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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of:	)	
	)	
1993 Annual Access Tariff Filing	)	**CC Docket No. 93-193**
	)	**Phase I**
	)	
1994 Annual Access Tariff Filings	)	**CC Docket No. 94-65**
	)	
AT&T Communications	)	**CC Docket No. 93-193**
Tariff F.C.C. Nos. 1 and 2	)	**Phase II**
Transmittal Nos. 5460, 5461,	)	
5462, and 5464	)	
	)	
Bell Atlantic Telephone Companies	)	**CC Docket No. 94-157**
Tariff F.C.C. No. 1, Transmittal No. 690	)	
	)	
NYNEX Telephone Companies	)	
Tariff F.C.C. No. 1, Transmittal No. 328	)	

OPPOSITION TO DIRECT CASES

MCI Telecommunications Corporation ("MCI") hereby submits its Opposition to the direct cases filed by the price cap regulated local exchange carriers ("LECs") on August 14, 1995, in the above-captioned proceeding.[1] On June 30, 1995, the

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[1] The following LECs filed direct cases on August 14, 1995 in the above-captioned proceeding: Ameritech Operating Companies, Bell Atlantic Telephone Companies, BellSouth Telecommunications, Inc., GTE Telephone Operating Companies, GTE System Telephone Companies. Lincoln Telephone Company, Pacific Bell, Rochester Telephone Corporation, Southern New England Telephone Company, Southwestern Bell Telephone Company, US West Communications, Inc.

Common Carrier Bureau ("Bureau") released its Designation Order[2] requiring these LECs to provide additional information to support their claims for exogenous treatment under price cap regulation of amounts associated with the implementation of Statement of Financial Accounting Standards 106 (SFAS-106).[3] These exogenous cost claims total more than $200 million.[4]

Pursuant to Section 204(a)(1) of the Communications Act, the burden is on the carrier to show that a new or revised charge is just and reasonable. The LECs have not met their burden. In the recently submitted direct cases, the LECs have provided the Bureau with no new evidence to support their excessive claims. In fact, the LECs have merely restated the arguments which the Commission previously found to be inadequate. Every LEC direct case submitted in this proceeding continues to rely on the Godwins and NERA studies to justify the OPEB amount claimed for exogenous treatment.[5] The Commission has previously

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[2] 1993 Annual Access Tariff Filings, CC Docket No. 93-193, Phase I, 1994 Annual Access Tariff Filing, CC Docket No. 94-65, AT&T Communications Tariff F.C.C Nos. 1 and 2, Transmittal Nos. 5460, 5461, 5462, and 5464, CC Docket No. 93-193, Phase II, Bell Atlantic Telephone Companies Tariff F.C.C No. 1, Transmittal No. 690, CC Docket No. 94-157, NYNEX Telephone Companies Tariff F.C.C. No. 1, Transmittal No. 328, Order Designating Issues for Investigation (DA 95-1485) (Com. Car. Bur., released June 30, 1995) ("Designation Order").

[3] SFAS-106 is also known as "other postretirement employee benefits" or "OPEBs."

[4] Designation Order at ¶9.

[5] United States Telephone Association ("USTA"), "Post Retirement Health Care Study Comparison of TELCO Demographic and Economic Structures and Actuarial Basis to National averages (1992)("Godwins"); and, National Economic Research Associates, Inc., "The Treatment of SFAS-106 Accounting Changes

concluded that the Godwins study yielded extremely wide ranging results of GNP-PI effects, depending upon the selection of assumptions chosen for certain key parameters.[6]

The Commission correctly noted that the NERA and Godwins studies started out with completely different assumptions regarding competitive sector pricing behavior under the SFAS-106 environment. For example, NERA assumed that competitive companies would not alter prices based on SFAS-106 costs, since their pricing behavior had already factored in accrued OPEB costs. Godwins, on the other hand, assumed that competitive companies would increase prices at the outset of SFAS-106. Since neither party presented evidence as to the accuracy of the diametrically opposed assumptions, the Commission clearly could not arbitrarily conclude that one or the other study was appropriate.

Godwins 1993[7] also again referenced by the LECs, characterizes the analysis performed in Godwins as conservative, and extends the sensitivity analysis performed as part of the earlier study.[8] The 1993 study maintains that it addresses

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Under FCC Price Cap Regulation" (1992) ("NERA").

[6] In the Matter of Local Exchange Carrier Tariffs Implementing Statement of Financial Accounting Standards, "Employers Accounting for Postretirement Benefits Other Than Pensions," CC Docket No. 92-101, Memorandum Opinion and Order, ("SFAS-106"), 8 FCC Rcd 1034-5.

[7] United States Telephone Association, "Analysis of the Impact of SFAS-106 Costs on GNP-PI, Additional Sensitivity Analysis," March 31, 1993 ("Godwins 1993").

