



DEONNE E. CONTINE
Secretary

¹ *Tr.*, 10-9-14, p. 244, ll. 7-10: 7 CHAIRMAN WREN: It's okay. Just before I accept 8 the vote, I want to make sure I've incorporated all the 9 testimony from the prior cases in to this one and the vote is 10 four to one and passes.

central assessment to local assessment, taxable values went up significantly.² The Taxpayer identified issues common to most of the counties, including whether or not buried conduit, fiber optic cable, and telecommunications equipment shelters should be considered real or personal property and the appropriate depreciable life thereof; and the appropriate depreciable life of central office equipment. In Pershing County specifically, the Assessor classified conduit, fiber optic cable, central office equipment, and equipment shelters as real property and used a fifty-year life.³

In Consolidated Case Numbers 13-306 through 13-313 for Elko County, the Taxpayer requested treatment of its properties to be equal to the classification and rate of depreciation afforded by the Clark County Assessor regarding telecommunications shelters, conduit, fiber optic cable, and central office equipment. The Clark County Assessor used \$49,000 per telecommunications equipment shelter and a 15 year life, compared to an acquisition cost and a 50 year life used by the Elko County Assessor.⁴ Upon questioning, the Taxpayer stated he could not direct the Board to where in the Personal Property Manual it says shelters must have a 15 year life.⁵

In Consolidated Case Numbers 13-306 through 13-313 for Elko County, the Elko County Assessor asked the State Board for guidance in how to handle telecommunication assets. She stated the county assessors had met several times to discuss how to value the equipment, and as a result, the Washoe County Assessor requested guidance from the Department of Taxation.⁶ The Washoe County Assessor advised, in a letter dated August 12, 2013, that the Marshall Valuation Service did not contain cost data for certain items the Washoe County Assessor anticipated classifying as fixtures and

² *Tr. 10-9-14, p. 181, ll. 14-23:* 14 MR. BANCROFT: Thank you. Level 3 Communications 15 is a telecommunication company that was formerly centrally 16 assessed by the Department of Tax. This is the first year 17 that it moved to local assessment and was assessed by the 18 individual counties. What it owns in Elko County is a fiber 19 optic route that is buried in the ground and that's why it 20 appears in multiple taxing jurisdictions. The conduit is 21 laid in the ground and then a fiber optic cable is threaded 22 through the conduit. It's that property that's being valued 23 in this case. *Tr. 10-9-14, p. 186, ll. 1-7:* 1 Sawyer, Collins. This issue came to light when we first 2 received tax bills -- the taxpayers received tax bills. 3 There wasn't a valuation in December, so the tax bills 4 started coming out in April and May. And saw a change in the 5 tax values. Obviously there was some change expected from 6 central to local assessment, but the tax bills were extremely 7 off the charts in terms of almost three-fold increase. *Tr., 10-9-14, p. 205, l. 19 through p. 206, l. 3:* 19 MS. RUBALD: Mr. Chairman, in 1999 a law was 20 passed that basically said the telecommunications are 21 properties that carry video services were no longer to be 22 centrally assessed. They were to be locally assessed. And 23 that was primarily at the time aimed at cable television type 24 providers. But since that time there's been a convergence of 25 the industries between telecommunications and cable TV and Page 206 1 those that we can identify of telecoms that carry video and 2 we released back to local assessment that happen to be Level 3 3 and AT&T Nevada and AT&T generally.

³ *Tr., 10-9-14, p. 242, ll. 4-7:* 4 MS. HAMILTON: My name is Celeste Hamilton, 5 Pershing County assessor. The property or the personal 6 property is Level 3 Communications and it has been assessed 7 at a 50-year life, the same as the others. 8 CHAIRMAN WREN: All categories? 9 MS. HAMILTON: Yes.

⁴ *Tr. 10-9-14, p. 185, ll. 6-22:* 6 What we're asking is just equal treatment, you 7 know, if a type of property was reported in one jurisdiction, 8 it should get the same tax treatment when reported in another 9 jurisdiction. And we just have four categories in Elko 10 County that we would like -- the first two issues, the 11 conduit and the fiber optic cable, they've agreed to make 12 those adjustments. The second two categories, the switch 13 from central office equipment to computer-based optical, 14 she's highlighted those changes so you can see the line items 15 there. And then that last item is just the telecommunication 16 shelters, which appear on SBE-10 and SBE-11. They're in 17 there at acquisition cost, which does not necessarily reflect 18 the, you know, natural value of these things and that's why 19 Clark County put them at a uniform \$49,000 per shelter and 20 the 15-year life instead of a 50-year life. And by doing 21 that, it would bring Elko in to consistent treatment with 22 Washoe and Clark.

⁵ *Tr., 10-9-14, p. 189, l.11 to p. 190, l. 2:* 11 MEMBER HARPER: Mr. Bancroft, on these shelters 12 you say Clark and Washoe went from 50-year to 15-year. I 13 don't see on this handout from the personal property tax 14 manual -- Yeah, I don't see where that falls in. Is this a 15 new -- 16 MEMBER MESERVY: No. He -- Isn't that where -- 17 You're talking about the box? 18 MEMBER HARPER: Yeah. 19 MEMBER MESERVY: That was in the property, 20 Personal Property Manual, page 34. 21 MEMBER HARPER: We only have 33. 22 MR. BANCROFT: And I'm sorry, Mr. Harper, if I 23 misspoke. But there were no equipment shelters in Washoe 24 County. It was only Clark County that I made that comment in 25 reference to. And that's just the way Clark County treated Page 190 1 these. I can't direct you to where in the manual it says 2 that's correct.

