

1 CALIFORNIA STATE BOARD OF EQUALIZATION

2 SUMMARY DECISION UNDER REVENUE AND TAXATION CODE SECTION 40

3
4 In the Matter of the Petition for)
5 Reassessment of the 2013 Unitary Value for:)
6 VERIZON CALIFORNIA, INC. (0201))
7)
8 Petitioner)

Appeal No.: SAU 13-022
Case ID No.: 742936

9
10 Representing the Parties:

11 For the Petitioner: Peter W. Michaels, Attorney at Law
12 For the Respondent: Leslie Ang, Tax Counsel
13 Attorney for State-Assessed Properties Division
14 Richard Reisinger, Business Taxes Administrator III
15 State-Assessed Properties Division
16 Counsel for Appeals Division: Louis A. Ambrose, Tax Counsel IV

17 VALUES AT ISSUE

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	Value	Penalty	Total
2013 Board-Adopted Unitary Value	\$2,681,300,000	\$0	\$2,681,300,000
Petitioner's Requested Unitary Value	\$2,098,085,000	\$0	\$2,098,085,000
Respondent's Recommendation On Appeal	\$2,558,600,000	\$0	\$2,558,600,000 ¹

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22 LEGAL ISSUE 1

23 Whether petitioner has established that a fixed wireless network, as presented in its Replacement Cost
24 New (RCN) study, is the most probable replacement model for rural service areas.

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28 ¹ Respondent's recommendation on appeal reflects a value reduction of \$122,700,000 to account for exempt software. (See Cal. Code Regs., tit. 18, § 152, subd. (f).) It is the Board's understanding that petitioner does not actively dispute the amount of this value reduction.

1 FINDINGS OF FACT AND RELATED CONTENTIONS

2 Verizon California, Inc. (petitioner) is the second largest incumbent local exchange carrier in
3 the State of California. Petitioner is a wholly owned subsidiary of Verizon Communications, Inc.
4 Petitioner is regulated by the California Public Utilities Commission (CPUC) and, like other
5 state-assessed incumbent local telephone companies, is designated as a telephone service provider of
6 last resort (POLR). The 2013 Board-adopted unitary value of \$2,681,300,000 was based on
7 100-percent reliance on the Replacement Cost Less Depreciation (ReplCLD) value indicator.

8 Petitioner provided respondent with a report prepared by Duff & Phelps (D&P study) based, in
9 part, on an RCN analysis in support of its requested unitary value. Petitioner states that the D&P study
10 determined that the combination of a fiber-to-the-premises (FTTp) network in areas where petitioner is
11 offering FiOS² services and a fixed wireless technology in non-FiOS areas is technologically and
12 economically superior. Petitioner asserts that the D&P study's RCN model includes all costs necessary
13 to construct the network and put it into productive and beneficial operation. Petitioner also asserts that
14 the RCN model considers "the diminished value" of petitioner's assets attributable to physical
15 deterioration and to functional and economic obsolescence. According to petitioner, the D&P study
16 proposes a fixed wireless network as "the most appropriate replacement cost measurement for the
17 current utility and functionality" of petitioner's current switch copper network located in remote and
18 rural areas where a fiber network may not be economically viable.

19 Petitioner states that respondent rejected a fixed wireless network as a probable replacement
20 network and questioned whether petitioner could "legally or practically" replace all or part of the
21 wireline network with a fixed wireless architecture and whether petitioner intends to offer fixed
22 wireless services to its customers. Petitioner asserts that a fixed wireless network is a probable
23 replacement model because fixed wireless networks are already used by cable providers and
24 independent internet service providers to offer internet, video, and voice services. Petitioner also
25 asserts that fixed wireless networks provide the same or better utility and functionality and are more
26 cost effective because they eliminate the need to lay miles of copper wire, which reduces capital
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28 ² FiOS is a bundled internet access, telephone, and television service which operates over a fiber-optic communications network.

1 network construction costs and maintenance expenses.

