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

In the Matter of	)	
	)	
1998 Biennial Regulatory Review -- Review of Depreciation Requirements for Incumbent Local Exchange Carriers	)	CC Docket No. 98-137
	)	
Ameritech Corporation Telephone Operating Companies' Continuing Property Records Audit, *et al.*	)	CC Docket No. 99-117
	)	
	)	AAD File No. 98-26
GTE Telephone Operating Companies Release of Information Obtained During Joint Audit	)	

SECOND REPORT AND ORDER IN CC DOCKET NO. 99-137
AND ORDER IN CC DOCKET NO. 99-117 AND AAD FILE NO. 98-26

Adopted: November 1, 2000 Released: November 7, 2000

By the Commission: Commissioner Furchtgott-Roth concurring in part, dissenting in part, and issuing a statement.

I. INTRODUCTION

1. In this order we decline to adopt the alternative proposal set forth in a Further Notice of Proposed Rulemaking issued on April 3, 2000 (*April 2000 FNPRM*)[1] concerning conditions for price cap incumbent local exchange carriers (ILECs) to obtain relief from the Commission's depreciation requirements. In addition, in light of recent access reform measures taken by the Commission, we decline to pursue further investigation into the continuing property record (CPR) audits of certain ILECs that are currently before the Commission.

[1] 1998 Biennial Regulatory Review – Review of Depreciation Requirements for Incumbent Local Exchange Carriers, CC Docket No. 98-137, Ameritech Corporation Telephone Operating Companies' Continuing Property Records Audit, et al., CC Docket No. 99-117, GTE Telephone Operating Companies Release of Information Obtained During Joint Audit, AAD file No. 98-26, *Further Notice of Proposed Rulemaking*, FCC 00-119, 15 FCC Rcd 6588 (*rel.* April 3, 2000).

II. BACKGROUND

2. In our 1998 Biennial Regulatory Review proceeding addressing depreciation reform (*December 1999 Order*),[2] we undertook an extensive review of the current depreciation prescription process for price cap ILECs. We noted in that proceeding how our oversight of carrier depreciation practices has changed from extensive requirements under rate of return regulation to a process today that requires minimal filings from carriers.[3] In the *December 1999 Order*, we took further steps to streamline the depreciation process.[4] We also conducted a detailed analysis under section 10 of the Act to consider a forbearance petition filed by the United States Telecom Association (USTA).[5] Although we concluded that forbearance of depreciation requirements was not appropriate, we set out a framework under which a price cap ILEC might qualify for a waiver of our depreciation prescription process.[6]

3. In the *December 1999 Order*, we stated that we would consider granting waivers of our depreciation prescription process when certain safeguards were in place to protect against harmful impacts to consumers and competition. Specifically, we found that a waiver of the depreciation requirements would be appropriate when an ILEC, in conjunction with its request for waiver: (1) adjusts the net book costs on its regulatory books to the level currently reflected in its financial books by a below-the-line write-off; (2) uses the same depreciation factors and rates for both regulatory and financial accounting purposes; (3) foregoes the opportunity to seek recovery of the write-off through a low-end adjustment, an exogenous adjustment, or an above-cap filing; and (4) agrees to submit information concerning its depreciable plant accounts, including forecast additions and retirements for major network accounts and replacement plans for digital central offices.[7] We stated that these specific conditions, along with a showing that the waiver was in the public interest, would provide safeguards against the harmful effects that led us to deny USTA's petition for forbearance and would provide an appropriate basis for our granting a waiver of our depreciation requirements. We noted that alternative proposals by carriers seeking a waiver of the depreciation requirements would be considered on a case-by-case basis. We emphasized, however, that any such proposal must provide the same protections to guard against any adverse impacts on consumers and competition as provided by the conditions we enumerated for obtaining a waiver.[8]

4. On March 3, 2000, four ILECs proffered an alternative proposal that they claimed would provide the basis for a waiver of the Commission's depreciation process similar to what

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[2] 1998 Biennial Regulatory Review – Review of Depreciation Requirements for Incumbent Local Exchange Carriers, *Report and Order and Memorandum Opinion and Order,* CC Docket No. 98-137; ASD 98-91, 15 FCC Rcd 242 (*rel.* December 30, 1999).

[3] *Id.* at 244-245.

[4] *Id.* at 246-251.

[5] *Id.* at 259.

[6] *Id.* at 252-258.

[7] *Id.* at 252-253. We also stated that waiver requests must comply with the waiver requirements under the Commission's rules.

[8] *Id.*

we outlined in the *December 1999 Order* (*March 3, 2000 letter*).[9] The ILECs stated that they would commit to: (1) use the same depreciation factors and rates for both federal regulatory and financial accounting purposes; (2) submit information concerning their depreciation accounts when significant changes to depreciation factors are made; and (3) amortize, over a five-year period, the difference between the depreciation reserve balances on their regulatory books and the corresponding balances on their financial books.[10] In addition, the four ILECs proposed that the amortization expense for each year would be included in the calculation of regulated earnings (treated as an above-the-line expense) when reported to the Commission. The four ILECs committed, however, that the above-the-line amortization would have no effect on interstate price caps or their interstate rates and that they would not seek recovery of the amortization expense through a low-end adjustment, an exogenous adjustment, or an above-cap filing. The four ILECs also stated that they would commit not to seek recovery of the interstate amortization expense through any action at the state level, including any state UNE ratemaking proceeding.[11]

