

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
1993 Annual Access Tariff Filings)	CC Docket No. 93-193
)	
1994 Annual Access Tariff Filings)	CC Docket No. 94-65
)	

REPLY COMMENTS OF AT&T CORP.

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Pursuant to the Commission’s Order,¹ AT&T Corp. (“AT&T”) respectfully submits this reply to the refund proposals of SBC, BellSouth, Sprint and Verizon. AT&T generally supports the refund proposals of SBC, BellSouth and Sprint. Each of those carriers made a good faith effort to comply with the Commission’s *Add-Back Liability Order*, and AT&T opposes these proposals only with respect to the rates used to compute interest and, in the case of BellSouth, the proposed timing of refunds. The corrected refund amounts for these local exchange carriers (“LECs”) is shown in Exhibit A, attached hereto. Verizon’s “refund” proposal – that it should pay *no* refunds notwithstanding many millions of dollars of overcharges – does not remotely constitute a good faith effort to comply with the *Add-Back Liability Order*. The Commission should reject Verizon’s patently unlawful refusal to comply with the *Add-Back Liability Order* and order Verizon to pay refunds in the amounts detailed in Exhibits B & C, attached hereto,

¹ Order, *In the Matter of 1993 Annual Access Tariff Filings & 1994 Annual Access Tariff Filings*, CC Docket Nos. 93-193 & 94-65, FCC 04-151 (rel. July 30, 2004) (“*Add-Back Liability Order*”).

determined using the same methodology employed by SBC, BellSouth and Sprint (and applying the correct interest rate).

INTRODUCTION AND SUMMARY

The refund plans submitted by the LECs confirm that AT&T and other access customers were overcharged tens of millions of dollars as a result of the LECs' unlawful failure to apply add-back in their 1993 and 1994 tariffs. Refunds for these overcharges are long overdue, and most of the LECs have made good faith efforts to comply with the Commission's *Add-Back Liability Order* refund plan requirements. The Commission should immediately adopt, with only the interest rate and timing alterations discussed below, the refund plans of these LECs.

Specifically, the Commission should immediately adopt the refund proposals of SBC, BellSouth and Sprint with only two adjustments. First, the Commission should revise the refund amounts computed by SBC, BellSouth and Sprint to reflect the proper interest rate (*see* Exhibit A, attached hereto). Second, the Commission should require BellSouth to make refunds within 90 days, rather than BellSouth's proposed 180 days.

Verizon is a different story. Verizon's refund computations contain myriad errors and violate multiple Commission rules and orders, including the *Add-Back Liability Order*. Most notably, the methods used by Verizon to account for "headroom" directly conflict with numerous Commission rules and orders. For example, Verizon unlawfully attempts to mitigate its 1994 overcharges by offsetting them with 1993 headroom, a practice that is flatly prohibited by the Commission's rules. Verizon also offsets refunds owed for overcharges associated with particular interstate price cap baskets with "headroom" from *other* price cap baskets, another ploy that the Commission has repeatedly and unequivocally rejected. Verizon even tries to use

headroom that was available to one company to offset refunds owed by a completely separate company. In short, Verizon has simply refused to make a good faith effort to comply with the Commission's order. Thus, the Commission should reject Verizon's proposed refunds and prescribe the refund amounts shown in the attached Exhibits B & C, which were calculated using the same methods employed by SBC, BellSouth and Sprint (and applying the correct interest rate).

On this record, the Commission should immediately approve the LECs' refund plans, with the changes proposed herein. To the extent that the Commission determines that the substantial errors in Verizon's plan will delay the immediate adoption of a refund plan for Verizon, the Commission should bifurcate this proceeding by immediately approving the refund plans of the other carriers, expeditiously addressing the serious deficiencies in Verizon's refund plan, and making clear that, by virtue of its "willful" refusal to submit a good faith refund proposal, Verizon will, from the date of its initial refund proposal, pay interest at the highest lawful rate.

ARGUMENT

I. THE COMMISSION SHOULD IMMEDIATELY ADOPT THE REFUND PLANS OF SBC, BELLSOUTH AND SPRINT, WITH THE MODIFICATIONS PROPOSED BY AT&T.

The Commission should immediately adopt the refund plans of SBC, BellSouth and Sprint with only two changes. First, the Commission should correct the interest rate used by these carriers to compute refund amounts. Second, the Commission should require BellSouth to make refunds within 90 days, rather than BellSouth's proposed 180 days.

A. The Commission Should Correct The Interest Rate Used By SBC, BellSouth And Sprint To Compute Refunds.

The *Add-Back Liability Order* (§ 29) requires the LECs to “submit a plan for refunding amounts owed to customers plus interest.” The Commission has made clear that the LECs must compute interest using one of three interest rates: (1) the IRS interest rate for corporate underpayments, applied when there is “willful misconduct” on the part of the LECs (9.5% average per year);² (2) the IRS interest rate for corporate overpayments, applied when the carrier had “constructive knowledge” that the tariff could be found unlawful (6.5% average per year); or (3) the IRS interest rate for corporate overpayments that exceed \$10,000, applied when the unlawful conduct was the result of a “miscalculat[ion]” resulting in rates that “accidentally

² The average interest rates discussed herein reflect the weighted average IRS interest rate (which changes each quarter) during the relevant time period.

exceed” lawful levels (5% average per year).³ These alternative interest rates and corresponding triggers have been upheld by the D.C. Circuit.⁴

In this case, Commission precedent requires carriers to use the middle interest rate – *i.e.*, the IRS interest rate of overpayments by corporations – which applies where the LECs had “constructive knowledge” and thus “should have known” that their tariffs could be found unlawful.⁵ There is no question that the LECs here had “constructive knowledge” that the Commission’s rules required them to implement add-back. As the Commission explains in the *Add-Back Liability Order* (¶ 19), “add-back had been implicit in the original price cap rules.”

In 1993, the LECs clearly should have known that the Commission’s rules required them to apply add-back. As the D.C. Circuit explained in 1996, the “add-back rule had been implicit in the sharing rules from the beginning.”⁶ “[T]he add-back adjustment [wa]s essential if the sharing and low-end adjustments of the LEC price cap plan [we]re to achieve their intended purpose.”⁷ And the Commission had very clearly explained when it instituted price caps in 1990

³ Memorandum Opinion and Order, *GCI v. ACS*, 16 FCC Rcd. 2834, ¶ 74 (2001) (“*GCI v. ACS*”). See also *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, 17 FCC Rcd. 2020, App. C (2002) (using IRS corporate interest rate to compute refunds); *Section 208 Complaints Alleging Violations of the Commission’s Rate of Return Prescriptions*, 12 FCC Rcd. 4007, App. B (1997) (same).

⁴ *ACS v. FCC*, 290 F.3d 403, 414-15 (D.C. Cir. 2002). In that case, the D.C. Circuit upheld the Commission-adopted alternative interest rates, and the Commission-adopted conditions triggering each interest rate. The D.C. Circuit, however, remanded that case to the Commission to allow the Commission to better explain why the LEC’s conduct in that particular case satisfied the conditions for the interest rate adopted by the Commission. *Id.*

⁵ *GCI v. ACS* ¶ 74. See also *Fourth Order on Reconsideration and Order on Remand, Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, 17 FCC Rcd. 2020, App. C (2002) (using IRS corporate interest rate to compute refunds); *Section 208 Complaints Alleging Violations of the Commission’s Rate of Return Prescriptions*, 12 FCC Rcd. 4007, App. B (1997) (same).

⁶ *Bell Atlantic Tel Cos. v. FCC*, 79 F.3d 1195 (D.C. Cir. 1996).