[8] Id., at 1.

two of the three main concerns voiced by the Commission: the different starting assumptions for the Godwins study and the NERA study, and the results of the sensitivity study that indicated extremely different results based upon the varying of starting point assumptions. Godwins 1993 fails to address the issue of verification of assumptions used to construct the underlying model.

As MCI has previously pointed out, Godwins 1993 claims that the only difference between the two studies is the assumption of whether competitive firms will raise prices in reaction to SFAS-106 accruals. The NERA study had assumed that competitive firms were already pricing on the basis of the expected health care expenses its employees were accruing so there was no need to change prices based upon the inception of SFAS-106 accounting practices. Firms were thus pricing based on economic costs. Godwins had assumed that all companies would raise prices to reflect the new accounting practices. Under this scenario, firms are assumed to price at accounting costs. Godwins 1993 argues that the NERA study assumption is merely nothing more than a less conservative assumption choice than the Godwins assumption. Godwins 1993 proceeds to calculate out the impact of a zero percent change in labor costs as a result of SFAS-106 implementation, and compares it with its earlier assumption of a three percent increase in labor costs. As one would expect, the NERA study assumption yields less of an increase in GNP-PI than the Godwins assumption. However, by so doing, Godwins 1993 illustrates that it has not produced an econometric model capable of determining with some degree of statistical confidence the impact of SFAS-106 on GNP-PI.

Rather, it has produced a "what-if" accounting tool that allows an analyst the opportunity to alter basic assumptions at will to generate comparative analysis.

This type of analysis simply ignores the findings made by the Commission on both studies: the studies utilize models that require unverifiable assumptions to produce quantified impacts.[9] Stating that the very basic different behavioral assumptions (whether competitive firms price on the basis of accounting costs or economic costs) are merely the difference between the choice of a parameter value only indicates further that the record presented on GNP-PI double-counting is speculative and arbitrary. Since the LECs have submitted no new evidence to support their claims, based upon the record, the Bureau can be no closer to determining the true impact on GNP-PI than it was prior to the instant filing. Absent justification, the choice of the"correct" GNP-PI double count value is nothing more than a random and indiscriminate exercise.

Besides relying on the same studies which the Commission has already questioned, the LECs have also responded to many of the Bureau's questions by simply referring to comments previously submitted. For example, Southwestern Bell Telephone Company ("SWBT") refers the Bureau to its 1993 Direct Case to describe its relationships with its employees and retirees, to explain how it allocated and separated amounts associated with the implementation of SFAS-106 in accordance with the Commission's Rules and RAO Letter 20, and, to describe the

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[9] SFAS-106 Order, at 1034-5. "Neither study proves that its initial assumptions are in fact correct and any conclusion we might draw from them thus seems speculative." [¶63.]

type and provide the level of SFAS-106-type expenses reflected in rates before they were adjusted for exogenous treatment related to SFAS-106. In the Designation Order, the Commission designated these issues for further explanation precisely because the comments previously filed by the LECs were deficient. Thus, the LECs have done nothing to further their case by relying on previously filed explanations. The LECs have yet to demonstrate that the OPEB amount claimed for exogenous treatment is justified.

In addition to offering very little new evidence to support their claims, some of the assumptions on which the calculations were based appear suspect. For example, BellSouth claims that the average retirement age of its employees is 55, while Bell Atlantic states that the age is 68.5. Ratepayers should not be required to fund an overly generous program that exceeds both the industry norm, as well as the norm of today's economy. In addition, some of the LECs base their OPEB estimates on 100% employee participation in its programs, while others, such as Pacific Bell, Rochester, and Lincoln, exclude a portion of their respective employees which do not participate. The LECs should explain how they arrive at their participation rates, and why it is reasonable for ratepayers to fund an overly generous program, when the generosity of the program is determined by a management decision. Absent this explanation, the LECs have not met their burden of proof justifying their exogenous claims.

Finally, the LECs have not justified exogenous treatment of OPEB expenses prior to the mandatory adoption date of January 1, 1993. The Commission required the LECs to adopt FAS 106 on that date, and permitted LECs to adopt it before that date. Clearly, adoption prior to January 1, 1993 was at management's discretion, not a result of the regulator's mandate. The Commission should reject exogenous amounts claimed for the period prior to January 1, 1993.

For the above-mentioned reasons, the LECs have yet to demonstrate that the amount claimed for exogenous treatment under price cap regulation associated with the implementation of SFAS-106 is accurate.

Respectfully submitted,
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September 13, 1995

STATEMENT OF VERIFICATION

I have read the foregoing and, to the best of my knowledge, information, and belief, there is good ground to support it, and it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed on September 13, 1995.

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CERTIFICATE OF SERVICE

I, Stan Miller, do hereby certify that copies of the foregoing Opposition to Direct Cases were sent via first class mail, postage paid, to the following on this 13th day of September 1995.

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