5. In the *April 2000 FNPRM* we sought comment on the proposed alternative set forth in the ILECs' *March 3, 2000 letter*. We determined that, due to the industry-wide impact of the proposal, we would seek comment on whether the proposal set forth in the *March 3, 2000 letter* presented a framework for providing relief for all price cap carriers subject to the Commission's depreciation requirements. We specifically stated that the proposed alternative must be evaluated against the objectives we identified in the *December 1999 Order* and must provide the same protections against any adverse effects on consumers and competition that we sought to provide through the waiver conditions we approved in the *December 1999 Order*. The *April 2000 FNPRM* also cited the CPR audits of the Regional Bell Operating Companies (RBOCs),[12] as well as the results of a joint State-Federal audit of GTE's CPR, which are currently before the Commission, and sought comment on whether requiring non-recovery of a substantial portion of the carrier's investment as a condition under the depreciation waiver process would have any impact on the CPR audits.[13]

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[9] *See* March 3, 2000 *ex parte* letter to Mr. Lawrence Strickling, Chief, Common Carrier Bureau from Frank J. Gumper, Bell Atlantic Network Services, Robert Blau, BellSouth Corporation, Donald E. Cain, SBC Telecommunications, Inc. and Alan F. Ciamporcero, GTE Service Corporation ("ILEC Participants") in CC Docket No. 96-262 – Access Charge Reform; CC Docket No. 94-1 – Price Cap Performance Review for Local Exchange Carriers; CC Docket No. 99-249 – Low-Volume Long Distance Users; and CC Docket No. 96-45 – Federal-State Joint Board on Universal Service ("*March 3, 2000 letter*").

[10] *Id.* at p. 1.

[11] *Id.* The ILEC Participants made subsequent *ex parte* filings addressing the specifics of the non-recovery commitment they proposed to make. *See* May 8, 2000 *ex parte* letter to Mr. Lawrence E. Strickling, Chief, Common Carrier Bureau from ILEC Participants; May 23, 2000 *ex parte* letter to Mr. Lawrence E. Strickling, Chief, Common Carrier Bureau from ILEC Participants; June 1, 2000 *ex parte* letter to Mr. Lawrence E. Strickling, Chief, Common Carrier Bureau from ILEC Participants; August 22, 2000 *ex parte* letter to Ms. Dorothy Attwood, Chief, Common Carrier Bureau from ILEC Participants.

[12] The RBOCs subject to the CPR audits include the following carriers: BellSouth Telecommunications; Verizon (Bell Atlantic North (previously NYNEX) and Bell Atlantic South); SBC Telecommunications (Ameritech Corporation, Southwestern Bell, Pacific Bell, and Nevada Bell); and Qwest (US West).

[13] *See April 2000 FNPRM* at para. 15.

III. DISCUSSION

6. The alternative proposal set forth in the *April 2000 FNPRM,* as an option for price cap ILECs to obtain freedom from the Commission's depreciation requirements, generated a great deal of controversy among the parties.[14] In particular, significant concerns were raised by state regulatory commissions,[15] consumer groups,[16] and industry participants[17] about the effect that the proposed above-the-line accounting treatment would have on local and interstate rates,[18] unbundled network element (UNE) and interconnection rates,[19] and universal service support.[20]

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[14] Appendix A includes a list of parties filing initial comments, reply comments, and *ex parte* filings.

[15] *See* comments and/or *ex parte* filings of: National Association of Regulatory Utility Commissioners (NARUC); Washington Utilities and Transportation Commission; Florida Public Service Commission (Florida Commission); Indiana Utility Regulatory Commission (IURC); Public Utilities Commission of Ohio; Virginia State Corporation Commission; Public Service Commission of Wisconsin (Wisconsin Commission); South Dakota Public Utilities Commission; Maryland Public Service Commission; Public Utility Commission of Texas. *See also, ex parte* letters from individual Commissioners of Washington Utilities and Transportation Commission, Maine Public Utilities Commission, Oregon Public Utility Commission, Florida Public Service Commission, and New Hampshire Public Service Commission.

[16] *See* comments and/or *ex parte* filings of: National Association of State Utility Consumer Advocates (NASUCA); State of New York, Office of the Attorney General; General Services Administration (GSA); Association for Local Telecommunications Services (ALTS); International Communications Association (ICA); Consumer Federation of America (CFA); Texas Office of Public Utility Counsel (Texas Counsel); Consumers Union (CU); AdHoc Telecommunications Users Committee (AdHoc); New Networks Institute.

[17] *See* comments and/or *ex parte* filings of: MCI WorldCom, Inc. (MCI); AT&T Corporation (AT&T); National Telephone Cooperative Association (NTCA); United States Telecom Association (USTA); National Exchange Carrier Association, Inc. (NECA); Sprint Corporation (Sprint); National Rural Telecom Association (NRTA); and Association for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO).