⁷ Report and Order, *Price Cap Regulation of Local Exchange Carriers Rate-of-Return Sharing*

that the sharing and low-end adjustments should “operate only as one-time adjustments to a single year’s rates, so a LEC would not risk affecting future earnings.”⁸ Moreover, basic mathematics that was obvious to every carrier further confirms that add-back is necessary to ensure that sharing and low-end adjustments affect only a single year’s rates.⁹ As explained by the D.C. Circuit, “without add-back, the sharing adjustment . . . would continue to affect a carrier’s price caps year after year because the carrier’s earnings, rather than reflecting the carrier’s true productivity, would simply reflect the previous year’s sharing obligation.”¹⁰

Even if the LECs could credibly claim that they lacked “constructive knowledge” that they were required to apply add-back *in 1993*, they can make no such claims *for 1994*. By 1994, the Commission already had suspended the LECs’ 1993 tariffs on the grounds that the failure to apply add-back raised serious questions of lawfulness. Moreover, by the time the LECs filed their tariffs in 1994, the Commission had already issued the *Add-Back NPRM*,¹¹ in which the Commission plainly noted that it believed the price cap rules required the application of add-back.¹²

and Lower Formula Adjustment, 10 FCC Rcd. 5656, ¶ 56 (1995) (“*1995 Add-Back Order*”); accord *id.* ¶ 50 (“Without this adjustment . . . the sharing and low-end adjustments would not operate as [the price cap order] intended” and “add-back adjustments are *necessary* to achieve fully the purpose of the sharing and low-end adjustment mechanisms”) (emphasis added); *id.* ¶¶ 32, 56 (The Commission never “intended to eliminate the [add-back rules from the price cap system] for purposes of calculating current year earnings”).

⁸ Second Report and Order, *Policy and Rules Concerning Rates for Dominant Carriers*, 5 FCC Rcd. 6786, ¶ 136 (1990).

⁹ *1995 Add-Back Order* ¶ 28.

¹⁰ *Bell Atlantic*, 79 F.3d at 1205.

¹¹ Notice of Proposed Rulemaking, *Price Cap Regulation of Local Exchange Carriers Rate of Return Sharing And Lower Formula Adjustment*, 8 FCC Rcd. 4415 (1993) (“*Add-Back NPRM*”).

¹² *Add-Back NPRM* ¶ 4 (“we believe that ‘add-back’ is more consistent with the price cap plan as it was adopted”); *id.* ¶ 11 (“[we] believe that [add-back] continues to be an appropriate and

On this record, it is clear that the correct interest rate for computing refunds here is the IRS rate for corporate overpayments. Nonetheless, the LECs assert that they should be permitted to compute refunds using a lower interest rate – *i.e.*, the IRS interest rate for corporate overpayments that exceed \$10,000. But the LECs do not (and cannot) demonstrate that their overcharges satisfy the criteria necessary to trigger those very low interest rates – indeed, they do not even attempt to make that showing. The Commission has made clear that this lower interest rate is reserved only for the very narrow circumstance where the LECs’ overcharges are based on a “miscalculat[ion]” or “accidental[.]” error.¹³ The Commission has further noted that it is unaware of any instance in which that interest rate has been used to compute refunds.¹⁴ The LECs’ decisions to employ add-back when it would increase their rates and not to employ add-back when it would decrease their rates was no miscalculation or accidental error, but a deliberate strategy – taken with full knowledge that doing so likely would trigger refund obligations.

The only arguments the LECs make to support their chosen interest rate are irrelevant. SBC and Sprint focus on whether the IRS corporate “overpayment” or “underpayment” charge should be applied.¹⁵ They conclude that the IRS interest rate for corporate “overpayments”

indeed probably necessary component of the [price cap mechanism]”); *id.* ¶ 15 (“we tentatively conclude that the add-back adjustment should continue to be part of the rate of return calculations of LECs subject to price caps”).

¹³ *GCI v. ACS*, ¶ 74.

¹⁴ *Id.* ¶ 74 (noting that non-existence of any situation in which the Commission has awarded interest at “the rate for large corporate overpayments [those exceeding \$10,000]”). The mere fact that this case involves refunds that exceed \$10,000 is irrelevant. *See id.* ¶¶ 73-74 (rejecting the notion that the amount of refunds has any bearing on the proper IRS interest rate to use when computing refunds).

¹⁵ SBC at 4-5, Sprint at 5-6. BellSouth offers no justification for choosing the lower IRS interest rate for corporate overpayments that exceed \$10,000.

should be applied (*id.*), but they do not even acknowledge that there are *two* IRS overpayment interest rates, much less explain why they satisfy the stringent Commission criteria necessary to qualify for the lowest IRS corporate overhead interest rate, *i.e.*, the IRS interest rate for corporate overpayments that exceed \$10,000. As noted, there was no “miscalculation” or “accidental error” here, and Commission precedent therefore requires the LECs to apply the IRS interest rate for corporate overpayments that do not exceed \$10,000.¹⁶

The LECs make much of Commission orders where the Commission emphasized that refunds for tariff overcharges are not intended to be punitive. But the use of the IRS interest rate for corporate overpayments of less than \$10,000 is not punitive. In fact, in the Commission orders relied on by SBC and Sprint, the Commission adopted a much higher IRS interest rate – the IRS interest rate for *individual* (not corporate) overpayments – and concluded that using such an interest rate was *not* punitive.¹⁷ Clearly, the application of the lower IRS interest rate for corporate overpayments, therefore, is not punitive.

The refund amounts for SBC, BellSouth and Sprint, using the correct interest rate, are shown in Exhibit A, attached hereto.

B. The Commission Should Require BellSouth To Make Refunds Within 90 Days, Rather Than 180 Days.

BellSouth proposes (at 4) to complete the refund process within 6 months after its refund plan is approved. Such a long delay in issuing refunds is unnecessary and inappropriate, as the

¹⁶ The only other issue addressed by the LECs is whether the IRS interest rate for “corporations” or “individuals” should be applied in this proceeding. But again, after concluding that the corporate interest rates apply here, the LECs do not properly address which of the *two* corporate interest rates should be used.

¹⁷ See Memorandum Opinion and Order, *Long-Term Telephone Number Portability Tariff Filings of Ameritech et al.*, 14 FCC Rcd. 17339, ¶¶ 4-5 (1999).

refund plans of Sprint and SBC confirm. Sprint and SBC suggest that they will complete the refund process within 90 days.¹⁸ That is more than enough time to process the required refunds, and the Commission should, accordingly, modify BellSouth's plan to state that the refund process will be complete within 90 days.¹⁹

II. THE COMMISSION SHOULD PRESCRIBE A LAWFUL REFUND PLAN FOR VERIZON.

According to Verizon, by failing to apply add-back in its 1993 and 1994 tariffs, it overcharged customers by more than \$13 million. Verizon at 1-2. Nonetheless, Verizon asserts that it owes no refunds because that amount is offset by "headroom" and "lower formula adjustments." But Verizon's attempt to erase its \$13 million in overcharges with headroom and lower formula adjustments does not withstand scrutiny. As demonstrated below, Verizon's refund calculations misapply headroom and lower formula adjustments in violation of established Commission precedent. Accordingly, Verizon's proposed refund of \$0 must be rejected.

Correcting the errors in Verizon's refund proposal confirms that Verizon actually owes, accounting for all relevant headroom, refunds of about \$10.8 million with interest. Accordingly, the Commission should reject Verizon's refund proposal and should instead prescribe the refund amounts in Exhibits B & C, attached hereto.²⁰

¹⁸ SBC at 6-7; Sprint at 7.

¹⁹ As noted, Verizon claims it owes no refunds and thus has not committed to a date to make refunds. As explained below, Verizon in fact owes more than \$10 million in refunds. Accordingly, the Commission also should require Verizon to make those refunds within 90-days of approving a refund plan for Verizon.

²⁰ Because Verizon claims that it does not owe refunds, it does not apply a particular interest rate. But Verizon states that if it had owed refunds, it would have applied the IRS interest rate for corporate overpayments that exceed \$10,000. Verizon at 16-17. As demonstrated in Part I,

A. Verizon’s Refund Proposal Misapplies “Headroom” Offsets In A Manner That Understates Verizon’s Total Refunds.

The “amount of headroom in a price cap basket represents charges that could have been, but were not, collected from customers.”²¹ Specifically, “headroom” is the difference between a carrier’s price cap index (“PCI”) for a particular “basket” of services – which represents the maximum average revenues that the LEC is permitted to recover for those services – and a carrier’s average price index (“API”) for that basket of services – which represents the average amount of revenue that the LEC actually recovered.²²

AT&T does not object to proper accounting for headroom in computing refunds for failure to apply add-back. But, under established Commission precedent, headroom must be applied on a period-by-period basis and on a basket-by-basket basis. This means that headroom associated with a tariff in a particular time period cannot be used to offset overcharges in a different period, and further that headroom associated with a particular price cap basket cannot be used to offset overcharges in a different price cap basket.²³ Verizon’s proposal violates these fundamental principles.

