

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of

Stale or Moot Docketed Proceedings

1993 Annual Access Tariff Filings  
Phase I

CC Docket No. 93-193

1994 Annual Access Tariff Filings

CC Docket No. 94-65

AT&T Communications Tariff F.C.C.  
Nos. 1 and 2, Transmittal Nos. 5460, 5461,  
5462, and 5464 Phase II

CC Docket No. 93-193

Bell Atlantic Telephone Companies Tariff  
FCC No. 1, Transmittal No. 690

CC Docket No. 94-157

NYNEX Telephone Companies Tariff  
FCC No. 1, Transmittal No. 328

**REPLY COMMENTS OF VERIZON**

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**I. Introduction and Summary.**

No amount of mental gymnastics on the part of the interexchange carriers can provide a basis for the Commission to give retroactive treatment to its 1997 rule change concerning the rate base treatment of other postretirement employee benefit (“OPEB”) liabilities. As the D.C. Circuit emphasized in *Southwestern Bell*,<sup>2</sup> the Commission must follow its own rules until it changes

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<sup>1</sup> The Verizon telephone companies (“Verizon”) are the affiliated local telephone companies of Verizon Communications Inc. These companies are listed in Attachment A. They include the former Bell Atlantic, NYNEX, and GTE local telephone companies in the above-referenced investigations.

<sup>2</sup> *See Southwestern Bell Telephone Company v. FCC*, 28 F.3d 165, 169 (D.C. Cir. 1994).

them, and then on a prospective basis only. The Commission decided on two separate occasions that its rate base rules prior to 1997 simply did not allow the carriers to deduct OPEB liabilities from their rate bases. The Commission's 1997 order amending its rules to require the carriers to deduct unfunded OPEB liabilities from the rate base necessarily had only prospective effect. The Commission's order reversing the Common Carrier Bureau's *RAO 20*<sup>3</sup> letter was not a procedural nicety – the Commission reversed those instructions to the carriers because they contradicted the rate base rules and no amount of “interpretation” by the Bureau justified telling the carriers to ignore those rules.

The Commission should reject the interexchange carriers' arguments that the 1996 access tariff proceeding provided an opportunity to do an end-run against the rule against retroactive rulemaking. They urge the Commission to find that Verizon should have excluded OPEB liabilities from the rate base for years prior to 1997 as a matter of “reasonableness” of the tariff. This would violate the Administrative Procedure Act. Ratemaking proceedings are rulemakings, which are inherently forward-looking, and the Commission cannot revise its accounting rules for prior years under the guise of prescribing rates for future periods.

When the Commission reversed *RAO 20*, the carriers were required to correct their rate of return reports to reverse the previous deduction of OPEB liabilities, because that deduction was not authorized by the Commission's rules. AT&T's effort to characterize this as an unauthorized exogenous adjustment fails for the simple reason that the price cap rules clearly *required* exogenous cost adjustments for sharing and lower formula adjustments. The change in the

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<sup>3</sup> *Responsible Accounting Officer Letter 20, Uniform Accounting For Postretirement Benefits Other Than Pensions In Part 32*, 7 FCC Rcd 2872 (1992) (“*RAO 20*”).

underlying facts by which these exogenous adjustments are calculated (i.e., the past period rate base and rate of return calculations) are not in themselves new exogenous adjustments.

Moreover, the Commission's rules require the carriers to make necessary corrections to their rate of return reports, whether those corrections are in response to out of period changes, errors by the carriers, or errors by the Bureau, and to revise the exogenous cost adjustments accordingly in the next annual access tariff filing.

Finally, the interexchange carriers submit no data to show that Verizon failed to document or explain its exogenous cost adjustments for OPEB costs in the 1993, 1994, 1995, and 1996 access tariff investigations. In fact, they have abandoned their previous attacks on Verizon's calculations, and they have not raised any other issues warranting investigation of Verizon's OPEB filings. The Commission should terminate all of the remaining investigations with respect to Verizon.<sup>4</sup>

## **II. Prior To 1997, The Commission's Rules Did Not Permit OPEB Liabilities To Be Excluded From The Regulated Interstate Rate Base.**

The interexchange carriers cannot evade a simple fact; the Commission's rules prior to 1997 did not permit OPEB liabilities to be excluded from the regulated interstate rate base, regardless of whether the interexchange carriers believe that it would have been in the public interest for the local exchange carriers to have done so. Their argument that, as a matter of

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<sup>4</sup> As noted in Verizon's Comments and in its Petition for Reconsideration, the Commission has already terminated all of these OPEB investigations, and the Bureau's order reversing that termination order was unlawful. Regardless of the outcome of the Commission's consideration of this issue, it is clear that the interexchange carriers have abandoned their claims regarding OPEB issues other than the *RAO 20* rescission issue and the issue that the Commission required Verizon to address in its Direct Case.

principle, all “zero cost” sources of funds should not be included in the rate base, is beside the point. *See, e.g.*, AT&T, 18-19; WorldCom, 2. Even today, this “principle” is not stated in the rate base rule. *See* 47 C.F.R. § 65.830. Rather, the rule lists specific accounts and portions of accounts that must be deducted, and OPEB liabilities simply were not on the list prior to 1997. Contrary to WorldCom’s claim (at 2), the rules prior to the 1997 rule change did in fact address the rate base treatment of OPEB-related costs – Section 65.820 listed all of the *assets* that were included in the rate base, and a *liability* could be deducted only if listed in Section 65.830, which OPEB liabilities were not. *See* 47 C.F.R. §§ 65.820, 65.830 (1996). The Commission found on two separate occasions that the rule is too specific to be “interpreted” to encompass liabilities that are not listed in that rule.<sup>5</sup>

The interexchange carriers cannot point to anything that leaves this issue open to interpretation. They argue that, in the *1996 Suspension Order*,<sup>6</sup> the Bureau raised the issue of whether the rate base rule could be interpreted to deduct OPEB liabilities prior to 1996 (*see, e.g.*, AT&T, 21), but they ignore the fact that the Commission subsequently ruled out that possibility in the *1997 OPEB Rate Base Order*. In that proceeding, MCI had sought reconsideration of the *RAO 20 Rescission Order*, claiming that the Commission “has broad discretion in interpreting [its] rules and that a rule change is not needed to determine the rate base treatment of OPEB.” *OPEB Rate Base Order*, ¶ 25. MCI had argued that “because the rate base treatment of pensions was

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<sup>5</sup> *See Responsible Accounting Officer Letter 20, Uniform Accounting For Postretirement Benefits Other Than Pensions In Part 32*, 11 FCC Rcd 2957, ¶ 25 (1996) (“*RAO 20 Rescission Order*”); *Responsible Accounting Officer Letter 20, Uniform Accounting For Postretirement Benefits Other Than Pensions In Part 32*, 12 FCC Rcd 2321, ¶ 28 (1997) (“*OPEB Rate Base Order*”).

<sup>6</sup> *1996 Annual Access Tariff Filings*, 11 FCC Rcd 7564 (1996) (“*1996 Suspension Order*”).

already established, and because pensions are similar to OPEB, [the Commission] can apply the pension rate base rules to OPEB through an interpretation.” *Id.* This is exactly the issue that the interexchange carriers raise again here in their comments. *See* WorldCom, 2-3; AT&T, 17-20. The Commission flatly rejected these arguments, finding that “[g]iving rate base recognition to OPEB in Part 65 would constitute a rule change for which proper notice and comment must be given.” *OPEB Rate Base Order*, ¶ 28. This issue has been decided and the time for appellate review of that decision expired long ago. The interexchange carriers are not entitled to a second bite of the apple.

For this reason, AT&T’s argument (at 21) that the Commission can use the pending 1996 access tariff proceeding to clear up an “uncertainty” about the rate base treatment of OPEB liabilities prior to 1997 must fail. There was no uncertainty or ambiguity that would leave the prior rule open to later clarification or interpretation so as to require deduction of OPEB liabilities from the rate base. The deduction could only be authorized through the rule change in the *OPEB Rate Base Order*, and then only on a prospective basis.

AT&T argues (at 12) that the local exchange carriers treated the *RAO 20 Rescission Order* as leaving the rate base rules in “limbo” with regard to unfunded OPEB liabilities and that the local exchange carriers took advantage of this alleged uncertainty to restore OPEB liabilities to their rate base. To the contrary, Verizon and other carriers did not consider the rules to be unclear in any way. The *RAO 20 Rescission Order* made it perfectly clear that the rules prior to 1997 did not allow OPEB liabilities to be deducted from the rate base. It was precisely the lack of any uncertainty, or room for interpretation, that doomed *RAO 20*. *See RAO 20 Rescission Order*, ¶ 25. After the *RAO 20 Rescission Order* was issued, the local exchange carriers were required

to comply with it by reversing the incorrect deduction of OPEB liabilities from the rate base for the prior years and going forward until the rule was changed.

The interexchange carriers nonetheless press their argument that the rate base rules can be “interpreted” to require deduction of OPEB liabilities by citing an order in which the Commission rejected Ameritech’s practice of including an equity component in its calculation of cash working capital for inclusion in the rate base under Section 65.820(d). *See* AT&T, 22, *citing Ameritech Operating Companies, Order to Show Cause*, 10 FCC Rcd 5606, Appendix A, ¶ 6 (1995). They argue that the Commission disapproved of Ameritech’s practice even though the rule does not explicitly mention equity components or exclude them from the calculation. However, the cash working capital rule is quite clear that only “revenue and expense items” may be included in the lead-lag study that a carrier uses to add a cash working capital allowance to the rate base. The Commission pointed out that the term “expense” always excluded noncash items, and that equity clearly is not a cash expense. *See id.* In contrast, there is no way that Section 65.830(a)(3), which included only “unfunded accrued *pension* costs (Account 4310)” among the items to be deducted from the rate base prior to 1996, could be interpreted to include “unfunded accrued *OPEB* costs.” If anything, the Ameritech order demonstrates the difference between interpreting a rule (which the Commission was able to do for cash working capital) and modifying it (which is the only way that the Commission could include OPEB liabilities in the accounts that are deducted from the rate base). The former can be applied retroactively, because it does not in fact change the rule; the latter can only be done prospectively. The Commission clearly held that the issue of the rate base treatment of OPEB liabilities falls into the latter category of prospective rule changes.

