

DOCKET FILE COPY ORIGINAL

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

In the Matter of)
)
 Request Of Duo County Telephone Cooperative,)
 Inc., For Authority To Include In Its Rate Base)
 The Interstate Portion Of The Prepaid Post-)
 Employment Health Benefits Recorded In)
 Account 1410, Other Noncurrent Assets)
)
)
 Request Of Riviera Telephone Company, Inc.,)
 For Authority To Include In Its Rate Base The)
 Interstate Portion Of The Prepaid Post-)
 Employment Health Benefits Recorded In)
 Account 1410, Other Noncurrent Assets)
)
)
 Request Of Central Texas Telephone)
 Cooperative, Inc., For Authority To Include In Its)
 Rate Base The Interstate Portion Of The Prepaid)
 Post-Employment Health Benefits Recorded In)
 Account 1410, Other Noncurrent Assets)
)
)
 Request Of Big Bend Telephone Cooperative,)
 Inc., For Authority To Include In Its Rate Base)
 The Interstate Portion Of The Prepaid Post-)
 Employment Health Benefits Recorded In)
 Account 1410, Other Noncurrent Assets)
)

WC Docket No. 06-183

WC Docket No. 07-19

WC Docket No. 07-20

WC Docket No. 07-33

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Request by Brazos Telephone Cooperative, Inc.;)
 Cap Rock Telephone Cooperative, Inc.; Cumby)
 Telephone Cooperative, Inc.; Five Area) WC Docket No. 07-150
 Telephone Cooperative, Inc.; North Central)
 Telephone Cooperative, Inc.,; and Wes-Tex)
 Telephone Cooperative, Inc. for Authority to)
 Include in Their Rate Bases the Interstate Portion)
 of Prepaid Post-Retirement Health Benefits)
)

MEMORANDUM OPINION AND ORDER

Adopted: February 1, 2008

Released: February 1, 2008

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, we consider separate letter requests submitted by Duo County Telephone Cooperative, Inc. (Duo County),¹ Riviera Telephone Company, Inc. (Riviera),² Central Texas Telephone Cooperative, Inc. (Central Texas),³ Big Bend Telephone Cooperative, Inc. (Big Bend),⁴ Brazos Telephone Cooperative, Inc. (Brazos),⁵ Wes-Tex Telephone Cooperative, Inc. (Wes-Tex),⁶ Five Area Telephone Cooperative, Inc. (Five Area),⁷ North Central Telephone Cooperative, (North Central),⁸ Cap Rock Telephone Cooperative (Cap Rock),⁹ and Cumby Telephone Cooperative, Inc. (Cumby)¹⁰ seeking

¹ Letter from Daryl L. Hammond, Vice-President/Chief Financial Officer, Duo County Telephone Cooperative, Inc., to Albert Lewis, Acting Chief, Pricing Policy Division, FCC (filed September 21, 2006).

² Letter from Bill C. Colston, Jr., President/General Manager, Riviera Telephone Company, Inc., to Albert Lewis, Acting Chief, Pricing Policy Division, FCC (filed January 17, 2007).

³ Letter from Jamey Wigley, General Manager, Central Texas Telephone Cooperative, Inc., to Albert Lewis, Acting Chief, Pricing Policy Division, FCC (filed January 17, 2007).

⁴ Letter from Joan Johnson, Chief Financial Officer, Big Bend Telephone Cooperative, Inc., to Albert Lewis, Acting Chief, Pricing Policy Division, FCC (filed Jan. 26, 2007).

⁵ Letter from Richard D. Adams, Executive Vice President/General Manager, Brazos Telephone Cooperative, Inc., to Albert Lewis, Acting Chief, Pricing Policy Division, FCC (filed July 18, 2007).

⁶ Letter from Bob Wilson, Manager, Wes-Tex Telephone Cooperative, Inc., to Albert Lewis, Acting Chief, Pricing Policy Division, FCC (filed June 15, 2007).