1. Verizon Unlawfully Applies 1993 Headroom To 1994 Overcharges.

The Verizon companies generally had substantial headroom in the each price cap basket in 1993, which offset a large portion of Verizon’s overcharges for 1993. In 1994, however, the

supra, however, the correct interest rate is the IRS interest rate for cooperate overpayments that do not exceed \$10,000.

²¹ Memorandum Opinion and Order, *800 Data Base Access Tariffs and the 800 Service Management System Tariff and Provision of 800 Services*, 12 FCC Rcd. 8396, ¶ 11 (1997) (“*800 Database Order*”).

²² *Id.*

²³ See *800 Database Order*; Memorandum Opinion and Order, *1993 Annual Access Tariff Filings et al.*, 12 FCC Rcd. 8349 (1997) (“*1993 Tariff Order*”); Order on Reconsideration, *800 Data Base Tariffs et al.*, 12 FCC Rcd. 5188 (1997) (“*800 Database Recon. Order*”).

Verizon companies had little or no headroom that could be used to offset Verizon's add-back overcharges for that year. Rather than recognize its refund obligations for 1994, Verizon's refund proposal attempts to apply "left over" 1993 headroom to offset 1994 add-back overcharges.²⁴ That is patently unlawful.

Verizon has tried this headroom "time shifting" strategy before, and the Commission correctly rejected it. In the *800 Data Base* proceeding, MCI challenged a Verizon (then Bell Atlantic and NYNEX) refund proposal on the grounds that "it would permit [Verizon], effectively, to offset pricing above the adjusted PCI in one part of the tariff year with headroom from other parts of the tariff year."²⁵ The Commission agreed with MCI that Verizon's approach to applying headroom "distorts the headroom calculation" and concluded that carriers must "compare[] rates to price caps at distinct points in time."²⁶ The Commission thus held that Verizon cannot use headroom from different points in the same tariff year to offset overcharges from other points of time in the tariff year. It follows *a fortiori* that Verizon cannot use headroom in one tariff year to offset overcharges in an entirely different tariff year.

2. Verizon Unlawfully Applies Headroom From One Interstate Access Basket To Other Interstate Access Baskets.

Certain Verizon companies had substantial headroom in some price cap baskets, but no headroom in other baskets.²⁷ In another blatantly unlawful attempt to reduce its refund liability,

²⁴ See Verizon at 8-11.

²⁵ *800 Data Base Order* ¶ 10.

²⁶ *Id.* ¶ 13.

²⁷ The Commission's price cap rules allocate the various access services to "baskets" and then prescribe the maximum revenue that LECs can earn in each basket.

Verizon's refund proposal uses "excess" headroom from one price cap basket to offset add-back related overcharges in another price cap basket.²⁸

The Commission's rules make clear, however, that Verizon's average revenues for *each basket* must be at or below Verizon's PCIs for each corresponding basket.²⁹ To the extent that Verizon's average revenues exceed Verizon's PCI for any basket, Verizon is subject to refunds for overcharges associated with that basket, even if Verizon had substantial headroom in other baskets. The Commission has repeatedly rejected attempts by Verizon and other carriers to subsidize overcharges in one basket with headroom from other baskets.³⁰

For example, in the *1993 Tariff Order*, Verizon (then Bell Atlantic) argued that it should be allowed to offset refunds for overcharges associated with particular baskets with headroom from other baskets.³¹ Verizon defended its position on the grounds that it could have charged higher rates for the services in these other baskets, and that it should thus be allowed to use that headroom to offset refund liability associated with overcharges in other baskets.³² The Commission rejected Verizon's argument.

²⁸ Verizon at 2. Specifically, Verizon re-computes its PCIs for each basket with add-back. Verizon then sums together its headroom for all baskets and its overcharges for all baskets and computes the difference to determine its refund liability.

²⁹ See, e.g., Fifth Report And Order And Further Notice Of Proposed Rulemaking, *Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Interexchange Carrier Purchases of Switched Access Services Offered by Competitive Local Exchange Carriers; Petition of U S West Communications, Inc. for Forbearance from Regulation as a Dominant Carrier in the Phoenix, Arizona MSA*, 14 FCC Rcd. 14221, ¶ 13 n.27 (1999) ("The ability of a price cap LEC to raise rates for some services as a result of rate reductions for other services *within the same basket* . . . is referred to as 'headroom'") (emphasis added).

³⁰ See *1993 Tariff Order* ¶¶ 14-18; *800 Data Base Reconsideration Order* ¶¶ 17-18.

³¹ *1993 Tariff Order* ¶ 5.

³² *Id.*

The Commission pointed out that Verizon’s approach is effectively an attempt to retroactively increase rates in baskets where Verizon had headroom in order to recoup amounts it could have earned but for its illegal conduct.³³ But the Supreme Court has rejected that approach: a “company having initially filed the rates and either collected an illegal return or failed to collect a sufficient one must . . . shoulder the hazards incident to its actions including not only the refund of any illegal gain but also its losses where its filed rate is found to be inadequate.”³⁴ The Commission thus rejected Verizon’s attempt to offset refunds for its “illegal gain[s]” in some baskets with offsets from having charged below price cap rates in other baskets.³⁵ The identical reasoning applies here, where Verizon is again seeking to offset refunds for illegal gains in one basket with offsets from having charged below price cap rates in other baskets.

The Commission also recognized that permitting Verizon to offset refunds owed for overcharges in one price cap basket with undercharges in another price cap basket would be inequitable.³⁶ The Commission correctly reasoned that the customers that paid the higher rates for services in the baskets where Verizon had little headroom (and where Verizon thus owes refunds) are not necessarily the same customers that benefited from lower rates associated with services in baskets with substantial headroom. As explained by the Commission, “[w]hile some of the customers of [Verizon] benefited from the greater percentage sharing amounts allocated to the other baskets . . . there is no guarantee that those customers that benefited from the reduced rates arising from the misallocation would be the same ratepayers paying the proposed offset

³³ *Id.* ¶ 15.

³⁴ *FPC v. Tennessee Gas Transmission Co.*, 371 U.S. 145, 152-53 (1962).

³⁵ *1993 Tariff Order* ¶ 15.

³⁶ *Id.* ¶ 18.

because of the constantly changing market place.”³⁷ Verizon’s proposal would “thus have the effect of penalizing some ratepayers for its” unlawful conduct.³⁸ Again, the same reasoning applies here to this case.³⁹

B. Verizon Understates Its Refund Liability For the Verizon-GTE Companies And Verizon-Bell Atlantic Companies.

In addition to the errors discussed above that apply to all of the refund calculations in Verizon’s proposed refund plan, Verizon also committed errors that are unique to the Verizon-GTE companies and to the Verizon-Bell Atlantic companies.

1. Verizon Unlawfully Offsets Overcharges In Certain Verizon-GTE Companies With Headroom Of Other Verizon-GTE Companies.

In 1993 and 1994 each Verizon-GTE company filed a separate interstate access tariff. Refund liability for these carriers, therefore, must be computed separately for each Verizon-GTE company. Verizon’s refund calculations, however, compute refund liability for these companies on an aggregate basis. In so doing, Verizon unlawfully offsets refund liability for one Verizon-GTE company with headroom from other Verizon-GTE companies.⁴⁰

³⁷ *Id.*

³⁸ *Id.*

³⁹ Verizon asserts that if it had known its 1994 tariffs might be subject to refunds for failing to apply add-back, Verizon would have increased its rates for the baskets with substantial headroom. Verizon at 9. Verizon thus concludes that the only way to make it whole is to permit it to offset its refund obligations for certain baskets with headroom from other baskets. But that argument fails because Verizon *did* know *in 1993* that its 1994 tariffs would be subject to refunds for failing to apply add-back. The Commission made that clear when it suspended Verizon’s 1993 tariffs and set them for investigation. Memorandum Opinion and Order Suspending Rates and Designating Issues for Investigation, *1993 Annual Access Tariff Filings*, 8 FCC Rcd. 4960, ¶ 32 (1993).