[18] Many parties argued that such treatment would provide the carriers with the ability to seek increases in local rates and could consequently expose state jurisdictions to potential litigation to keep ILECs from claiming recovery of approximately $22.5 billion or 75% of the intrastate portion of the FCC-authorized amortized expense. *See e.g.,* IRUC Comments at 5; NARUC Comments at 6; NASUCA Reply at 6-7; MCI Comments at 13, 29; AT&T Comments at 5-7; AdHoc Comments at 7; ALTS Comments at 5; GSA Reply at 8. In addition, many parties argued that interstate rates would increase because such an accounting treatment, which would not reduce book costs, along with high depreciation expenses due to the use of financial depreciation rates, would depress reported earnings thus triggering low end adjustments. *See e.g.,* MCI Comments at 16-17; ALTS Comments at 4; AdHoc Comments at 7; GSA Reply Comments at 7; NARUC Comments at 8; NASUCA Reply at 8.

[19] Many parties argued that there would be a significant impact on UNE and interconnection rates because depreciation costs are a significant component in determining these rates. Although UNE and interconnection rates are established at the state level, the parties contended that many states rely on Commission prescribed depreciation rates, which if no longer subject to regulatory oversight, could increase significantly and have an adverse impact on competitors. *See e.g.,* AdHoc Comments at p. 7-8; ALTS Comments at 6-7; MCI Comments at 29; AT&T Comments at 7; NARUC Comments at 8; Ohio Commission Comments at 2-3; Florida Commission Reply at 4-7; Wisconsin Commission Comments at 5.

[20] There was concern that unrestricted depreciation practices could have an adverse impact on smaller and

Many parties commenting on this issue generally disagreed with an accounting treatment that would permit above-the-line amortization of the regulatory-to-financial book differential over a five-year period.[21] They also argued that the proposed non-recovery commitment included as part of the proposed alternative did not provide adequate assurance that a significant amount of costs would be excluded from recovery in customers' rates and did not protect against carriers' potential understatement of earnings and rates of return.[22] In addition, many parties raised issues about the potential impact of the proposed above-the-line accounting treatment on state cost issues and argued that the non-recovery commitment proposed by the ILECs was not sufficient to assure that the amortized costs, particularly the intrastate portion, would be excluded from cost recovery.[23]

7. Our review of the record finds that the parties have raised sufficient concerns that warrant our taking a cautious approach in this matter. We are concerned about assertions that the proposed accounting alternative set forth in the *April 2000 FNPRM*, along with the ILECs' non-recovery commitment, lacks the inherent protections that are provided for in the waiver process we approved in the *December 1999 Order*. In light of the concerns expressed by various parties, particularly our state colleagues, we decline to adopt the proposed alternative set forth in the *April 2000 FNPRM* and instead maintain the status quo. In making a decision here we weigh the concerns expressed by the states heavily in the balance. We are reluctant to take action that could unfairly burden state proceedings, particularly when our *December 1999 Order* provides a waiver process whereby carriers may seek additional relief from our depreciation prescription rules in the future without raising such concerns.

III. CPR Audits of Regional Bell Operating Companies and GTE

8. In 1997, the Common Carrier Bureau's auditors began an audit of the CPRs of the largest ILECs, the RBOCs, to determine if their records were being maintained in compliance

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rural ILECs and that discontinuation of Commission oversight of depreciation practices for the large price cap ILECs could affect the amount of federal high cost support for smaller and rural carriers. *See e.g.*, USTA Comments at p. 5; NTCA Comments at p. 3-4; NECA Comments at p. 4-5; NRTA/OPASTCO Comments at p. 3-4; USTA Comments at 5; MCI Comments at 27; AdHoc Comments at 8; GSA Comments at 8; NARUC Comments at 8; IRUC Comments at 2-3; Wisconsin Commission Comments at 5; Sprint Reply at 2-3; NASUCA Reply at 9; Florida Commission Reply at 4-7.

[21] *See e.g.*, AdHoc Comments at 5-6; MCI Comments at 11; AT&T Comments at 5; GSA Comments at 5-6; ICA/CFA Comments at 4-5; IURC Comments at 5; Wisconsin Commission Comments at 3-4.

[22] As called for under the proposal, the above-the-line amortization would be used to offset revenues, but would not be recovered in ILECs' interstate access rates. Many parties argued that this treatment would result in distorted earning reports and to assure that policy decisions were based on accurate earning reports would require ILECs to file an additional accounting report showing the amortization as if it had been taken below-the-line, and not recovered in customer rates. *See e.g.*, AT&T Comments at 6-7; MCI Comments at 8; ICA/CFA Comments at 5; GSA Comments at 5-6; IRUC Comments at 5.

[23] Many parties contended that the ILECs' non-recovery commitment was non-existent with respect to the intrastate amortization and this non-commitment could have harmful consequences on consumers and competition at the local exchange level. *See e.g.*, ALTS Comments at 5; MCI Reply at 3-5; AdHoc Comments at 7; NASUCA Reply at 6. A number of parties also argued that the ILECs' non-recovery commitment was not meaningful at the interstate level and would not prevent ILECs from employing various other mechanisms to recover the amortized amounts. *See e.g.*, AdHoc Comments at 7-8; AT&T Comments at 6-7; MCI Comments at 13-15.