2 Petitioner states that there are no legal restrictions on POLRs, including petitioner, from
3 deploying fixed wireless networks to provide local exchange service and that, prior to the 2013 lien
4 date, the CPUC adopted an updated definition of “basic telephone service” in Decision 12-12-038
5 (December 20, 2012) that allows any carrier, subject to certain requirements, to use “any technology to
6 satisfy any obligation to provide basic service.” Petitioner asserts that for two decades prior to the
7 CPUC’s adoption of the updated definition, the CPUC encouraged the deployment of alternative
8 technology by POLRs. Petitioner also asserts that the federal Telecommunications Act of 1996 (Act)
9 provides “support for a technology-neutral infrastructure policy” and that the CPUC formally
10 determined “[t]he pursuit of a technology-neutral policy finds support in the [Act].” Based on that
11 determination, petitioner states that the CPUC specifically approved the use of wireless technologies.
12 Petitioner states that its “existing plans to utilize fixed wireless focus on serving areas that are more
13 rural and sparsely populated”

14 Petitioner states that respondent’s appraisal narrative questions the time required to design and
15 construct the replacement network and whether the D&P study includes all costs associated with
16 engineering, permitting, and construction. Petitioner asserts that the D&P study’s RCN model includes
17 all costs, and particularly engineering costs, necessary to construct the network and put the plant into
18 productive and beneficial operation.

19 Respondent contends that a hypothetical fixed wireless network is not an appropriate
20 replacement network model for petitioner’s current legacy copper network. Respondent cites the
21 Board’s *Guidelines for Substantiating Additional Obsolescence for State-Assessed Telecommunication*
22 (*Guidelines*) for the principle that, for replacement cost purposes, “the proposed replacement must be
23 available, [and] implementation should follow a realistic time frame, and include all associated costs.”
24 (*Guidelines*, p. 2.) Respondent asserts that the hypothetical fixed wireless network proposed in the
25 D&P study does not meet these criteria. As an example, respondent contends that an “available”
26 replacement property must be legal and that petitioner has not provided evidence that the entire rural
27 area copper networks may be legally substituted with fixed wireless networks (e.g., by showing that
28 such a network would fulfill petitioner’s duty as a POLR to provide rural areas with services that are

1 reasonably comparable to those offered in urban areas and available at rates that are reasonably
2 comparable to rates charged for similar services in urban areas pursuant to 47 U.S.C. § 254(b)(3)).

3 Respondent also contends that petitioner has not shown that it currently provides fixed wireless
4 service to its California customers, or that it plans to provide fixed wireless service to its California
5 customers in the near future. Respondent references an article on the website fiercetelecom.com that
6 reports that petitioner offered wireless service to replace the copper network damaged by Hurricane
7 Sandy to POLR customers in Fire Island, New York, but, after receiving complaints about problems
8 with service, decided instead to install fiber optic cable. For these reasons, respondent recommends
9 that no adjustment be made for this issue.

10 APPLICABLE LAW AND APPRAISAL PRINCIPLES

11 ReplCLD Value Indicator

12 Property Tax Rule 6,³ subdivision (a) provides, in part: “The reproduction or replacement cost
13 approach to value . . . is preferred when neither reliable sales data . . . nor reliable income data are
14 available” In general, the ReplCLD valuation methodology is estimated by applying trend
15 factors—price level changes, including the application of “current prices to the labor and material
16 components of a substitute property capable of yielding the same services and amenities, with
17 appropriate additions as specified” (Property Tax Rule 6, subd. (d).) The resulting adjusted cost
18 amount is “reduced by the amount that such cost is estimated to exceed the current value of the
19 reproducible property by reason of physical deterioration, misplacement, over- or underimprovement,
20 and other forms of depreciation or obsolescence. The percentage that the remainder represents of the
21 reproduction or replacement cost is the property’s percent good.” (Property Tax Rule 6, subd. (e).)

22 RCN is an estimate of the current cost to replace a property with a new property *of*
23 *equivalent utility*, which should include all economic costs necessary to put the property to productive
24 and beneficial use. RCN should reflect the current cost a knowledgeable person or company would pay
25 if it were necessary to replace the subject property with a new property of equivalent utility. The RCN
26 is calculated by applying an index factor, which is acquired from industry data, to the historical
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28 ³ All references to Property Tax Rules are to sections of title 18 of the California Code of Regulations.