AT&T takes another tack, arguing (at 20) that this tariff investigation is itself a rulemaking proceeding in which the Commission can modify or change its rule. But this argument fails by its own terms. As a rulemaking, a tariff proceeding can only be applied prospectively to determine the reasonableness of the filed rates. It cannot be used retroactively to change the rules defining the regulated rate base in prior years any more than the Commission could use a formal rulemaking proceeding to change the rate base rules retroactively. A ratemaking proceeding can only determine the reasonableness of future rates – it cannot change antecedent facts upon which those rates are based, such as the costs that are recognized as “regulated” by the Commission’s accounting rules in prior years.

AT&T cites (at 20) the Commission’s statement in paragraph 28 of the *OPEB Rate Base Order* to argue that the Commission could deduct OPEB liabilities from the rate base if it gave the affected parties notice and an opportunity for comment, but it misses the Commission’s point entirely that this could not be done in a way that would change the rate base rules *prior* to the date of the rule change. *See OPEB Rate Base Order*, ¶ 28 (“the Bureau did not have the delegated authority to amend the Part 65 rules . . . We also are not persuaded by MCI’s argument that the Commission can amend Part 65 through an interpretation without providing affected parties with any notice of or chance to comment on the amendment”).<sup>7</sup> It could not have been more clear that it would take an amendment of the rule to deduct unfunded OPEB costs from the

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<sup>7</sup> This statement cannot be read to mean that the Commission could have changed the rule by “interpretation” if it had conducted a pleading cycle on the issue. MCI’s petition for reconsideration had already provided that pleading cycle. Nonetheless, the Commission clearly found that it could not modify the rate base rule for OPEB liabilities retroactively.

rate base. It is remarkable that AT&T cites the very paragraph of the order that demolishes its own arguments.

### **III. The 1996 Tariffs Did Not Propose New OPEB-Related Exogenous Cost Adjustments.**

AT&T completely mischaracterizes the exogenous cost adjustments that Verizon included in its 1996 tariffs, claiming that they violated the Commission's 1995 ruling that exogenous cost adjustments for accounting rule changes should be limited to those that have a cash flow impact, and claiming the exogenous adjustments were not authorized by rule, waiver, or declaratory ruling. *See* AT&T, 26-29. As AT&T well knows, Verizon did not include *any* exogenous cost adjustments for OPEB costs in its 1996 tariff filings; the Commission's 1995 *Price Cap Performance Order* required Verizon to *remove* the OPEB exogenous cost adjustments from its price cap indexes in the 1995 annual access tariff filings, which it did. *See Price Cap Performance Review For Local Exchange Carriers*, 10 FCC Rcd 8961, ¶ 309 (1995) (directing the carriers to remove OPEB cost changes from their price cap indexes in the next annual filing). If AT&T were correct in claiming (at 28-29) that the 1996 tariffs included exogenous cost changes for OPEB costs, the Bureau would have simply rejected the tariffs based on the 1995 order. It did not. This was because Verizon only filed the exogenous cost change mandated by Section 61.45(d)(2) of the Commission's price cap rules, which required "sharing" of the portion of earnings in excess of the authorized rate of return in prior years. *See* 47 C.F.R. § 61.45(d)(2) (1995). This exogenous cost change was not only permitted, it was mandated. That should be the end of the matter.

What AT&T is really attacking is *how* Verizon calculated the exogenous cost adjustment for sharing in its 1996 tariffs. *See* AT&T, 27-29; *see also* WorldCom, 3-4. In particular, AT&T claims that Verizon should have ignored the Commission's Part 65 rate base rules, defied the *RAO 20 Rescission Order*, and continued deducting OPEB liabilities from the regulated rate base that is used to calculate its sharing obligations. Verizon has already explained why the Commission's rules gave it no discretion to deduct these liabilities from the rate base prior to the 1997 rule change. Further, the *RAO 20 Rescission Order* clearly stated that the previous deductions that the carriers had carried out pursuant to *RAO 20* were contrary to the rules. Consequently, the price cap carriers had an obligation to conform their books for the period covered by the *RAO 20* letter to the Commission's view of its own rate base rules. It is the impact of the carriers' conformance with the *RAO 20 Rescission Order* on their sharing obligations under price caps that is at issue here. The carriers' right, in fact their obligation, to include exogenous cost adjustments for sharing in their 1996 annual access tariff filings is without question.

#### **IV. Verizon Properly Included The Impact Of The *RAO 20 Rescission Order* On Its Exogenous Cost Adjustments For Sharing In Its 1996 Annual Access Tariff Filings.**

Prior to the *RAO 20 Rescission Order*, the price cap carriers had deducted OPEB liabilities from their regulated rate bases in response to the Bureau's directions in *RAO 20*. The Commission's finding that *RAO 20* was unlawful required the price cap carriers to reverse the previous deductions of OPEB liabilities and to discontinue deducting these liabilities from their regulated rate bases until the rule was amended to require them to do so on a going forward basis. The reversals of the previous OPEB liability deductions increased the carriers' regulated rate

bases for the prior years and therefore reduced the carriers' rates of return. The lower rates of return reduced the amounts of sharing in the 1996 tariffs. The impact on the exogenous adjustments for sharing in the 1996 tariffs was the result of a straightforward application of the Commission's rules.

As even the interexchange carriers admit, the exogenous adjustment for sharing was based on earnings calculations for the "base period," which is the prior calendar year (in this case, 1995). *See* AT&T, 27; WorldCom, 4. The *RAO 20 Rescission Order* was released on March 7, 1996. Consequently, when Verizon filed its Form 492A report on April 1, 1996, in which it submitted its first rate of return for calendar year 1995, it was required to follow that order and to calculate its 1995 rate of return without deducting OPEB liabilities from the rate base. Verizon did not "reverse" anything in this filing – it had never deducted OPEB liabilities from its 1995 rate base in the first place, because April 1, 1996 was the first time that it submitted its rate of return report for 1995.

WorldCom argues (at 4) that the rules did not permit the carriers to change their sharing obligations for calendar year 1994 to reflect reversal of the OPEB deductions, because the exogenous cost adjustment for sharing in 1996 was based solely on the rate of return for calendar year 1995. This is incorrect. As the interexchange carriers recognize, the rules required the price cap carriers to file a final, amended rate of return report 15 months after the end of each calendar year incorporating all changes and corrections since the first rate of return report, which is filed three months after the close of the calendar year. *See* AT&T, 30; WorldCom, 4; 47 C.F.R. § 65.600(d)(2) (carriers shall file a report within 15 months "reflecting any corrections or modifications" to the first report). In this case, the first rate of return report for calendar year

1994 was filed on March 31, 1995, and the final amended report for 1994 was filed on March 29, 1996. As the Bureau noted in its 1996 Tariff Review Plan order, the Commission's rules required the exogenous adjustment for sharing in the 1996 annual access tariff filings to include not only the sharing adjustment based on the first 1995 rate of return report filed March 29, 1996, but also an amended sharing amount due to the difference between the first 1994 rate of return report that was used for sharing in the 1995 tariff and the second 1994 rate of return report. *See Support Material to be Filed with 1996 Annual Access Tariffs*, 11 FCC Rcd 10255, ¶ 24 (1996) (carriers were required to show exogenous cost changes in the 1996 annual access tariff filings for "5) the sharing or low-end adjustment that was reported in the 1995 annual filing and is now being removed from the PCIs; 6) revisions, if any, to that sharing or low-end adjustment; 7) the new sharing or low-end adjustment for the upcoming tariff year"). Therefore, when Verizon filed its amended 1994 Form 492A rate of return report on March 29, 1996, it was required to correct the previous 1994 rate of return report to reverse the deduction of OPEB liabilities as required by the *RAO 20 Rescission Order*. In turn, it was required to file an adjustment in the 1996 tariffs to the sharing amount that it had included in the 1995 annual access tariff filing. Even AT&T does not dispute that this is the way the price cap sharing rules worked.

The main focus of the interexchange carriers' attack is on the local exchange carriers' revisions to their rate of return reports for years prior to 1994. *See* AT&T, 30-31; WorldCom, 3-4. For that period, Verizon only revised its rate of return report for 1993 for the former Bell Atlantic companies. *See* Attachment B, Form 492A, submitted March 29, 1996. The interexchange carriers argue that the Commission's rules did not allow the carriers to file revisions to their rate of return reports after 15 months from the close of the calendar year. However, the *RAO 20 Rescission Order* made it clear that the *RAO 20* instructions were unlawful and that the

rate of return reports that the carriers had filed in the first quarters of 1994 and 1995 for the 1993 reporting year in reliance on those instructions were incorrect. The carriers had an obligation to file corrected reports for 1993 and the former Bell Atlantic companies did so at the first available opportunity, the March 29, 1996 filing date for the Form 492A reports. In turn, this required a revision to the sharing adjustment that Bell Atlantic had included in its 1994 annual access tariff filing, which was based on the incorrect 1993 rate of return report.

The Commission's rules do not limit a carrier's ability to correct erroneous data that it has submitted to the Commission. In fact, the Commission's rules require applicants to correct erroneous data in their submissions until the date that a proceeding is no longer subject to Commission reconsideration or judicial review. *See* 47 C.F.R. § 1.65(a). Here, the 1994 annual access tariff filing, which was adversely affected by the erroneous 1993 rate of return report, was still under investigation and an accounting order. *See 1994 Annual Access Tariff Filings*, 9 FCC Rcd 3705, ¶ 71 (1994). Verizon had an obligation to correct both the rate of return report and the sharing adjustment for that filing after the Commission decided that Verizon should not have followed *RAO 20*.

Moreover, the courts have held that an agency has both the authority and the obligation to correct the effects of a decision that is found unlawful and reversed on appeal. *See, e.g., United Gas Improvement Co. v. Callery*, 382 U.S. 223, 229 (1965) (“An agency, like a court, can undo what is wrongfully done by virtue of its order” that is overturned on appeal); *National Gas Clearinghouse v. FERC*, 965 F.2d 1066, 1074 (D.C. Cir. 1992) (“this court has already recognized that the FERC's predecessor agency had authority to order retroactive rate adjustments when its earlier order reversed on appeal improperly disallowed a higher rate”);

*accord*, *Public Utilities Commission of the State of California v. FERC*, 988 F.2d 154, 162 (D.C. Cir. 1993). Similarly, the Commission cannot deny Verizon the opportunity to correct the amount of its excess sharing adjustment for 1993 that occurred because Verizon followed an unlawful Bureau order.