with the Commission's rules and to verify that property recorded in their accounts represented equipment used and useful for the provision of telecommunications services.[24] Specifically, the Bureau auditors conducted audits of the Bell Atlantic Telephone Companies ("Verizon"),[25] BellSouth Telecommunications ("BellSouth"),[26] Southwestern Bell Telephone Company, Ameritech Corporation Telephone Operating Companies, Pacific Bell and Nevada Bell Telephone Companies ("SBC"),[27] and US West Telephone Company ("Qwest").[28] In addition, the Bureau auditors had previously conducted a joint Federal-State CPR audit for GTE.[29] In each of the audit reports, the Bureau auditors reported that the carrier's CPRs contained deficiencies and did not comply with the Commission's rules. The auditors further reported that certain equipment described in the CPRs could not be found by the Bureau auditors or by company personnel during the field audits. Also, the auditors reported that the CPRs included records and accounting entries that had no description of the equipment or its location and were described as "undetailed investment" or "unallocated other costs." The Bureau provided each of the RBOCs with a copy of its respective audit report for comment. On March 12, 1999, the Commission publicly released the audit reports and the carriers' comments.[30]

9. On April 7, 1999, the Commission released a Notice of Inquiry (NOI) that initiated a proceeding based on the CPR audits of the RBOCs' hard-wired central office equipment.[31] While

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[24] The Commission has specific requirements that carriers must comply with for recording investment in property, plant, and equipment and for maintaining certain supporting records, including basic property records. The basic property records consist of the CPRs, which include details concerning specific location, date of placement in service, and original cost of plant assets, and supplemental records, which include invoices, work orders, and engineering drawings to support the CPRs. These property records are the part of the property accounting system that preserves the identity, vintage, location, and original cost of property, as well as original and ongoing transactional data. *See* 47 C.F.R.32.2000.

[25] Bell Atlantic (South) Telephone Companies' Continuing Property Records Audit, *Order*, 14 FCC Rcd 5541 (*rel.* March 12, 1999) and Bell Atlantic (North) Telephone Companies' Continuing Property Records Audit, *Order*, 14 FCC Rcd 5855 (*rel.* March 12, 1999).

[26] BellSouth Telecommunications' Continuing Property Records Audit, *Order*, 14 FCC Rcd 4258 (*rel.* March 12, 1999).

[27] Southwestern Bell Telephone Company's Continuing Property Records Audit, *Order*, 14 FCC Rcd 4242 (*rel.* March 12, 1999); Ameritech Corporation Telephone Operating Companies' Continuing Property Records Audit, *Order*, 14 FCC Rcd 4273 (*rel.* March 12, 1999); and Pacific Bell and Nevada Bell Telephone Companies Continuing Property Records Audit, *Order*, 14 FCC Rcd 5839 (*rel.* March 12, 1999).

[28] US West Telephone Operating Companies' Continuing Property Records Audit, *Order*, 14 FCC 5731 (*rel.* March 12, 1999).

[29] *See* In the Matter of GTE Telephone Operating Companies, Release of Information Obtained During Joint Audit, *Memorandum Opinion and Order*, 13 FCC Rcd 9179 (*rel.* March 18, 1998).

[30] *See supra.* notes 25, 26, 27, and 28. The audit report concerning GTE's CPRs was released on March 18, 1998. *See supra.* note 29.

[31] *See* In the Matter of Ameritech Corporation Telephone Operating Companies' Continuing Property Records Audit, Bell Atlantic (North) Telephone Companies' Continuing Property Records Audit; Bell Atlantic (South) Telephone Companies' Continuing Property Records Audit; BellSouth

the Commission stated that it was not passing judgment on the accuracy of the reports, their findings or conclusions, the audit reports, as written, place a potentially high liability on the RBOCs.[32] Many comments were filed in response to the Commission's NOI, including the RBOCs' response challenging the conclusions reached by the auditors.[33] The RBOCs asserted, *inter alia*, that the Commission should take additional information into account that would demonstrate that, despite mistakes in their CPRs, the expenditures at issue were all properly made and that no harm to ratepayers had occurred.[34]

10. In the *April 2000 FNPRM*, we cited the CPR audits of the RBOCs, as well as the results of the joint State-Federal audit of GTE's CPR, which are currently before the Commission.[35] We sought comment on whether requiring non-recovery of a substantial portion of carrier's investment as a condition under the depreciation waiver process would have any impact on potential liability issues raised by the CPR audits.[36] As reported by the auditors, the

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Telecommunications' Continuing Property Records Audit; Pacific Bell and Nevada Bell Telephone Companies' Continuing Property Records Audit; Southwestern Bell Telephone Company's Continuing Property Records Audit, and US West Telephone Operating Companies' Continuing Property Records Audit, CC Docket No. 99-117, *Notice of Inquiry*, 14 FCC Rcd 7019 (*rel.* April 7,1999).