1 acquisition cost of the unitary property of the assessee, segregated by year of acquisition. The
2 historical cost of property is adjusted (in the aggregate or by groups) for replacement cost level changes
3 by multiplying the cost incurred in a given year by the appropriate replacement cost index factor. RCN
4 is considered an excellent starting point for estimating the value of newer property that is not regulated
5 for rate of return because the property owner has the freedom, with competitive constraints, to adjust
6 revenues to current costs based on market factors. (*Unitary Valuation Methods* (March 2003) (UVM),
7 p. 23.)

8 Economic Principle of Substitution

9 The rationale for the use of the cost approach is based on the economic principle of substitution,
10 which holds that a rational person will pay no more for a property than the cost of acquiring a
11 satisfactory substitute, assuming no costly delay. If the condition of no costly delay is not satisfied, the
12 cost of the delay must be added to the cost of a substitute property. If the delay in acquiring a substitute
13 is too costly, such that it would not be worthwhile to replace the property, then the cost of replacement
14 cannot be said to represent the property's market value. (Assessors' Handbook section 502, *Advanced*
15 *Appraisal* (December 1998) (AH 502), p. 12.)

16 ANALYSIS AND DISPOSITION

17 Petitioner's RCN model assumes that a fixed wireless network is a satisfactory substitute for the
18 existing copper network based on petitioner's assertions that fixed wireless networks: (1) are in use by
19 cable providers and internet service providers; (2) provide the same or better utility and functionality;
20 and (3) are more cost effective in terms of capital construction costs and maintenance expenses.
21 Petitioner also asserts that there are no legal restrictions on the deployment of a fixed wireless network
22 to provide local exchange service in view of the fact that the CPUC's definition of "basic telephone
23 service" allows petitioner to use such technology, subject to certain requirements, to satisfy its
24 obligation to provide basic service.

25 While petitioner correctly states that fixed wireless networks are in use by other cable and
26 internet providers, petitioner has not demonstrated that those networks provide the same or better utility
27 and functionality than a copper wireline network. In fact, technology writers and telecommunications
28 analysts have pointed out the functional shortcomings of petitioner's wireless-based VoiceLink service

1 as compared with the existing copper network.

2 In this regard, petitioner's recent attempt to replace the copper wireline network destroyed by
3 Hurricane Sandy on Fire Island, New York with its Voice Link service was opposed by residents who
4 claimed that it provided "spotty service" during emergencies and did not support internet service, fax
5 machines or alarm systems. As a result, petitioner changed its planned deployment of its
6 wireless-based system and instead decided to rewire the western part of Fire Island with fiber optic
7 cable because "customers told [petitioner] they wanted a more reliable Internet connection."⁴ Thus,
8 petitioner's experience in Fire Island suggests that a fixed wireless network does not have equivalent
9 utility with a copper wireline network such that it would be considered a satisfactory substitute for
10 purposes of a replacement cost valuation model. In addition, petitioner has not presented any evidence
11 of an intention to deploy a fixed wireless network in rural and remote areas of California (e.g., an
12 application with the CPUC to authorize such deployment). For the foregoing reasons, we sustain
13 respondent's determination on this issue.

14 LEGAL ISSUE 2

15 Whether the Board-adopted value reflects all forms of functional and economic obsolescence.

16 FINDINGS OF FACT AND RELATED CONTENTIONS

17 Petitioner contends that respondent should not have disallowed certain obsolescence
18 adjustments in the D&P study. Petitioner asserts that it incurred excess operational and maintenance
19 costs, including excess power costs, for maintaining a duplicate copper network when compared to a
20 replacement fiber network, as well as the obsolescence attributable to non-working,
21 non-revenue-generating POLR assets.

22 Petitioner states that its property has suffered significantly more incurable functional
23 obsolescence "due to intense marketplace competition, particularly wireless substitution"; and to
24 remain economically viable petitioner will make large capital expenditures to replace its copper
25 network with a fiber-optic cable and fixed wireless network. As a result, petitioner argues that the
26 Board-adopted value fails to account for obsolescence attributable to the capital expenditures that are
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⁴ *Verizon to take FTTH to Hurricane-ravaged Fire Island, NY* < <http://www.fiercetelecom.com/story/verizon-take-ftth-hurricane-ravaged-fire-island-ny/2013-09-11>> (as of March 7, 2014).

