

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

CC Docket No. 94-139

In the Matter of

AT&T Communications
Tariff F.C.C. No. 1 and 13
Transmittal Nos. 7322 and 7848

Bell Atlantic Telephone Companies
Tariff F.C.C. No. 1
Transmittal Nos. 704 and 747

ORDER DESIGNATING ISSUES FOR INVESTIGATION

Adopted: November 29, 1995; Released: November 30, 1995

Direct Cases Due: January 2, 1996

Comments On Direct Cases Due: January 17, 1996

Rebuttals Due: January 29, 1996

By the Chief, Common Carrier Bureau:

I. INTRODUCTION

1. In this Order, the Common Carrier Bureau (Bureau) designates issues in its investigation of claims for exogenous treatment under price cap regulation of amounts associated with implementation of Statement of Financial Accounting Standards 112 (SFAS-112). On November 28, 1994, the Bureau initiated this investigation upon suspending AT&T Communications (AT&T) Transmittal No. 7322, which

proposed to increase certain rates and AT&T's price cap indices (PCIs) to account for SFAS-112 costs, which AT&T asserted should be treated as exogenous under the Commission's price cap rules.¹ On December 14, 1994, the Bureau's Tariff Division suspended and included in this investigation AT&T's Transmittal No. 7848, which increased rates to the maximum amount permitted by the PCI "increases created in Transmittal No. 7322."² The Bell Atlantic Telephone Companies' (Bell Atlantic) Transmittal Nos. 704 and 747 raised similar issues and were thus suspended and included in the pending investigation of SFAS 112 exogenous costs.³ In each of these Orders, the tariffs were suspended and accounting orders imposed in the event the carriers' proposed rates were later found to be unreasonable.

II. BACKGROUND

A. SFAS-112

2. In November 1992, the Financial Accounting Standards Board (FASB)⁴ adopted Statement of Financial Accounting Standards No. 112 (SFAS-112), which is entitled "Employers' Accounting for Postemployment Benefits."⁵ For those companies that follow generally accepted accounting principles (GAAP), SFAS-112 established new financial accounting and reporting requirements⁶ for fiscal years beginning after December 15, 1993, for any employer offering so-called "postemployment benefits" to its employees. Since 1985, the Commission has followed a policy of conforming regulatory accounting for carriers to GAAP, including new standards ordered by the FASB, unless adoption of the principle or practice conflicts with the Commission's regulatory objectives.⁷ The Commission mandated implementation of SFAS-112 for Part 32 accounting for postemployment benefits on or before January 1, 1994.⁸

3. For SFAS-112 accounting purposes, postemployment benefits are benefits provided to former or inactive employees, their beneficiaries, and covered dependents. Inactive

¹ AT&T Communications Tariff F.C.C. No. 1, Transmittal No. 7322, CC Docket No. 94-139, Memorandum Opinion and Order Suspending Rates, 9 FCC Rcd 7228 (Com. Car. Bur. 1994).

² AT&T Communications Tariff F.C.C. Nos. 1 and 13, Transmittal No. 7848, CC Docket No. 94-139, Memorandum Opinion and Order, 10 FCC Rcd 899 (Com. Car. Bur. 1994).

³ Bell Atlantic Tariff F.C.C. No. 1, Transmittal No. 704, CC Docket No. 94-139, Memorandum Opinion and Order Suspending Rates, 10 FCC Rcd 2942 (Com. Car. Bur. 1995); Bell Atlantic Telephone Companies F.C.C. Tariff No. 1, Transmittal No. 747, CC Docket Nos. 94-139 and 94-157, Memorandum Opinion and Order Suspending Rates, 10 FCC Rcd 5025 (Com. Car. Bur. 1995).

⁴ The FASB is the authoritative standard-setting body for the accounting practices that are used in the American business community.

⁵ These benefits are distinguished from postretirement benefits other than pensions (OPEBs), which are accounted for pursuant to FASB's Statement of Financial Accounting Standards No. 106, "Employers' Accounting for Postretirement Benefits Other Than Pensions." OPEBs typically consist of postretirement health and dental care benefits and life insurance.