⁴⁰ Specifically, Verizon computes the refund liability for the GTE companies by summing together the amount that each GTE company’s PCI exceeds the API with add-back, and then reducing that amount by the total headroom for all GTE companies with add-back. By aggregating refund liability and headroom in this way, Verizon is effectively offsetting the

In effect, Verizon's calculations assume that Verizon could lawfully retroactively increase interstate access rates for the Verizon-GTE companies that had headroom after accounting for add-back, thus offsetting refund liability for the Verizon GTE-companies for which Verizon's rates exceeded permissible levels after accounting for add-back. As noted, however, this approach has been rejected by the Commission.⁴¹ Both the Commission and the Supreme Court have made clear that Verizon cannot be permitted to recover offset "illegal gains" by recovering losses associated with the same illegal activity.⁴² And, in any event, permitting Verizon to offset overcharges by one Verizon-GTE company with headroom of another Verizon-GTE company would be inequitable, because different carriers most likely purchased the services from the two companies.⁴³

2. Verizon Unlawfully Offsets Refund Liability For The GTE Companies By Offsetting That Liability With Lower Formula Adjustments.

The majority of the GTE companies were subject to sharing in 1992 and 1993. For these companies, the implementation of add-back decreased their PCIs in 1993 and 1994, triggering refunds to the extent that these carriers' PCIs now exceed their APIs for 1993 and 1994. Some GTE companies, however, were entitled to make lower formula adjustments ("LFAs") in 1992 and 1993. For these carriers, the implementation of add-back increased their PCIs for 1992 and 1993, thus increasing the maximum rate these carriers could have, but did not, charge in 1993 and 1994.

refund liability for one GTE company with headroom available to another GTE company.

⁴¹ See, e.g., *1993 Tariff Order* ¶ 15; *800 Data Base Recon. Order* ¶¶ 17-18.

⁴² Cf. *id.*; *FPC v. Tennessee Gas Transmission Co.*, 371 U.S. at 152-53.

⁴³ Cf. *1993 Tariff Order* ¶ 18.

Verizon claims that it should be permitted to reduce its refund liability by the amount by which the LFA adjustments increased its price caps in 1993 and 1994 after accounting for add-back. In effect, Verizon argues that it should be permitted to implement retroactive rate *increases* in 1993 and 1994 by an amount equal to the PCI increase caused by add-back for the GTE companies that had LFAs in 1992 and 1993. Verizon then suggests that these retroactive rate increases can be used to offset Verizon's total liability for its failure to apply add-back in its 1993 and 1994 tariffs. As discussed, however, the Commission, has repeatedly rejected this methodology, and should again do so here.⁴⁴

In the *1993 Tariff Order* proceeding the Commission found that Verizon (then Bell Atlantic) had incorrectly applied the sharing rules in its 1993 and 1994 tariffs. The Commission, in 1997, ordered Verizon (and other LECs) to re-calculate its rates for 1993 by applying the correct sharing rules. And to the extent that the correction resulted in the carriers' PCIs exceeding their APIs for any basket, the FCC ordered the carriers to refund such overcharges. Verizon pointed out, however, that applying the correct sharing methodology resulted in decreased PCIs for some access revenue baskets and increased PCIs for other access revenue baskets. Verizon argued, therefore, that it should be permitted to offset any refunds for overcharges in some baskets by the amount that their PCIs increased in other baskets.⁴⁵ Simply put, just as Verizon now asserts that it should be permitted to offset refunds by the amount that add-back caused the LFA adjustments to increase its PCIs, Verizon argued in 1997 that it should be permitted to offset refunds by the amount that correcting a different sharing error increased its PCIs.

⁴⁴ See, e.g., *800 Database Order*; *800 Database Recon. Order*; *1993 Tariff Order*.

⁴⁵ *Id.* ¶ 12.

The Commission in the *1993 Tariff Order* correctly rejected the argument advanced by Verizon and SBC. As a threshold matter, the Commission pointed out that the liability order did not “contemplate” “rate increases,”⁴⁶ and that the LECs therefore were barred from seeking offsets for any purported such rate increases. *Id.* Likewise, in this case, the *Add-Back Liability Order* does not contemplate rate increases. On the contrary, it expressly contemplates only rate decreases.⁴⁷

As noted, however, consistent with Supreme Court precedent, the FCC has held that Verizon should not be permitted to offset refunds for its “illegal gains” with offsets having charged below its maximum price caps in those years.⁴⁸ The same reasoning applies in this case. Here, Verizon is again seeking to offset refunds for illegal gains with offsets from having charged below price cap rates in some baskets. As the Commission has held, however, Verizon is required to shoulder the burden of losses associated with its unlawful conduct, and must repay overcharges associated with that conduct.

As discussed, the Commission also rejected Verizon’s attempt to offset refunds by retroactively increasing rates because doing so is inequitable.⁴⁹ As explained by the Commission, customers that paid the higher rates for services in the baskets where Verizon had little headroom (and where Verizon thus owes refunds) are not necessarily the same customers that benefited from lower rates associated with services in baskets with substantial headroom.⁵⁰

⁴⁶ *Id.* ¶ 14.

⁴⁷ *Add-Back Liability Order* ¶ 29 (“We order price cap LECs that implemented a sharing or lower formula adjustment and failed to apply add-back in their 1993 and 1994 access tariffs to . . . compute the amount of any resulting access rate *decreases*”).

⁴⁸ *1993 Tariff Order* ¶ 15 (citing *FPC v. Tennessee Gas Transmission Co.*, 371 U.S. at 152-53).

⁴⁹ *Id.* ¶ 18.

⁵⁰ *Id.* (“[w]hile some of the customers of [Verizon] benefited from the greater percentage sharing

Verizon's proposal would "thus have the effect of penalizing some ratepayers for its" unlawful conduct.⁵¹ The same reasoning applies here. The carriers that purchased interstate access services from Verizon-GTE companies that had sharing obligations – and that are thus subject to refunds – are not necessarily the same carriers that purchased services from Verizon-GTE companies that had LFAs. It would thus be inequitable to permit Verizon to reduce all carriers' refunds by the amount that LFA adjustments may increase Verizon's price cap indices.

3. Verizon Understates Its Refund Liability For Its Bell Atlantic Company By Incorrectly Computing Headroom From July 1, 1994 Through June 30, 1995.

Verizon computes its total headroom for the Bell Atlantic company from July 1, 1994 through June 30, 1995 by taking each tariff transmittal that changed Bell Atlantic's PCIs or APIs during that year-long period and then calculating the headroom for each basket associated with each of these transmittals. Verizon then computes the weighted average of these headroom amounts during that year. Verizon makes a technical error in its calculations. Specifically, when computing headroom associated with a tariff change that increased Verizon's PCIs on March 17, 1995, Verizon mistakenly assumes that the tariff change took effect on March 1, 1995.⁵² By erroneously assuming that the tariff change took effect about two weeks too early, Verizon

amounts allocated to the other baskets . . . there is no guarantee that those customers that benefited from the reduced rates arising from the misallocation would be the same ratepayers paying the proposed offset because of the constantly changing market place").

⁵¹ *Id.*

⁵² See Letter From Joseph DiBella (Verizon) to Marlene H. Dortch (FCC), CC Docket Nos. 93-193, 94-95 (filed September 10, 2004). Verizon's initial refund plan mistakenly stated that these PCI changes were effective on February 14, 1995. Verizon's September 10, 2004 letter purports to correct that error, but that letter incorrectly states that the PCI changes were effective on March 2, 1995, rather than on March 17, 1995.

overstates its headroom for that month by \$1.6 million, thus substantially understating its refund liability for that month.⁵³

Specifically, on February 14, 1995, Verizon submitted a letter to the Commission indicating that it would in the 1994-95 tariff year “true-up Bell Atlantic Price Cap indices for exogenous cost treatment of OPEB SFAS 106 and SFAS 112.”⁵⁴ The February 14 letter included cost support for that true-up and indicated that the tariff changes would take effect in “March 1995.” On February 16, 1995, Verizon filed Transmittal No. 747 to increase its PCIs and rates for the exogenous cost amounts described in the February 14 letter. According to Transmittal No. 747, these exogenous cost increases were to “become effective on March 2, 1995.” But in a letter dated March 2, 1995, Verizon delayed the effective date of Transmittal No. 747 to March 16, 1995, and on March 15, 1995, the Commission suspended Transmittal No. 747 for one day, making the effective date of Transmittal No. 747 March 17, 1995. Because these exogenous cost increases (and corresponding increases in PCIs) were not ultimately effective on March 2, 1995, Verizon cannot take credit for having them in place beginning on March 2, 1995. Rather, Verizon can take credit for them beginning on March 17, 1995, *i.e.*, the date that those tariff changes became effective.