⁶ *Tr. 10-9-14, p. 191, l. 11-22:* 11 In the past, the assessments were done by the 12 Department of Taxation based on a unitary method. When it 13 was found that per NRS 361.320 Number A that some of the 14 telecommunication companies were to be assessed at the local 15 level, the counties had several meetings in regard to the 16 assessments and how to value this equipment. 17 On August 13th 2013, a letter from Washoe County 18 was sent to the department for clarification. A guidance 19 letter from the department was sent out on September 10th 20 2013 approving the alternative methodology for the 21 telecommunications equipment. And that was to be based on a 22 50-year life.

therefore real property. The Washoe County Assessor then requested permission to index or trend the original construction costs reported by the taxpayer for property classified as real property to current replacement cost new, and then depreciate the result using a 50 year straight-line depreciation schedule adopted by the Nevada Tax Commission in the 2013-14 Personal Property Manual. See *Record, Department Exhibit 2*. The Department responded in a letter dated September 10, 2013 that the methodology requested by the Assessor provided a suitable estimate of replacement cost new less depreciation for telecommunications fixtures not otherwise available in the Nevada Rural Building Manual or in Marshall Swift, so long as "all applicable obsolescence" was also recognized. The letter was copied to all assessors.⁷ See *Record, Department Exhibit 3*.

In Consolidated Case Numbers 13-306 through 13-313 for Elko County, the Elko County Assessor testified that the telecommunications companies believed the methodology did not result in a fair assessment of real and personal property. She requested the State Board provide specific guidelines on the life schedule to be used on the equipment so that all assessors could recalculate the 2013 property assessments accordingly.⁸ She also requested guidance from the State Board on procedures for taxpayers to report real and personal property, noting a discrepancy in the amounts reported by year. She noted examples in which the total assessed value was significantly less than documentation of agreements showing higher values.⁹

In Consolidated Case Numbers 13-306 through 13-313 for Elko County, Terry Rubald, Deputy Executive Director of the Department, discussed the information available in the Personal Property Manual, noting that the Manual itemizes certain equipment and a life for each type. For example, the Manual indicates a 15 year life for fiber optic cable. It also indicates a 30 year life for distribution plant, if such plant is classified as personal property. She testified that the IRS in Publication 946 defines "distribution plant" to include such assets as pole lines, cable, aerial wire, underground conduits and comparable equipment and related land improvements as defined in the FCC Part 31 account numbers. See *Department Exhibit 4*. She further stated the IRS Publication 946 is specifically referenced in the Personal Property Manual on page 56.¹⁰ See *2013-14 Personal Property Manual at*

⁷ *Tr., 10-9-14, p. 195, ll. 4-19: 4* CHAIRMAN WREN: I need to ask a question. On *5* your testimony, did you recommend 50 years for the boxes? *6* MS. RUBALD: No. What we did is there was a *7* request to use for items that were considered to be fixtures *8* or real property, the question was whether an alternative *9* cost could be found because it was represented to us that *10* Marshall & Swift was not complete enough and with regard to *11* Telecommunications Property, so what we did is we approved an *12* acquisition cost basis if it was real property then to apply *13* a 50-year life. *14* CHAIRMAN WREN: Okay. Do you have enough copies *15* for both sides too? *16* MS. RUBALD: Yes. *17* CHAIRMAN WREN: Any objections? *18* MR. BANCROFT: No. *19* CHAIRMAN WREN: Just hand that out.

⁸ *Tr., 10-9-14, p. 191, l. 23 through p. 192, l. 5: 23* The telecommunications companies feel that it's *24* not a fair assessment of the real and personal property. I *25* would like to request that the board review the equipment Page 192 *1* used by the telecommunications company, provide specific *2* guidelines on the life schedule to be used on this equipment. *3* In order to maintain conformity and equity, all the counties *4* can take its ruling and go back, recalculate the 2013 *5* property assessments and either rebill or refund accordingly.

⁹ *Tr., 10-9-14, p. 193, l. 18 through p. 194, l. 19: 18* We would also like to request that the board *19* provide guidance to the telecommunications company on the *20* procedures for reporting all real and personal property. *21* There's a need for clarity on the application costs and/or *22* the application year. Upon reviewing some of the statements *23* provided by these companies, the year of application does not *24* change, but the amount seems to increase or decrease. I *25* don't know if they're grouping the total cost to fiber optics Page 194 *1* together in that year in reducing the amount of the disposed *2* amount, which would make sense. But how do we account for *3* increasing the amount of fiber optics that was purchased in *4* 1973 or 1993? I mean, I can see it going down if they had to *5* dispose of it. But how did it go up in that same year? I *6* think there needs to be a little bit of consistency in that. *7* The other thing that bothers me is on reviewing *8* some of the other accounts in the other counties, there was *9* one agreement that was made and the amount of that agreement *10* was over a hundred thousand dollars and that was indicated to *11* be equipment that follows along I-80. Elko County has a lot *12* of ground with I-80 going clear across that county. And my *13* stipulated changes came to around \$30,000 with reducing the *14* 15-year life. These were numbers that I came up with in case *15* the board wanted a number to give on an agreement or *16* whatever. *17* So that kind of tells me there's some discrepancy *18* on the reporting. And so I think clarification needs to be *19* brought there.

¹⁰ *Tr. 10-9-14, p. 195, l. 20 through p. 198, l. 3: 20* MS. RUBALD: Okay. Then I would like to talk *21* about the Personal Property Manual. You'll notice that on *22* page 33, it's for telecommunications, generally says see *23* itemized equipment and then it has a list down there at the *24* bottom. For fiber optic cable alone, it's a 15-year life. *25* Right above that you'll see something called distribution Page 196 *1* plant if personal property. And that's to imply that a *2* decision needs to be made as to whether the distribution *3* plant is real property or personal property. But if it's *4* personal property, it has a 30-year life. *5* Well, what is distribution plant? I would like Case No. 14-317, 14-318

http://tax.nv.gov/LocalGovt/PolicyPub/ArchiveFiles/Personal_Property_Manuals/ as found in the record.¹¹ She opined that the Clark County Assessor should have used the 30 year life for distribution plant, including poles and conduit; and a 15 year life for fiber optic cable. The Taxpayer disagreed with the recommendation, however, the Elko County Assessor did agree.¹²