⁶ SFAS-112 amended FASB Statement Nos. 5 and 43 to address the accounting of postemployment benefits. Prior to the adoption of SFAS-112, FASB Statement No. 5, "Accounting for Contingencies," did not address accounting for employment-related costs and FASB Statement No. 43, "Accounting for

Compensated Absences," only addressed accounting procedures for amounts paid to active employees while on a compensated absence, specifically omitting all other long-term fringe benefits and postemployment benefits from the statement's coverage. SFAS-112 amended FASB Statement No. 5 to include the accounting for postemployment benefits as loss contingencies. Accordingly, FASB Statement No. 5 now directs employers to recognize the estimated cost of postemployment benefits not addressed by FASB Statement No. 43 or other FASB Statements when it is probable that an asset has been impaired or a liability has been incurred, and the loss can be reasonably estimated. In addition, SFAS-112 amended FASB Statement No. 43 to direct employers to accrue a liability for postemployment benefits to former or inactive employees prior to retirement if *all* of the following conditions are met: 1) the employer's obligation relating to employees' rights to receive compensation for future absences is attributable to employees' services already rendered; 2) the obligation relates to rights that vest or accumulate; 3) payment of the compensation is probable; and 4) the amount can be reasonably estimated.

⁷ See Section 32.16 of the Commission's rules, 47 C.F.R. § 32.16.

⁸ RAO Letter 22, 8 FCC Rcd 4111 (Com. Car. Bur. 1993)(RAO Letter 22).

employees are those who are not currently rendering service to the employer but have not been terminated. They include employees who have been laid off or are on disability leave, regardless of whether they are expected to return to active status. Benefits may be provided to former or inactive employees in cash or in kind and may be paid as a result of a disability, layoff, death, or other event. Postemployment benefits include, but are not limited to, salary continuation, supplemental unemployment benefits, severance benefits, disability-related benefits (including workers' compensation), job training and counseling, and continuation of benefits such as health care benefits and life insurance coverage. SFAS-112 does not apply to postemployment benefits provided through a pension or postretirement plan, individual deferred compensation arrangements, special or contractual termination benefits, and stock compensation plans.

4. Prior to the adoption of SFAS-112, employers' methods of accounting for the costs of postemployment benefits varied. Some employers accrued the estimated costs of those benefits over the related service periods of active employees. Other employers applied a terminal accrual approach and recognized the estimated cost of those benefits on the date of the event giving rise to the payment of the benefits (e.g., the death, disability, or layoff of an employee). Still other employers recognized the costs of postemployment benefits when they were paid, i.e., on a cash basis.

5. In SFAS-112, FASB concluded that postemployment benefits are associated with employee compensation and are provided in exchange for service and should therefore be recognized on an accrual basis as they are earned by the employee rather than on a cash or "pay as you go" basis, or in some other manner.⁹ SFAS-112 thus directs companies that follow GAAP to implement accrual accounting for postemployment benefit expenses, treating such benefits as a form of deferred compensation earned by employees during their working years. The costs of postemployment benefits must be recognized during the years the benefits are earned, rather than at the time of the event giving rise to the payment of benefits or during the years when the amounts of the benefits are actually paid by the company. SFAS-112 accounts for the employer's forecasted liability for postemployment benefits applicable to the current work force.

6. SFAS-112 also recognizes two types of postemployment benefits amounts: the "ongoing" amount and the "transition" amount. The ongoing amount represents the accrual accounting of postemployment benefits that are booked (i.e., recognized on the company's financial

records) when the employee earns the benefits. The transition amount refers to the unfunded accrued amount of postemployment benefits that a company would have accrued on its books as of the effective date of the accounting change regarding these benefits if the company had been operating under the accrual method all along. In addition to the change from cash-basis to accrual accounting, SFAS-112 requires companies to book the amount of their unfunded obligation for postemployment benefits to active and inactive or former employees existing as of the date of their adoption of SFAS-112.

7. SFAS-112 requires companies to implement the change to accrual accounting with immediate recognition of the transition amount in their first financial statements subject to SFAS-112. The Commission also adopted this "flash-cut" approach (i.e., recognition of the transition amount as an immediate, one-time operating expense) for implementation of SFAS-112, rejecting an approach under which carriers would amortize the transition amount over a specified period of time.¹⁰ In rejecting delayed recognition of the transition amount for SFAS-112 implementation, both FASB and the Commission reasoned that immediate recognition of the transition amount would not seriously distort operating results.¹¹

8. Under price cap regulation, the rates a carrier may charge are limited by PCIs and service band indices. The PCIs are adjusted annually based on a formula that takes into account inflation, the productivity of the telecommunications industry as compared to that of the economy as a whole, and changes in exogenous costs.¹² Exogenous costs are generally costs triggered by administrative, legislative, or judicial actions that are beyond the control of the carriers and are not already reflected in the price cap formula.¹³ The Commission found that a decision not to recognize exogenous costs in the PCI would either unjustly punish or reward the carrier by treating these uncontrollable changes as changes in the carrier's level of efficiency.¹⁴

9. In April 1995, the Commission decided to limit exogenous cost treatment of local exchange carriers' (LECs') cost changes that result from changes in GAAP and Uniform System of Accounts requirements to costs that otherwise meet the existing standards for exogenous treatment and for which the carrier incurs actual economic costs (i.e., a change in cash flow).¹⁵ Accordingly, the LECs were ordered to adjust their PCIs to exclude prospectively any accounting cost changes for OPEBs currently reflected in their PCIs for which carriers did not incur an economic

⁹ Statement of Financial Accounting Standards No. 112, "Employers' Accounting for Postemployment Benefits," November 1992, para. 3.