1 necessary to address network deficiencies and to offset losses in revenues from voice services.

2 Petitioner states that its FTTP deployment is an overlay of its current copper legacy network
3 and, until its current customers migrate from the legacy network to the FTTP-based network,
4 petitioner's reported property, plant and equipment (PP&E) fixed asset historical costs will reflect the
5 excess capital costs of the copper network. Finally, petitioner disagrees with respondent's position that
6 a portion of this obsolescence has been accounted for in the normal depreciation adjustment and with
7 respondent's disallowance of the percent-good factors utilized in the D&P study.

8 Respondent contends that petitioner's proposed method for comparing the maintenance and
9 repair costs of copper and fiber networks fails to recognize the age difference between the two types of
10 properties. Respondent asserts that its analysis shows that the weighted average age of fiber is
11 significantly lower than the weighted average age of copper and concludes that the difference in
12 maintenance and repair costs is attributable to normal wear and tear, which respondent has already
13 accounted for as part of normal depreciation. Respondent states that petitioner provided no response to
14 respondent's request for additional support for its claim.

15 With respect to petitioner's claim that the Board-adopted value does not properly recognize
16 excess costs resulting from its replacement network incorporating new and more efficient soft switches,
17 respondent argues that soft switches are the most advanced switching technology, while digital
18 switches have been utilized by petitioner for many years. In this regard, respondent argues that
19 petitioner fails to recognize the age difference between the two types of properties when estimating
20 functional obsolescence due to excess power costs. As a consequence, respondent argues that the
21 associated "excess power costs" are already accounted for as part of normal depreciation because the
22 digital switches represent older and less efficient technology.

23 Respondent takes issue with petitioner's claim that, during the migration from its legacy copper
24 network to its fiber-based network, petitioner's reported PP&E fixed asset historical costs will continue
25 to reflect excess capital costs of the redundant copper network. Respondent asserts that the
26 Board-adopted unitary value was based on petitioner's RCN study, which utilizes the hypothetical cost
27 of network assets petitioner would need to provide the same level of services to its current customers,
28 and then makes adjustments to account for depreciation and obsolescence. For that reason, respondent

1 contends that the historical cost of petitioner’s property is irrelevant, and the obsolescence related to
2 excess capital costs, if any, is accounted for in the RCN study.

3 With respect to petitioner’s request for an additional obsolescence adjustment attributable to its
4 POLR assets, respondent maintains that those assets are an integral part of petitioner’s network and are
5 required by the CPUC as a condition of conducting business as a POLR. For that reason, respondent
6 contends that any purchaser of the property or investor in the business would be bound by those
7 requirements. Respondent also contends that petitioner has provided no documentation, work papers or
8 studies to substantiate any additional obsolescence beyond that already allowed for claimed
9 obsolescence attributable to capital expenditures to address the deficiencies in petitioner’s network.
10 Finally, respondent states that petitioner provided no evidence to support its claim that respondent
11 should have used lower percent-good factors.

12 APPLICABLE LAW AND APPRAISAL PRINCIPLES

13 ReplCLD Value Indicator

14 Property Tax Rule 6, subdivision (a) provides, in part: “The reproduction or replacement cost
15 approach to value . . . is preferred when neither reliable sales data . . . nor reliable income data are
16 available” In general, the ReplCLD valuation methodology is estimated by applying trend
17 factors—price level changes, including the application of “current prices to the labor and material
18 components of a substitute property capable of yielding the same services and amenities, with
19 appropriate additions as specified” (Property Tax Rule 6, subd. (d).) Then, the resulting adjusted
20 cost amount is “reduced by the amount that such cost is estimated to exceed the current value of the
21 reproducible property by reason of physical deterioration, misplacement, over- or underimprovement,
22 and other forms of depreciation or obsolescence. The percentage that the remainder represents of the
23 reproduction or replacement cost is the property’s percent good.” (Property Tax Rule 6, subd. (e).)