In Consolidated Case Numbers 13-306 through 13-313 for Elko County, the Taxpayer testified that four counties used a 15 year life for both fiber optic cable and conduit; and that historically other telecommunication companies have been given a 15-year life for conduit and fiber optic cable. The Taxpayer further testified that the policy of the state, whether written or unwritten, has been to treat distribution plant with a 15 year life. The Taxpayer opined that in order to equalize, AT&T and Level 3 should be treated the same way that Clark, Lincoln, Nye, and Mineral Counties have treated telecommunication companies. The Taxpayer noted that the lack of equalization placed the company at a competitive disadvantage with its competitors and was not a fair valuation.¹³

6 to reference page 56 in the Personal Property Manual. I 7 happen to be looking at the latest one, the page is unchanged 8 for 13-13. And what appendix C is, is the list of the 9 sources used to estimate expected useful life. And one of 10 the sources that's referenced there is the Department of the 11 Treasury, Internal Revenue Service, Publication 946, how to 12 depreciate property. 13 And I brought along -- We've got something else 14 to pass out, please. I brought along the relevant page on 15 Telecommunications Property that describes what distribution 16 plant is. And just as soon as you get it, I'll ask you to 17 turn from the front page to the second page. And on the 18 second page you will see at Number 48.14, a description of 19 what telephone distribution plant is. It includes such 20 assets as pole lines, cable, aerial wire, underground 21 conduits and comparable equipment and related land 22 improvements as defined in the FCC Part 31 account numbers. 23 So that is a description of what distribution plant is. 24 So how do we reconcile that with -- back to page 25 33, distribution plant if it's personal property? It app Page 197 1 to me that conduit is distribution plant. And although this 2 description in the IRS also includes cable, we have 3 specifically taken cable out and called it a 15-year life. 4 But distribution plant like coals and conduit are 5 distribution plant having a 30-year life. And that is what I 6 would recommend, that we continue to use the Personal 7 Property Manual as published. 8 MEMBER MESERVY: Where is the 30 year again? I 9 didn't see that on the one you just gave us. 10 MS. RUBALD: It's on page 33 and it's just right 11 above the fiber optic cable. So there's a difference between 12 the conduit, which is infrastructure, and the cable, which is 13 in the infrastructure. 14 MEMBER MESERVY: Thank you. 15 CHAIRMAN WREN: Okay. So who approves the 16 personal property? This is out of the Personal Property 17 Manual; right? 18 MS. RUBALD: It's out of the Personal Property 19 Manual. The Personal Property Manual has a workshop every 20 year and then it's taken a month later to the Nevada Tax 21 Commission for approval. And these lives have basically 22 remained unchanged for several years. 23 CHAIRMAN WREN: Okay. And your Publication 964 24 from the IRS is just substantiating information, if you will? 25 MS. RUBALD: Yes, it is. Because on page 56 of Page 198 1 the Personal Property Manual, which is Appendix C, we 2 specifically reference the sources we use for the lives and 3 so one of the sources is this publication. 4 CHAIRMAN WREN: Perfect. And it's been approved 5 by the Tax Commission? 6 MS. RUBALD: Yes, sir.

¹¹ Tr., 10-9-14, p. 187, ll. 5-10: 5 MS. RUBALD: Yes, Mr. Chairman and Mr. Meservy, 6 yes, you have the Personal Property Manual for 14-15, but I 7 can testify to the fact that these lives are the same for the 8 13-14 year and you have to go up to the top where it says NRS 9 and NAC and SBE hearing guidelines. And in there, the third 10 from the top is the Personal Property Manual.

¹² Tr., 10-9-14, p. 199, ll. 6-21: 4 So what you're saying is Clark County should have 5 used 30 in your opinion? 6 MS. RUBALD: They should have used 30 for the 7 distribution plant, which includes poles and conduit, and 8 they should have used 15 years, and they did use 15 years, 9 for the fiber optic cable. 10 CHAIRMAN WREN: And that's what you're asking us 11 to have everybody do? 12 MR. BANCROFT: No. 13 MS. RUSSELL: Yes. It's my understanding that 14 Level 3 and AT&T have reached stipulations with other 15 counties. Yeah. That's why I asked for a guidance to be 16 very specific how it should be done, like when you're talking 17 30 years for distribution plants, 30 years for the telephone 18 poles, 15, that it be very specific so that all the counties 19 are doing it that way. That's my main concern is uniformity 20 among all the counties so there's no question about how we 21 did it.

¹³ Tr., 10-9-14, p. 200, ll. 24 through p. 203, l. 2: 24 MR. BANCROFT: Well, since I last spoke, a lot 25 has transpired both from Elko County and from the Department 1 of Tax. There's more on the table. I started out thinking 2 this was simple. But it's more complicated. It's not just 3 Clark County that was treating this in one fashion. It was 4 Clark, Mineral and Nye and Lincoln were all treating conduit 5 and fiber optic as 15-year. So it's not just one county and 6 it's not just a Level 3 issue. Right. It's not just a Level 7 3 or an AT&T issue. Because there are other 8 telecommunication companies out there with conduit and fiber 9 optic cable that have historically been given a 15-year 10 depreciable life, both in Clark County and in Washoe County. 11 You know, if you look at Charter Communications 12 in Washoe County, it's on a 15-year life. 13 CHAIRMAN WREN: For their fiber optic? 14 MR. BANCROFT: For their conduit and fiber optic. 15 CHAIRMAN WREN: And how about the distribution 16 thing? That's kind of where it seems like we're going awry 17 with this. 18 MR. MCKEAN: Ms. Rubald testified that she 19 believes conduit is distribution plant. And we're simply 20 saying the policy in this state whether it's written or 21 unwritten has been to treat that distribution, if you want to 22 call it that, a 15-year life. The other property owners, Cox 23 Communications, Charter, CenturyLink, have all received that 24 treatment. It was AT&T, as you see from the letter, and 25 Level 3 were specially pulled out and instructed to be given Page 202 1 a 50-year life, a whole different treatment than the personal 2 real property issue. They were nevertheless billed as 3 personal property and provided this billboard life, as you 4 can see, which has nothing to do with the Personal Property 5 Manual. 6 We are simply saying that in order to equalize 7 for this tax year, the only result has to be that AT&T and 8 Level 3 are not singled out for differential treatment but 9 are treated the same way that Clark County has treated all of 10 these companies for many years, as Washoe County has treated 11 all of these companies for