¹⁰ Letter, 8 FCC Rcd 2961 (Com. Car. Bur. 1993).

¹¹ Cf. Southwestern Bell Corporation, GTE Service Corporation, Notification of Intent to Adopt Statement of Financial Accounting Standards No. 106, Employers' Accounting for Postretirement Benefits Other Than Pensions, 6 FCC Rcd 7560 (Com. Car. Bur. 1991)(rejecting the flash-cut approach for implementation of SFAS-106 because the transitional benefit obligation amounts involved were so large that immediate recognition would seriously distort LECs' earnings during the affected period).

¹² See 47 C.F.R. §§ 61.44, 61.45; see also Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No.

87-313, 5 FCC Rcd 6786, 6792 (1990)(*LEC Price Cap Order*), recon., 6 FCC Rcd 2637 (1991), *aff'd sub. nom.*, National Rural Telecom Assoc. v. FCC, 988 F.2d 174 (D.C. Cir. 1993); Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87-313, Report and Order and Second Further Notice of Proposed Rulemaking, 4 FCC Rcd 2873, 3026 (1989) (*AT&T Price Cap Order*), modified on recon., 6 FCC Rcd 665 (1991).

¹³ See *LEC Price Cap Order*, 5 FCC Rcd 6786, 6806-6809 (1990); *AT&T Price Cap Order*, 4 FCC Rcd 2873, 3002-3021 (1989).

¹⁴ See *LEC Price Cap Order*, 5 FCC Rcd 6786, 6807 (1990), citing *AT&T Price Cap Order*, 4 FCC Rcd 2873, 3187 (1989).

¹⁵ Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1, First Report and Order, 10 FCC Rcd 8962, paras. 292-320 (1995) (*1995 LEC Performance Review*).

cost.¹⁶ The Commission stated that Bell Atlantic's exogenous cost claim for cost changes resulting from SFAS-112 will also be governed by the previous rule. It further stated that any future requests by a price cap LEC for exogenous cost treatment based on SFAS-112, however, will be governed by the revised rule.¹⁷ The Commission recently proposed to apply to AT&T's exogenous costs a standard similar to the standard adopted for the LECs.¹⁸

10. On January 22, 1993, in response to requests by certain LECs for exogenous treatment of costs associated with a similar change to accrual accounting for OPEBs under Statement of Financial Accounting Standard 106 (SFAS-106),¹⁹ the Commission adopted an Order denying such treatment of these costs.²⁰ LECs appealed the Commission decision to the United States Court of Appeals for the District of Columbia Circuit.²¹ The court held that under our rules, GAAP changes, once mandated by the Commission, are treated the same as changes made by the Commission to the Uniform System of Accounts, and thus are entitled to automatic exogenous treatment.²² In light of this holding, we concluded that SFAS-112 costs may be eligible for exogenous treatment.²³ Consistent with our approach to SFAS-106 costs on remand, in this Order, we designate issues to determine the proper amounts of SFAS-112 costs eligible for exogenous treatment.²⁴

B. The Investigation

11. In this investigation, the Bureau has suspended AT&T's and Bell Atlantic's tariff transmittals seeking PCI adjustments for SFAS-112 exogenous costs, or rate increases based on such PCI adjustments. These transmittals represent the first efforts by AT&T and a LEC to adjust their PCI levels for costs caused by implementation of SFAS-112.

12. On August 1, 1994, AT&T filed Transmittal No. 7322 to increase certain mileage rates for customer dialed calling card calls and to adjust its PCIs for each basket of service

rates to account for exogenous increases in its costs. In this filing, AT&T claimed \$228.207 million of SFAS-112 costs as exogenous but subsequently revised its SFAS-112 exogenous cost claim downward to \$201.2 million.²⁵ This amount constitutes AT&T's transition amount; AT&T did not claim any ongoing SFAS-112 exogenous costs. The Bureau determined that the filing involved several unresolved issues and, therefore, suspended AT&T's Transmittal No. 7322 for one day, instituted an accounting order, and initiated this investigation.²⁶ The Bureau directed AT&T to include a statement in all future transmittals that revise rates indicating whether the price change is predicated upon the exogenous cost claim set forth in Transmittal No. 7322. AT&T subsequently filed Transmittal No. 7848 to increase its rates to the maximum permitted by the PCI adjustments made in Transmittal No. 7322, thus raising the same issues that had prompted suspension of Transmittal No. 7322. On December 14, 1994, the Bureau suspended Transmittal No. 7848 for one day²⁷ and included it in the investigation initiated by the Order suspending Transmittal No. 7322.²⁸