[32] In the RBOC CPR audit reports, the auditors recommended that the carriers write-off $5.2 billion from their regulatory books of account. *See* Ameritech Corporation Telephone Operating Companies' Continuing Property Records Audit, *Order*, 14 FCC Rcd 4273; BellSouth Telecommunications' Continuing Property Records Audit, *Order*, 14 FCC Rcd 4258; Southwestern Bell Telephone Company's Continuing Property Records Audit, *Order*, 14 FCC Rcd 4242; Pacific Bell and Nevada Bell Telephone Companies Continuing Property Records Audit, *Order*, 14 FCC Rcd 5839; Bell Atlantic (North) Telephone Companies' Continuing Property Records Audit, *Order*, 14 FCC Rcd 5855; Bell Atlantic (South) Telephone Companies' Continuing Property Records Audit, *Order*, 14 FCC Rcd 5541; and US West Telephone Operating Companies' Continuing Property Records Audit, *Order*, 14 FCC 5731. The interstate portion of the auditor's recommended write-off would be approximately one-fourth of the total write-off, or $1.3 billion. Additionally, the joint Federal-State GTE audit found inaccuracies in GTE's continuing property records and could potentially place further liability on Verizon. *See* In the Matter of GTE Telephone Operating Companies, Release of Information Obtained During Joint Audit, *Memorandum Opinion and Order*, 13 FCC Rcd 9179, 9182. The merger of Bell Atlantic and GTE was approved in June 2000. *See* Application of GTE Corporation and Bell Atlantic Corporation, CC Docket No. 98-184, *Memorandum Opinion and Order* FCC 00-221 (*rel.* June 16, 2000).

[33] Parties filing comments in the NOI proceeding include the State of New York State Office of the Attorney General, State of New York Public Service Commission, Illinois Commerce Commission, Florida Commission, USTA, GTE, MCI, AT&T, Ameritech, Bell Atlantic, BellSouth, Southwestern Bell Telephone Company, Pacific Bell, Nevada Bell, and US West Communications, Inc. (US West).

[34] For example, US West acknowledges that its CPRs are not error-free and that its internal processes could be improved. US West states that it is taking steps to correct any deficiencies in its processes and is willing to work with the Commission to address concerns that the Commission might have with respect to its records. *See* US West Comments at iv. Bell Atlantic claims that evidence subsequently uncovered, such as an engineering drawing or manufacturer's schematic demonstrating certain items were embedded inside another item, would undo the damage of the initial inspections. *See* Bell Atlantic Comments at 6.

[35] *See supra.* note 13.

[36] Many parties provided comments on this issue. Generally, the RBOCs and GTE claimed that the CPR audits should be declared moot especially in light of the Commission's recent action in the Access Reform proceeding that adopted the modified proposal submitted by the Coalition for Affordable Local and Long

RBOCs' CPRs included entries for equipment that could not be found, thus suggesting that such assets were not purchased or used by the RBOCs in accordance with our rules. The audit reports indicate such record keeping could improperly inflate costs and thus impact the prices charged by the RBOCs.

11. We note that the audits of the carriers' CPRs were initiated more than three years ago. The telecommunications landscape has changed significantly since that time. Among other things, in a recent decision issued on May 31, 2000, we adopted reforms intended to accelerate competition in the local and long distance telecommunications markets and set the appropriate level of interstate access charges for the next five years ("*May 2000 Access Reform Order*").[37] Specifically, we provided for an immediate reduction in access charges paid by long distance companies and removed implicit subsidies found in interstate access charges by converting them into explicit, portable, universal service support.[38] In earlier actions to implement the 1996 Act,[39] we took steps to move the price of long distance companies' access to local telephone networks towards levels that reflect costs.[40] These actions have brought about significant reductions in

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Distance (CALLS). *See e.g.*, Bell Atlantic Comments at 6-7; BellSouth Comments at 12-13; GTE Comments at 14. Other parties argued that the CPR audits are independent from the issues raised in this proceeding and that further investigation into the CPR findings should be addressed on the merits in a separate proceeding. *See e.g.*, AT&T Comments at 7-8; MCI Comments at 30-31; ICA/CFA Comments at 6; AdHoc Comments at 10-12; GSA Comments at 10; NARUC Comments at 11-12; IRUC Comments at 6; Wisconsin Commission Comments at 5-6; CFA/Texas Counsel/CU Reply at 4; New Networks Institute Reply at 6-12; NASUCA Reply at 14; Florida Commission Reply at 9-10.

[37] Access Charge Reform, CC Docket No. 96-262, Sixth Report and Order in CC Docket Nos. 96-262 and 94-1, Report and Order in CC Docket No. 99-249, Eleventh Report and Order in CC Docket No. 96-45, FCC 00-193 (*rel.* May 31, 2000).

[38] The Commission's *May 2000 Access Reform Order* provides for the following: (1) Elimination of the residential Presubscribed Interexchange Carrier Charge (PICC); (2) Increases to the primary residential and single-line business Subscriber Line Charge (SLC) caps, beginning at $4.35 on July 1, 2000, and gradually increasing to $6.50 on July 1, 2003, provided that LECs can justify any increase beyond $5.00; (3) A review of the SLC rates prior to the increase scheduled for July 1, 2002, including evaluation of forward looking cost information; (4) Targeting of an X-factor for switched access to switching and switched transport elements; (5) Creation of a separate X-factor for special access services; (6) $2.1 billion in reductions to switched access usage rates effective July 1, 2000; (7) Reduction of the switched access X-factor to the Gross Domestic Product-Price Index (GDP-PI) once specific target rate levels are achieved; (8) Removal of $650 million in implicit universal service support from access charges, and the creation of an explicit, portable interstate access universal service support mechanism at the same level; (9) Recovery of LEC universal service contributions directly from end users; (10) Elimination of Minimum Usage Charges (MUCs) by participating long-distance carriers; (11) A commitment by participating long-distance carriers to flow through reductions in access rates to residential and business customers over the life of the plan; and (12) Adjustment of the Lifeline Assistance universal service support mechanism to shield low-income customers from increases in the residential SLC. *Id.* at para. 30.

