

FCC MAIL SECTION

DOCKET FILE COPY ORIGINAL

MAR 16 12 57 PM '95

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

DA 95-497

In the Matter of)	
)	
Bell Atlantic Telephone Companies)	CC Docket Nos. 94-139 and 94-157
)	
Tariff F.C.C. No. 1, Transmittal No. 747)	
)	

**MEMORANDUM OPINION AND ORDER
SUSPENDING RATES**

Adopted: March 15, 1995; Released: March 15, 1995

By the Acting Chief, Tariff Division, Common Carrier Bureau:

I. INTRODUCTION

1. On February 16, 1995, Bell Atlantic Telephone Companies (Bell Atlantic) filed Transmittal No. 747 to revise rates in its Tariff F.C.C No. 1 which became effective on February 11, 1995.¹ Bell Atlantic states that these revisions correspond to earlier revisions to its price cap indexes to reflect the recovery of exogenous amounts associated with the implementation of Statement of Financial Accounting Standard 106, "Employers Accounting for Postretirement Benefits Other Than Pensions" (SFA-106) and Statement of Financial Accounting Standard 112, "Standards for Employers' Accounting for Postemployment Benefits" (SFAS-112). MCI Telecommunications Corporation (MCI) filed a petition to reject or suspend and investigate Transmittal No. 747 and Bell Atlantic filed a reply. In this Order, we suspend the Transmittal No. 747 revisions for one day and make these revisions subject to investigation in the above-captioned dockets.

¹ See Bell Atlantic Tariff F.C.C. No. 1, Transmittal No. 704, CC Docket No. 94-139, Memorandum Opinion and Order Suspending Rates (Tar. Div., Com. Car. Bur., rel. Feb. 9, 1995) (SFAS-112 Suspension Order).

II. BACKGROUND

2. On September 1, 1994, Bell Atlantic filed its Transmittal No. 690 to increase its interstate access rates based upon exogenous cost adjustments associated with its implementation of SFAS-106.² Bell Atlantic adjusted its price cap index (PCI) level upward to reflect the exogenous treatment for the costs of certain other post-employment benefits (OPEBs). The changes in OPEB costs for local exchange carriers (LECs) were implemented by the Common Carrier Bureau (Bureau) in 1993.³ On December 29, 1994, the Bureau suspended Transmittal No. 690 for one day and initiated an investigation of the tariff in CC Docket No. 94-157.⁴ On October 13, 1994, Bell Atlantic filed Transmittal No. 704 to increase rates based upon its SFAS-112 costs.⁵ The Tariff Division suspended Transmittal No. 704 for one day and made the rates subject to our investigation in CC Docket No. 94-139.⁶

3. In a letter submitted to the Commission on February 14, 1995, two days prior to its filing of Transmittal No. 747, Bell Atlantic asserts that the revisions it was making in that transmittal reflect the recovery of its SFAS-106 and SFAS-112 exogenous amounts over a shorter period of time.⁷ This shorter time period results because the effective dates of Transmittal Nos. 690 and 704 were deferred beyond the initial effective dates of those transmittals. In that letter, Bell Atlantic shows adjustments to its PCI to take into account SFAS-106 and SFAS-112 accounting changes. The transmittal before us here therefore

² See Bell Atlantic Telephone Companies Tariff F.C.C. No. 1, Transmittal No. 690 (filed Sept. 1, 1994).

³ Treatment of Local Exchange Carrier Tariffs Implementing Statement of Financial Accounting Standards, "Employers Accounting for Postretirement Benefits Other Than Pensions," CC Docket No. 92-101, 8 FCC Rcd 1024 (Com. Car. Bur. 1993) (OPEB Order).

⁴ See Bell Atlantic Telephone Companies Tariff F.C.C. No. 1, Transmittal No. 690, NYNEX Telephone Companies Tariff F.C.C. No. 1, Transmittal No. 328, Pacific Bell Tariff F.C.C. No. 128, Transmittal No. 1738, US West Communications, Transmittal No. 550, CC Docket No. 94-157, Memorandum Opinion and Order, DA 94-1613 (Com. Car. Bur., rel. Dec. 29, 1994) (SFAS-106 Suspension Order).

⁵ See Bell Atlantic Telephone Companies Tariff F.C.C. No. 1, Transmittal No. 704 (filed Oct. 13, 1994).

⁶ See SFAS-112 Suspension Order, *supra* at note 1.

⁷ See Letter from Michael R. McCullough, Bell Atlantic to Secretary, FCC, dated Feb. 14, 1995.

raises the same issues as those already set for investigation in CC Docket Nos. 94-139 and 94-157.

III. POSITIONS OF THE PARTIES

4. On February 22, 1995, MCI Telecommunications Corporation (MCI) filed a petition to reject or, in the alternative, to suspend and investigate Bell Atlantic Transmittal No. 747. In its petition, MCI argues that Bell Atlantic did not include the PCI adjustment required by Section 61.49(a) of the Commission's Rules, 47 C.F.R. § 61.49 (a) in its transmittal but instead in a letter submitted on February 14, 1995.⁸ According to MCI, the LECs are required to file index information and the calculations underlying the index levels reflected in their transmittals.⁹ MCI contends that Bell Atlantic's letter of February 14 is not subject to the same review process as a tariff. According to MCI, by failing to file the necessary information in its transmittal, Bell Atlantic is attempting to avoid the possibility that its transmittal adjusting the PCI would be suspended and investigated or rejected.¹⁰ Finally, MCI contends that the Bell Atlantic letter raises the same issues of lawfulness the Commission found in the SFAS-112 Suspension Order.¹¹

5. In its reply, Bell Atlantic states that it complied with all of the filing requirements set out in the Commission's rules, but that MCI failed to follow Section 61.33(d) of the Commission's Rules, 47 C.F.R. § 61.33 (d). According to Bell Atlantic, that rule section requires petitions to be personally served on the filing carrier or sent via facsimile for tariff filings with notice periods of 15 days or less.¹² Finally, Bell Atlantic maintains that changes to the PCI can be made by letter and that this is an established practice of making changes when tariff revisions are not required.¹³

⁸ MCI Petition at 4-8.