13. This investigation also includes two Bell Atlantic tariff transmittals. On October 13, 1994, Bell Atlantic filed Transmittal No. 704 to revise its PCIs and rates to recover amounts associated with its implementation of SFAS-112. Bell Atlantic requested exogenous treatment for \$50.7 million, on an annualized basis, of its SFAS-112 costs, including both the transition amount and ongoing SFAS-112 costs. The Bureau suspended Transmittal No. 704 for one day, instituted an accounting order, and included it in the pending investigation of AT&T's SFAS-112 claims.²⁹ Bell Atlantic subsequently filed Transmittal No. 747 to increase its interstate access rates to recover over a shorter period of time the exogenous costs for SFAS-112 and SFAS-106 expenses at issue in its earlier tariff filings.³⁰ Transmittal No. 747 revised Bell Atlantic's rates to recover the same amount of exogenous costs that would have been recovered

¹⁶ *Id.* at para. 308.

¹⁷ *Id.* at para. 310.

¹⁸ Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87-313, Revisions to Price Cap Rules for AT&T, CC Docket No. 93-197, Further Notice of Proposed Rulemaking, 10 FCC Rcd 7854, para. 70 (1995).

¹⁹ See Bell Atlantic Telephone Companies Tariff F.C.C. No. 1, Transmittal No. 497 (filed Feb. 28, 1992); US West Communications, Inc. Tariff F.C.C. Nos. 1 and 4, Transmittal No. 246 (filed Apr. 3, 1992); and Pacific Bell Tariff F.C.C. No. 128, Transmittal No. 1579 (filed Apr. 16, 1992). The Bureau suspended these transmittals for five months and initiated an investigation to which all price cap regulated LECs were made subject. 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, Order of Investigation and Suspension, 7 FCC Rcd 2724 (Com. Car. Bur. 1992).

²⁰ 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, Memorandum Opinion and Order, 8 FCC Rcd 1024 (1993)(OPEB Order).

²¹ *Southwestern Bell Telephone Company v. FCC*, 28 F.3d 165 (D.C. Cir. 1994).

²² *Id.* at 169-170.

²³ AT&T Communications, F.C.C. Tariff No. 1, Transmittal No. 7322, CC Docket No. 94-139, Memorandum Opinion and Order Suspending Rates, 9 FCC Rcd 7228 (Com. Car. Bur. 1994)(SFAS-112 Suspension Order); see also, Bell Atlantic,

F.C.C. Tariff No. 1, Transmittal No. 704, CC Docket No. 94-139, Memorandum Opinion and Order Suspending Rates, 10 FCC Rcd 2942 (Com. Car. Bur. 1995).

²⁴ Issues regarding exogenous treatment of SFAS-106 OPEBs costs are designated for investigation in 1993 Annual Access Tariff Filings, *et al.*, CC Docket No. 93-193, Phase I, DA 95-1485 (Com. Car. Bur., released June 30, 1995).

²⁵ AT&T Letter dated November 18, 1994, from M. F. Del Casino, Administrator-Rates and Tariffs to William F. Caton, Acting Secretary, Federal Communications Commission.

²⁶ SFAS-112 Suspension Order, 9 FCC Rcd 7228 (Com. Car. Bur. 1994).

²⁷ AT&T Communications Tariff F.C.C. Nos. 1 and 13, Transmittal No. 7848, CC Docket No. 94-139, Memorandum Opinion and Order, 10 FCC Rcd 899 (Com. Car. Bur. 1994).

²⁸ *Id.*

²⁹ Bell Atlantic, F.C.C. Tariff No. 1, Transmittal No. 704, CC Docket No. 94-139, Memorandum Opinion and Order Suspending Rates, 10 FCC Rcd 2942 (Com. Car. Bur. 1995).