The Taxpayer further objected to the Washoe County Assessor's request for advice and the response letter by the Department because it was issued without public comment and believed it resulted in unfair treatment. The Taxpayer characterized the letter as a change in policy.¹⁴ The Department responded that the response letter to Washoe County relied on the authority of NAC 361.128 to allow alternative recognized cost manuals and cost determinations if Marshall and Swift did not adequately provide cost information.¹⁵

The State Board surveyed the county assessors in the audience. The Storey County Assessor, Jana Seddon, stated she put a life of 15 years on conduit and fiber optic cable, but put other distribution plant, such as poles, on a 30 year life. The Lander County Assessor, Lura Duvall, had no objection to a 15 year life for fiber optic cable, but stated she had real concerns about what is personal and what is real property, because telecommunications property that is real property should be treated like all real property in the state. She referenced the test to determine what is real property, such as disturbance of the ground and whether property is destroyed upon removal, stating she believed conduit in the ground met the real property test. For personal property, she stated the Personal Property Manual was the appropriate reference.¹⁶

many years, the 15-year life for 12 conduit as Lincoln County, Nye County, Mineral County have 13 done so. 14 If there's a new change in policy, perhaps the 15 rule making is appropriate and we can address some of these 16 issues in rule making. But right now, the key players, AT&T 17 and Level 3 are not the key players in the state. I would 18 warn that CenturyLink would have something to say about this 19 if they saw their tax bill for this kind of plant doubled. I 20 think there would be some other parties here. 21 We've tried to accomplish this given the playing 22 field that was out there, given what we knew about the other 23 counties and given what, for example, Josh Wilson recognized 24 in Washoe County for other similarly-situated taxpayers. It 25 put us at a competitive disadvantage with respect to the Page 203 1 other companies with whom we compete and it was clearly not 2 fair.

¹⁴ *Tr., 10-9-14, p. 203, L21 through p. 205, L 2:* 21 If I have your pleasure, I could also just maybe 22 address what Ms. Rubald went through a little bit of the 23 history here. The two letters that were from August, AT&T, 24 this is from August 2013, these letters. AT&T received tax 25 bills, like I said, in the April/May time frame under the Page 204 1 personal property bills. And after receiving those bills, 2 they noticed in Washoe County the tax bill went up by about 3 three-fold, moving from central assessment to this 50-year 4 life. AT&T filed direct appeals to the state board of May 5 15th and that's kind of why this information wasn't provided. 6 At that time, AT&T had no idea about these 7 directive letters. These were issued without any kind of 8 public comment. They were issued and specified to taxpayers 9 for differential treatment to get a 50-year life. We haven't 10 even heard that discussion today, 15 versus 30. This told 11 the assessors to use a 50-year life for all the equipment, 12 which is why the tax bill went up so dramatically. And the 13 assessors themselves, the two assessors from the largest 14 counties said this is not fair, we can't have this and they 15 stipulated to adjust those values accordingly and 16 appropriately consistent with what they've been doing for 17 many years under the Personal Property Manual and under the 18 supervision of the Department of Tax. 19 If there's a problem with that supervision and a 20 problem with how that's been done, that needs to be dealt 21 with, but it needs to be dealt with not through secret 22 directive letters that are not copied on the taxpayers, were 23 not provided to you, were not provided to us, was done 24 without any rule making, without any notice under 233-B, 25 under the rule-making procedures. Any kind of change in Page 205 1 policy like this should be noticed so that other taxpayers 2 who can be affected have a voice.

¹⁵ *Tr. 10-9-14, p. 206, L 20 through p.207, L 22:* 20 MS. RUBALD: Okay. If I could refer you to NAC 21 361.128, it basically says -- it requires us to use Marshall 22 & Swift. And then it says, "If the manuals described in 23 Subsection 2 do not apply to improvements of a particular 24 occupancy or construction type, the county assessor may apply 25 to the executive director for permission to use alternative Page 207 1 recognized cost manuals, cost determinations or subscription 2 services. If the executive director finds that the manuals 3 described in Subsection 2 do not apply to such improvements 4 and that the alternative recognized cost manuals, cost 5 determinations or subscription services are suitable, the 6 executive director shall within 30 days after receiving an 7 application pursuant to this subsection approve the use of 8 the alternative recognized cost manuals, cost determinations 9 or subscription services and notify each assessor of that 10 approval." 11 So we received a letter from Washoe County asking 12 us, telling us that they felt that Marshall & Swift was 13 inadequate for the valuation of properties, certain fixtures 14 that they found were real property. And so what we did is we 15 granted them permission to use actual acquisition cost and if 16 it was real property to use the 50-year table that was in the 17 Personal Property Manual for billboards so that they would 18 have the same treatment as other real property. 19 CHAIRMAN WREN: Okay. 20 MS. RUBALD: And there was no specific direction 21 on which property. It was just property that the assessor 22 deemed to be real property.

¹⁶ *Tr., 10-9-14, p.216, L 13 through p. 219, L 25:* 13 MS. SEDDON: Well, from what we're hearing, the 14 conduit which we would rather have at the 30 year, like I 15 said, we were trying to stay in line and be equalized 16 throughout some of the other counties like Washoe and Clark, 17 we did put the conduit on 15 and the fiber optics. But we 18 agree with the 15 on the fiber optics, but we also had the 19 poles on at 30. 20 CHAIRMAN WREN: Okay. But that's what the 21 handbook says. 22 MS. SEDDON: In the poles but not the conduit. 23 CHAIRMAN WREN: Okay. So according to the 24 handbook, the conduits should be 30. 25 MS. SEDDON: Yes, from the clarification that 1 Ms. Rubald gave us today. 2 CHAIRMAN WREN: Okay. So that was your only 3 disagreement. Okay. You're