⁹ Id. at 5.

¹⁰ Id. at 8-9.

¹¹ Id. at 11-12, citing SFAS 112-Suspension Order, supra at note 1. In its petition, MCI contends that Bell Atlantic unlawfully increased its Interconnection Charge by using calculations based on the wrong price cap indexes. Id. at 10-11. In a letter filed March 10, 1995, MCI withdrew this claim from its petition. Letter from Christopher Bennett, MCI, to Secretary, FCC, dated March 10, 1995.

¹² Bell Atlantic Reply at 1.

¹³ Id. at 4.

6. In addition, Bell Atlantic maintains that Transmittal No. 747 was merely a "true-up" to recover the exogenous costs associated with SFAS-106 and SFAS-112, which the Commission has already found may be included in a revised access tariff filing.¹⁴ Bell Atlantic further states that it filed this transmittal because of delays in the effective dates of the original tariffs that reduced the amount of the exogenous costs that could have been recovered before the annual 1995 filing. Bell Atlantic maintains that this filing restores those amount by adjusting its rates to recover the same amount of revenue in the new shorter (four month) period of time.¹⁵

III. DISCUSSION

7. As an initial matter, we conclude that Bell Atlantic complied with Section 61.49 (a) of the rules when it filed Transmittal No. 747 because that transmittal specifically references Bell Atlantic's February 14, 1995 letter which contained the cost support data necessary to comply with our rules. While under these circumstances the requirements of Section 61.49 (a) of the rules were met, we remind carriers to file all relevant cost support data with their transmittals to avoid any questions about their compliance with our rules.¹⁶

8. As indicated above, Bell Atlantic states in Transmittal No. 747 that it is proposing to revise its interstate access rates to reflect an adjustment of its exogenous costs for SFAS-106 and SFAS-112. According to Bell Atlantic, the exogenous costs for these postemployment benefits are the same as those requested in its Transmittal Nos. 690 and 704. These transmittals were suspended because Bell Atlantic's supporting information was "insufficient to answer basic questions."¹⁷ While the Commission has granted exogenous treatment of these postemployment benefits, the question of the specific amount eligible for

¹⁴ Id. at 2, citing SFAS-106 Suspension Order, supra at note 4 and SFAS-112 Suspension Order, supra at note 1.

¹⁵ Id.

¹⁶ We conclude Bell Atlantic is correct that MCI was required by the Commission's Rules to serve Bell Atlantic either personally or by facsimile with a copy of its petition. See Sections 61.33(d) and 1.773(a)(4) of the Commission's Rules, 47 C.F.R. §§ 61.33(d), 1.773 (a)(4). While we find that Bell Atlantic received a copy of MCI's petition in time to file a timely response and therefore was not prejudiced by MCI's action, we expect parties to fully comply with our rules regarding service of pleadings.

¹⁷ SFAS -112 Suspension Order, supra at para. 12.

exogenous treatment is subject to investigation.¹⁸ Transmittal No. 747 raises issues similar to those raised in the tariffs currently subject to investigation in CC Docket Nos. 94-157 and 94-139 and, therefore, we are suspending Transmittal No. 747 and including the issues presented therein in these two pending investigations.

IV. ORDERING CLAUSES

9. Accordingly, IT IS ORDERED that, pursuant to Section 204(a) of the Communications Act of 1934, 47 U.S.C. § 204(a), and Section 0.291 of the Commission's Rules, 47 C.F.R. § 0.291, the revised rates set forth in Bell Atlantic Tariff F.C.C. No. 1, Transmittal No. 747 ARE SUSPENDED for one day from the current effective date and an investigation of those rates is included with CC Docket Nos. 94-157 and 94-139. Bell Atlantic SHALL FILE a supplement reflecting this suspension no later than five days from the release of this Order.

10. IT IS FURTHER ORDERED that, pursuant to Sections 4(i) and 204(a) of the Communications Act, 47 U.S.C. §§ 154(i), 204 (a), and Section 0.291 of the Commission's Rules, 47 C.F.R. § 0.291, Bell Atlantic SHALL KEEP ACCURATE ACCOUNT of all amounts received that are associated with the rates that are the subject of this investigation.

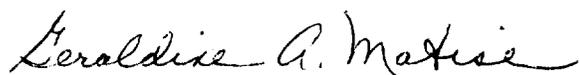
11. IT IS FURTHER ORDERED that Bell Atlantic SHALL INCLUDE A STATEMENT in all subsequent transmittals revising rates indicating whether, and to what extent, the price change is predicated upon the exogenous cost claim set forth in Transmittal No. 747.¹⁹

¹⁸ SFAS-106 Suspension Order, supra at note 4; SFAS-112 Suspension Order, supra at note 1.

¹⁹ We anticipate that any such transmittals will be suspended for one day, included in this investigation, and made subject to an accounting order.

12. IT IS FURTHER ORDERED that the petition to reject or to suspend and investigate Bell Atlantic Transmittal No. 747 filed by MCI Telecommunications Corporation IS GRANTED to the extent discussed above and otherwise IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Geraldine A. Matis
Acting Chief, Tariff Division
Common Carrier Bureau