24 Replacement Cost New

25 RCN is an estimate of the current cost to replace a property with a new property *of equivalent*
26 *utility*, which should include all economic costs necessary to put the property to productive and
27 beneficial use. The RCN is calculated by applying an index factor, which is acquired from industry
28 data, to the historical acquisition cost of the unitary property of the assessee, segregated by year of

1 acquisition. The use of index factors applied to historical cost data is the preferred method of
2 calculating the RCN for mass appraisal purposes. The historical cost of property is adjusted (in the
3 aggregate or by groups) for replacement cost level changes by multiplying the cost incurred in a given
4 year by the appropriate replacement cost index factor. RCN should reflect the current cost a
5 knowledgeable person or company would pay if it were necessary to replace the subject property with a
6 new property of equivalent utility. RCN is considered an excellent starting point for estimating the
7 value of newer property that is not regulated for rate of return because the property owner has the
8 freedom, with competitive constraints, to adjust revenues to current costs based on market factors.
9 (UVM, p. 23.)

10 Development of RCN Trend Factors

11 With respect to RCN trend factors, which are the bases for converting the historical cost of
12 property into current replacement cost levels, UVM at page 28 further provides:

13 These factors measure the current cost of replacing the existing property with a substitute
14 property having *equivalent utility*. In developing replacement cost index factors, staff
15 currently relies on two sources: (1) studies submitted by industry participants and
16 (2) studies performed by the Policy Planning and Standards Division (PPSD) of the
17 Property Taxes Department. The PPSD studies at present pertain only to general purpose
18 computer equipment and peripherals.

17 Depreciation and the Replacement Cost Approach

18 In general, the ReplCLD value indicator recognizes three types of depreciation: physical
19 deterioration, functional obsolescence, and external, or economic, obsolescence, through application of
20 the Board's replacement cost new trend factors and percent-good factors. Obsolescence may occur
21 when property is outmoded (functional obsolescence) or when some event has substantially diminished
22 the future earning power of the property (economic obsolescence). (See Assessors' Handbook section
23 501, *Basic Appraisal* (January 2002), pp. 81-83.) Functional obsolescence is the loss of value in a
24 property caused by the property's loss of capacity to perform the function for which it was intended.
25 (*Id.* at p. 81.) Economic obsolescence is the diminished utility of a property due to adverse factors
26 external to the property being appraised and is incurable by the property owner. (*Id.* at p. 82.)

27 Percent-Good Factors

28 Percent-good factors are the basis for adjusting the RCN into an indicator of fair market value.

1 The factors are complements of physical deterioration and functional obsolescence and are used to
2 determine the remaining value of a property. The factors used for a given property type are derived
3 from the expected economic life of that property type, based on service life studies that help determine
4 what percent-good factors will be applied to a property type. Examples of economic obsolescence
5 include: increased competition, unexpected technological innovation, legal limitations on use, and
6 environmental factors. (UVM, p. 30.)

7 In addition to economic life, there are four other variables that have an effect on percent-good
8 factors. These are: the rate of return, the method of calculation, the survivor curve, and the presence of
9 an income adjustment factor. Petitioner has the burden of establishing the existence of any additional
10 or extraordinary obsolescence. (See Property Tax Rule 6, subd. (d) & (e); AH 502, pp. 20-21; UVM,
11 p. 30.)

12 ANALYSIS AND DISPOSITION

13 Petitioner claims excess operational and maintenance costs for maintaining a duplicate copper
14 network when compared to a replacement fiber network. However, petitioner has not presented any
15 evidence to demonstrate that those costs were not reflected by the normal depreciation and
16 obsolescence adjustments made to the RCN of the unitary property. Thus, petitioner has not met its
17 burden of proving the existence of additional depreciation attributable to these costs.

18 Petitioner also claims that it will incur excess capital costs of the redundant copper network
19 during the migration from its legacy copper network to its fiber-based network. As stated above,
20 petitioner's RCN is an estimate of the current cost to replace a property with a new property of
21 equivalent utility, which should include all economic costs necessary to put the property to productive
22 and beneficial use. Obsolescence related to excess capital costs is already accounted for in the RCN.
23 Accordingly, we make no additional adjustment for these alleged costs.