⁷ Letter from Candy Vandevender, Executive Vice President/General Manager, Five Area Telephone Cooperative, Inc., to Albert Lewis, Acting Chief, Pricing Policy Division, FCC (filed June 15, 2007).

⁸ Letter from F. Thomas Rowland, President/CEO, North Central Telephone Cooperative, to Albert Lewis, Acting Chief, Pricing Policy Division, FCC (filed Jun 15, 2007).

⁹ Letter from Jim Whitefield, Executive Vice President/General Manager, Cap Rock Telephone Cooperative, to Albert Lewis, Acting Chief, Pricing Policy Division, FCC (filed June. 15, 2007).

¹⁰ Letter from Karen Zimmerman, General Manager, Cumby Telephone Cooperative, Inc., to Albert Lewis, Acting Chief, Pricing Policy Division, FCC (filed June 15, 2007).

authority to include in their respective rate bases the interstate portion of the prepaid post-employment health benefits recorded in Account 1410, Other noncurrent assets. As discussed below, we grant the ten requests.

II. BACKGROUND

2. On December 26, 1991, the Common Carrier Bureau (Bureau) released an order that required carriers to adopt a new accounting standard issued by the Financial Accounting Standards Board -- *Statement of Financial Accounting Standards No. 106, Employers' Accounting for Postretirement Benefits Other Than Pensions* (SFAS-106).¹¹ On May 4, 1992, the Bureau released Responsible Accounting Officer Letter No. 20, which provided guidance on the accounting and rate base treatment of certain postretirement benefits (OPEBs) recorded pursuant to SFAS-106.¹² RAO Letter 20 instructed carriers to record unfunded OPEB liabilities in Account 4310, Other long-term liabilities, and to record prepaid OPEBs in Account 1410, Other noncurrent assets.¹³ RAO Letter 20 also instructed carriers to deduct OPEB liabilities recorded in Account 4310 from the rate base and to add prepaid OPEB assets recorded in account 1410 to the rate base.¹⁴

3. In June 1992, several carriers filed applications for review of RAO Letter 20. In an order and notice of proposed rulemaking released March 7, 1996, the Commission affirmed RAO Letter 20's accounting instructions, vacated the ratemaking instructions, and adopted an NPRM proposing amendments to Part 65, Subpart G of the Commission's rules, to address the ratemaking treatment of OPEBs.¹⁵ The Commission found that RAO Letter 20 exceeded the Bureau's delegated authority to the extent that it directed exclusions from and additions to the rate base for which the Part 65 rules do not specifically provide.¹⁶ In the NPRM it proposed, however, to adopt the same ratemaking treatment that had been set forth in RAO Letter 20.¹⁷

4. On February 20, 1997, the Commission released an order amending Part 65 with regard to the ratemaking treatment of OPEBs.¹⁸ With regard to OPEB liabilities recorded in Account 4310, the Commission adopted the RAO Letter 20 position, i.e., carriers were required to deduct such liabilities from the rate base.¹⁹ With regard to amounts recorded in Account 1410, however, the Commission found that its current rules were adequate to determine what, if any, of the assets recorded in Account 1410

¹¹ *Notification of Intent to Adopt Statement of Financial Accounting Standards No. 106, Employers' Accounting for Postretirement Benefits Other Than Pensions*, AAD 91-80, Order, 6 FCC Rcd 7560 (CCB 1991). The Common Carrier Bureau is now the Wireline Competition Bureau.

¹² *Uniform Accounting for Postretirement Benefits Other Than Pensions in Part 32*, 7 FCC Rcd 2872 (CCB 1992) (RAO Letter 20).

¹³ *Id.* OPEBs are postretirement benefits other than pensions. See *1993 Annual Access Tariff Filings Phase 1, 1994 Annual Access Tariff Filings*, CC Docket Nos. 93-193, *et al.*, Order Terminating Investigation, 20 FCC Rcd 7672, 7673, para. 1 (2005)(*2005 OPEBs Tariff Order*). The *2005 OPEBs Tariff Order* contains a comprehensive discussion of the regulatory treatment of OPEBs by the Commission, 1991 to present.