The Esmeralda County Assessor, Ruth Lee, stated she used the 15 year life for conduit and fiber optic cable and a five year life for switches. The Eureka County Assessor, Michael Mears, stated further discussion was needed on whether conduit was real or personal property, but otherwise agreed with a 15 year life. The Churchill County Assessor, Norma Green, believed conduit and equipment shelters met the fixture test and therefore are real property. She placed them on the roll with a 50 year life based on the fixture test in the Personal Property Manual. She agreed with a 15 year life for fiber optic cable.¹⁷

off the hook. 4 Laura. 5 MS. RUBALD: If I may just add one thing, 6 Mr. Chairman. That Personal Property Manual says 7 distribution plant if personal property. So that is, I'm 8 assuming that the decision was made by Jana that it was 9 personal property. 10 CHAIRMAN WREN: Okay. Ms. Duvall. And to be 11 fair to Laura and the assessors that come up here today, if 12 you don't know, that's okay too. 13 MS. DUVALL: Laura Duvall, Lander County 14 assessor. I would like to state on the record that I have 15 objections to even testifying because the appeals in my 16 county were not filed in accordance with Nevada law. They 17 were not appealed at the county level nor the time frame that 18 they were supposed to be appealed to the state level. They 19 were appealed actually last month. 20 CHAIRMAN WREN: Okay. We're not hearing your 21 case right now so hold off on that. I understand where 22 you're going. But I just -- 23 MS. DUVALL: Okay. In Lander County as far as 24 the fiber optics we too have no argument that they should be 25 a 15-year life. We did also put them out at 15 years. And Page 218 1 based on the directive letter from the Department of 2 Taxation. 3 However, I do feel that the distribution plants 4 if personal property, and I state if because I have real 5 concerns about what is personal property and what is real 6 property, buildings, and structures if they are deemed to be 7 real property they have a 50-year life schedule just like all 8 other real property for all other taxpayers, not just 9 Telecommunications. And the conduit should be based on the 10 Personal Property Manual should be a 30-year life. I'm not 11 in disagreement with any of that. 12 I am in agreement with following the Personal 13 Property Manual because it was adopted by the state Tax 14 Commission and it's been the manual that we use for decades 15 for these type of items. I realize some things are not 16 really specific, however, I think it's pretty clear there's 17 not a discrepancy on what is considered distribution 18 equipment and what is the fiber optics computer items at a 19 five-year life, specifically I have no problem. 20 But I do have concerns about things that 21 telecommunication companies would like to call personal 22 property. If you do the test, do you disturb the area around 23 it, do you destroy other things by removing it. And if you 24 do, it's real property. So if you are going to say the 25 conduit in the ground is personal property and there would be Page 219 1 no disturbance of the ground by removing it, I would argue 2 that point. 3 So I think there has not been a lot of discussion 4 about the guidance letter because it says, you know, for 5 items that are deemed to be or considered by the assessor to 6 be real property, there should be a 50-year life just like 7 every other property, houses, garages, sheds, patios, decks, 8 concrete. I mean, we can sit here and argue all day is my 9 old tin shed classified as real property with a 50-year life, 10 is it going to last that long. They've got buildings that 11 have been there for more than 50 years and they're saying 12 they should be a 15-year life. Well, how can they still be 13 standing? Why are they still using them? Why are they a 14 viable part of, you know, their equipment? If they're only 15 15 years, why are they still there? They should have fallen 16 down; right? 17 That would be my concern and my issue is the 18 argument with what's real property and what's personal 19 property. But as far as the rest of it goes, I feel we 20 should adhere to the Personal Property Manual and two wrongs 21 don't make a right. And I agree the stipulated grievance 22 that granted in to there was no discussion about the 23 methodology so we don't know what was done or what wasn't 24 done in other counties. And I certainly wouldn't kick them 25 to the curb without knowing that.

¹⁷ Tr., 10-9-14, p. 220, l. 1 through p. 223, l. 10: CHAIRMAN WREN: We haven't heard the evidence 2 so -- Okay. Thank you. Just when you thought I didn't think 3 you were back there. 4 MS. LEE: For the record, Ruth Lee, Esmeralda 5 County assessor. Chairman Wren, I don't know if you want me 6 to go in to I did it and then I amended it the way the 7 guidance letter went and then I amended it again. And I am 8 using the 15-year for the conduit and the fiber both because 9 I don't have a lot of the issues that everybody else has. I 10 don't have buildings. I've got basically junk cable on the 11 side of one of my areas near California and that's it. And 12 then I did five-year on the switches. 13 CHAIRMAN WREN: You don't have any poles or 14 cables or anything? 15 MS. LEE: No, sir, I have nothing like that. 16 CHAIRMAN WREN: I've been to your county. I 17 believe that. 18 MS. LEE: Yes. 19 CHAIRMAN WREN: Okay. But what is your 20 interpretation of the handbook? 21 MS. LEE: Well, I would have gone with the 22 telecommunications and because the cable and the fiber are 23 hooked together, they can be yanked out at any point in time. 24 It's on the edge of the county. It's really old there, you 25 know. 1 CHAIRMAN WREN: Okay. That's fair. Good. Thank 2 you. 3 MS. LEE: Uh-huh. 4 CHAIRMAN WREN: One or both. You're up first. 5 MR. MEARS: For the record Michael Mears, 6 M-e-a-r-s, Eureka County. We originally put ours on with a 7 50-year life on the fiber and conduit. When we had 8 discussions with the taxpayer after they had received their 9 bills and realized that those bills had essentially almost 10 tripled, we went back and looked at it. I discussed it with 11 my colleague in Washoe County, Josh. And discovering that 12 they were going to put everything on a 15, we determined we 13 would do the same. So as you know because it's in your 14 packet, we did stipulate with AT&T. 15 And at this point having heard from Terry today, 16 I think there's definitely some argument to be made and some 17 discussion to be had as to whether conduit should be 18 considered real property or not and what life schedule we 19 should be putting on that. As a network person for Eureka 20 County, we have a lot of pipe in the ground and we move cable 21 in and out of it all the time. We don't move the pipe. The 22 pipe stays in the ground. 23 So I think, again, moving forward this is 24 definitely something that we would like to all have 25 clarification. The bottom line for all 17 of us is just that Page 222 1 we're doing it the same so we're not sitting in front of this 2 board every year arguing over how we did the buildings, how 3 we did the conduit. That's where Katrinka is spot on. We 4 just want to know what you want us to do, what does the Tax 5 Commission want us to do. We just want to make sure we're 6 doing it correctly and the same as our neighbors. 7 CHAIRMAN WREN: Good. We're trying to figure out 8 how to help you get there. Thank you. 9 MS. GREEN: Norma Green, Churchill County 10 assessor, for the record. What we currently billed, and we 11 haven't stipulated to anything yet, we were waiting for some 12 further