³⁰ See Bell Atlantic, F.C.C. Tariff No. 1, Transmittal No. 704, CC Docket No. 94-139, Memorandum Opinion and Order Suspending Rates, 10 FCC Rcd 2942 (Com. Car. Bur. 1995) (revising its rates and PCIs to recover SFAS-112 exogenous costs); Bell Atlantic Telephone Companies, Tariff F.C.C. No. 1, Transmittal No. 690, CC Docket No. 94-157, Memorandum Opinion and Order, 10 FCC Rcd 1594 (Com. Car. Bur. 1994)(revising its rates and PCIs to recover SFAS-106 exogenous costs).

before the annual 1995 filing but for a delay in the effective date of the original filings. The Bureau, therefore, suspended Transmittal No. 747 and made it subject to the existing SFAS-112 investigation.³¹ In its 1995 annual access tariff filing, Bell Atlantic withdrew the SFAS-112 on-going and transition amounts from its PCI in accordance with the Commission's statement in the 1995 LEC Performance Review.³²

14. In this Order, the Bureau designates issues, names parties, and establishes a pleading cycle for the investigation of SFAS-112 exogenous cost claims. In the interest of fairness and efficiency, we believe that all claims for PCI adjustments based on SFAS-112 exogenous costs would best be considered in a single proceeding. At this time, however, only AT&T and Bell Atlantic have filed transmittals to adjust their rates and PCIs in order to recover exogenous costs caused by the transition to accrual accounting. We therefore make AT&T and Bell Atlantic parties to this proceeding. Other LECs may participate in this proceeding as commenting parties, as may other interested persons.

15. On October 23, 1995, the Commission reclassified AT&T as a nondominant carrier in the market for interstate, domestic, interexchange telecommunications services.³³ As a result of this reclassification, AT&T's residential, operator, 800 directory assistance, and analog private-line services will be removed from price cap regulation.³⁴ The issues raised and the data requested in this Designation Order will enable the Bureau to determine whether AT&T and Bell Atlantic accurately calculated their exogenous amounts associated with the change from cash basis to accrual accounting for postemployment benefits. We do not believe that AT&T's reclassification as a nondominant carrier raises any additional issues at this stage of the investigation. Should the Bureau determine that AT&T or Bell Atlantic claimed too great an amount for these exogenous costs, the Bureau intends to issue a Supplemental Designation Order discussing the effect of the disallowance and appropriate remedial actions, if necessary.³⁵

III. DISCUSSION AND DESIGNATION OF ISSUES FOR INVESTIGATION

16. In general, this investigation seeks to determine whether AT&T and Bell Atlantic's assumptions in calculating the costs of postemployment benefits are just and reasonable, in accordance with the Commission's rules, and in the public interest. We hereby designate and seek comment on the following issues for investigation and request that AT&T and Bell Atlantic comment on the designated issues and provide the following specific items of information:

A. Designated Issues and Specific Information Requirements

1. General Information on Claimed SFAS-112 Postemployment Benefits Costs

Issue A: Have AT&T and Bell Atlantic correctly calculated the gross amount of SFAS-112 costs that may be subject to exogenous treatment under price cap regulation?

17. AT&T and Bell Atlantic are directed to describe each type of postemployment benefit covered by the SFAS-112 accounting rules that the company provides to former and inactive employees, their beneficiaries, and any covered dependents. Such benefits include, but are not limited to, the following: salary continuation; supplemental unemployment benefits; severance benefits; disability-related benefits; job training and counseling; and continuation of benefits, such as health care benefits and life insurance. The parties are directed to include the following for each of the postemployment benefits provided by the company: (1) a description of the specific benefits provided to employees under each type of benefit package (*i.e.*, the combination of benefits offered to any employee); (2) a statement specifying the types of persons eligible to receive each type of postemployment benefit (*i.e.*, employees, their beneficiaries or dependents); (3) a statement as to how long each benefit would continue after separation from the company; (4) in the case of salary continuation, supplemental unemployment, and severance benefits, an explanation of how the company computes the amount received by the employee; (5) for disability-related benefits, a description of all benefits provided by the company's disability plan and any workers' compensation plans; and (6) a statement of whether employees are required to contribute to the cost of the postemployment benefit, including the amount of the company's and the employees' contribution.

18. We direct AT&T and Bell Atlantic to explain the derivation of the amount of incremental costs that is the basis of their exogenous claims including: (1) the date the company implemented SFAS-112; (2) the cost basis of the pay-as-you-go amounts that supported the rates in effect on the initial date that the carrier became subject to price cap regulation; (3) the effect of the price cap formula on that amount up to the date of conversion to SFAS-112; (4) the carrier's actual cash expenditures related to SFAS-112 for each year since the implementation of price caps, prior to and following the implementation of SFAS-112 accounting methods; (5) the presentation of the carrier's actual cash expenditures in reports to the Securities and Exchange Commission (SEC) and to shareholders each year since the implementation of price caps to the present, including specific citations to or excerpted materials from, such reports to indicate the amount of liability each party has projected for postemployment benefits; (6) a description of the forms of postemployment benefit accrual accounting, if

³¹ Bell Atlantic Telephone Companies, Tariff F.C.C. No. 1, Transmittal No. 747, CC Docket Nos. 94-139 and 94-157, Memorandum Opinion and Order Suspending Rates, 10 FCC Rcd 5027 (Com. Car. Bur. 1995).