¹⁴ RAO Letter 20.

¹⁵ *Responsible Accounting Officer Letter 20, Uniform Accounting for Postretirement Benefits Other Than Pensions in Part 32, Amendments to Part 65, Interstate Rate of Return Prescription Procedures and Methodologies, Subpart G, Rate Base*, CC Docket No. 96-22, AAD 92-65, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 11 FCC Rcd 2957 (1996).

¹⁶ *Id.* at 2961, para. 25.

¹⁷ *Id.* at 2962-63, paras. 30-34.

¹⁸ *Responsible Accounting Officer Letter 20, Uniform Accounting for Postretirement Benefits Other Than Pensions in Part 32, Amendments to Part 65, Interstate Rate of Return Prescription Procedures and Methodologies, Subpart G, Rate Base*, CC Docket No. 96-22, AAD 92-65, Report and Order, 12 FCC Rcd 2321 (1997).

¹⁹ *Id.* at 2327, para. 18.

should be included in the rate base. The Commission held that, if a carrier could show that any of its assets recorded in Account 1410 (including prepaid OPEB amounts) meet the used-and-useful standard, those assets would be allowable in the rate base.²⁰ Nevertheless, section 65.820(c) of the rules provides that Account 1410 amounts can be included in the rate base “only to the extent that they have been specifically approved by this Commission for inclusion.”²¹

5. On March 14, 2006, the Commission approved a request by Roosevelt County Rural Telephone Cooperative Inc. (Roosevelt), to include in its rate base the interstate portion of prepaid post-retirement health benefits recorded in Account 1410, Other noncurrent assets.²² The Commission concluded that Roosevelt had demonstrated that the prepaid OPEBs costs recorded in Account 1410 met the used-and-useful standard.²³

III. DISCUSSION

6. As was the case in the Commission’s consideration of Roosevelt’s requested accounting treatment, each carrier whose petition is addressed in this order offers post-retirement benefits to its employees.²⁴ Each carrier’s health and/or life insurance benefit(s) are funded through a pre-funding trust sponsored by the National Telephone Cooperative Association (NTCA).²⁵ The table below shows the prepaid post-retirement benefits for each carrier and the interstate portion of that amount as of the stated dates.²⁶ In accordance with section 65.820(c) of the Commission’s rules, these carriers seek approval to include the interstate portion of these prepaid OPEBs in their respective rate bases, beginning with the date the prepayments were made.²⁷ Each carrier states that the prepayments associated with the OPEB costs will reduce future expenses, and includes a memorandum from an NTCA Benefits employee confirming the reduction in expenses.²⁸

²⁰ *Id.* at 2325, para. 12.

²¹ 47 C.F.R. § 65.820(c).

²² *Roosevelt County Rural Telephone Cooperative, Inc., Petition to Include the Interstate Portion of a Prepaid Accumulated Post-Retirement Benefit Obligation, Recorded in Account 1410, in the Rate Base*, WCB/Pricing 05-31, Order, 21 FCC Rcd 2880 (2006) (*Roosevelt Order*).

²³ *Id.* at 2882, para. 7.

²⁴ Duo County, Riviera, Central Texas, Big Bend, Cap Rock, Cumby, and Wes-Tex offer only health benefits. Brazos, North Central, and Five Area offer health and life insurance benefits.

²⁵ Duo County Letter at 2; Riviera Letter at 2; Central Texas Letter at 2; Big Bend Letter at 2; Cap Rock Letter at 2; Cumby Letter at 2; Brazos Letter at 2; North Central, Letter at 1-2; Five Area Letter at 1; Wes-Tex Letter at 1.

²⁶ The financial data for Duo County, Riviera, Central Texas, and Big Bend are as of December 31, 2005, the Wes-Tex data are as of June 30, 2006, and the remainder are as of December 31, 2006.