**V. Verizon Has Fully Supported And Documented The Impact of The *RAO 20 Rescission Order*.**

AT&T argues (at 31-39) that local exchange carriers have failed to support their calculations of the exogenous cost adjustments for sharing in their 1996 tariffs as a result of the revisions to the rate base required by the *RAO 20 Rescission Order*. AT&T points to no specific defects in Verizon's tariff filings, nor can it. In fact, AT&T has quietly dropped the specific criticism of Verizon's tariffs that it made in the 1996 tariff comment cycle, no doubt because Verizon demonstrated at that time that AT&T had made a simple error in its exhibits. Verizon's tariff filings and pleadings fully document the effects of the *RAO 20 Rescission Order* and no further investigation is warranted.

AT&T argues (at 32-33) that the local exchange carriers have not provided enough detail to allow review of the impact of the *RAO 20 Rescission Order* on their sharing obligations.<sup>8</sup>

However, AT&T points to no specific shortcomings in Verizon's filings. For instance, AT&T

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<sup>8</sup> AT&T also argues (at 31 & fn. 74) that the local exchange carriers bear the burden of proof as well as the burden of submitting adequate documentation to support their annual access tariff filings. This is incorrect. The Commission's January 11, 2002 order terminating the investigations of OPEB issues in the 1993, 1994, 1995, and 1996 tariff investigations turned this, at best, into a Section 205 proceeding, in which the Commission has the burden of supporting its determination of the "just and reasonable charge" "to be thereafter followed." 47 U.S.C. § 205(a). In addition, the termination of the tariff investigation also terminated the local exchange carriers' obligation to retain evidence to support their tariff filings. Therefore, any deficiencies in the record cannot be used as a basis for finding that the local exchange carriers' tariffs were unlawful.

claims (at 34-35) that the Commission cannot determine if the local exchange carriers added back to their rate base the same amount of OPEB liabilities that they had previously deducted. This is incorrect with respect to Verizon. In its Opposition, filed on May 13, 1996, Verizon already responded to AT&T's previous criticisms on this score, providing detailed accounts of the amounts of OPEB liabilities Verizon had deducted previously from its 1993 and 1994 rate of return reports and reconciling those amounts to the liabilities that Verizon restored to the rate base for those years in its Form 492A reports filed March 29, 1996.<sup>9</sup> The record is complete on this issue and AT&T presents no evidence to refute it.<sup>10</sup>

Further examination of the record shows that AT&T abandoned its original criticism of Verizon on this issue. In its original petition to suspend the 1996 tariffs, AT&T had criticized Bell Atlantic in particular, claiming that Bell Atlantic had incorrectly calculated the revision to its 1993 sharing amount for the revision of *RAO 20*. *See 1996 Annual Access Tariff Filings*, AT&T Petition to Suspend and Investigate, 8 & fn. 15, Appendix B-3 (filed April 29, 1996). In its opposition to AT&T's petition, Verizon demonstrated that AT&T had incorrectly compared Bell Atlantic's 1991 OPEB liabilities to the amount of 1993 OPEB liabilities that Bell Atlantic added back to its 1993 rate base in the 1996 rate of return report. *See* Attachment C, p. 7 & Exhibit 1. Verizon also demonstrated that the amounts of OPEB liabilities that it added back into the rate

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<sup>9</sup> *See* Attachment C. There is no need to reconcile 1995, since the first rate of return report for 1995, which was filed on March 29, 1996, already complied with the *RAO 20 Rescission Order*, and no amount of OPEB liabilities was ever deducted from the rate base for that year.

<sup>10</sup> AT&T offers (at 37-38 & Appendix C) its own calculations of the effects of the *RAO 20* reversal on the carriers' sharing adjustments, but this analysis is seriously flawed and it incorrectly overstates the amount of revenues at issue. Attachment E hereto provides an explanation and illustration of the inaccuracies in AT&T's exhibit.

base for 1993 and 1994 exactly matched the amounts that it had previously deducted.<sup>11</sup> It is noteworthy that AT&T's exhibit in its April 8 comments criticizes Ameritech, as it had in April 1996, but it drops its criticisms of Bell Atlantic. We can only conclude that AT&T concedes that its previous attacks on Bell Atlantic were not valid.

AT&T also argues (at 33-34) that the local exchange carriers should have removed from their 1993 and 1994 rate bases the prepaid OPEB benefits in account 1410 that they had included previously in compliance with *RAO 20*. AT&T states that only BellSouth and Nevada Bell claim to have deducted account 1410 prepaid OPEB benefits. The short answer to this is that Verizon did not remove any prepaid OPEB benefits because it never included them in the rate base in the first place.<sup>12</sup> From 1993 through 1995, Verizon did not include any prepaid OPEB benefits in account 1410 in its interstate rate base. Therefore, there were no benefits to be deducted when *RAO 20* was reversed.

Finally, AT&T argues (at 35-37) that the local exchange carriers should have made offsetting increases to their subscriber line charges and decreases to their carrier common line charges as a result of the rescission of *RAO 20*. Using former Bell Atlantic as one of its examples, AT&T claims that the rate base increase resulting from reversal of the deductions of OPEB liabilities in 1993 through 1994 would have increased the base factor portion forecasts for the 1996-97 tariff period that were used to develop subscriber line charges. *See* AT&T, Appendixes

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<sup>11</sup> *See id.*, Exhibit 1, reproduced in Attachment C hereto. AT&T also argues (at 32-33) that the local exchange carriers did not demonstrate that they were adding to their rate bases only OPEB-related expenses from account 4310. Actually, what Verizon and the other carriers did is reverse the previous deduction of OPEB liabilities (not expenses) from their rate bases, and Attachment C hereto demonstrates that Verizon reversed exactly what it had previously deducted.

<sup>12</sup> *See* Attachment D, Declaration of Gary W. Delson.

B-2 and B-3. This analysis is incorrect. Bell Atlantic's forecasts of the base factor portion for the 1996-97 tariff period were based on 1995 base period costs, which reflected the full effect of the *RAO 20 Rescission Order*, since OPEB liabilities were never deducted from the 1995 rate base in the first place. *See, e.g.*, Bell Atlantic Telephone Companies Tariff FCC No. 1, Transmittal No. 867 (filed Apr. 2, 1996) Description and Justification, Sections 3.1 through 3.26. Specifically, the 1996 tariffs relied on the 1995 ARMIS reports, which fully incorporated the requirements of the *RAO 20 Rescission Order*. *See, e.g.*, Bell Atlantic Companies' ARMIS 43-01 Reports, Fourth Quarter, 1995 Submission 1, rows 1880 and 1885 (filed Mar. 29, 1996). When Bell Atlantic applied the 1994-1995 growth rate in base factor portion costs to the 1995 base period costs, it ensured that the 1996 forecast did not include the deduction of OPEB liabilities from the rate base. Therefore, Bell Atlantic's 1996 subscriber line charge calculations reflected the impact of the *RAO 20 Rescission Order*. For the prior tariff periods, no changes in subscriber line charge rates would have been appropriate in the 1996 annual filing, because that would have been retroactive ratemaking.<sup>13</sup>

## **VI. No Other Issues Concerning OPEB Costs Warrant Investigation.**

The investigation in Docket 94-157 consolidated numerous OPEB issues raised in several related investigations, including the investigations of the 1993, 1994, 1995, and 1996 annual access tariff filings and investigations of other tariff transmittals incorporating OPEB cost adjustments.<sup>14</sup> In the *OPEB Reinstatement Order*, the Bureau directed interested parties to

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<sup>13</sup> AT&T claims (at fn.84) that rate based adjustments in prior years would affect the PCI as well. This is incorrect. The total revenues in the common line basket are not affected by changes in the rate base.

<sup>14</sup> *See 1993 Annual Access Tariff Filings*, CC Docket No. 93-193, 8 FCC Rcd 4960, ¶ 105 (1993) (investigating OPEB exogenous cost adjustments in 1993 annual access tariffs); *1994*

include with their April 8, 2003 comments any issues that remain open. *See Stale or Moot Docketed Proceedings, Order, Notice, and Erratum*, DA 03-488, ¶ 25 (rel. Feb. 25, 2003) (“*OPEB Reinstatement Order*”). The Bureau stated that if timely comments were not filed raising such issues, any further action in this docket would be limited to the two issues raised in the *OPEB Reinstatement Order* (see ¶¶ 23, 24), and the Bureau would terminate the investigation after resolving those two issues.

Only AT&T and WorldCom filed comments raising OPEB issues affecting Verizon, and their comments were limited to the two issues raised in the Bureau’s order. Accordingly, the Commission should limit the investigation of Verizon’s tariffs to those two issues and it should terminate the remainder of the Verizon tariff proceedings encompassed by the *OPEB Reinstatement Order* without further action.

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*Annual Access Tariff Filings*, 9 FCC Rcd 3705, ¶ 71 (1994) (investigating OPEB exogenous cost adjustments in 1994 annual access tariffs and incorporating this investigation into Docket No.93-193); *Bell Atlantic Telephone Companies Tariff FCC No. 1, Transmittal No. 690, NYNEX Telephone Companies Tariff FCC No. 1, Transmittal No. 328*, CC Docket No. 94-157, 10 FCC Rcd 1594, ¶ 31 (1994) (investigating additional adjustments to price cap indexes for exogenous adjustments for OPEB costs); *Bell Atlantic Telephone Companies Tariff FCC No. 1, Transmittal No. 747*, 10 FCC Rcd 5027, ¶ 8 (1995) (investigating revised OPEB exogenous adjustments and incorporating this investigation into CC Docket 94-157); *Bell Atlantic FCC Tariff No. 1, Transmittal No. 704*, CC Docket No. 94-139, 10 FCC Rcd 2942 (1995); *NYNEX Telephone Companies Tariff FCC No. 1, Transmittal No. 374*, 10 FCC Rcd 8689, ¶ 9 (1995) (investigating rate increases due to headroom created by OPEB exogenous cost changes and incorporating this investigation into CC Docket 94-157); *Combined OPEB Investigations Order*, CC Docket No. 94-157, 10 FCC Rcd 11804, ¶ 38 (1995) (designating OPEB issues for investigation and incorporating into CC Docket 94-157 OPEB cost issues in CC Dockets 93-193, 94-65 and in various tariff transmittals); *1996 Annual Access Tariffs*, 11 FCC Rcd 7564, ¶ 110 (1996) (investigating impact of reversal of deduction of OPEB liabilities from the rate base and incorporating the investigation into CC Docket 93-193).