The Lincoln County Assessor, Melanie McBride, used a 15 year life for fiber optic cable and conduit, but used a 50 year life for equipment shelters. The Humboldt County Assessor, Jeff Johnson, used a 50 year life on the conduit and fiber, based on his understanding of the Department's letter. The White Pine County Assessor, Deborah Underwood, used a 50 year life for the poles, conduit and fiber optic cable, also based on her understanding of the Department's letter, plus her experience that some of the equipment in her county had been in place since the 1950's and the 1970's. The Pershing County Assessor, Celeste Hamilton, used a 50 year life for everything. Chief Deputy Theresa Wilkins of the Washoe County Assessor's Office, stated her office initially valued the properties using a 50 year life, but stipulated to a 15 year life. Laurie Goodman of the Clark County Assessor's office stated her office valued fiber optic cable and conduit using a 15 year life.¹⁸

The State Board indicated regulation workshops should be held on the telecommunication asset lives.¹⁹

guidance, we did fiber optic at 50, we did the 13 conduit at 50, the shelters at 50, the computer equipment at 14 five and the telecommunication equipment at ten. 15 Fiber optic I have no problem being 15. The 16 conduit based on the three-part test in the Personal Property 17 Manual and using the alternative cost, I felt it should be 18 50. 19 CHAIRMAN WREN: Classifying as real property, not 20 personal property. 21 MS. GREEN: Real, not personal property. 22 CHAIRMAN WREN: So far you're the only one who 23 said that all the way across the line. What is your 24 interpretation of how you determine whether or not it's real 25 property or personal property? Page 223 1 MS. GREEN: When you look in the personal 2 property manual, we have I think it's in the beginning of 3 that, right at the beginning of it, we're given instructions 4 to look at that to give it a three-part test and is it 5 permanently affixed in to the ground. I believe the conduit 6 is. I don't think they're typically going to remove that. I 7 think they are going take the fiber in and out but not the 8 conduit. 9 CHAIRMAN WREN: I agree. Okay. Anything else? 10 MS. GREEN: No.

¹⁸ Tr., 10-9-14, p. 223, l. 13 through p. 226, l. 15. 13 MS. MCBRIDE: Melanie McBride from Lincoln 14 County. I'm in Las Vegas. 15 CHAIRMAN WREN: Sorry. I had people walking up 16 and I said that's not you. Okay. Go ahead. 17 MS. MCBRIDE: For the fiber optic and the 18 conduit, we have been using 15-year life. I have questions 19 on the shelters still because the description they gave me 20 was it's a pre-cast modular concrete shell that is strapped 21 to the side and dropped on a concrete pad. The concrete pad 22 is real property but the shell isn't, so that's one of my 23 questions. I don't know if that's how Level 3 declared 24 theirs to everyone else. But I used a 50-year life schedule 25 for that. But now I'm questioning whether it should be Page 224 1 personal property because only the concrete pad should be 2 real property. 3 And I'm here for guidance and I want to give 4 kudos to Katrinka for asking most of the questions that all 5 of us had. 6 CHAIRMAN WREN: I was kind of proud of her too. 7 Leave it to Elko County, right. Okay. Thank you very much. 8 Jeff. 9 MR. JOHNSON: For the record, Jeff Johnson, 10 Humboldt County assessor. We costed everything at the 11 50-year life, the conduit, the fiber, all of that stuff. We 12 did it according to the guidance letter. We actually – The 13 association had all talked about what we were going to do and 14 it was my understanding we all agreed it was going to be a 15 50-year life, so we put it on that way and left it that way. 16 CHAIRMAN WREN: Okay. Perfect. You're wrong. 17 MR. JOHNSON: Apparently. It's not the first 18 time. 19 MS. UNDERWOOD: Debbie Underwood from White Pine 20 County assessor. We did the poles, the conduit, the fiber 21 optic all at a 50-year life for the same reason why Jeff 22 said, that we felt that the guidance was there. And I felt 23 that it was supported by the dates that was given of how long 24 that equipment had been in place. We have some clear back to 25 1950s, the '70s, so we felt that that was reasonable to use a 50-year life. 2 CHAIRMAN WREN: Okay. Thank you. I won't tell 3 you you're wrong. I just tell Jeff that. 4 MS. HAMILTON: I'm Celeste Hamilton. I'm the 5 Pershing County assessor. And that's C-e-l-e-s-t-e Hamilton. 6 And this makes three of us that have all done it the same 7 way: Jeff, me and Debbie. It's the 50-year life for 8 everything. 9 CHAIRMAN WREN: Okay. All right. Good. Thank 10 you very much. I appreciate that and I appreciate your 11 answers too. Did I get everybody? Does Washoe County want 12 to chime in since you're here? 13 MS. WILKINS: Good afternoon. For the record 14 Teresa Wilkins, Washoe County chief deputy assessor. Washoe 15 County initially did value the properties in question using 16 the 50-year life. Based on the additional information, we 17 revalued it and our stipulated values do reflect that recost 18 in to the 15 years. 19 CHAIRMAN WREN: Okay. Thank you. And who's in 20 Clark County? Who's in Las Vegas? Everybody here left. 21 MS. GOODMAN: Lori Goodman with the Clark County 22 Assessor's Office. 23 CHAIRMAN WREN: Hi. Do you want to address this 24 for us? 25 MS. GOODMAN: They moved the camera. Our -- Page 226 1 Basically the value that we stipulated to was the 2 reclassification on the taxpayer's report from the central 3 office equipment to the computer-based switching equipment. 4 We had originally valued the fiber and conduit in a 15-year 5 life. I toured all of the facilities that they have here. 6 Most of them are the stiff-type buildings that are on the 7 concrete pads, so the four shelters that we don't have on 8 real property records here I did take it the 15-year life. 9 CHAIRMAN WREN: Okay. And your underground 10 conduit is 15 years also? 11 MS. GOODMAN: Correct. 12 CHAIRMAN WREN: 15, okay. All right. Thank you. 13 MS. GOODMAN: 15, yes. 14 CHAIRMAN WREN: 15, okay. 15 MS. GOODMAN: Thank you.