There can be no legitimate claim that the February 14, 1995 letter had the effect of changing Verizon’s tariffs prior to March 17, 1996. As the Commission explained in the *Transmittal 747 Order*,⁵⁵ the February 14, 1996 letter had no independent effect on Verizon’s

⁵³ See Exhibit C-2, attached hereto.

⁵⁴ For the Commission’s convenience, this letter, and also the other related letters and transmittals discussed *infra*, are attached hereto as Exhibit D.

⁵⁵ *Bell Atlantic Telephone Companies Tariff F.C.C. No. 1, Transmittal No. 747*, 10 FCC Rcd. 5027, ¶ 7 (1995) (“*Transmittal 747 Order*”).

tariffs other than to provide cost support and the resulting changes in the PCI indices proposed in Verizon's February 16, 2004 Transmittal No. 747 (which, as noted, did not become effective until March 17, 1995). In that proceeding, MCI opposed Transmittal No. 747 on the grounds that it failed to include the necessary cost support. MCI pointed out that the only cost support for the PCI changes proposed in Transmittal No. 747 were contained in the February 14, 1995 letter filing.⁵⁶ And MCI argued that the Commission's rules require cost support to be included in the transmittal – not in separate letters – because separate letters are not “subject to the same review process as tariffs.”⁵⁷ The Commission agreed with MCI, but made an exception in that particular case, allowing Verizon to satisfy the cost-support requirement by incorporating the February 14 letter by reference into Transmittal No. 747.⁵⁸ On this record it is clear that the February 14, 2004 letter had no independent effect. Rather, the controlling tariff document was Transmittal No. 747, which incorporated by reference the cost data and PCI adjustments described in the February 14, 1995 letter.

Further evidence that the Commission never contemplated that the February 14, 1995 letter would have any independent effect on Verizon's 1994-95 tariffs is that the Commission, when it ultimately suspended the PCI increases described in that letter (on grounds separate from those raised by MCI), suspended only Transmittal No. 747, but did not address Verizon's February 14, 1995 letter.⁵⁹ If the Commission contemplated that the February 14, 1995 letter had an independent effect on Verizon's 1994-1995 PCIs, it would have been necessary for the Commission to address that letter as well. It did not, because Transmittal No. 747, which

⁵⁶ *Id.* ¶ 4.

⁵⁷ *Id.*

⁵⁸ *Id.* ¶ 7.

⁵⁹ *Id.* ¶ 8.

became effective on March 17, 1995, controls Verizon's 1995 PCI increases. The February 14, 1995 letter serves only as cost support for that transmittal.

After removing \$1.6 million from Bell Atlantic's "Total Headroom by Period,"⁶⁰ the revised "Total Headroom by Period" is \$0 for common line, \$22,000 for traffic sensitive, \$1.48 million for trunking, and \$1.22 million for interexchange.⁶¹ Applying this headroom to the refund amounts, the Verizon-Bell Atlantic refund liability for the 1994 tariff period, with interest, is \$9.57.⁶²

⁶⁰ Verizon September 10 Letter, "Exhibit 4 1994 Backup Revised," line titled "Total Headroom By Period" shows \$1.6 million as the weighted average of headroom for March 1, 1995 – March 16, 1995.

⁶¹ See Exhibits C-1 & C-2, attached hereto.

⁶² *Id.*

CONCLUSION

For the foregoing reasons, the Commission should immediately adopt refund plans for SBC, BellSouth, Sprint and Verizon consistent with the changes discussed herein. In the alternative, the Commission bifurcate the proceeding by immediately adopting refund plans for SBC, BellSouth and Sprint with the minor modifications discussed, while continuing to investigate Verizon's proposed plan.

Respectfully submitted,

By: /s/ Judy Sello

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September 13, 2004

EXHIBIT A

(AT&T Comments, CC Docket 93-153, 94-65, September 13, 2004)

**Bell South, SBC, and Sprint Refunds
Comparing LEC Interest Calculations to AT&T Interest Calculations**

	1993		1993		1994		1994		1993 & 1994		1993 & 1994	
	Refund before Interest	Refund w/Interest as Filed*	Refund w/Interest Re-computed**	Understated Refund (Difference)	Refund before Interest	Refund w/Interest Re-computed**	Refund w/Interest as Filed*	Understated Refund (Difference)	Refund w/Interest as Filed*	Refund w/Interest Re-computed**	Refund w/Interest as Filed*	Understated Refund (Difference)
Bell South	\$5,699,492	\$9,853,210	\$11,626,394	(\$1,773,184)	\$6,891,569	\$11,174,804	\$13,140,155	(\$1,965,351)	\$21,028,014	\$24,766,548	\$3,738,534	
SBC - Ameritech	\$2,375,960	\$4,168,960	\$4,846,721	(\$677,761)	\$4,417,968	\$7,245,968	\$8,423,740	(\$1,177,772)	\$11,414,928	\$13,270,460	(\$1,855,532)	
SBC - Pacific Bell	\$0	\$0	\$0	\$0	\$732,113	\$1,201,113	\$1,395,920	(\$194,807)	\$1,201,113	\$1,395,920	(\$194,807)	
SBC - Nevada Bell	\$83,000	\$146,000	\$169,312	(\$23,312)	\$956,646	\$1,568,646	\$1,824,037	(\$255,391)	\$1,714,646	\$1,993,349	(\$278,703)	
Sprint - UTFL	\$570,112	\$985,603	\$1,162,971	(\$177,368)	\$701,760	\$1,137,916	\$1,338,046	(\$200,130)	\$2,123,519	\$2,501,017	(\$377,498)	
Sprint - UTIN	\$225,507	\$389,854	\$460,012	(\$70,158)	\$701,830	\$1,138,030	\$1,338,179	(\$200,149)	\$1,527,884	\$1,798,191	(\$270,307)	
Sprint - UTMW	\$812,138	\$1,404,013	\$1,656,680	(\$252,667)	\$1,447,359	\$2,346,919	\$2,759,679	(\$412,760)	\$3,750,932	\$4,416,360	(\$665,428)	
Sprint - UTMW	\$1,002,664	\$1,733,393	\$2,045,334	(\$311,941)	\$1,652,453	\$2,679,483	\$3,150,732	(\$471,249)	\$4,412,876	\$5,196,066	(\$783,190)	
Sprint - UTOH	\$163,887	\$283,326	\$334,313	(\$50,987)	\$389,876	\$632,190	\$743,377	(\$111,187)	\$915,516	\$1,077,690	(\$162,174)	
Sprint - UTSE	\$250,650	\$346,558	\$511,301	(\$164,743)	\$439,224	\$712,209	\$837,468	(\$125,259)	\$1,058,767	\$1,348,769	(\$290,002)	
TOTAL	\$11,183,410	\$19,310,917	\$22,813,038	(\$3,502,121)	\$18,330,798	\$29,837,278	\$34,951,333	(\$5,114,055)	\$49,148,195	\$57,764,371	(\$8,616,176)	

* LECs' Interest Filed computed based on IRS Interest Rate for corporate overpayments that exceed \$10,000.

** AT&T's Recomputed Interest based on IRS Interest Rate for corporate overpayments less than \$10,000. This results in a 1993 Interest factor of 2.0399 for Interest accrued from 1/1/94 - 12/31/04, and a 1994 Interest factor of 1.9067 for Interest accrued from 1/1/95 - 12/31/04. (See Exhibit A2).

NOTES: BellSouth 'Interest Filed' from its Refund Plan Exhibit 8 Page 1 of 1.

SBC 'Interest Filed' from its Refund Plan Exhibit 7.

Sprint 'Interest Filed' from its Refund Plan Exhibit A and Exhibit B.