³² Bell Atlantic Telephone Companies 1995 Annual Price Cap Filing, Transmittal No. 777, Description and Justification, p.1-4, filed on May 9, 1995.

³³ Motion of AT&T Corp. to be Reclassified as a Non-Dominant Carrier, Order, FCC 95-427, released October 23, 1995.

³⁴ Because the Commission deferred consideration of AT&T's market power in international markets, Basket 1 international services will remain under price cap regulation. *Id.* at para. 12, n.44. AT&T's reclassification becomes effective on November 22, 1995.

³⁵ We would expect to follow the same procedures in the pending SFAS-106 investigation.

any, that were utilized before the effective date of price cap regulation; and (7) a description of the type and the level of SFAS-112-type expenses reflected in rates before they were adjusted for any exogenous treatment related to SFAS-112.

Issue B: Should exogenous claims be permitted for SFAS-112 costs incurred prior to January 1, 1994, the Commission's date for mandatory compliance?

19. On June 17, 1993, the Bureau's Accounting and Audits Division issued *RAO Letter 22* mandating implementation of SFAS-112 for carriers subject to the Commission's Uniform System of Accounts on or before January 1, 1994.³⁶ AT&T and Bell Atlantic included, in their claims for exogenous treatment of SFAS-112, costs incurred from January 1, 1993, which is prior to January 1, 1994, the date that the Accounting and Audits Division authorized adoption of SFAS-112 accounting methods. We seek comment on whether costs incurred prior to the Commission's date for mandatory compliance with SFAS-112 are eligible for exogenous treatment.

2. Regulatory Separations and Allocations

Issue C: Have AT&T and Bell Atlantic correctly allocated and separated amounts associated with implementation of SFAS-112 in accordance with the Commission's rules?

20. The following information must also be provided in the direct cases: (1) amounts associated with implementation of SFAS-112 for the total company (including telephone operations and non-telephone operations); (2) an explanation of how the carrier calculated the total company SFAS-112 amounts; (3) the amounts allocated to the telephone operating companies, the specific Part 32 Accounts to which they are assigned, and the amounts allocated to each of those accounts; (4) the method (e.g., head counts, actuarial studies) of allocating amounts to the telephone operating companies; (5) the amounts allocated between regulated and non-regulated activities of the telephone company pursuant to Part 64 of the Commission's rules, 47 C.F.R. § 64.1 *et seq.*, together with a description and justification of the methodology for the allocations; and (6) the allocation of costs to price cap baskets, by year.³⁷

3. VEBA Trust Information

Issue D: How should Voluntary Employee Benefit Association trusts or other mechanisms for funding expenses subject to SFAS-112 be treated: (1) if implemented before price caps; (2) if implemented after price caps, but before the change required by SFAS-112; and (3) if implemented after the change in accounting required by SFAS-112?

Issue E: Should exogenous treatment for SFAS-112 amounts be limited to costs that are funded?

21. The following information must be provided if the company established Voluntary Employee Benefit Association (VEBA) trusts or other mechanisms for funding SFAS-112-type expenses prior to or after the adoption of SFAS-112, whether or not such trusts have since been terminated:³⁸ (1) a description of any VEBA trust or other funding mechanisms for postemployment benefits established prior to or after the adoption of SFAS-112; (2) a statement of the purpose of the VEBA funds and a description of SFAS-112 postemployment benefits covered by each VEBA fund, trust or other mechanism; (3) the amounts placed in these funds for each year since they were implemented; (4) a description of the amounts placed in the trust for ongoing postemployment benefits and for the transition amount; (5) a description of the assumptions made when the funds were set up, including, but not limited to, the time value of money, expected long-term rate of return on plan assets, projected downsizings and layoffs, compensation levels for supplemental unemployment benefits and salary continuation, and age, health, and workplace safety factors affecting the amount and timing of disability-related benefits and continuation of health care and life insurance benefits;³⁹ and (6) a description of the restrictions, if any, that prevent these VEBA funds from being used to fund benefits other than SFAS-112 postemployment benefits.

4. Vesting of SFAS-112 Postemployment Benefits

Issue F: Should exogenous treatment be given only for amounts associated with employee interests that have vested?

22. We direct AT&T and Bell Atlantic to provide documentation showing when the employees' interests vest in each type of postemployment benefit offered by the company. Also, such companies must explain how they determine when an employee's interest in postemployment benefits vests.

5. Treatment of Deferred Tax Benefits

Issue G: How should the deferred tax benefit applicable to SFAS-112 postemployment benefits be treated for purposes of exogenous adjustments?

