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My name is Albert S.N. Hee. The following comments are submitted by me, pro se in response to the Notice of Apparent Liability (“NAL”) that was served on me on January 5, 2017.

Introduction

Congress directed the Federal Communications Commission (the “Commission” or “FCC”) to ensure that "consumers in all regions of the Nation, including low-income consumers and those in rural, insular and high cost areas...have access to rates charged for similar services in urban areas," (47 USC 254(b)). In support of this direction, Congress further directed the Commission to do so with "**specific** and **predictable** support mechanisms." (47 USC 254(b)(5) (emphasis added). The NAL is **not** in keeping with this clear Congressional Directive. The standard that has been applied to Sandwich Isles Communication (“SIC”) and is **unspecific** and **unpredictable**, as it has never been applied to any rural telecommunications company in the past. The Commission's actions in regards to SIC, Waimana Enterprises, Inc. (“WEI”), and myself, Albert S.N. Hee, violates the US Constitution, the applicable sections of the United States Code, Congressional Directives and well settled law.

Background

The actions of two and a half Commissioners speak to the absurdity of the NAL and its underlying order. The genesis of this action is the attempt to discredit my testimony before the US Senate Committee on Indian Affairs in June of 2012. The then Wireline Bureau Chief Ms. Sharon Gillette released a scathing letter to the press the night before my testimony. She did so hours after a meeting with me during which Ms. Gillette refused to give the letter to me. The next day, Commissioner Clyburn appeared before Committee Chairman, Senator Daniel Akaka, and

espoused the open and cooperative conduct of the Commission in dealing with the indigenous people of the United States. When I testified, I referenced the release of the letter to the press, which had been widely circulated to the Committee members and staff, before it was given to SIC or myself as evidence of the Commission only giving lip service to having a cooperative spirit. Ms. Gillette resigned the following week to pursue personal goals.

It is only with this context that you can understand why the FCC has taken the actions that they have taken.

Discussion

In these comments, I incorporate all of the comments submitted by SIC and WEI. Title 47 USC 254 was enacted to ensure all US citizens, including indigenous peoples, would have a 'universal' level of telecommunications service at comparable prices to those available in the urban areas. It was not enacted to authorize the Commission to selectively bankrupt the only company, SIC, that only serves the indigenous peoples of Hawaii, Native Hawaiians.

The Commission cannot manipulate a Congressional Directive to justify actions even Congress cannot take, violation of the US Constitution. The fundamental right of due process is what this country was founded upon. It is ludicrous to interpret any Congressional Directive in a manner that would violate the Constitution as the NAL claims. The NAL tramples my Constitutional rights, especially my right to due process.

The Commission loudly proclaims the tens of millions of support dollars SIC supposedly obtained by "miscategorizing" its capital expenditure. Yet the Commission reveals its unfair bias, as it makes no attempt to calculate the amount of support dollars SIC would have received during the same period of time had the capital expenditure been "correctly" categorized. If the Commission had any interest in fairness, it obviously would have done so. Further, if the Commission had any interest in fairness, it would have seen that there is very little difference in the amount of support SIC would have received regardless of which way the lines were categorized.

Furthermore, the Commission disregards the statute of limitations and carefully crafts its narrative to mislead the readers into thinking the support payments were somehow funneled to me and used personally. The Commission has the financials from SIC that show the support payments were used correctly to pay

the debt service owed to the Rural Utilities Service. At the Commission's direction, Universal Service Administrative Company ("USAC") audited SIC for nearly a year and found no evidence that any support payments were used incorrectly. If they had, that would have been emphasized in their order.

The novel approach the Commission takes to hold a former stockholder of an unregulated corporation (WEI) liable for punitive damages should chill all present and former stockholders. Imagine how many former stockholders could be liable for federal fines, taxes etc. of bankrupt public companies. Why hasn't the Commission taken similar action against stockholders of public companies that have been fined and/or penalized? Perhaps it is because of well settled law that one of the purposes of a corporation is to shield the stockholders of any liability incurred the company. It is part of the benefit of a corporation paying taxes before the income is distributed to the stockholder(s) after which the stockholder also pays taxes.

An underlying basis of the NAL is the holding company structure WEI used in incorporating SIC. This is a standard structure used by both public and private utilities and is regulated by Congress in the electric industry. In the electric industry, the law specifies what powers Federal Energy Regulatory Commission (FERC) has in regards to the holding company's financials. If Congress wanted the FCC to similarly regulate the holding companies in telecommunications it would have passed a similar law. In fact many of the rural utility local exchange carriers (RLEC) operate with subsidiaries providing the unregulated services as SIC did. Even USAC is a wholly owned subsidiary of NECA. In short, (1) there is nothing wrong with performing services through a subsidiary; (2) other rural utilities use similar structures, which – like SIC's – are perfectly lawful; and (3) FCC takes no action against them for it. Moreover, the affiliated companies hide nothing relevant from the FCC. All of their transactions with SIC are fully disclosed in SIC's financial statements.

The NAL was issued with two and a half Commissioner votes or three Commissioner votes for the "agreed in part" section and two Commissioner votes for the "denied in part" section. Either the whole NAL or the part that was "denied" by the third Commissioner should not be applicable. However, the NAL does not identify the part that was denied.

The NAL purports to justify the Commission's actions because of my tax conviction. The tax conviction had nothing to do with SIC. SIC was extensively audited by the IRS which found no crime and filed no charges as a result.

Conclusion

The NAL is wrong. The Commission does not have the authority to do what it orders. At its most basic and egregious level it violates my rights guaranteed by the US Constitution. The Wireline Bureau has convinced two and a half Commissioners that I have acquired a large amount of ill-gotten support money. There is no evidence of this. USAC and FCC staff have studied (and can account for) where every penny of funds paid to SIC has gone. There has been no waste, fraud or abuse. If there had been, they would have stressed that, instead of the bogus claims about categorization of lines.

All of the support monies are paid to SIC which the Commission has all of the financials and has audited SIC for the entire period of more than ten years. The IRS did a nine year investigation of SIC, WEI and myself and finally concluded there is no hidden stash of money. For the reasons stated in this filing, the NAL against me should be withdrawn.

Sincerely,

Albert S. N. Hee