[39] Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (1996 Act). The 1996 Act amended the Communications Act of 1934. 47 U.S.C. §§ 151 *et seq.*

[40] *See, e.g.*, Access Charge Reform, CC Docket No. 96-262, *First Report and Order*, 12 FCC Rcd 15982 (*rel.* May 16, 1997), *aff'd sub. nom.*, *Southwestern Bell v. FCC*, 153 F.3d 523 (8th Cir. 1998) (*Access Charge Reform Order*). *See also* Price Cap Performance Review for Local Exchange Carriers, Access Charge Reform, *Fourth Report and Order in CC Docket No. 94-1 and Second Report and Order in CC Docket No. 96-262*, 12 FCC Rcd 16642 (*rel.* May 21, 1997), *affirmed in part, reversed and remanded in*

access charges and major changes in the interstate rate structure that resolve historically complex issues (some dating back nearly two decades), in a manner that benefits consumers.[41]

12. In light of these recent reform measures, which in large part are only beginning to get underway,[42] and the fact that the CPR audits were conducted prior to our implementation of these various reforms, we now decide not to pursue further investigation into the CPR audits and close the proceeding with regard to whether the CPRs reflected assets that were not purchased or used by the RBOCs in accordance with our rules.[43] Further, we note that although we have made no decision concerning the findings stated in the CPR audits, we recognize that further investigation into the CPR audit matter will require a great deal of time and effort, and could prove to be a lengthy and costly proceeding for all participants. We wish to make clear, however, that our decision in this order does not preclude the states from investigating relevant state issues raised by the CPR audits.

13. Finally, while we decline here to further pursue investigation into the CPR audits with regard to whether the CPRs reflected assets that were not purchased or used by the RBOCs in accordance with our rules, we remain concerned about the poor record keeping that these audits revealed. The Commission's auditors found, and the RBOCs did not seriously challenge, that the CPRs were not well maintained.[44] Thus, we find that the RBOCs' CPRs were not maintained in accordance with our rules. Accordingly, we direct the Common Carrier Bureau to work with the RBOCs to evaluate and improve the accuracy of their property records and accounts to ensure compliance with our requirements going forward.

IV. CONCLUSION

14. The alternative proposal set forth in the *April 2000 FNPRM* has generated substantial controversy over whether it provides the same protections as provided in the *December 1999 Order* and given the expressed concerns of our state colleagues, we decline to adopt it. Carriers remain free to seek relief under the waiver approach adopted in the *December 1999 Order* to obtain freedom from the Commission's depreciation requirements. Moreover, we have determined not to pursue further investigation into whether the RBOCs' CPRs reflected assets

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part, United States Telecom Association v. Federal Communications Commission, 188 F 3d at 521 *(DC Cir 1999).*

[41] *See e.g., Access Charge Reform Order* at 15990; *May 2000 Access Reform Order* at para. 3.

[42] Price cap carriers made elections between the two access charge rate constraint options outlined in the *May 2000 Access Reform Order* on September 14, 2000. *See* Access Charge Reform, CC Docket No. 96-262, Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Order*, DA 00-1670 (*rel.* July 28, 2000).

[43] *See* 47 U.S.C. §154(j).

[44] We note that the Commission has sought comment on a proposal by USTA to eliminate detailed requirements for property record additions, retirements, and record keeping. *See* 2000 Biennial Regulatory Review – Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2 and Phase 3, *Notice of Proposed Rulemaking*, CC Docket No. 00-199, FCC 00-364, at para. 27 (*rel.* October 18, 2000).

that were not purchased or used by the RBOCs in accordance with our rules and hereby close the CPR audit proceedings in this respect.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas
Secretary

APPENDIX A

Initial Comments

Bell Atlantic
BellSouth Corporation
SBC Communications Inc.
GTE Service Corporation
Cincinnati Bell Telephone Company
US West Communications, Inc.
AT&T Corporation
MCI WorldCom, Inc.
Association for Local Telecommunications Services (ALTS)
International Communications Association (ICA)/Consumer Federation of America (CFA)
AdHoc Telecommunications Users Committee (AdHoc)
General Services Administration (GSA)
National Association of Regulatory Utility Commissioners (NARUC)
Indiana Utility Regulatory Commission (IRUC)
Public Service Commission of Wisconsin
Public Utilities Commission of Ohio
National Telephone Cooperative Association (NTCA)
National Exchange Carrier Association, Inc. (NECA)
National Rural Telecom Association (NRTA)/ Association for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO)
United States Telecom Association (USTA)

Reply Comments

Bell Atlantic/BellSouth Corporation/GTE Service Corporation/SBC Communications, Inc. (Joint Reply)
US West Communications, Inc.
National Exchange Carrier Association, Inc. (NECA)
United States Telecom Association (USTA)
Sprint Corporation
AT&T Corporation
MCI WorldCom, Inc.
AdHoc Telecommunications Users Committee (AdHoc)
General Services Administration (GSA)
New Networks Institute
National Association of Regulatory Utility Commissioners (NARUC)
Florida Public Service Commission
National Association of State Utility Consumer Advocates (NASUCA)
Consumer Federation of America(CFA)/ Texas Office of Public Utility Counsel/Consumer Union (CU)