23. AT&T and Bell Atlantic are directed to describe on a year-by-year basis any exogenous adjustments made to reflect any deferred tax benefit associated with their postemployment benefits accrual amounts. The companies are also directed to provide an explanation if there are no such adjustments.

³⁶ *RAO Letter 22*, 8 FCC Rcd 4111.

³⁷ Price cap baskets are broad groupings of services, each subject to its own price cap. See *LEC Price Cap Order*, 5 FCC Rcd 6786, 6788; see also, *AT&T Price Cap Order*, 4 FCC Rcd 2873, 3037-3038. LECs subject to price cap regulation separate their services into four baskets: a basket for the common line interstate access elements; a basket for traffic sensitive switched interstate access elements; a basket for trunking services; and a basket for interexchange services. 47 C.F.R. § 61.42(d). AT&T's services subject to price cap regulation are divided into three

baskets: a residential and small business services basket, an 800 service basket, and a business services basket. 47 C.F.R. § 61.42(a).

³⁸ VEBA Trusts are tax effective funding vehicles that generally forbid removal or transfer of funds except for the purpose for which they were established. See 26 U.S.C. § 501(c)(a). If the company does not maintain such a trust, it should make a statement to that effect in its direct case.

³⁹ See paras. 26 and 27, *infra*.

6. Supporting Studies and Models

24. We require each company to include in its direct case all studies upon which the company seeks to rely in its demonstration that these accounting changes should be reflected by an exogenous cost adjustment. This includes studies demonstrating any correlation, or lack thereof, between the accounting changes and the following: the current price cap formulas; inflation adjustments to price cap formulas; the carrier's productivity; previously allowed exogenous changes,⁴⁰ such as changes in state tax rates. Further, because the price indices used to measure inflation in the price cap formula⁴¹ presumably already reflect the cost of postemployment benefits, the companies should include information on what adjustment, if any, should be made in the exogenous adjustment to avoid double counting. If an adjustment has been made, parties and commenters shall document how the adjustment was computed. Finally, each company shall include in its direct case all studies upon which the company seeks to rely to demonstrate that the costs associated with implementation of SFAS-112 are not already reflected in the rates in effect on the initial date that the carrier became subject to price cap regulation.

25. Parties and commenters relying on a macroeconomic model shall fully describe and document the model, including the method of estimation, parameter estimates, and summary statistics. These same data should be submitted for any alternate functional forms that were modeled, including the data used to estimate the model, the data used in making forecasts from the model, and the results of any sensitivity analyses performed to determine the effect of using different assumptions. Parties and commenters that rely on macroeconomic models must submit sufficient information, either with their direct cases or comments, to enable others to replicate the results.

26. AT&T and Bell Atlantic shall provide a complete copy of all actuarial reports and studies used to determine SFAS-112 amounts for each type of postemployment benefit provided by the company. Companies are also directed to provide descriptions and justifications of all actuarial assumptions, including the assumptions unique to postemployment benefits, made in computing the SFAS-112 expenses. These assumptions should include, but are not limited to, the time value of money, expected rate of return on plan assets, participation rates, per capita claims cost by age, salary progression (for salary continuation and other severance benefits), probability of payment of each type of postemployment benefit, and assumptions regarding termination from active service due to layoffs (*i.e.*, involuntary separations); downsizing affected through early retirement and reduced hiring; retirement; disability; and death. Parties and commenters should also discuss what assumptions, if any, were made about other future events such as capping or elimination of benefits, or the possible advent of national health insurance.

27. We also direct AT&T and Bell Atlantic to submit all options provided by actuaries from which information was selected to derive SFAS-112 amounts including, but not limited to: the ranges of data on the age and size of the workforce; the ages at which employees separate; and length of separation prior to finding new employment. The companies should explain and provide documentation of the extent they accounted for the possibility of future downsizing or layoffs in the workplace. They should provide information on what adjustments they have made to their SFAS-112 amounts for any layoffs or downsizing that have occurred since the adoption of SFAS-112. They should give full details of these adjustments.

7. Miscellaneous Supporting Information

28. Each company must provide information on its average total compensation per employee and the amount of this total compensation represented by postemployment benefits. We ask parties and commenters to provide similar data for the economy as a whole for comparison. This comparison between the amount of total compensation represented by postemployment benefits for the carrier and the economy as a whole is consistent with the Commission's inclusion in the price cap formula of a productivity factor that accounts for the productivity of the carrier regulated under price caps as compared to the economy as a whole.⁴²

29. Because the accruals for postemployment benefits generally represent non-cash expenses that may never be paid, we direct the parties to describe the provisions they have made, if any, to return to ratepayers the over-accrual, if any, of the non-cash expenses if exogenous treatment is given for these amounts. The parties should describe any plans they have to return such monies to customers through voluntary PCI reductions or other means. They should also describe how they recognize these gains from such over-accruals on their books of account.