With regard to the pending investigations of AT&T's tariffs that have been consolidated in this proceeding,<sup>15</sup> as Verizon pointed out in its comments, any reductions in the local exchange carriers' rates that are ordered in this investigation would trigger offsetting refunds of AT&T's 1993-94 rates, insofar as AT&T incorporated the local exchange carriers' OPEB-related rate increases in its own rates that were put under investigation. *See* Verizon Comments, 13. Accordingly, if the Commission orders the local exchange carriers to provide refunds to AT&T as a result of this investigation (which it should not), it should determine the refunds that AT&T would owe in turn to its own customers.

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<sup>15</sup> *See, e.g., AT&T Communications Tariff FCC Nos. 1 and 2, Transmittal Nos. 5460, 5461, 5462, and 5464, 8 FCC Rcd 6227 (1993).*

## Conclusion

For the foregoing reasons, the Commission's rules make it clear that OPEB liabilities could not be deducted from the interstate rate base for the years at issue. The Commission should terminate this investigation for a second and final time.

Respectfully submitted,

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Attorney for the Verizon  
telephone companies

Dated: April 22, 2003

THE VERIZON TELEPHONE COMPANIES

The Verizon telephone companies are the local exchange carriers affiliated with Verizon Communications Inc. These are:

Contel of the South, Inc. d/b/a Verizon Mid-States  
GTE Midwest Incorporated d/b/a Verizon Midwest  
GTE Southwest Incorporated d/b/a Verizon Southwest  
The Micronesian Telecommunications Corporation  
Verizon California Inc.  
Verizon Delaware Inc.  
Verizon Florida Inc.  
Verizon Hawaii Inc.  
Verizon Maryland Inc.  
Verizon New England Inc.  
Verizon New Jersey Inc.  
Verizon New York Inc.  
Verizon North Inc.  
Verizon Northwest Inc.  
Verizon Pennsylvania Inc.  
Verizon South Inc.  
Verizon Virginia Inc.  
Verizon Washington, DC Inc.  
Verizon West Coast Inc.  
Verizon West Virginia Inc.

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of

Stale or Moot Docketed Proceedings

1993 Annual Access Tariff Filings  
Phase I

CC Docket No. 93-193

1994 Annual Access Tariff Filings

CC Docket No. 94-65

AT&T Communications Tariff F.C.C.  
Nos. 1 and 2, Transmittal Nos. 5460, 5461,  
5462, and 5464 Phase II

CC Docket No. 93-193

Bell Atlantic Telephone Companies Tariff  
FCC No. 1, Transmittal No. 690

CC Docket No. 94-157

NYNEX Telephone Companies Tariff  
FCC No. 1, Transmittal No. 328

**REPLY COMMENTS OF VERIZON**

**ATTACHMENT B**

**FORM 492a**  
**SUBMITTED MARCH 29, 1996**

Washington, D.C. 20554

Name and Address of Reporting Company

BELL ATLANTIC  
1310 NORTH COURTHOUSE ROAD  
ARLINGTON, VA 22201

2. Reporting Calendar Period

(A) From: Jan 1993 To: Dec 1993

(B) First Report Filed: 3/31/95

(C) Final Report Filed: 3/29/96

FCC 492A

PRICE CAP REGULATION  
RATE OF RETURN MONITORING REPORT  
(Read Instructions on the Reverse Before Completing)  
Dollar Amounts Shown in Thousands

Items	Total Interstate Subject to Price Cap Regulation		
	First Report Col A	Final Report Col B	Difference Col C = (B-A)
1 Total Revenues	2,724,181	2,724,181	0
2 Total Expenses and Taxes	2,165,853	2,165,853	0
3 Operating Income (Net Return) (Ln1-Ln2)	558,328	558,328	0
4 Rate Base (Avg Net Invest)	3,986,206	4,024,247	38,041
5 Rate of Return (Ln3/Ln4)	14.01%	13.87%	-0.13%
6 Sharing/Low End Adjustment	(12,101)	(12,101)	0
7 FCC Ordered Refund Amortized for Current Period	N/A	N/A	N/A

4. CERTIFICATION: I certify that I am the chief financial officer or the duly assigned accounting officer; that I have examined the foregoing report; that to the best of my knowledge, information, and belief, all statements of fact contained in this report are true and this report is a correct statement of the business and affairs of the above-named respondent in respect to each and every matter set forth therein during the specified period.

Date	Type Name of Person Signing	Title of Person Signing	Signature
3/29/96	Edward D. Young III	Vice President	

PERSONS MAKING WILLFUL FALSE STATEMENTS IN THIS REPORT FORM CAN BE PUNISHED BY FINE OR IMPRISONMENT UNDER THE PROVISIONS OF THE U.S. CODE, TITLE 18, SECTION 1001.

FCC 492A

General Instructions

- A. This report is prescribed under the authority of Section 4(i), 4(j) and 205 of the Communications Act of 1934 as amended. FCC 492A shall be filed in duplicate with the Federal Communications Commission, Washington, D.C. 20554 by local exchange carriers (LECs) subject to Price Cap incentive regulation filing access tariffs before the Commission. A first report shall be filed no later than three (3) months after the end of a calendar year. A final report shall be filed no later than fifteen (15) months after the end of a calendar year showing adjustment to filed results since the first report.
- B. The data shall be aggregated at the same jurisdictional level as the tariffs.
- C. All instructions shall be followed. All questions and statements must be completed. If proper answer is "none" or "not applicable," insert that answer.
- D. Any data that requires clarification should be footnoted and fully explained in the Remarks section. If the space provided is insufficient for the required data or it is otherwise necessary or desirable to insert additional statements or schedules, the insert pages should include the name of the respondent and the time period covered, in a style conforming as nearly as practicable to that appearing on the regular page.
- E. All amounts of money shall be shown in the thousands of dollars. Losses or other negative items shall be shown in parenthesis. Price cap sharing amounts shall be shown in parenthesis as negative revenue adjustments. Lower formula adjustments shall be shown as positive revenue adjustments. Rates of return shall be shown to the nearest hundredth.
- F. Revenues should include only revenues earned during the report period. Costs should also reflect only those costs incurred in the report period.
- G. Revenues and costs associated with excluded services under Price Cap incentive regulation shall be excluded from reported data in this report and shall be footnoted and explained in the Remarks section below.
- H. Total interstate services subject to Price Cap incentive regulation shall be defined as interstate access combined with interexchange services in accordance with FCC Docket 87-313 and the Commission's Price Cap Order dated September 19, 1990 and its Order on Reconsideration dated April 17, 1991.
- I. Interstate adjustments to rate base, expenses and revenues shall be based upon FCC Docket 86-497 and other related Commission orders, if applicable to the reporting entity.

Specific Instructions

3. Items

Line 1-Total Revenues (earned during the report period) shall include service revenues, interest during construction, if applicable, miscellaneous operating revenues less uncollectibles.

Line 2-Total Expenses and Taxes shall include operating expenses, depreciation, amortization, other expenses, interstate allowances and disallowances, if applicable, as well as all taxes. The method of calculating total expenses and taxes shall be in accordance with the ARMIS 43-01 Order, CC Docket 86-182, released July 20, 1990.

Line 4-Rate Base (Average Net Investment) shall include accounts 2001, 2002, 2003, 2004, 2005, 1220, 1402, 1410, 1438, 1439, Cash and Working Capital as developed pursuant to CC Docket 86-197, less accounts 3100, 3200, 3410, 3500, 3600, 4100, 4340, 4310, and 4360. It shall also include interstate rate base allowances and disallowances, as applicable. The method of calculating Rate Base (Average Net Investment) shall be in accordance with the ARMIS 43-01 Order, CC Docket 86-182, released July 20, 1990.

Line 6-Sharing Low End Adjustment shall be calculated to reflect the Sharing/Low End Adjustment amount during the reporting period, which is due to Sharing/Low End Adjustment made pursuant to Section 61.45(d)(1)(vii) or 61.45(d)(2) for earnings from the prior reporting period. Computation of this amount shall be explained in the Remarks section.

Line 7-Use the following table to calculate the after tax effect of an FCC ordered refunds.

1. FCC Ordered Refund Total	N/A
2. Refund for Period (Amortized)	N/A
3. Tax Rate	N/A
4. Refund Adjusted for Taxes	N/A

REMARKS

1. Data shown in Column A has been adjusted for the removal of \$36.2 million in revenues and associated costs for excluded services not subject to Price Cap incentive regulation in accordance with the Commission's Price Cap Plan and its TRP Order, dated February 17, 1995.

2. Data shown in Column B has been adjusted for the removal of \$36.2 million in revenues and associated costs for excluded services not subject to Price Cap incentive regulation in accordance with the Commission's Price Cap Plan and its TRP Order, dated February 29, 1996.

Also, in compliance with the Commission's Memorandum Opinion & Order and Notice of Proposed Rulemaking, released March 7, 1996, data shown in Column B has been adjusted for the reversal of certain ratemaking requirements imposed by Responsible Accounting Officer Letter 20.

3. Reported 1993 interstate rate of return results include the effect of an estimated \$12.1 million reduction in the Price Cap indices for Price Cap sharing reflected in Bell Atlantic's 1993 and 1994 Price Cap Annual Tariff Filings. The \$12.1 million was calculated based on a 12 month estimate of Bell Atlantic's 1992/93 tariff period sharing of approximately \$22.2M divided by 2, plus the 1993/94 tariff period sharing of approximately \$2.0M divided by 2.

(Sources: Bell Atlantic's 1993 Annual Price Cap Tariff Filing Workpaper 8-53, Column E, Line 5 divided by 2; Bell Atlantic's 1994 Annual Price Cap Tariff Filing, Workpaper 8-54, Column E, Line 5 divided by 2.)

