrie*, 16 FCC Rcd at 18249, para. 15.

<sup>73</sup> Request for Review at 11-12, 19-20.

<sup>74</sup> Copper Valley admits there were other options besides leasing, including selling or allowing them to remain unused. See Request for Review at 20.

Alaska State Law is not relevant to this decision, nor is it contravened by this decision.

26. Copper Valley attempts to justify its actions based on the requirements of Alaska State Law and that it established the Special Contracts as a good faith effort to comply with state law. Copper Valley discusses its efforts in contrast to those outlined in *Moultrie*,<sup>75</sup> however, Copper Valley's arguments regarding its good faith effort are misguided. As discussed above, 36.2(c)(2) does not provide the basis for our finding of recovery. The state regulatory commission orders and carrier contracts provided as evidence by Copper Valley do support Copper Valley's assertion that it structured the lease of dark fiber and purchase of interexchange service transaction the way it did because of the restrictions placed on local exchange carriers by Alaska State Law. But, as already discussed, it is not the way the transaction was structured that was problematic – Copper Valley's good faith efforts do not change the fact that Copper Valley made accounting errors that require recovery of support under our rules. While Copper Valley argues that its intent matters, Copper Valley's intent is irrelevant to the finding of recovery in this case.

#### **D. Monetary Effect - Revised Recovery Amount**

27. The Bureau worked with USAC to reassign the interexchange transport expenses to the proper account and recalculated the impact of the errors. This results in a revised recovery amount of \$1,526,950, consisting of an underpayment of support in the revised amount of \$697,826 and an overpayment in the amount of \$2,224,776.<sup>76</sup> The recalculation of the monetary effect is shown below. Therefore, we deny Copper Valley's request to reverse USAC's finding of recovery, and, for the reasons discussed above, direct USAC to proceed with recovery from Copper Valley consistent with the revised calculation.

**Table A. Recalculation of Total Monetary Effect**

|                                | <b>ICLS<br/>(Common Line)</b> | <b>LSS<br/>(Local Switching)</b> | <b>HCLS<br/>(High-Cost Loop<br/>Support)</b> | <b>Recovery Amount</b> |
|--------------------------------|-------------------------------|----------------------------------|----------------------------------------------|------------------------|
| <b>Finding #1<sup>77</sup></b> | (\$152,607)                   | (\$13,331)                       | (\$531,888)                                  | <b>(\$697,826)</b>     |
| <b>Revised Finding</b>         | \$496,669                     | \$223,735                        | \$1,504,372                                  | <b>\$2,224,776</b>     |
| <b>Mechanism Total</b>         | <b>\$344,082</b>              | <b>\$210,404</b>                 | <b>\$972,484</b>                             | <b>\$1,526,950</b>     |

**Table B. Finding 2 – Interexchange Service Expense Moved to Account 6540**

| <b>Account</b>                                  | <b>2010</b>      | <b>2011</b>      | <b>2012</b>      | <b>2013</b>      | <b>2014</b>      | <b>Total</b>       |
|-------------------------------------------------|------------------|------------------|------------------|------------------|------------------|--------------------|
| <b>General Support Expense<br/>(6123, 6124)</b> | \$48,594         | \$72,079         | \$64,771         | \$105,985        | \$93,356         | \$384,785          |
| <b>Switching Expense (6212)</b>                 | \$368,824        | \$473,698        | \$443,404        | \$393,746        | \$88,731         | \$1,768,403        |
| <b>Transmission Expense (6232)</b>              | \$299,358        | \$315,015        | \$350,185        | \$395,316        | \$269,446        | \$1,629,320        |
| <b>Total Expense</b>                            | <b>\$716,776</b> | <b>\$860,792</b> | <b>\$858,360</b> | <b>\$895,047</b> | <b>\$451,533</b> | <b>\$3,782,508</b> |

<sup>75</sup> Request for Review at 17-18.

<sup>76</sup> This amount is \$20,162 less than the recovery amount recommended in the Audit Report of \$1,547,112. See Audit Report at 3.

<sup>77</sup> Reflects an underpayment amount originally calculated by USAC that was not challenged by Copper Valley on appeal. The Audit Report states that Copper Valley improperly assigned cable and wire assets, accumulated depreciation, depreciation expense and maintenance expenses to a non-interstate category when these costs and expenses should have been assigned to an interstate category and then removed from the cost studies. This error resulted in a lower allocation of rate base and expenses to the interstate jurisdiction, and an increase in rate base and expense for Copper Valley, which ultimately resulted in an *underpayment* of high-cost support to Copper Valley. See Audit Report at 3, 11.

**IV. ORDERING CLAUSES**

28. ACCORDINGLY, IT IS ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act, 47 U.S.C. §§ 151-154, and 254, and pursuant to sections 0.91, 0.291, and 54.722 of the Commission's rules, 47 CFR §§ 0.91, 0.291, and 54.722, the request for review filed by Copper Valley Telephone Cooperative, Inc. IS GRANTED IN PART AND DENIED IN PART to the extent described in this Order.

29. IT IS FURTHER ORDERED that the Universal Service Administrative Company recover \$1,526,970.00 from Copper Valley Telephone Cooperative, Inc., consistent with this Order.

30. IT IS FURTHER ORDERED that, pursuant to section 1.102(b)(1) of the Commission's rules, 47 CFR § 1.102(b)(1), this order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Joseph S. Calascione  
Chief  
Wireline Competition Bureau