AT&T Interest Factor Calculations

Interest Computed based on IRS Interest Rate for Corporate Overpayments Less than \$10,000

Jan. 1994 - Dec. 1998 Tabel of interest rates Page 4, Overpayments

Jan. 1999 - Sep. 2004 page 6

Oct. 2004 - Dec. 2004 same as Jul 2004 - Sept 2004 page 6

Forecasted Collection Date to calculate interest = December 31, 2004 December 31, 2004

1993 Refund Amount 1994 Refund Amount

Principal = \$100 \$100

Start Date	End Date	Interest Rate	Days in Period	Interest Accrued	Interest Accrued
January 1, 1994	March 31, 1994	6.0%	90	\$1.49	
April 1, 1994	June 30, 1994	6.0%	91	\$1.53	
July 1, 1994	September 30, 1994	7.0%	92	\$1.83	
October 1, 1994	December 31, 1994	8.0%	92	\$2.14	
January 1, 1995	March 31, 1995	8.0%	90	\$2.13	\$1.99
April 1, 1995	June 30, 1995	9.0%	91	\$2.48	\$2.31
July 1, 1995	September 30, 1995	8.0%	92	\$2.27	\$2.12
October 1, 1995	December 31, 1995	8.0%	92	\$2.32	\$2.17
January 1, 1996	March 31, 1996	8.0%	91	\$2.34	\$2.19
April 1, 1996	June 30, 1996	7.0%	91	\$2.09	\$1.95
July 1, 1996	September 30, 1996	8.0%	92	\$2.46	\$2.30
October 1, 1996	December 31, 1996	8.0%	92	\$2.51	\$2.34
January 1, 1997	March 31, 1997	8.0%	90	\$2.50	\$2.34
April 1, 1997	June 30, 1997	8.0%	91	\$2.58	\$2.41
July 1, 1997	September 30, 1997	8.0%	92	\$2.66	\$2.49
October 1, 1997	December 31, 1997	8.0%	92	\$2.72	\$2.54
January 1, 1998	March 31, 1998	8.0%	90	\$2.71	\$2.53
April 1, 1998	June 30, 1998	7.0%	91	\$2.44	\$2.28
July 1, 1998	September 30, 1998	7.0%	92	\$2.51	\$2.35
October 1, 1998	December 31, 1998	7.0%	92	\$2.56	\$2.39
January 1, 1999	March 31, 1999	6.0%	90	\$2.18	\$2.04
April 1, 1999	June 30, 1999	7.0%	91	\$2.61	\$2.44
July 1, 1999	September 30, 1999	7.0%	92	\$2.69	\$2.51
October 1, 1999	December 31, 1999	7.0%	92	\$2.74	\$2.56
January 1, 2000	March 31, 2000	7.0%	91	\$2.75	\$2.57
April 1, 2000	June 30, 2000	8.0%	91	\$3.21	\$3.00
July 1, 2000	September 30, 2000	8.0%	92	\$3.31	\$3.09
October 1, 2000	December 31, 2000	8.0%	92	\$3.38	\$3.16
January 1, 2001	March 31, 2001	8.0%	90	\$3.37	\$3.15
April 1, 2001	June 30, 2001	7.0%	91	\$3.04	\$2.84
July 1, 2001	September 30, 2001	6.0%	92	\$2.67	\$2.50
October 1, 2001	December 31, 2001	6.0%	92	\$2.72	\$2.54
January 1, 2002	March 31, 2002	5.0%	90	\$2.24	\$2.10
April 1, 2002	June 30, 2002	5.0%	91	\$2.30	\$2.15
July 1, 2002	September 30, 2002	5.0%	92	\$2.35	\$2.20
October 1, 2002	December 31, 2002	5.0%	92	\$2.38	\$2.23
January 1, 2003	March 31, 2003	4.0%	90	\$1.89	\$1.76
April 1, 2003	June 30, 2003	4.0%	91	\$1.92	\$1.80
July 1, 2003	September 30, 2003	4.0%	92	\$1.97	\$1.84
October 1, 2003	December 31, 2003	3.0%	92	\$1.49	\$1.39
January 1, 2004	March 31, 2004	3.0%	91	\$1.48	\$1.39
April 1, 2004	June 30, 2004	4.0%	91	\$1.99	\$1.86
July 1, 2004	September 30, 2004	3.0%	92	\$1.53	\$1.43
October 1, 2004	December 31, 2004	3.0%	92	\$1.54	\$1.44

Interest Factors = 2.0399 1.9067

Interest compounded daily at IRS corporate overpayment rate.

EXHIBIT B

(AT&T Comments, CC Docket 93-153, 94-65, September 13, 2004)

Exhibit B

Bell Atlantic, GTE, and Contel Refunds

COSA	1993 Annual Filing Refunds before Interest				E = D*2.0399	1994 Annual Filing Refunds before Interest				J = I*1.9067	Total 1993 & 1994 Refunds w/ Interest	
	A	B	C	D=A+B+C		F	G	H	I=F+G+H		K = D + I	L = E + J
	Common Line	Traffic Sensitive	Trunking	TOTAL	1993 TOTAL w/ Interest	Common Line	Traffic Sensitive	Trunking	TOTAL	1994 TOTAL w/ Interest	GRAND TOTAL VERIZON REFUND before INTEREST	GRAND TOTAL VERIZON REFUND with INTEREST
BATR	n/a	n/a	n/a	\$0	\$0	\$3,258,231	\$1,162,837	\$598,462	\$5,019,530	\$9,570,738	\$5,019,530	\$9,570,738
GTAK	n/a	\$10,145	\$1,415	\$11,560	\$23,581	n/a	\$48,847	\$11,583	\$60,430	\$115,222	\$71,990	\$138,803
GTID	n/a	n/a	n/a	\$0	\$0	n/a	\$179,660	\$32,450	\$212,110	\$404,430	\$212,110	\$404,430
GTIN	n/a	\$183,679	\$8,121	\$191,800	\$391,253	n/a	n/a	n/a	\$0	\$0	\$191,800	\$391,253
GTM1	n/a	\$17,505	\$1,923	\$19,428	\$39,631	n/a	n/a	n/a	\$0	\$0	\$19,428	\$39,631
GTM0	n/a	\$15,109	n/a	\$15,109	\$30,821	n/a	n/a	n/a	\$0	\$0	\$15,109	\$30,821
GTWI	n/a	n/a	n/a	\$0	\$0	n/a	\$23,333	n/a	\$23,333	\$44,489	\$23,333	\$44,489
COPA	n/a	\$7,290	\$-470	\$7,760	\$15,830	n/a	n/a	n/a	\$0	\$0	\$7,760	\$15,830
COPT	n/a	n/a	n/a	\$0	\$0	n/a	\$28,113	\$-43,054	\$71,167	\$135,694	\$71,167	\$135,694
TOTAL	\$0	\$233,728	\$11,929	\$245,657	\$501,116	\$0	\$1,442,790	\$685,549	\$5,386,570	\$10,270,573	\$5,632,227	\$10,771,689

NOTES: The BATR amounts before interest are from AT&T's Exhibit D1, Line 3.A4
 The GTE and Contel amounts before interest are from Verizon's Refund Plan, Exhibit 4 West Pages 2 - 6.
 The interest is computed based on IRS Interest Rate for Large Corporate Overpayments less than \$10,000.
 The interest factor for 1993 is 2.0399 and for 1994 is 1.9067 (See AT&T's Exhibit A2).
 The 1993 Interest factor is based on accruing interest from January 1, 1994 thru December 31, 2004.
 The 1994 Interest factor is based on accruing interest from January 1, 1995 thru December 31, 2004.

EXHIBIT C

(AT&T Comments, CC Docket 93-153, 94-65, September 13, 2004)

Exhibit C1

**AT&T's Correction to Bell Atlantic's 1994 Refund Calculation
after allocating to baskets and Headroom Offset**

	<u>Description</u>	<u>Source</u>	<u>Common Line</u>	<u>Traffic Sensitive</u>	<u>Trunking</u>	<u>Interexchange</u>	<u>Total</u>
Ln 1	Additional Sharing after Addback	Verizon Refund Plan Exhibit 4 East	\$3,258,231	\$1,184,919	\$2,083,014	\$346,836	\$6,873,000
Ln 2	Headroom *	AT&T Exhibit D2	\$0	\$22,082	\$1,484,552	\$1,224,883	
Ln 3	Refund after Headroom Offset	Ln 1 - Ln 2	\$3,258,231	\$1,162,837	\$598,462	\$0	\$5,019,530
Ln 4	Total Refund w/ Interest **	AT&T Exhibit B, Col. J					\$9,570,738

* See AT&T's Exhibit D2, Column C.

** Based on a 1994 Interest factor of 1.9067 using the IRS Interest Rate for Large Corporate Overpayments less than \$10,000.