24 With respect to petitioner's claim of additional obsolescence attributable to its POLR assets, we
25 note that those assets are required by the CPUC for the operation of the network as a POLR. Therefore,
26 any prospective purchaser of petitioner's unitary property would also be required to maintain POLR
27 assets and would assume those operational costs. Moreover, petitioner has not provided any evidence
28 to substantiate the existence of additional obsolescence attributable to capital expenditures necessary to

1 address network deficiencies. Finally, petitioner has not provided any evidence to support its claim that
2 respondent's percent-good factors fail to reflect all forms of obsolescence. Therefore, petitioner has not
3 met its burden of proof with respect to supporting any additional adjustments for this issue. (Cal. Code
4 Regs., tit. 18, § 5541, subd. (a).)

5 LEGAL ISSUE 3

6 Whether the Board-adopted value properly accounts for legal restrictions on alternate uses of
7 petitioner's fee-owned land interests.

8 FINDINGS OF FACT AND RELATED CONTENTIONS

9 Petitioner contends that the Board-adopted unitary value fails to account for land use
10 restrictions and obsolescence due to the superadequacy of fee-owned land interests that are no longer
11 necessary for petitioner's operations. Petitioner argues that enforceable restrictions imposed by the
12 CPUC prevent petitioner from disposing of or changing the uses of its fee-owned land interests. As a
13 result, petitioner maintains that legal and regulatory restrictions reduce the value of those land interests
14 and should be reflected in the Board-adopted unitary value. Petitioner further states that it would be
15 able to provide the same services to its customers without its "extensive land holdings" and could
16 significantly reduce those holdings or move its central offices to less expensive locations, but
17 regulatory restrictions prevent petitioner from exercising those options. Petitioner contends that
18 respondent should make an adjustment for this form of obsolescence.

19 Respondent states that petitioner cites Public Utilities Code section 851 (section 851) as
20 statutory authority that allows purportedly excess land to be put to its highest and best use only with the
21 approval of the CPUC. Thus, according to respondent, petitioner essentially argues that the procedural
22 constraints imposed by the section 851 approval process prevent any value from being attributed to the
23 allegedly superadequate portion of petitioner's fee-owned land interests.

24 Respondent cites a portion of the statute which provides that section 851 "does not prevent the
25 sale, lease, encumbrance, or other disposition by any public utility of property that is not necessary or
26 useful in the performance of its duties to the public." Based on that provision, respondent concludes
27 that, although section 851 requires a telecommunication company to obtain approval before it can sell a
28 necessary or useful piece of real estate, there is no restriction on the use of the land itself once it is sold.

1 Furthermore, respondent presumes that any land that is superadequate would not be necessary or useful
2 for the performance of duties to the public and, thus, would not be subject to this sale approval
3 requirement. Finally, respondent asserts that if any land owned or leased entirely by petitioner is
4 available for sale, it will be sold at the market price determined by its highest and best use since the
5 CPUC has no authority to limit the new owner (assuming it is not another regulated telecommunication
6 company) in the use of the property.

7 Respondent also argues that petitioner has not provided information sufficient to demonstrate
8 obsolescence due to superadequacy of its land. Moreover, respondent argues that superadequacy may
9 exist in the floor space of buildings but petitioner has provided no documentation demonstrating
10 superadequacy in the land on which the buildings are located. Respondent also states that petitioner has
11 also not provided detailed descriptions of its owned or leased land that it believes has suffered
12 economic obsolescence in addition to the amount allowed by respondent and has not provided any
13 evidence to suggest that the land it owns or leases was not assessed at its fair market value.

14 APPLICABLE LAW

15 Public Utilities Code Section 851

16 Section 851 provides, in relevant part, that a public utility (other than a common carrier by
17 railroad) must secure approval from the CPUC before it may sell or otherwise dispose of “property
18 necessary or useful in the performance of its duties to the public.” However, section 851 further
19 provides that:

20 Nothing in this section shall prevent the sale, lease, encumbrance, or other disposition by
21 any public utility of property that is not necessary or useful in the performance of its
22 duties to the public, and any disposition of property by a public utility shall be
23 conclusively presumed to be of property that is not useful or necessary in the
24 performance of its duties to the public, as to any purchaser, lessee, or encumbrancer
25 dealing with that property in good faith for value