Ex Parte Filings – (Date Shown is the Letter Date)

May 2, 2000:	Mary L. Brown, on behalf of MCI to Secretary, FCC
May 5, 2000:	Stephen J. Rosen on behalf of AdHoc to Secretary, FCC
May 8, 2000:	Robert T. Blau on behalf of Incumbent Local Exchange Carriers (ILECs) – Bell Atlantic, BellSouth, SBC, GTE (members of Coalition for Affordable Local and Long Distance Service (CALLS)) – to Secretary, FCC attaching May 8, 2000 letter from CALLS ILECs to Lawrence Strickling, Chief, CCB
May 9, 2000:	James Bradford Ramsay on behalf of NARUC to Secretary, FCC
May 10, 2000:	James T. Hannon on behalf of US West to Secretary, FCC
May 12, 2000:	W. Scott Randolph on behalf of GTE to Secretary, FCC
May 12, 2000:	Joel E. Lubin on behalf of AT&T to Secretary, FCC
May 12, 2000:	Susanne A. Guyer on behalf of Bell Atlantic to Secretary, FCC
May 12, 2000:	Robert T. Blau on behalf of CALLS ILECs to Secretary, FCC
May 15, 2000:	Alan Buzacott on behalf of MCI to Secretary, FCC attaching May 15, 2000 letter from Mary L. Brown, MCI to Lawrence Strickling, Chief, CCB
May 16, 2000:	Bradley C. Stillman on behalf of MCI to Secretary, FCC
May 16, 2000:	James S. Blaszak on behalf of AdHoc to Lawrence Strickling, Chief, CCB
May 16, 2000:	James S. Blaszak on behalf of AdHoc to Jordan Goldstein, Office of Commissioner Ness
May 16, 2000:	Susanne A. Guyer on behalf of Bell Atlantic to Secretary, FCC

May 17, 2000:	Carole J. Washburn on behalf of the Washington Utilities and Transportation Commission (WUTC) to Secretary, FCC attaching May 16, 2000 letter from Marilyn Showalter, Chairwoman, Richard Hemstad, Commissioner and William R. Gillis, Commissioner WUTC to William E. Kennard, Chairman, FCC
May 17, 2000:	Robert Blau on behalf of CALLS ILECs to Secretary, FCC
May 17, 2000:	James Bradford Ramsay on behalf of NARUC to Secretary, FCC
May 17, 2000:	Joan H. Smith, Commissioner, Oregon Public Utility Commission to Secretary, FCC
May 19, 2000:	Porter Childers on behalf of USTA to Secretary, FCC
May 23, 2000:	Robert T. Blau on behalf of CALLS ILECs to Secretary, FCC attaching May 23, 2000 letter from CALLS ILECs to Lawrence Strickling, Chief, CCB
May 24, 2000:	Michael J. Travieso on behalf of NASUCA to Lawrence Strickling, Chief, CCB
May 25, 2000:	Cynthia Miller on behalf of Florida Public Service Commission (Fla. PSC) to Secretary,FCC attaching May 25, 2000 letter from Joe Garcia, Chairman, Fla. PSC to William E. Kennard, Chairman, FCC
May 25, 2000:	Gerald Asch for Bell Atlantic, BellSouth, GTE and SBC to Secretary, FCC
May 31, 2000:	Carole J. Washburn on behalf of Bill Gillis, Commissioner WUTC to Secretary, FCC
June 1, 2000:	Joel Shifman on behalf of Maine Public Utilities Commission (Maine PUC) to Secretary FCC attaching June 1, 2000 letter from Thomas L. Welch, Chairman, Maine PUC to William Kennard, Chairman FCC
June 1, 2000:	Michelle A. Thomas on behalf of CALLS ILECs to Secretary, FCC attaching June 1, 2000 letter from Michelle A. Thomas on behalf of CALLS ILECs to Carol Mattey, CCB
June 1, 2000:	Robert T. Blau on behalf of CALLS ILECs to Secretary, FCC attaching June 1, 2000 letter from CALLS ILECs to Lawrence Strickling, Chief, CCB
June 1, 2000:	Alan Buzacott on behalf of MCI to Secretary, FCC attaching June 1, 2000 letter from Mary L. Brown, MCI to Lawrence Stricking, Chief, CCB
June 6, 2000:	Joseph Sutherland on behalf of Indiana Utility Regulatory Commission (IURC) to Secretary, FCC attaching June 6, 2000 letter from Commissioners Camie Swanson-Hill and Judith Ripley, IURC to William E. Kennard, Chairman, FCC
June 9, 2000:	Alan Buzacott on behalf of MCI to Secretary, FCC attaching June 9, 2000 letter from Mary L. Brown, MCI to Lawrence Strickling, Chief, CCB
June 9, 2000:	Regina McNeil on behalf of NECA to Secretary, FCC
June 14, 2000:	Porter E. Childers on behalf of USTA to Secretary, FCC
June 14, 2000:	Regina McNeil on behalf of NECA to Secretary, FCC
June 14, 2000:	Lori Wright on behalf of MCI to Secretary, FCC
June 15, 2000:	Keith H. Gordon on behalf of New York Attorney General's Office to Lawrence Strickling, Chief, CCB
June 16, 2000:	William Irby on behalf of the Virginia State Corp. Commission to Lawrence Strickling, Chief, CCB
July 13, 2000:	Ex Parte Comments of Public Service Commission of Wisconsin
July 14, 2000:	Alan Buzacott on behalf of MCI to Secretary, FCC
July 14, 2000:	Cynthia B. Miller on behalf of Fla. PSC to Secretary, FCC attaching July 14, 2000 letter from E. Leon Jacobs, Jr., Commissioner, Fla. PSC to William E. Kennard, Chairman, FCC
July 17, 2000:	J. Bradford Ramsay on behalf of NARUC to William E. Kennard, Chairman, FCC
Aug 3, 2000:	Lisa M. Zaina on behalf of CALLS ILECs to Secretary, FCC
Aug 8, 2000:	Stephen G. Ward and Michael J. Travieso on behalf of NASUCA to William Kennard, Chairman, FCC
Aug 16, 2000:	Lisa Zaina on behalf of CALLS ILECs to Secretary, FCC
Aug 22, 2000:	Gerald Asch on behalf of CALLS ILECs to Secretary, FCC attaching Aug 22, 2000 letter from CALLS ILECS to Dorothy Attwood, Chief, CCB
Aug 31, 2000:	Joan H. Smith, Commissioner, Oregon Public Utility Commission to Dorothy Attwood, Chief, CCB
Aug 31, 2000:	Michael J. Trivesio on behalf of NASUCA to Dorothy Attwood, Chief, CCB
Aug 31, 2000:	Gerald Asch on behalf of Verizon to Secretary, FCC
Sept 5, 2000	Nancy Brockway, Commissioner, New Hampshire Public Utilities Commission to Secretary, FCC
Sept 7, 2000:	Pat Wood, III, Chairman, Judy Walsh, Commissioner, and Brett A. Perlman, Commissioner, of the Public Utility Commission of Texas to William E. Kennard, Chairman, FCC
Sept 7, 2000:	William R. Gillis, Commissioner, WUTC to William E. Kennard, Chairman, FCC
Sept 8, 2000:	Jim Burg, Chairman, Pam Nelson, Vice Chair, and Laska Schoenfelder, Commissioner of South Dakota Public Utilities Commission to William E. Kennard, Chairman, FCC
Sept 8, 2000:	Cynthia B. Miller on behalf of Fla. PSC to Secretary, FCC attaching Sept 8, 2000 letter from E. Leon Jacobs, Jr., Commissioner, Fla. PSC to William E. Kennard, Chairman, FCC
Sept 11, 2000:	Glenn Ivey, Chairman, Maryland Public Service Commission to William E. Kennard, Chairman, FCC
Sept 19, 2000:	Ex Parte Comments of Public Service Commission of Wisconsin
Sept 20, 2000:	J. Bradford Ramsay on behalf of NARUC to William E. Kennard, Chairman, FCC