Exhibit C2

**AT&T's Correction to Verizon's Headroom Detail
for BATR 7/1/94 - 6/30/95**

	<u>A</u>	<u>B</u>	<u>C = A - B</u>
	BATR Total Headroom <u>7/1/94 - 6/30/95 *</u>	BATR Headroom 3/1/95 - 3/17/95 <u>(16 Days)**</u>	BATR Corrected Total Headroom <u>7/1/94 - 6/30/95</u>
Common Line	\$715,900	\$715,900	\$0
Traffic Sensitive	\$328,220	\$306,138	\$22,082
Trunking	\$2,025,110	\$540,558	\$1,484,552
Interexchange	\$1,265,518	\$40,635	\$1,224,883
TOTAL HEADROOM	\$4,334,748	\$1,603,231	\$2,731,517

* Verizon Refund Plan Errata Filing 9/10/04, Exhibit 4 1994 Backup, Verizon Headroom Detail (BATR), Total Column

** Verizon Refund Plan Errata Filing 9/10/04, Exhibit 4 1994 Backup Verizon Headroom Detail (BATR), "Letter of 2/14/95" Column

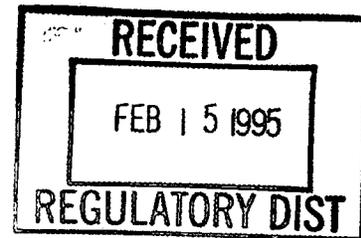
EXHIBIT D

(AT&T Comments, CC Docket 93-153, 94-65, September 13, 2004)

Bell Atlantic Network Services, Inc.
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703 974-5995
FAX 703 974-0780

Michael R. McCullough
Director, Rates & Tariffs
External Affairs

February 14, 1995



William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street N.W.
Washington, D.C. 20554

153263

RE: Submission of Adjustments to Price Cap Indices for SFAS 106 and SFAS 112

Attached are revisions to Bell Atlantic's Price Cap indices to reflect adjustment of Bell Atlantic's exogenous costs for SFAS 106 Other Post Employment Benefits ("OPEB") and SFAS 112 Employers' Post Employment Benefits. This submission is being made to true-up Bell Atlantic Price Cap indices for exogenous cost treatment of OPEB SFAS 106 and SFAS 112 over the remaining 4 months of the current 1994-95 Price Cap tariff periods commencing March 1995 due to deferral of the effective dates of both Bell Atlantic Transmittal No. 690 and 704. The exogenous costs for OPEB and SFAS 112 reflected in this submission for OPEB and SFAS 112 are the same requested in Bell Atlantic Transmittal No. 690 and 704.

This submission is being made consistent with the Commission's Order on Other Post Employment Benefits (DA 94-1613) released December 29, 1994 and its Order on Employers' Post Employment Benefits for SFAS 112 (DA 95-193) released February 9, 1995 pending further investigation by the Commission. No tariff rate changes are being made in this submission.

Paper copies and computer diskettes updating Bell Atlantic's Tariff Review Plan ("TRP") data are being filed concurrently with the Commission's Tariff Division. All correspondence and inquiries associated with this filing should be forwarded to Maureen Keenan at our Washington Office at (202) 392-1189 located at 1133 20th Street N.W., Washington, D.C. 20036.

Michael R. McCullough
(/EE)

¹ The Bell Atlantic telephone companies are Bell Atlantic-Washington-D.C., Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-West Virginia, Inc.; Bell Atlantic-Delaware, Inc.; Bell Atlantic-New Jersey, Inc.; and Bell Atlantic-Pennsylvania, Inc.

Attachments

cc: International Transcription Service

David Nall

Judy Nitsche

Mark Uretsky

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Michael R. McCullough
Director, Rates & Tariffs
External Affairs

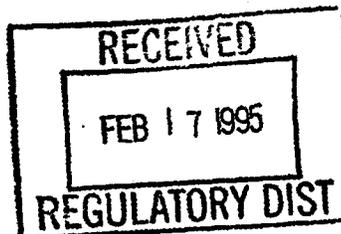
153410

February 16, 1995

DEFER MAR 17 1995

Transmittal No. 747

~~DEFER MAR 01 1995~~



Secretary
Federal Communications Commission
Washington, D.C. 20554

Attention: Common Carrier Bureau

The accompanying tariff material, issued by The Bell Atlantic Telephone Companies and bearing Tariff F.C.C. No. 1, Access Service, is sent to you for filing in compliance with the requirements of the Communications Act of 1934, as amended. This material filed on fourteen days' notice is scheduled to become effective on March 2, 1995. This filing consists of tariff pages as indicated on the following check sheets:

<u>Tariff F.C.C. No.</u>	<u>Check Sheet Revision No.</u>
1	714th Revised Page 1
	167th Revised Page 1.1
	192nd Revised Page 1.3
	13th Revised Page 1.4.1
	119th Revised Page 1.5
	67th Revised Page 1.6

Under authority of Special Permission No. 95-193 of the Federal Communications Commission, Bell Atlantic is revising rates which became effective on February 11, 1995, and as a result have not been in effect for thirty days. These revisions are made in accordance with Bell Atlantic's February 14, 1995 Letter to the Secretary re: Submission of Adjustments to Price Cap indices for SFAS 106 and SFAS 112. In that letter, Bell Atlantic filed revised Price Cap indices to true-up Bell Atlantic's exogenous costs for SFAS 106, Other Post Employment Benefits ("OPEB") and SFAS 112, Employers Post Employment Benefits. These revisions are consistent with and allowed by the Commission's Order DA 94-1613, released December 29, 1994 and DA 95-139, released February 9, 1995, to reflect the recovery of the exogenous amounts over a shorter period of time. In this filing, Bell Atlantic is changing rates to reflect the revised indices.

Support information as specified in Section 61.38 and 61.49 of the Commission's Rules is included with this filing.

We have enclosed a check in the amount of \$565.00 in accordance with the fee program procedures.

The original of this Transmittal letter is being delivered via same day courier to the Mellon Bank in Pittsburgh, Pennsylvania.

Copies of this transmittal have been hand-delivered today to the Commercial Contractor and the Chief, Tariff Review Branch.

Acknowledgement and date of receipt of this filing are requested. A duplicate letter of transmittal is attached for this purpose.

All correspondence and inquiries in connection with this filing should be forwarded to Patricia Koch, Assistant Vice President, External Relations and New Business Issues at 1133 20th Street, N.W., 8th Floor, Washington, DC 20036.

Michael R. McCullough (g)

Attachments to the Original:

Duplicate Letter
Payment Fee
F.C.C. Form 159

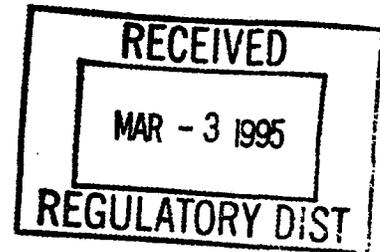
Attachments to the Copies:

Duplicate Letter
Tariff Pages
Support Documentation

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FAX 703 974-0780

Michael R. McCullough
Director, Rates & Tariffs
External Affairs

154268



March 2, 1995

Transmittal No. 752

Secretary
Federal Communications Commission
Washington, D.C. 20554

Attention: Common Carrier Bureau

The accompanying tariff material, issued by The Bell Atlantic Telephone Companies and bearing Tariff F.C.C. No. 1, Access Service, is sent to you for filing in compliance with the requirements of the Communications Act of 1934, as amended. This material filed on less than statutory notice is scheduled to become effective on March 2, 1995. This filing consists of tariff pages as indicated on the following check sheets:

<u>Tariff F.C.C. No.</u>	<u>Check Sheet Revision No.</u>
1	718th Revised Page 1 Supplement No. 153

Under authority of Special Permission No. 95-238 of the Federal Communications Commission, Bell Atlantic is deferring the effective date of the tariff material filed under Transmittal No. 747 from March 2, 1995 to March 16, 1995. Bell Atlantic filed Transmittal No. 747 on February 16, 1995, changing rates to reflect revised Price cap indices for SFAS 106 and SFAS 112. Additional time is required by the Commission to further review issues associated with this filing.

Support information as specified in Section 61.49 of the Commission's Rules is not required with this filing.

We have enclosed a check in the amount of \$565.00 in accordance with the fee program procedures.

The original of this Transmittal letter is being delivered via same day courier to the Mellon Bank in Pittsburgh, Pennsylvania.

Copies of this transmittal have been hand-delivered today to the Commercial Contractor and the Chief, Tariff Review Branch.