30. The accrual calculations used by the companies to develop their claims for exogenous treatment for SFAS-112 amounts are, in part, based on the postemployment benefits provided pursuant to contracts between the companies and their employees. Many of these contracts are currently being renegotiated. Postemployment benefits reportedly have been a significant issue in these negotiations. Since any change in postemployment benefits affects future accrued amounts, it is, therefore, necessary to compare new postemployment benefits contracts to prior calculated accruals to determine whether the prior calculations were reasonable. In particular, we are interested in determining whether any underlying actuarial assumptions have changed. During the course of this investigation, the parties shall document any and all changes made in postemployment benefits offerings to employees and shall

⁴⁰ See 47 C.F.R. §§ 61.44(c), 61.45(d).

⁴¹ The Gross National Product Price Index (GNP-PI) and the Gross Domestic Price Index (GDP-PI) are measures of inflation in the general economy. The Commission recently adopted the use of GDP-PI for calculating LEC PCIs. Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1, 10 FCC Rcd 8962, paras. 347-351 (1995). AT&T continues to apply the GNP-PI when calculating its PCIs. See Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No.

87-313, Revisions to Price Cap Rules for AT&T, CC Docket No. 93-197, Further Notice of Proposed Rulemaking, 10 FCC Rcd 7854, at n.13 (1995).

⁴² Historically, the telecommunications industry maintains a higher level of productivity than the economy as a whole. See para. 9, *supra*.

also submit any such new contracts with employees and their representative unions affecting postemployment benefits.

B. Investigation Procedures

31. This investigation will be conducted as a notice and comment proceeding pursuant to Section 1.411 of the Commissions Rules.⁴³ CC Docket No. 94-139 will be used as the designation for this investigation. AT&T Communications and the Bell Atlantic Telephone Companies are designated as parties. These parties shall file their direct cases no later than 30 days after release of this Order. The direct cases must present the parties' positions with respect to the issues described in this Order. Pleadings responding to the direct cases may be filed no later than 15 days after the filing the direct cases, and must be captioned "Opposition to Direct Case" or "Comments on Direct Case." Parties may each file a "Rebuttal" to oppositions or comments no later than 7 days after the filing of comments on or opposition to the direct cases.

32. An original and seven copies of all pleadings must be filed with the Secretary of the Commission. In addition, one copy must be delivered to the Commission's commercial copying firm, ITS, Room 246, 1919 M St., N.W., Washington, D.C. 20554. Members of the general public who wish to express their views in an informal manner regarding the issues in this investigation may do so by submitting one copy of their comments to the Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. Comments must specify the docket number of this investigation.

33. All relevant and timely pleadings will be considered by the Commission. In reaching a decision, the Commission will take into account information and ideas not contained in pleadings, provided that such information or a writing containing the nature and source of such information is placed in the public file, and provided that the fact of reliance on such information is noted in the Order.

34. *Ex parte* contacts (*i.e.*, written or oral communications that address the procedural or substantive merits of the proceeding and that are directed to any member, officer, or employee of the Commission who may reasonably be expected to be involved in the decisional process in this proceeding) are permitted in this proceeding until a public notice of scheduled Commission consideration of a final Order is released and after the final Order itself is issued. Written *ex parte* contacts must be filed on the day of the contact and must be submitted with the Secretary and Commission employees receiving each presentation. For other requirements, *see generally* Section 1.1200 *et seq.* of the Commission's rules.⁴⁴

35. The investigation established in this Order is exempt from the requirements of the Paperwork Reduction Act of 1995.⁴⁵

VII. ORDERING CLAUSE

36. Accordingly, IT IS ORDERED that, pursuant to Sections 4(i), 4(j), and 204(a) of the Communications Act of 1934, 47 U.S.C. §§ 154(i), 154(j), 204(a), AT&T Communications and the Bell Atlantic Telephone Companies SHALL RESPOND to the issues designated in this Order Designating Issues for Investigation, no later than 30 days after release of this Order. Interested parties may file pleadings responding to the direct cases no later than 15 days after the filing of the direct cases, and AT&T Communications and the Bell Atlantic Telephone Companies may file rebuttals no later than 7 days after the filing of the responses to the direct cases.

FEDERAL COMMUNICATIONS COMMISSION

Regina M. Keeney
Chief, Common Carrier Bureau

⁴³ 47 C.F.R. § 1.411.

⁴⁴ *See* 47 C.F.R. § 1.1200 *et seq.*

⁴⁵ *See* 44 U.S.C. § 3518(c)(1)(B)(ii).