Before the  
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1993 Annual Access Tariff Filings  
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CC Docket No. 94-65

AT&T Communications Tariff F.C.C.  
Nos. 1 and 2, Transmittal Nos. 5460, 5461,  
5462, and 5464 Phase II

CC Docket No. 93-193

Bell Atlantic Telephone Companies Tariff  
FCC No. 1, Transmittal No. 690

CC Docket No. 94-157

NYNEX Telephone Companies Tariff  
FCC No. 1, Transmittal No. 328

**REPLY COMMENTS OF VERIZON**

**ATTACHMENT C**

**OPPOSITION OF BELL ATLANTIC,  
1996 ANNUAL ACCESS TARIFF FILINGS  
TRANSMITTAL NO. 867**

**FILED MAY 13, 1996**

COPY

RECEIVED

MAY 13 1996

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

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of	)	
	)	
1996 Annual Access Tariff Filings	)	Transmittal No. 867
	)	
Bell Atlantic Telephone Companies	)	
Tariff F.C.C. No. 1	)	

**OPPOSITION OF BELL ATLANTIC**

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May 13, 1996

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

In the Matter of	)	
	)	
1996 Annual Access Tariff Filings	)	Transmittal No. 867
	)	
Bell Atlantic Telephone Companies	)	
Tariff F.C.C. No. 1	)	

**OPPOSITION OF BELL ATLANTIC<sup>1</sup>**

Bell Atlantic's tariff filing is consistent with the price cap rules, the 1996 Tariff Review Plan Order and other relevant Commission orders. Acting in perfect symmetry, AT&T, MCI and Sprint argue against the plain meaning of Commission rules and orders in order to drive their own costs further down. These self-interested arguments should be rejected. The Commission should allow Bell Atlantic's tariff filing to take effect without modification. The Commission should also close its investigations and approve Bell Atlantic's 1993, 1994 and 1995 annual access filings, currently under review.

**A. Bell Atlantic's OPEB Rate Base Calculations Are Correct.**

The incumbent interexchange carriers object to Bell Atlantic and other carriers' rate base calculations, and in particular the treatment of Postemployment Benefits Other Than Pensions

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<sup>1</sup> The Bell Atlantic telephone companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; and Bell Atlantic-West Virginia, Inc.

("OPEB") costs. All of these complaints boil down a general dissatisfaction with a Commission ruling concerning rate base treatment of OPEB costs.<sup>2</sup> While the interexchange carriers are free to argue that the Commission should act in the pending rulemaking to prospectively amend its rules concerning rate base treatment of OPEBs, they offer no legitimate arguments here concerning Bell Atlantic's compliance with existing Commission rules.

### 1. Procedural Background

In 1992, the Common Carrier Bureau issued RAO 20, an accounting letter that, among other things, interpreted the existing Commission rules as requiring a rate base deduction for OPEB costs.<sup>3</sup> After reviewing objections by Bell Atlantic and others, the Commission found this interpretation to be inconsistent with Commission rules.<sup>4</sup> Because the Common Carrier Bureau's delegated authority to issue accounting letters did not allow it to make interpretations inconsistent with Commission rules, the Commission rescinded that portion of RAO 20.<sup>5</sup> The Commission rules governing rate base deductions could not have been modified by RAO 20. The RAO 20 Rescission Order made clear that the rules never allowed, much less mandated, a rate base deduction for OPEB costs.

As a result of that clarification, as required by Commission rules, Bell Atlantic adjusted its Form 492 results to include OPEB amounts in its rate base for use in calculating returns. Bell

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<sup>2</sup> *Responsible Accounting Officer Letter 20, Uniform Accounting for Postretirement Benefits Other Than Pensions in Part 32*, CC Docket No. 96-22, Memorandum Opinion and Order and Notice of Proposed Rulemaking (rel. Mar 7, 1996) ("RAO 20 Rescission Order").

<sup>3</sup> *Uniform Accounting for Postretirement Benefits Other Than Pensions in Part 32*, 7 FCC Rcd 2872 (Com. Car. Bur. 1992) ("RAO 20").

<sup>4</sup> RAO Rescission Order, ¶ 25.

<sup>5</sup> *Id.*

Atlantic's sharing amounts, which are based on Form 492 results, were therefore impacted by the adjustment. Notwithstanding self-interested complaints by the predominate interexchange carriers, Bell Atlantic's adjustments were appropriate and necessary under Commission rules.

2. **The adjustments were not retroactive ratemaking.**

AT&T claims that the impacts of the RAO 20 Rescission Order constitute retroactive ratemaking.<sup>6</sup> AT&T is wrong for at least three reasons.

First, the RAO 20 Rescission Order reaffirmed that the rules had not changed. The Commission's staff could not have made a rule change through RAO 20, because it lacked the authority to do so.<sup>7</sup> The actual rules governing rate base deductions predate any of the periods covered in Bell Atlantic's earnings adjustments.<sup>8</sup> It cannot be retroactive ratemaking for Bell Atlantic to follow those preexisting rules.<sup>9</sup>

Second, the rules governing sharing calculations specifically provide for adjustments to the 492 Forms. Indeed for the prior year -- in this case 1994 -- such an adjustment is required.<sup>10</sup>

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<sup>6</sup> Petition of AT&T Corp. at 4, n. 8 (filed Apr. 29, 1996).

<sup>7</sup> The rule which delegates the Common Carrier Bureau with the authority to issue RAO letters specifically prohibits delegation of rulemaking authority. 47 C.F.R. § .291(h).

<sup>8</sup> *See Amendment of Part 65 to Prescribe Components of the Rate Base and Net Income of Dominant Carriers*, 3 FCC Red 269 (1987).

<sup>9</sup> Because Bell Atlantic had filed a timely Application for Review, AT&T cannot argue that it was not put on notice that the RAO 20 interpretation was subject to full Commission review. *See Responsible Accounting Officers Letter 20*, DA 92-520, Bell Atlantic Application for Review (filed June 3, 1992).

<sup>10</sup> *See* 47 C.F.R. § 65.600(d)(2).

No party objected to Bell Atlantic's filing adjusting its prior years' Form 492.<sup>11</sup> As a result, Bell Atlantic was obliged to make sharing adjustments consistent with its revised 492 Forms.<sup>12</sup>

Third, even if RAO 20 had constituted a change in the rules, which it could not, retroactive ratemaking prohibitions do not bar the Commission from making rate adjustments to correct for its own errors. As the D.C. Circuit has explained in an analogous situation, if an agency "were prohibited from ordering recoupment of losses caused by its error," then the ability of a regulated company to collect a justified rate "would be drastically curtailed."<sup>13</sup> Indeed, in opposing requests to stay implementation of a change in the price cap rules, AT&T itself has acknowledged that the Commission retains this authority.<sup>14</sup>

**3. The rate base corrections were not exogenous cost adjustments.**

AT&T complains that Bell Atlantic and other local exchange carriers ("LECs") failed to apply for exogenous cost treatment based on the RAO 20 Rescission Order.<sup>15</sup> But there is no application requirement here because the adjustments required by the RAO 20 Rescission Order were not exogenous cost adjustments. Under the price cap rules, approved exogenous costs adjustments have a direct impact on the price cap formula and are translated directly into

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<sup>11</sup> Bell Atlantic FCC Form 492A Reports for the 1993, 1994 and 1995 Enforcement Periods (filed Apr. 1, 1996) ("Revised Form 492A").

<sup>12</sup> See *Support Material to be Filed with 1996 Annual Access Tariff*, DA 96-263, ¶ 25 (Com. Car. Bur. rel. Feb. 9, 1996) ("1996 Tariff Review Plans").

<sup>13</sup> *Natural Gas Clearinghouse v. Federal Energy Regulatory Commission*, 965 F.2d 1066, 1074 (D.C. Cir. 1992).

<sup>14</sup> *Bell Atlantic Telephone Company v. FCC*, No. 95-1217, Opposition of AT&T Corp. to the Joint Motion for A Partial Stay (D.C. Cir., filed July 18, 1995).

<sup>15</sup> AT&T Petition at 5.

adjustments to the level of the price cap index ("PCI").<sup>16</sup> In contrast, the adjustments here were to the calculation of the rate base, which is one component in calculating carrier returns, which in turn impact sharing levels. This chain ultimately impacted the PCI, only because Bell Atlantic had a prior sharing obligation. Absent the sharing obligation, the rate base adjustments would have had no impact on price cap indices. Carriers make any number of adjustments that have the potential to impact price cap indices indirectly, but like this one, such adjustments are routine and do not require the documentation or pre-approval of an exogenous cost adjustment.

Indeed, the rules contemplate routine adjustments to the Form 492 return calculations. It is for this reason, carriers are *required* to file an adjusted return calculation well after the original Form 492 is filed.<sup>17</sup> The interexchange carriers' real complaint is not that Bell Atlantic and other LECs did not follow the prescribed procedures, but rather that as a result of the Commission order, the LECs are removing excess sharing that was included because of the requirements of the faulty RAO letter.<sup>18</sup>

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<sup>16</sup> 47 C.F.R. § 61.44.

<sup>17</sup> 47 C.F.R. § 65.600(d)(2).

<sup>18</sup> Indeed, MCI has taken the opportunity to seek reconsideration of the RAO 20 Rescission Order. *Responsible Accounting Officer Letter 20, Uniform Accounting for Postretirement Benefits Other than Pensions in Part 32*, AAD 92-65, MCI Petition for Reconsideration (filed Apr. 8, 1996). While MCI is wrong on the merits, procedurally it is only in that proceeding that the interexchange carriers can properly challenge the mandate of that order. In the annual tariff filings, the LECs have only followed Commission requirements. Indeed, LECs would have to seek a waiver, as NYNEX has, in order to *avoid* removing the rate base adjustments. See *Amendments to Part 65, Interstate Rate of Return Prescription Procedures and Methodologies, Subpart G, Rate Base*, CC Docket No. 96-22, NYNEX Comments at 4 (filed Apr. 12, 1996).