Acknowledgement and date of receipt of this filing are requested. A duplicate letter of transmittal is attached for this purpose

All correspondence and inquiries in connection with this filing should be forwarded to Patricia Koch, Assistant Vice President, External Relations and New Business Issues at 1133 20th Street, N.W., 8th Floor, Washington, DC 20036.

Michael R. McCullough (g)

Attachments to the Original:

Duplicate Letter
Payment Fee
F.C.C. Form 159

Attachments to the Copies:

Duplicate Letter
Tariff Pages

ACCESS SERVICE CHECK SHEET

Title Pages 1 and 2 and Pages 1 to 979 inclusive of this tariff are effective as of the date shown. Original and revised pages as named below and Supplement Nos. 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 148, 149, 150, 151, 152, and 153(N) contain all changes from the original tariff that are in effect on the date hereof.

<u>Page</u>	<u>Number of Revision Except as Indicated</u>	<u>Page</u>	<u>Number of Revision Except as Indicated</u>	<u>Page</u>	<u>Number of Revision Except as Indicated</u>
Title 1	2nd	16	5th	43.1	Original
Title 2	2nd	17	7th	44	5th
1	719th*	18	13th	45	2nd
1.1	168th	18.1	Original	46	Original
1.2	135th	19	9th	47	3rd
1.2.1	22nd	20	15th	47.1	2nd
1.3	194th	20.1	5th	47.2	2nd
1.4	120th	20.2	4th	48	2nd
1.4.1	13th	20.3	3rd	49	1st
1.5	119th	21	2nd	50	1st
1.6	68th	22	Original	51	9th
1.7	43rd	23	1st	51.1	Original
1.8	165th	24	6th	52	6th
1.9	69th	25	Original	53	16th
1.10	44th	26	Original	53.1	3rd
1.11	17th	27	2nd	53.2	1st
1.12	54th	28	2nd	53.3	Original
1.13	20th	28.1	Original	54	4th
2	Original	29	2nd	55	Original
3	4th	30	Original	56	3rd
4	8th	31	Original	56.1	7th
5	10th	32	Original	57	16th
6	8th	33	Original	57.1	4th
6.1	6th	34	Original	58	12th
6.2	2nd	35	9th	59	9th
7	11th	35.1	2nd	60	12th
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9	10th	37	7th	62	7th
10	18th	38	1st	62.1	5th
11	18th	39	7th	63	7th
12	3rd	39.1	8th	64	Original
13	2nd	40	3rd	65	3rd
14	4th	41	8th	66	2nd
15	2nd	41.1	2nd	67	7th
15.1	4th	42	6th	67.1	2nd
15.2	1st	43	2nd	68	2nd
				69	6th

(This page filed under Transmittal No. 752)

*New or Revised Pages

Issued: March 1, 1995

Effective: March 2, 1995

Edward D. Young, III, Vice President
1310 North Court House Road, Arlington, Virginia 22201

ACCESS SERVICE

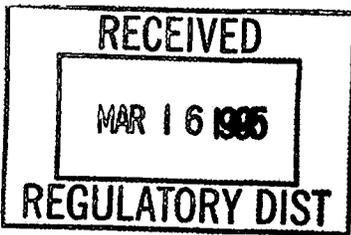
Under authority of Special Permission No. 95-238 of the Federal Communications Commission, the effective date of material filed under Transmittal No. 747 is deferred from March 2, 1995 to March, 16, 1995. Transmittal No. 747 was originally filed on February 16, 1995.

The following tariff pages, filed under Transmittal No. 747 are affected by this Supplement:

<u>Revision Number</u>	<u>Page</u>
40th	83.24
43rd	248
15th	248.1
7th	248.3
15th	253.1
8th	253.2
9th	253.3
49th	254
14th	368
16th	369
49th	370
34th	371
30th	372
49th	475
15th	478
32nd	498
37th	498.1
27th	498.2
13th	498.3
37th	499
25th	500
14th	501.1

Issued: March 1, 1995

Vice President
1310 North Court House Road, Arlington, Virginia 22201



155243

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

DA 95-497

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

**MEMORANDUM OPINION AND ORDER
SUSPENDING RATES**

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

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

I. INTRODUCTION

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

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

II. BACKGROUND

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

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

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

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

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

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

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

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

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

III. POSITIONS OF THE PARTIES

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

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

⁸ MCI Petition at 4-8.

⁹ Id. at 5.

¹⁰ Id. at 8-9.

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

¹² Bell Atlantic Reply at 1.

¹³ Id. at 4.

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

III. DISCUSSION

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

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

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

¹⁵ Id.

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

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

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

IV. ORDERING CLAUSES

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

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

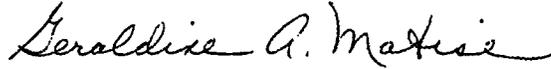
11. IT IS FURTHER ORDERED that Bell Atlantic SHALL INCLUDE A STATEMENT in all subsequent transmittals revising rates indicating whether, and to what extent, the price change is predicated upon the exogenous cost claim set forth in Transmittal No. 747.¹⁹

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

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

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

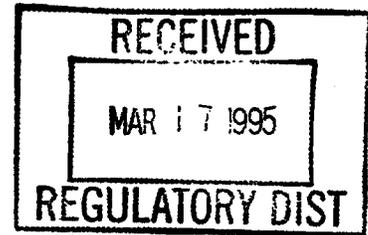
FEDERAL COMMUNICATIONS COMMISSION



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

Bell Atlantic Network Services, Inc.
One Bell Atlantic Plaza
1310 North Court House Road
4th Floor
Arlington, Virginia 22201
703 974-5995
FAX 703 974-0780

Michael R. McCullough
Director, Rates & Tariffs
External Affairs



March 16, 1995

155265

Transmittal No. 758

Secretary
Federal Communications Commission
Washington, D.C. 20554

Attention: Common Carrier Bureau

The accompanying tariff material, issued by The Bell Atlantic Telephone Companies and bearing Tariff F.C.C. No. 1, Access Service, is sent to you for filing in compliance with the requirements of the Communications Act of 1934, as amended. This material filed on less than statutory notice is scheduled to become effective on March 17, 1995. This filing consists of tariff pages as indicated on the following check sheets:

<u>Tariff F.C.C. No.</u>	<u>Check Sheet Revision No.</u>
1	722nd Revised Page 1 Supplement No. 154

Pursuant to the Commission's Memorandum Opinion and Order, DA 95-497, released March 15, 1994, the effective date of tariff material filed under Transmittal No. 747 on February 16, 1995, is suspended for one day from March 16, 1995, to March 17, 1995.

Support information as specified in Section 61.49 of the Commission's Rules is not required with this filing.

We have enclosed a check in the amount of \$565.00 in accordance with the fee program procedures.

The original of this Transmittal letter is being delivered via same day courier to the Mellon Bank in Pittsburgh, Pennsylvania.

Copies of this transmittal have been hand-delivered today to the Commercial Contractor and the Chief, Tariff Review Branch.

Acknowledgement and date of receipt of this filing are requested. A duplicate letter of transmittal is attached for this purpose.

All correspondence and inquiries in connection with this filing should be forwarded to Patricia Koch, Assistant Vice President, External Relations and New Business Issues at 1133 20th Street, N.W., 8th Floor, Washington, DC 20036.

Michael R. McCullough (g)

Attachments to the Original:

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Payment Fee
F.C.C. Form 159

Attachments to the Copies:

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Tariff Pages

ACCESS SERVICE CHECK SHEET

Title Pages 1 and 2 and Pages 1 to 979 inclusive of this tariff are effective as of the date shown. Original and revised pages as named below and Supplement Nos. 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 148, 149, 150, 151, 152, 153, and 154(N) contain all changes from the original tariff that are in effect on the date hereof.

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(This page filed under Transmittal No. 758)

*New or Revised Pages

Issued: March 16, 1995

Effective: March 17, 1995

Edward D. Young, III, Vice President
1310 North Court House Road, Arlington, Virginia 22201

ACCESS SERVICE

Pursuant to the Commission's Memorandum Opinion and Order DA 95-497, released March 15, 1995, the effective date of material filed under Transmittal No. 747 is suspended from one day from March 16, 1995 to March, 17, 1995. Transmittal No. 747 was originally filed on February 16, 1995.

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14th	501.1

Issued: March 16, 1995

Vice President
1310 North Court House Road, Arlington, Virginia 22201