¹⁹ Tr., 10-9-14, p. 266, ll. 11-21: 11 MS. GREEN: I'm retiring, so I can say it. Norma 12 Green, Churchill County assessor for the record. The only 13 thing I guess I dispute is the conduit because we've been 14 referring to the personal property manual and the 30-year 15 life, which if you deem it personal property I have no 16 problem with that. But if you stay conduit is real then I 17 think it should be the 50-year, where I think the conduit 18 should be 50-year. 19 CHAIRMAN WREN: And that's why I want to have a 20 workshop to address that specifically and put specific labels 21 on these. Churchill retiring. See also Tr., 10-9-14, p. 268, ll. 21-22: 21 All right. Thank you very much. I encourage you 22 guys if you would when you do these workshops --

The State Board, having considered all evidence, documents and testimony pertaining to the valuation of the property in accordance with NRS 361.227, hereby makes the following Findings of Fact, Conclusions of Law and Decision.

FINDINGS OF FACT

- 1) The State Board is an administrative body created pursuant to NRS 361.375.
- 2) The State Board is mandated to hear all appeals of property tax assessments pursuant to NRS 361.360 and NRS 361.400.
- 3) The Taxpayer and the Assessor were given adequate, proper and legal notice of the time and place of the hearing before the State Board, and the matter was properly noticed pursuant to the Open Meeting Law at NRS 241.020. *See Record, SBE page 75 in Case No. 14-317 and page 96 in Case No. 14-318.*
- 4) The subject property consists of telecommunications property, including land and improvements and conduit systems, fiber optic cable, computer-based switching equipment, facility equipment, racks and cabinets, and station equipment in Case No. 14-317 and 14-318, located throughout Pershing County, Nevada. *See Record, Case No. 14-318, SBE pages 10-24.*
- 5) The Assessor originally classified fiber optic cable and conduit, central office equipment, and telecommunications equipment shelters as real property and valued the property using a depreciable life of 50 years. *Tr. 10-9-14, p. 242, ll. 7-4.*²⁰
- 6) The State Board found the fact that the Clark and Washoe County Assessors stipulated to a value based on a 15 year life for conduit and fiber optic cable; and a set value of \$49,000 for shelters, was not determinative of the appropriate depreciable life for those types of property. The State Board found the standard for the valuation of personal property was the Personal Property Manual adopted by the Nevada Tax Commission.²¹
- 7) The State Board found conduit was distribution equipment subject to a 30 year life as listed in the Personal Property Manual. It further found the Personal Property Manual lists fiber optic cable at a 15 year life; and computer switch equipment at a 5 year life. *See Page 34, 2013-14 Personal Property Manual.*

²⁰ *Tr., 10-9-14, p. 242, ll. 4-7: See Footnote 2 for the quotation from the transcript.*

²¹ *See Tr., 10-9-14, p. 232, l. 8 through p. 233, l. 12: 8 MEMBER MESERVY: You know, my concern is that, 9 you know, I was given this job to follow the law and I can't 10 go around making up, you know, just because somebody did it 11 wrong that we all of a sudden let it go and let everyone else 12 do it wrong and the next time. You know, I really think this 13 is one that they need to have a pow-wow of some sort and get 14 with all of these counties and figure out how we can apply 15 this property and make sure that everyone understands the 16 rules. 17 But I think it's there and I don't have any 18 problem with the changes on this one, other than the 15-year 19 on underground conduits. But rather -- I feel like that 20 should be 30 based on what it's saying in the manual. But I 21 personally don't agree with just because we've let it slide 22 on others. There's a lot of evaluations that get slid every 23 year, but I don't think we should be the board that lets it 24 be known that we're just going to go along with what 25 happened. I think we need to go with what should be, so Page 233 1 that's just my bits. 2 CHAIRMAN WREN: Aileen? 3 MEMBER MARTIN: I agree with Dennis. 4 CHAIRMAN WREN: Okay. Ben? 5 MEMBER JOHNSON: I largely agree with Aileen and 6 Dennis here. I don't think a negotiated settlement between 7 other parties is meaningful for us to make our decision based 8 on. I think we have to do what's right based on the facts in 9 front of us and we have the real property manual, Personal 10 Property Manual. We've taken a lot of testimony. I think 11 what we have here in front of us is enough to make a 12 decision.*

- 8) The State Board found that telecommunication equipment shelters are not personal property because they are structures permanently affixed to the ground with foundations; and should be treated as real property with a 50 year economic life pursuant to NRS 361.227(1)(b).²²
- 9) The State Board affirmed the five year life for computer-based central office equipment, 15 year life for fiber optic cable, and 30 year life for conduit systems in Pershing County.²³
- 10) Any finding of fact above construed to constitute a conclusion of law is adopted as such to the same extent as if originally so denominated.