²⁷ Duo County Letter at 2; Riviera Letter at 2; Central Texas Letter at 2; Big Bend Letter at 2; Cap Rock Letter at 2-3; Cumby Letter at 3; Brazos Letter at 2; North Central, Letter at 3; Five Area Letter at 2; Wes-Tex Letter at 2-3.

²⁸ Duo County Letter at 3 and Attachment; Riviera Letter at 3 and Attachment; Central Texas Letter at 3 and Attachment; Big Bend Letter at 3 and Attachment; Cap Rock Letter at 2 and Attachment; Cumby Letter at 2 and Attachment; Brazos Letter at 2 and Attachment; North Central Letter at 2 and Attachment; Five Area Letter at 2 and Attachment; Wes-Tex Letter at 2. and Attachment.

Carrier	OPEB Balance	Interstate Portion
Duo County	\$ 780,187	\$ 228,800
Riviera	\$ 144,733	\$ 53,000
Central Texas	\$ 163,173	\$ 54,000
Big Bend	\$ 476,429	\$ 188,000
Brazos	\$ 1,560,000	\$ 431,430
Wes-Tex	\$ 340,916	\$ 77,883
Five Area	\$ 709,234	\$ 229,481
North Central	\$ 5,720,823	\$ 1,223,355
Cap Rock	\$ 1,654,824	\$ 523,653
Cumby	\$ 593,898	\$ 192,458

7. Under the Commission's rules, noncurrent assets recorded in Account 1410 may be included in the rate base when a carrier makes a showing that these assets are used and useful in the provision of telecommunications services.²⁹ As the Commission explained in the *Roosevelt Order*, the treatment sought for prepaid OPEBs is similar to the Commission's treatment of prepaid pension costs. A certain amount of prepaid pension costs are allowed in the rate base because pension fund prepayments included in the rate base in excess of the cost calculation earn a return that benefits the ratepayer by reducing later expenses. Consistent with the evidence before the Commission in the *Roosevelt Order*, the NTCA memoranda here explain that these prepaid health and life insurance costs will reduce future expenses, thus benefiting ratepayers.³⁰ In this regard, there is no distinction in the ratemaking considerations between the prepaid life insurance and the prepaid health insurance that was presented in *Roosevelt*. We conclude that Duo County, Riviera, Central Texas, Big Bend, Brazos, Wes-Tex, Five Area, North Central, Cap Rock, and Cumby have demonstrated that the prepaid OPEBs costs recorded in Account 1410 meet the used-and-useful standard. Accordingly, we grant the unopposed requests of Duo County, Riviera, Central Texas, Big Bend, Brazos, Wes-Tex, Five Area, North Central, Cap Rock, and Cumby to include the interstate portion of the specified health and life insurance OPEBs costs recorded in Account 1410 in their respective rate bases beginning with the date the prepayments were made.

IV. ORDERING CLAUSES

8. ACCORDINGLY, IT IS ORDERED, pursuant to sections 1, 4(i), 4(j), 201-205, 218, 220, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i)-(j), 201-205, 218, 220, and 403, Part 65 of the Commission's rules, 47 C.F.R. Part 65, and sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.92 and 0.291, that the requests by Duo County Telephone Cooperative, Inc., Riviera Telephone Company, Inc., Central Texas Telephone Cooperative, Inc., Big Bend Telephone Cooperative, Inc., Brazos Telephone Cooperative, Inc., Wes-Tex Telephone

²⁹ 47 C.F.R. § 65.820(c).

³⁰ See *supra* note 28.

Cooperative, Inc., Five Area Telephone Cooperative, Inc., North Central Telephone Cooperative, Cap Rock Telephone Cooperative, and Cumby Telephone Cooperative, Inc., to include the interstate portion of their prepaid postretirement benefits other than pensions recorded in Account 1410 in their rate bases ARE GRANTED as set forth herein.

9. IT IS FURTHER ORDERED, pursuant to section 1.103(a) of the Commission's rules, 47 C.F.R. § 1.103(a), that this order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION



Marcus Maher
Associate Chief, Wireline Competition Bureau