All three carriers complain that the adjustment did not meet the documentation requirements for an exogenous cost change application.<sup>19</sup> Of course there was no reason to include such information, because the adjustment here was not an exogenous cost change, but merely an adjustment to the rate base as reflected in Form 492. This adjustment was appropriately documented by Bell Atlantic, and no party raised objections to Bell Atlantic's filing of the adjusted Form 492.<sup>20</sup>

Separate from the question of appropriate rate base accounting for OPEB costs, is the issue of whether the costs themselves are eligible for exogenous treatment. Under current rules, they are not,<sup>21</sup> and Bell Atlantic has not sought exogenous recovery here. Under prior rules, such recovery was allowed, and Bell Atlantic filed for exogenous treatment with appropriate documentation.<sup>22</sup> Exogenous cost treatment for those past years is still under Commission investigation. However, contrary to the arguments of Sprint and MCI, the disposition of that investigation can have no impact on the rate base adjustment. Regardless of how the past exogenous cost filings are decided, the Commission may only modify its required rate base treatment for these costs through a prospective rule change.<sup>23</sup> Thus, Sprint's suggestion that the Commission should disallow the rate base adjustments to "minimize rate churn" is rhetorical

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<sup>19</sup> AT&T Petition at 7; MCI Petition to Reject in Part or, in the Alternative, to Suspend and Investigate at 5 (filed Apr. 29, 1996); Sprint Petition to Reject or Alternatively Suspend and Investigate at 4 (filed Apr. 29, 1996).

<sup>20</sup> See Revised Form 492A. In addition, attached as Exhibit 1 is a reconciliation of OPEB-related rate base changes made in that filing.

<sup>21</sup> *Price Cap Performance Review for Local Exchange Carriers*, 10 FCC Rcd 8961, 9090 (1995).

<sup>22</sup> See *1993 Annual Access Tariff Filings*, CC Docket No. 93-193, Phase I, *et al.*, Bell Atlantic Direct Case (filed Aug. 14, 1995).

<sup>23</sup> See RAO 20 Rescission Order, ¶ 28.

nonsense.<sup>24</sup> The only impact sought by the interexchange carriers here is lower access rates, regardless of the Commission's rules and procedures.

**4. The adjustments were appropriately calculated.**

AT&T and MCI argue that adjustments to the subscriber line charge ("SLC") and carrier common line charge ("CCL") were required as a result of the RAO Rescission Order.<sup>25</sup> They are wrong. As explained above, sharing is based on historical Form 492 results. Revisions and updates are not only expected, they are required. In contrast, the SLC and CCL are based on projected revenue requirements, and there is no basis to adjust for subsequent changes.<sup>26</sup> Regardless, in the projections used in this filing to calculate the SLC and CCL, Bell Atlantic relied on 1995 ARMIS reports, which reflect the full impact of the RAO 20 Rescission Order.<sup>27</sup>

AT&T also complains that the Bell Atlantic adjustment to 1993 sharing is overstated.<sup>28</sup> AT&T, however, bases its claim on Bell Atlantic's 1991 unfunded OPEB costs. In fact, Bell Atlantic's rate base adjustment appropriately added back its 1993 costs. The amount added back exactly matches the amount deducted in 1993 pursuant to the requirements of RAO 20.<sup>29</sup>

Bell Atlantic's adjustment was mandated by Commission order and appropriately calculated. There is no basis for suspension or investigation.

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<sup>24</sup> See Sprint Petition at 5.

<sup>25</sup> AT&T Petition at 9; MCI Petition at 6.

<sup>26</sup> See 47 C.F.R. § 69.104(c).

<sup>27</sup> See Bell Atlantic Companies' ARMIS 43-01 Reports, Fourth Quarter, 1995 Submission 1, rows 1880 and 1885 (filed March 29, 1996).

<sup>28</sup> AT&T Petition at 8, n. 15.

<sup>29</sup> See Exhibit 1.

**B. Bell Atlantic's Sharing Calculations Are Appropriate.**

**1. Bell Atlantic calculation of add-back was correct.**

In what is expected to be Bell Atlantic's final annual filing that includes rate of return based sharing calculations,<sup>30</sup> the interexchange carriers attempt to maximize the sharing impact by arguing for adjustments that benefit them. Their arguments are inconsistent with Commission rules and should be rejected.

AT&T and MCI challenge the add-back portion of Bell Atlantic's sharing calculation.<sup>31</sup> In particular they seek to benefit from the calendar impacts of the delay in last year's annual filing. Although the relationship between calendar years and tariff years can be complex, the interexchange carriers' argument is an attempt to profit from a confusion of the facts.

Under Commission rules, Bell Atlantic's sharing for calendar year 1995 must be calculated as if the amounts shared in 1995 were actually received as revenues.<sup>32</sup> Because of the Commission's price cap review, the 1995 annual filing was delayed one month, and did not go into effect until August first. This means that Bell Atlantic sharing was based on the 1994 annual filing for the first seven months of the year, and was based on the 1995 annual filing for the last five months. Bell Atlantic appropriately made its add-back adjustment in just this manner.<sup>33</sup>

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<sup>30</sup> See *Price Cap Performance Review for Local Exchange Carriers*, Fourth Notice of Proposed Rulemaking, 10 FCC Rcd 13659, 13677 (1995) (tentatively concludes that a proper moving average could provide a mechanism to support "eliminating the sharing mechanism").

<sup>31</sup> AT&T Petition at 11; MCI Petition at 7-8.

<sup>32</sup> See *Price Cap Regulation of Local Exchange Carriers, Rate-of-Return Sharing and Lower Formula Adjustment*, 10 FCC Rcd 5656, 5657 (1995) ("Add-Back Order").

<sup>33</sup> Bell Atlantic Transmittal No. 867, Workpaper 8-53-6 (filed Apr. 2, 1996).

AT&T and MCI argue that Bell Atlantic and other LECs were required to ignore the change in tariff effective date, and pretend that the sharing amounts were adjusted on July 1, rather than August 1. Their justification for this pretense is language in last year's tariff review plan order, where the Commission required a one-time adjustment that "spreads out the difference between the PCI in effect during July 1995 and what it would have been under a full 1995 tariff year, over the next 11 months."<sup>34</sup> While this adjustment spreads the impact of the shortened period within the tariff year, it did not purport to make any adjustments between different tariff years. Because add-back must be based on actual sharing amounts,<sup>35</sup> such calculation must take into account the variance in the length of the last two tariff years.

**2. Bell Atlantic allocation of sharing was proper.**

AT&T and Sprint recycle old complaints that Bell Atlantic is not properly allocating sharing.<sup>36</sup> They do not question the total sharing amount here. Rather they seek to increase the allocation to the common line basket in order to increase their relative portion of the sharing dollars. Their arguments ignore Commission rules and should be rejected.

Specifically, AT&T and Sprint object to the exclusion of the SLC from the common line basket in making sharing allocation calculations. SLC revenues are based on a forecasted

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<sup>34</sup> *Cost Support Material to be Filed With 1995 Annual Access Tariffs*, 10 FCC Red 5720, 5723 (Com. Car. Bur. 1995).

<sup>35</sup> 1996 Tariff Review Plans, ¶ 14 ("the addback adjustment adds a dollar amount equal to the shared revenue to the carrier's rate of return before calculating its next sharing obligation"). In contrast to the add-back requirement, the Commission specifically required that, for carriers that selected the 5.3% productivity offset, sharing calculations for the first half of 1995 must be based on half of total 1995 earnings. *Id.* at ¶ 25. Because Form 492 return calculations are based on results over the course of an entire year, it is misleading to attribute partial-year results to any specific period.

<sup>36</sup> AT&T Petition at 24; Sprint Petition at 6.

revenue requirement, not on price cap indices or productivity adjustments.<sup>37</sup> Sharing, however, must be allocated on a "cost causative basis."<sup>38</sup> Because the SLC is a return targeted amount, it does not "cause" changes in sharing amounts. As a result, using the SLC in calculating the sharing distribution would over-allocate sharing dollars to the common line basket. The Commission should take this opportunity, not only to reject the arguments here, but to uphold Bell Atlantic's consistent position in the investigation of this same issue in its 1993 through 1995 annual access tariff filings.

**3. Bell Atlantic reversal of sharing calculation was correct.**

Sprint also argues that based on Sprint's calculation of changes in revenue, Bell Atlantic overstated its reversal of sharing calculation.<sup>39</sup> In fact, it is Sprint that has made the errors. First Sprint understates Bell Atlantic's actual 1995 sharing amount by over \$4 million.<sup>40</sup> Second, Sprint again includes SLC revenues which do not contribute to sharing amounts. Correcting for Sprint's errors results in exactly the amount Bell Atlantic calculated in its sharing reversal.

**C. Other Challenges to Bell Atlantic's Calculations Should Be Rejected.**

**1. Bell Atlantic's TRS and regulatory fee costs are accurate.**

Sprint argues that Bell Atlantic overstated its exogenous cost adjustment for Telecommunications Relay Service ("TRS") and regulatory fees by a total of approximately

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<sup>37</sup> See 47 C.F.R. § 61.38.

<sup>38</sup> *Policy and Rule Concerning Rates for Dominant Carriers*, 6 FCC Rcd 2637, 2689 (1991).

<sup>39</sup> Sprint Petition at 5.

<sup>40</sup> Compare Sprint Petition, Appendix 1 with Bell Atlantic Transmittal No. 867, Workpaper 8-54, Line 4.

\$124 thousand.<sup>41</sup> Sprint acknowledges that the exogenous cost must be calculated from 1995 revenues, but then bases its own calculation on 1996 TRP data.<sup>42</sup> Bell Atlantic correctly used its actual 1995 revenues as required by Commission rules.<sup>43</sup>

**2. Bell Atlantic's calculation of the "g" factor complies with Commission rules.**

AT&T and MCI resurrect their complaint that Bell Atlantic improperly calculated the "g" factor.<sup>44</sup> The "g" factor represents the growth of minutes per access line.<sup>45</sup> Bell Atlantic has consistently used end-of-year access lines to calculate this growth. Thus, under the rules, the "base period" for Bell Atlantic is the previous end-of-year levels.<sup>46</sup> AT&T and MCI were silent in 1991 and 1992 when Bell Atlantic's use of this methodology was to the interexchange carriers' advantage by producing a higher "g" than a calculation based on yearly averages. It was only in 1993, when the calculation using average lines produced a slightly higher "g" than the calculation using Bell Atlantic's end-of-year line method, that the interexchange carriers began their complaints.<sup>47</sup> Because the calculation is based on growth rather than absolute levels, either method applied consistently provides a fair representation.<sup>48</sup> In fact, over the price cap period, both methods produced the same results.<sup>49</sup> Because Bell Atlantic has consistently applied the

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<sup>41</sup> Sprint Petition at 7.