STATEMENT OF COMMISSIONER HAROLD FURCHTGOTT-ROTH, CONCURRING IN PART, DISSENTING IN PART

Re: *1998 Biennial Regulatory Review: Review of Depreciation Requirements for Incumbent Local Exchange Carriers, United States Telephone Association's Petition for Forbearance from Depreciation Regulation of Price Cap Local Exchange Carriers, Ameritech Corporation Telephone Operating Companies' Continuing Property Records Audit, et. al., GTE Telephone Operating Companies Release of Information Obtained During Joint Audit,* CC Docket Nos. 98-137, 99-117, AAD File No. 98-26, Second Report and Order in CC Docket No. 99-137 and Order In CC Docket No. 99-117 and AAD File No. 98-26

Last year, the Commission refused to forbear from requiring the large incumbent local exchange carriers from complying with its burdensome and outdated depreciation requirements. Instead, it came up with a scheme under which it would waive its depreciation requirements if incumbent carriers complied with various requirements. Today, the Commission declines to modify this scheme. As I indicated last year, I believe that the Commission should forbear entirely from requiring incumbent local exchange carriers to comply with its obsolete depreciation regulations. *See* Dissenting Statement, *1998 Biennial Regulatory Review: Review of Depreciation Requirements for Incumbent Local Exchange Carriers, United States Telephone Association's Petition for Forbearance from Depreciation Regulation of Price Cap Local Exchange Carriers,* CC Docket 98-137 (Dec. 17, 1999). Since this agency's depreciation waiver requirements do not make sense, I do not join its decision today regarding its refusal to alter this scheme. I do, however, concur in its decision to drop the CPR audits, which in my view have never served a useful purpose.

I also wish to note that both these matters are an outgrowth of the CALLS negotiations that took place in the early part of this year. *See* Concurring Statement, *1998 Biennial Regulatory Review – Review of Depreciation Requirements for Incumbent Local Exchange Carriers and Ameritech Corporation Telephone Operating Companies' Continuing Property Records*, Further Notice of Proposed Rulemaking, CC Docket Nos. 98-137, 99-117. As part of the final agreement between the Bureau and the participants to the CALLS negotiations, it was agreed that the Commission would take action on the waiver that is the subject of this item and terminate the CPR audits. As I have said earlier, there were a number of deficiencies in the process through which the CALLS proposal was adopted, one of which were these undisclosed agreements between the Bureau and some of the parties with interests in the proceeding.