24 ANALYSIS AND DISPOSITION

25 Petitioner makes bare assertions that it is subject to CPUC legal restrictions on the disposal or
26 alternative use of its fee-owned land interests that are no longer necessary for petitioner’s operations.
27 According to petitioner, such restrictions reduce the value of those land interests and an appropriate
28 obsolescence adjustment should be made to the Board-adopted unitary value. However, section 851

1 expressly provides that the CPUC approval process is required for “property necessary or useful in the
2 performance of its duties to the public”; and if, as petitioner alleges, the fee-owned land interests for
3 which petitioner seeks an adjustment are superadequate, then they do not meet this requirement.
4 Moreover, once fee-owned land interests are disposed of, they are not subject to such restrictions in the
5 hands of a good faith purchaser, lessee or encumbrancer for value. Finally, petitioner has presented no
6 evidence of superadequacy in any of its fee-owned land interests and, therefore, has not met its
7 evidentiary burden on this issue. (Cal. Code Regs., tit. 18, § 5541, subd. (a).)

8 LEGAL ISSUE 4

9 Whether petitioner has shown that the 2013 Board-adopted unitary value improperly includes value
10 attributable to non-assessable, intangible costs of optional extended warranties.

11 FINDINGS OF FACT AND RELATED CONTENTIONS

12 Petitioner asserts that the replacement cost indicator on which the 2013 Board-adopted value is
13 based improperly includes value attributable to non-assessable, intangible warranty costs “embedded”
14 in petitioner’s purchase price for certain telecommunications equipment. Petitioner states that it
15 requests the exclusion only for costs of extended warranties that provide coverage in addition to base
16 standard warranties.

17 Respondent cites Property Tax Rule 10, subdivision (b), which excludes the costs of extended
18 service plans and extended warranties from the definition of “full economic cost,” and asserts that this
19 exclusion implies that the cost or value of standard or express warranties is includible in “full economic
20 cost.” Respondent states that standard and express warranties are marketing devices used by
21 manufacturers to encourage the sale of their products and that the value of such warranties is usually
22 not capable of being excluded, subtracted, or negotiated away when the product is purchased. Thus,
23 according to respondent, an express or standard warranty is part of the “cost of bringing the property to
24 a finished state,” which determines full economic cost under Rule 10, subdivision (b).

25 Respondent agrees with petitioner that costs for optional extended warranties should be
26 excluded from petitioner’s unitary value but states that petitioner has not submitted any evidence or
27 other information to substantiate the existence of extended warranty costs, and has not provided
28 detailed documentation supporting or quantifying these alleged costs. Respondent asserts that

1 petitioner’s characterization of the costs as “embedded in Petitioner’s purchase price” is consistent with
2 respondent’s understanding that the warranties for which petitioner seeks an adjustment are the
3 standard or express warranties that are not subject to a separate charge or negotiation. As evidence,
4 respondent points to petitioner’s representation that the price of the warranty coverage is automatically
5 included or “embedded” in the purchase price of the product.

6 APPLICABLE LAW AND APPRAISAL PRINCIPLES

7 Full Economic Cost

8 Property Tax Rule 10, subdivision (b) provides, in relevant part, that:

9 Full economic cost does not include extended service plans or extended warranties,
10 supplies or other assets or business services that may have been included in a purchase
contract.

11 ANALYSIS AND DISPOSITION

12 Petitioner has not presented any evidence to show that it purchased optional extended
13 warranties, nor has petitioner provided any documentation to support or quantify the cost of such
14 warranties. In addition, petitioner makes a representation that those costs are “embedded” in the
15 purchase price of its property, but petitioner fails to identify the specific property for which those
16 extended warranties provide coverage. For the foregoing reasons, petitioner has failed to meet its
17 burden of proof on this issue. (Cal. Code Regs., tit. 18, § 5541, subd. (a).)

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DECISION

Accordingly, the petition for reassessment is granted in part and the 2013 Board-adopted unitary value is reduced from \$2,681,300,000 to \$2,558,600,000.*

_____, Chairman

_____, Member

_____, Member

_____, Member

_____, Member

* The decision was rendered in Sacramento, California on December 17, 2013. This summary decision document was approved on March 25, 2014, in San Francisco, California.