<sup>42</sup> *Id.*

<sup>43</sup> See Bell Atlantic Trans. No. 867, Workpapers 8-49-1, 8-52-1.

<sup>44</sup> AT&T Petition at 26-7; MCI Petition at 9-10.

<sup>45</sup> 47 C.F.R. § 61.45(c).

<sup>46</sup> See 47 C.F.R. §§ 61.45(c), 61.46(c).

<sup>47</sup> Attached as Exhibit 2 is a workpaper that compares the results under the two methods.

<sup>48</sup> It would be improper, however, to require Bell Atlantic to switch methodologies without allowing a restatement of past years to achieve consistency.

<sup>49</sup> See Exhibit 2.

same measure, it appropriately measures growth from the base period, as required by Commission Rules. The Commission should reject the arguments here, and close the investigation of earlier tariff years without any required modification of Bell Atlantic's methodology.

#### CONCLUSION

Bell Atlantic's tariff filing is consistent with Commission requirements. The Commission should deny the petitions and allow Bell Atlantic's tariff to take effect without suspension, investigation or modification.

Respectfully submitted,

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May 13, 1996

RECONCILIATION OF RATE BASE CHANGES REPORTED  
ON BELL ATLANTIC'S FCC FORM 492A REPORTS  
FILED ON APRIL 1, 1996

(A) Year	(B) Filing Date of FCC Form 492A	(C) Rate Base Change Note 1	(D) OPEB Costs Added/ (Deducted) From Rate Base	(E) Non-OPEB Amounts in Column C Note 2
1. 1993	3/31/95	(33,166)	(38,041)	4,875
2. 1993	4/1/96	38,041	38,041	0
3. 1994	3/31/95	Note 3	(100,536)	Note 3
4. 1994	4/1/96	117,835	100,536	17,299

Note 1: As reported on Form 492A, line 4, column C.

Note 2: Amounts reported in Column E reflect rate base changes that are unrelated to OPEBs.

Note 3: On March 31, 1995, Bell Atlantic filed its first FCC Form 492 Report for calendar year 1994. As such, the Company did not report any rate base changes. However, the rate base reflected on line 4 of that report is net of deducted OPEB costs.

CALCULATION OF "g"  
COMPARISON OF AVERAGE LINES TO END-OF-YEAR LINES

LINE		END OF PERIOD OVER BEGINNING OF PERIOD 1991 - 1996	AVERAGE END OF PERIOD OVER BEGINNING OF PERIOD 1991 - 1996
1.	BASE PERIOD MOU	61,622,814,592	61,622,814,592
2.	BASE PERIOD ACCESS LINES	19,132,686	18,891,786
3.	BASE PERIOD - 1 MOU	41,978,618,000	41,978,618,000
4.	BASE PERIOD - 1 ACCESS LINES	16,428,320	16,222,010
5.	"g" $\{(L1/L2)/(L3/L4)\} - 1$	0.2605	0.2605

LINE		FILED 1991	AVERAGE 1991
1.	BASE PERIOD MOU	45,705,776,959	45,705,776,959
2.	BASE PERIOD ACCESS LINES	16,785,641	16,659,437
3.	BASE PERIOD - 1 MOU	41,978,618,000	41,978,618,000
4.	BASE PERIOD - 1 ACCESS LINES	16,428,320	16,222,010
5.	"g" $\{(L1/L2)/(L3/L4)\} - 1$	0.0656	0.0602

LINE		FILED 1992	AVERAGE 1992
1.	BASE PERIOD MOU	48,605,332,842	48,605,332,842
2.	BASE PERIOD ACCESS LINES	17,075,594	16,954,116
3.	BASE PERIOD - 1 MOU	45,705,776,959	45,705,776,959
4.	BASE PERIOD - 1 ACCESS LINES	16,812,040	16,659,437
5.	"g" $\{(L1/L2)/(L3/L4)\} - 1$	0.0470	0.0450

LINE		FILED 1993	AVERAGE 1993
1.	BASE PERIOD MOU	51,378,452,668	51,378,452,668
2.	BASE PERIOD ACCESS LINES	17,505,878	17,358,451
3.	BASE PERIOD - 1 MOU	48,605,332,842	48,605,332,842
4.	BASE PERIOD - 1 ACCESS LINES	17,052,216	16,654,116
5.	"g" $\{(L1/L2)/(L3/L4)\} - 1$	0.0297	0.0324
LINE		FILED 1994	AVERAGE 1994
1.	BASE PERIOD MOU	54,082,655,190	54,082,655,190
2.	BASE PERIOD ACCESS LINES	17,933,242	17,759,767
3.	BASE PERIOD - 1 MOU	51,378,452,688	51,378,452,688
4.	BASE PERIOD - 1 ACCESS LINES	17,505,878	17,358,451
5.	"g" $\{(L1/L2)/(L3/L4)\} - 1$	0.0275	0.0288
LINE		FILED 1995	AVERAGE 1995
1.	BASE PERIOD MOU	57,599,952,796	57,599,952,796
2.	BASE PERIOD ACCESS LINES	18,469,684	18,260,376
3.	BASE PERIOD - 1 MOU	54,082,655,190	54,082,655,190
4.	BASE PERIOD - 1 ACCESS LINES	17,933,242	17,759,767
5.	"g" $\{(L1/L2)/(L3/L4)\} - 1$	0.0341	0.0358
LINE		FILED 1996	AVERAGE 1996
1.	BASE PERIOD MOU	61,622,814,592	61,622,814,592
2.	BASE PERIOD ACCESS LINES	19,132,685	18,891,786
3.	BASE PERIOD - 1 MOU	57,599,952,796	57,599,952,796
4.	BASE PERIOD - 1 ACCESS LINES	18,469,684	18,260,376
5.	"g" $\{(L1/L2)/(L3/L4)\} - 1$	0.0328	0.0341

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of May, 1996 a copy of the foregoing "Opposition of Bell Atlantic" was sent via first class mail, postage prepaid, to the parties on the attached list.

Tracey DeVaux  
Tracey DeVaux

\* Via hand delivery.

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of

Stale or Moot Docketed Proceedings

1993 Annual Access Tariff Filings  
Phase I

CC Docket No. 93-193

1994 Annual Access Tariff Filings

CC Docket No. 94-65

AT&T Communications Tariff F.C.C.  
Nos. 1 and 2, Transmittal Nos. 5460, 5461,  
5462, and 5464 Phase II

CC Docket No. 93-193

Bell Atlantic Telephone Companies Tariff  
FCC No. 1, Transmittal No. 690

CC Docket No. 94-157

NYNEX Telephone Companies Tariff  
FCC No. 1, Transmittal No. 328

**REPLY COMMENTS OF VERIZON**

**ATTACHMENT D**

**DECLARATION OF GARY W. DELSON**

**DECLARATION OF GARY W. DELSON**

1. My name is Gary W. Delson. I am Executive Director, Corporate Books for Verizon. In this position, I am responsible for maintaining the books of account for the Verizon Telephone Companies. I submit this declaration for the purpose of addressing the accounting treatment of prepaid OPEB benefits that Verizon followed in 1996 as a result of the Commission's *RAO 20 Rescission Order*.<sup>1</sup>

2. Among other things, the *RAO 20 Rescission Order* reversed the Common Carrier Bureau's previous instructions to the local exchange carriers to add to their interstate regulated rate base the amount of prepaid OPEB benefits recorded in Account 1410. *See id.*, ¶ 20. AT&T claims (at 33-34) that the local exchange carriers did not demonstrate in their 1996 tariff filings that they removed any prepaid OPEB benefits in Account 1410 that they had included in the interstate rate base in their earlier rate of return reports in reliance on the Bureau's instructions. Within the limitations posed by the passage of over eight years since the reports were issued and the termination of this investigation in January 2002, I have examined the available records and have determined that Verizon did not include any prepaid OPEB benefits in Account 1410 in its interstate rate base calculations for the years in question. On March 29, 1996, when Verizon filed its first Form 492A rate of return report for 1995 and its revised rate of return reports for 1993 and 1994, Verizon did not need to remove any prepaid OPEB

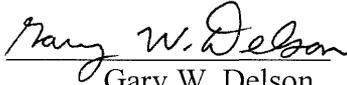
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<sup>1</sup> *Responsible Accounting Officer Letter 20, Uniform Accounting For Postretirement Benefits Other Than Pensions In Part 32*, 11 FCC Rcd 2957 (1996) ("*RAO 20 Rescission Order*").

benefits from the rate base for any of those years because none had been incorporated in the previous reports.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed on April 21, 2003

  
Gary W. Delson

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of

Stale or Moot Docketed Proceedings

1993 Annual Access Tariff Filings  
Phase I

CC Docket No. 93-193

1994 Annual Access Tariff Filings

CC Docket No. 94-65

AT&T Communications Tariff F.C.C.  
Nos. 1 and 2, Transmittal Nos. 5460, 5461,  
5462, and 5464 Phase II

CC Docket No. 93-193

Bell Atlantic Telephone Companies Tariff  
FCC No. 1, Transmittal No. 690

CC Docket No. 94-157

NYNEX Telephone Companies Tariff  
FCC No. 1, Transmittal No. 328

**REPLY COMMENTS OF VERIZON**

**ATTACHMENT E**

**REBUTTAL TO AT&T ANALYSIS OF  
THE IMPACT OF *RAO 20* REVERSAL**

## REBUTTAL TO AT&T ANALYSIS OF THE IMPACT OF *RAO 20* REVERSAL

In Appendix C of its comments, AT&T attempts to analyze the impact of *RAO 20* reversal on the carriers' 1994 through 1995 sharing obligations. This analysis is seriously flawed and cannot be used to determine the amounts at issue in this investigation.