CONCLUSIONS OF LAW

- 1) The Taxpayer timely filed a notice of appeal, and the State Board accepted jurisdiction to determine this matter.
- 2) The Taxpayer and the Assessor are subject to the jurisdiction of the State Board.
- 3) The State Board has the authority to determine the taxable values in the State.
- 4) The subject property is appraised at the proper taxable value as corrected by the State Board in accordance with NRS 361.227 for the 2013-2014 unsecured roll. The assessed value is 35% of the taxable value.
- 5) The Nevada Tax Commission has a duty to adopt general and uniform regulations governing the assessment of property by the county assessors, county boards of equalization, the State Board of Equalization and the Department. See NRS 360.250(1); *State v. Bakst*, 122 Nev 1403, 1417 (2006).
- 6) An assessor must certify under penalty of perjury that in assessing property he or she has complied with the regulations of the Nevada Tax Commission. See NRS 360.250(3). In

²² See *Tr., 10-9-14, p. 233, l. 14 through p. 235, l. 13*: 14 MEMBER MESERVY: If I understood it well, I think 15 the only place that we're in disagreement with what they're 16 asking is the 15 years to move it back to 30 on the 17 underground conduits. I think that's the only difference. 18 MEMBER JOHNSON: And the shelters. 19 MEMBER MESERVY: Okay. The shelters was the 20 other part. That one I'm not sure how to address because 21 that could be -- 22 CHAIRMAN WREN: Before you make a comment or 23 motion, let me address that from my perspective. And I'll 24 tell you, first of all, that I agree with you raising your 25 thought that the conduit per the book is 30 years. That's Page 234 1 where it should be, regardless if anything else has happened 2 out there. It's our job to follow the handbook also. So I 3 agree with the 30 years. 4 As far as the buildings, the SCIF buildings or 5 whatever you want to call them, they're concrete buildings 6 that are concrete foundations with a crane. The definition 7 of real property is something that is rather permanently 8 affixed. If you have to take a crane to put something on 9 something, that's rather permanently affixed. So I agree 10 with the three counties that have assessed those at 50, I 11 agree with them. I consider it real property. 12 MEMBER MESERVY: And I have no problem with that. 13 I agree. 14 CHAIRMAN WREN: Okay. 15 MEMBER MESERVY: But I'm not sure how to make a 16 motion but maybe somebody can help me with that. 17 MEMBER JOHNSON: I will make the motion then in 18 Case 14-306, 307, 308, 309, 310, 311, 312 and 313 that we 19 find that the conduit should be valued based on personal 20 property manual which indicates a 30-year economic life and 21 that the telecommunication equipment shelters are real 22 property and should be treated as real property and have a 23 50-year economic life. 24 MEMBER MARTIN: So the fiber optic stays at 15? 25 MEMBER JOHNSON: Correct. Page 235 1 MEMBER HARPER: And the computer at five. 2 MEMBER MARTIN: And central office equipment will 3 stay at five years? 4 MEMBER JOHNSON: Yes. Correct. 5 CHAIRMAN WREN: Okay. Second? 6 MEMBER MARTIN: Second. 7 CHAIRMAN WREN: Further discussion. All in favor 8 say aye. 9 MEMBER MESERVY: Aye. 10 MEMBER MARTIN: Aye. 11 MEMBER JOHNSON: Aye. 12 CHAIRMAN WREN: Opposed? 13 MEMBER HARPER: Nay. 14 CHAIRMAN WREN: Motion carries. Okay.

²³ See *Tr., 10-9-14, p. 243, l. 18 through p. 244, l. 11*: 18 MEMBER MESERVY: On 14-317 and 14-318, the 19 computer-based central office on a five-year, are we able to 20 identify those assets? 21 MS. HAMILTON: Yes. 22 MEMBER MESERVY: And the fiber optic at 15 years 23 with the conduit systems at 30 years. 24 MEMBER JOHNSON: Second. 25 CHAIRMAN WREN: Discussion? All in favor say Page 244 1 aye. 2 MEMBER MESERVY: Aye. 3 MEMBER MARTIN: Aye. 4 MEMBER JOHNSON: Aye. 5 CHAIRMAN WREN: Aye. Opposed? 6 MEMBER HARPER: Nay. 7 CHAIRMAN WREN: It's okay. Just before I accept 8 the vote, I want to make sure I've incorporated all the 9 testimony from the prior cases in to this one and the vote is 10 four to one and passes. 11 Okay. Next case.

addition, all county assessors must adopt and put in practice the manuals and regulations established and prescribed by the Nevada Tax Commission governing the assessment of property. See NRS 360.280.

- 7) The Nevada Tax Commission shall, by regulation, establish standards for determining the cost of replacement of improvements of various kinds, and shall establish standards for determining the cost of replacement of personal property of various kinds and schedules of depreciation for personal property based on its estimated life. See NRS 361.227(6). The Nevada Tax Commission adopted the Personal Property Manual.²⁴ NAC 361.1361; NAC 361.1365.
- 8) Real property is defined as including buildings, structures, and other improvements built or erected upon any land. See NRS 361.035(1)(a); NAC 361.11715.
- 9) NRS 361.227(1)(b) requires the full cash value of any improvements made on the land to be determined by subtracting from the cost of replacement of the improvements all applicable depreciation and obsolescence. Depreciation of an improvement made on real property must be calculated at 1.5 percent of the cost of replacement for each year of adjusted actual age of the improvement, up to a maximum of 50 years.
- 10) Any conclusion of law above construed to constitute a finding of fact is adopted as such to the same extent as if originally so denominated.

DECISION

The Petition of the Taxpayer is granted in part based on the above Findings of Fact and Conclusions of Law. The Pershing County Comptroller is instructed to correct the assessment roll by adjusting the assessed valuation of the subject property as follows:

2013-2014 Unsecured Roll

Case No.	Petitioner	County	APN	Taxable Value	Assessed Value	Taxable Value Revised by State Board	Assessed Value Revised by State Board
14-317	Level 3	Pershing	001-221-12	\$554,777	\$194,172	\$338,640	\$118,524
14-318	Level 3	Pershing	008-432-09	\$2,121,169	\$742,409	\$964,271	\$337,492
Total, Level 3, Pershing County				\$2,675,946	\$936,581	\$1,302,911	\$456,016

The Pershing County Comptroller is instructed to certify the assessment roll of the county consistent with this decision.

BY THE STATE BOARD OF EQUALIZATION THIS 12th DAY OF DECEMBER, 2014.



Deonne Contine, Secretary
DC/ter

²⁴ Tr. 10-9-14, p. 197, ll. 15-22: 15 CHAIRMAN WREN: Okay. So who approves the 16 personal property? This is out of the Personal Property 17 Manual; right? 18 MS. RUBALD: It's out of the Personal Property 19 Manual. The Personal Property Manual has a workshop every 20 year and then it's taken a month later to the Nevada Tax 21 Commission for approval. And these lives have basically 22 remained unchanged for several years.