For example, in Appendix C-2, where AT&T provides its analysis of the impact on the 1994 rate base adjustments for *RAO 20*, AT&T states that columns B through F contain data from the carriers' preliminary Form 492A reports filed in the first quarter of 1995. In fact, the data in columns B, C, and D are from the final, amended reports filed in the first quarter of 1996, and columns E and F are calculations, not the filed rate base number or rate of return. Also, in the final column, AT&T claims to have applied one year of interest at 11.25 percent, but the difference is over twice that amount. In Appendix C-3, AT&T makes additional errors. AT&T arbitrarily assumes a 25 percent increase in OPEB liabilities from 1994. AT&T also incorrectly assumes that the carriers were subject to sharing obligations for the entire year of 1995. However, if carriers elected the 5.3 percent X factor in the 1995 annual access tariff filing, they were not subject to sharing for the last half of 1995. Bell Atlantic, for example, chose the 5.3 percent X factor in the annual filing. ~~AT&T incorrectly assumed that Bell Atlantic was subject to sharing for the entire year.~~ These errors result in an inaccurate calculation of the impact on the rate of return due to reversal of *RAO 20*.

## ATTACHMENT E

The following attachments show how AT&T's exhibit is flawed, using former Bell Atlantic as an example. Attachment E-1 contains the data for 1994. In columns B through D, Verizon includes the revenues, expenses, operating income, and rate base (without RAO 20 deduction of OPEB liabilities) from Verizon's final Form 492A report filed on March 29, 1996. Column F shows the rate of return (14.00 percent) as filed, and column G shows the sharing amount. The sharing amount includes gross-up for state and federal taxes as shown in Attachment E-2. Column H shows the amount of OPEB liabilities that would have been deducted if RAO 20 had been in effect (approximately \$100.5 million). Column I deducts this amount from the rate base shown in column E. Column J recalculates the rate of return using the rate base shown in column I and the operating income in column D (14.35 percent). Column K shows the resulting sharing obligation. Column L shows the difference in sharing obligations between columns G and K. Column M shows the impact with interest.

These data show that AT&T's claim that the reversal of *RAO 20* reduced Bell Atlantic's sharing obligation for 1994 by \$13.1 million is incorrect. The correct amount is \$11.3 million.

Attachments E-3 and E-4 provide a similar comparison of AT&T's estimates of the effect of *RAO 20* reversal on Bell Atlantic's sharing obligation for 1995. In addition to the corrections noted above, Verizon has used the actual amount of OPEB liabilities subject to RAO 20 using Verizon's accounting records rather than AT&T's arbitrary assumption of a 25 percent increase from 1994. In addition, Verizon has applied sharing only for the first half of 1995, since Bell Atlantic avoided a sharing obligation for the last half of 1995 by selecting the 5.3 percent X factor in the 1995 annual access tariff filing.

## ATTACHMENT E

The result is that reversing *RAO 20* reduced Verizon's sharing obligation for 1995 by \$7.6 million rather than by the \$12 million shown in AT&T's flawed exhibit.

IMPACT OF RAO 20 REVERSAL ON BELL ATLANTIC FOR 1994

ATTACHMENT E-1

	B	C	D	E	F	G	H	I	J	K	L	M
	Revenues	Expenses & Taxes	Operating Income	Rate Base w/ RAO-20	Rate of Return w/ RAO-20	Sharing/ LFA w/ RAO-20	Rate Base Increase Due to RAO-20	Rate Base w/o RAO-20	Rate of Return w/o RAO-20	Sharing/ LFA w/o RAO-20	Sharing/ LFA Difference	Sharing/LFA Diff w/tax & w/interest
AT&T's calculation of BATR*	2,858,488	2,281,818	576,670	4,102,769	14.06%	(62,090)	100,536	4,002,233	14.41%	(72,281)	(10,191)	(13,055)
Verizon's calculation of BATR**	2,858,488	2,281,818	576,670	4,120,069	14.00%	(59,184)	100,536	4,019,533	14.35%	(69,314)	(10,130)	(11,270)

\* Appendix C-2, Comments of AT&T Corp., CC Docket Nos. 93-193, 94-65, and 94-157 (filed Apr. 8, 2003). AT&T states incorrectly that B, C, D, E, and F are from the preliminary 492 for 1994. B, C, D and F are from the final 492, E is a calculation.

\*\* Sources and calculations for Verizon's amounts are as follows:

B	Revenue	Final 492 filed 3/29/96
C	Expenses & Taxes	Final 492 filed 3/29/96
D	Operating Income	Final 492 filed 3/29/96
E	Rate Base w/RAO-20	Final 492 filed 3/29/96
F	Rate of Return W RAO-20	D/E
G	Sharing/LFA w RAO-20	E-2 Ln 6 Col A
H	Rate Base Increase due to RAO-20	Exhibit 1 of Opposition of Bell Atlantic, Transmittal No. 867, filed May 13, 1996
I	Rate base w/o RAO-20	E - H
J	Rate of Return w/o RAO-20	D/I
K	Sharing/LFA w/o RAO-20	E-2 Ln 6 Col B
L	Sharing/LFA Difference	K - G
M	Sharing/LFA Difference w/ interest adj	E-2 Ln 8 Col C

Verizon's Calculation of Sharing Impact with Taxes and Interest for Bell Atlantic's 1994 Results

ATTACHMENT E-2

Line	Item		w RAO 20 Col A	w/o RAO 20 Col B	Col C = Col B - Col A
1	Rate Base Average net Investment	Col A = E-1 Col E of Verizon's calculation, Col B = E-1 Col I of Verizon's calculation	4,120,069	4,019,533	(100,536)
2	Rate of Return	Col A = E-1 Col F of Verizon's calculation, Col B = E-1 Col J of Verizon's calculation	13.99661%	14.35%	0
3	50% Price Cap Sharing	$(Ln\ 1 * (Ln\ 2 - 12.25\%) * 50\%) * -1$	(35,981)	(42,139)	(6,158)
4	State Income Tax	$[Ln\ 3 + (Ln\ 3 * FIT\ Rate / (1 - FIT\ Rate))] * SIT\ Rate / (1 - SIT\ Rate)$	(3,829)	(4,485)	(656)
5	Federal Income Tax	$Ln\ 3 * FIT\ Rate / (1 - FIT\ Rate)$	(19,374)	(22,690)	(3,316)
6	Subtotal 1995 Bell Atlantic Sharing	$Ln\ 3 + Ln\ 4 + Ln\ 5$	(59,184)	(69,314)	(10,130)
7	Interest at 11.25%	$(Ln\ 6\ Col\ B - Ln\ 6\ Col\ A) * 11.25\%$	NA	(1,140)	(1,140)
8	Total Bell Atlantic Sharing	$Ln\ 6 + Ln\ 7$	(59,184)	(70,454)	(11,270)
	SIT Rate	Transmittal No. 777, WP 8-57-2, Ln 5, Col H	6.47%		
	Fit Rate		35%		

IMPACT OF RAO 20 REVERSAL ON BELL ATLANTIC FOR 1995

ATTACHMENT E-3

	B	C	D	E	F	G	H	I	J	K	L	M
	Revenues	Expenses & Taxes	Operating Income	Rate Base w/ RAO-20	Rate of Return w/ RAO-20	Sharing/LFA w/ RAO-20	Rate Base Increase Due to RAO-20	Rate Base w/o RAO-20	Rate of Return w/o RAO-20	Sharing/LFA w/o RAO-20	Sharing/LFA Difference	Sharing/LFA Diff w/tax & w/interest
AT&T's calculation of BATR*	2,978,629	2,371,665	606,964	4,420,570	13.73%	(32,722)	125,670	4,294,900	14.13%	(40,419)	(7,697)	(12,034)
Verizon's calculation of BATR**	2,978,629	2,371,665	606,964	4,420,570	13.73%	(26,568)	138,168	4,282,402	14.17%	(33,441)	(6,873)	(7,646)

\* Appendix C-3, Comments of AT&T Corp., CC Docket Nos 93-193, 94-65, and 94-157 (filed Apr. 8, 2003).

\*\* Sources and calculations for Verizon's amounts are as follows:

B	Revenue	Preliminary 492 filed 3/29/96
C	Expenses & Taxes	Preliminary 492 filed 3/29/96
D	Operating Income	Preliminary 492 filed 3/29/96
E	Rate Base w/RAO-20	Preliminary 492 filed 3/29/96
F	Rate of Return W RAO-20	D/E
G	Sharing/LFA w RAO-20	E-4 Ln 7 Col A
H	Rate Base Increase due to RAO-20	Accounting Records
I	Rate base w/o RAO-20	E - H
J	Rate of Return w/o RAO-20	D/I
K	Sharing/LFA w/o RAO-20	E-4 Ln 7 Col B
L	Sharing/LFA Difference	K - G
M	Sharing/LFA Difference w/ interest adj	E-4 Ln 9 Col C

Line Item		w RAO 20 Col A	w/o RAO 20 Col B	Col C = Col B - Col A
1 Rate Base Average net Investment	Col A = E-3 Col E of Verizon's calculation, Col B = E-3 Col I of Verizon's calculation	4,420,570	4,282,402	(138,168)
2 Rate of Return	Col A = E-3 Col F of Verizon's calculation, Col B = E-3 Col J of Verizon's calculation	13.73045%	14.17%	-0.44%
3 50% Price Cap Sharing	$(\ln 1 * (\ln 2 - 12.25\%) * 50\%) * -1$	(32,722)	(41,185)	(8,463)
4 Impact of Sharing for 6 Months*	Ln 3/2	(16,361)	(20,593)	(4,232)
5 State Income Tax	$[\ln 4 + (\ln 4 * \text{FIT Rate} / (1 - \text{FIT Rate})) * \text{SIT Rate} / (1 - \text{SIT Rate})]$	(1,397)	(1,759)	(362)
6 Federal Income Tax	Ln 4 * FIT Rate / (1 - FIT Rate)	(8,810)	(11,089)	(2,279)
7 Subtotal 1995 Bell Atlantic Sharing	Ln 4 + Ln 5 + Ln 6	(26,568)	(33,441)	(6,873)
8 Interest at 11.25%	$(\ln 7 \text{ Col B} - \ln 7 \text{ Col A}) * 11.25\%$	NA	(773)	(773)
9 Total Bell Atlantic Sharing	Ln 7 + Ln 8	(26,568)	(34,214)	(7,646)
SIT Rate	Transmittal No. 867, WP 8-53-2 Ln 5, Col H	5.26%		
Fit Rate		35%		

\* In the 1995 Annual Access Tariff Filing, Bell Atlantic selected the 5.3% productivity offset. Therefore, Bell Atlantic was not subject to sharing from 7/1/95 to 12/31/95