

retirees and to active employees existing as of the date of their implementation of SFAS-106. This unfunded obligation, referred to as the TBO, reflects the amount that a company would have accrued on its books as of the effective date of the accounting change if it had been operating under the accrual method.

In the 1993 annual access tariff filings, several LECs included adjustments to their price cap indices and rates based on exogenous treatment of certain TBO amounts. Effective July 1, 1993, AT&T also revised its price cap indices to reflect the LECs' proposed changes in access prices and to include adjustments for exogenous treatment of its own TBO amounts. The Commission suspended both the LECs' and AT&T's transmittals for one day and imposed an accounting order. In addition, in 1994, the Bell Atlantic Telephone Companies and NYNEX Telephone Companies filed tariff revisions that sought exogenous treatment of SFAS-106 amounts that they had not previously claimed. (See 10 FCC Rcd 1594 (1994)). The Bureau suspended these tariffs for one day, imposed an accounting order, and initiated an investigation. On June 30, 1995, the Bureau consolidated these pending investigations of exogenous claims (in CC Docket No. 93-193 and CC Docket No. 94-157) into a single proceeding, designating CC Docket No. 94-157 as the docket number for this investigation. (See *Combined OPEB Investigations Order*, 10 FCC Rcd 11804 (1995)).

On March 7, 1996, the Commission rescinded the portion of RAO 20 that addressed the rate base treatment of OPEB related costs. (See *RAO Rescission Order*, 11 FCC Rcd 2957 (1996)) The Commission found that RAO 20 exceeded the Bureau's delegated authority under 47 CFR 32.17 to the extent that it directed exclusions from, and additions to, a LEC's interstate rate base that are not specifically authorized by Part 65 of the Commission's rules. The Commission specifically emphasized that its decision to order such rescission was based on procedural grounds and not on the substantive merits of the ratemaking practices at issue. In response to the *RAO Rescission Order*, the LECs proposed to increase their price cap indices (PCIs) for the 1996-1997 tariff period by adjusting their rate base treatment of OPEBs for certain prior years, resulting in reduced sharing obligations for those periods. (See 11 FCC Rcd at 7568) Thus, in filing their 1996 annual access tariffs, Ameritech, Bell Atlantic, BellSouth, Nevada Bell, Pacific Bell, Southwestern Bell, U S

West, Lincoln Telephone, GTE, and Sprint LTCs amended their Price Cap Regulation Rate of Return Monitoring Report (FCC Form 492A) to include accrued OPEB costs in their interstate rate bases. The inclusion of accrued OPEB costs increased the LECs' interstate rate bases, thereby lowering the reported rates of return and decreasing their calculated price cap sharing obligations. Reduced sharing obligations resulted in higher PCIs. In a June 24, 1996 order, the Bureau found that "the LECs' rate base treatment of OPEBs raises a substantial question of lawfulness under existing rules that warrants investigation. (See 1996 *Tariff Order*, 11 FCC Rcd 7573). Accordingly, the Bureau suspended the LEC tariffs, imposed an accounting order, and initiated an investigation.

After a period of inactivity in CC Docket No. 94-157, on December 21, 2001, the Commission adopted an order that terminated stale or moot docketed proceedings, including the combined OPEB investigation in CC Docket No. 94-157. (See *Termination Order*, 67 FR 3617, Jan. 25, 2002). The Bureau finds that at least one issue, issue B in the *Combined OPEB Investigations Order* (i.e., whether LECs may treat as exogenous the SFAS-106 costs they incurred prior to January 1, 1993, the Commission's date for mandatory compliance) remains in dispute. The issues regarding rate base treatment of OPEBs discussed in the 1996 *Tariff Order* also remain unresolved. Because these issues remain unresolved, the Bureau concludes that the inclusion of CC Docket 94-157 in the appendix of the *Termination Order* was an inadvertent technical error, and the Commission never intended to terminate the OPEB tariff investigation in this docket. Accordingly, the Bureau reinstates the investigation in CC Docket No. 94-157 to address the issue B in the *Combined OPEB Investigations Order*, as well as OPEB-related issues discussed in the 1996 *Tariff Order*. Because the record may be stale, the Bureau seeks to refresh the record. Considering that some of the parties subject to this investigation have merged, the Bureau notes that the old record may not accurately reflect the successor parties' current positions. In addition, the Bureau wants to give interested parties the opportunity to provide new evidence, as appropriate, in light of the time that has passed. Accordingly, parties should state in full their arguments on these issues, rather than merely incorporating by reference arguments stated in their earlier filings in this once terminated docket. Parties

should also identify clearly the portions of their previous filings that are no longer relevant, as well as those that remain relevant, and why.

With respect to issue B, the Bureau directs Verizon Communications to submit its direct case and studies upon which it relies to demonstrate that OPEB-related costs incurred prior to January 1, 1993 are eligible for exogenous treatment. Verizon should state in full its arguments, rather than merely incorporating by reference arguments stated in Bell Atlantic's earlier filings. Parties should also identify clearly the portions of their previous filings that are no longer relevant, as well as those that remain relevant, and why.

With respect to issues regarding rate base treatment of OPEBs discussed in the 1996 *Tariff Order*, interested parties may file comments in response to this Order, Notice, and Erratum to refresh the record. Parties should also identify clearly the portions of their previous filings that are no longer relevant, as well as those that remain relevant, and why. The Bureau notes that the specific issues that will be the subject of the investigation will be identified in a future designation order. The Bureau may also identify issues in that order that do not warrant further investigation.

Finally, with respect to other OPEB issues under investigation in CC Docket No. 94-157, CC Docket No. 94-65, and CC Docket No. 93-193, the Bureau requests that parties with interest in such issues (whether or not described above) inform the Bureau of any issue that remains open. If no timely comments are received in response to this order, the OPEB investigation in CC Docket No. 94-65 and CC Docket No. 93-193 will be terminated without further action. Additionally, absent timely comments in response to this order, any further action in Docket No. 94-157 will be limited to the two specific issues: (1) The issue B in the *Combined OPEB Investigations Order* (10 FCC Rcd 11804 (1995)) (whether LECs may treat as exogenous the SFAS-106 costs they incurred prior to January 1, 1993); (2) the issues regarding rate base treatment of OPEBs discussed in the 1996 *Tariff Order* (11 FCC Rcd 7564 (1996)). Finally the Bureau seeks to refresh the record on issues regarding rate base treatment of OPEBs discussed in the 1996 *Tariff Order*.

Filing Dates

This Order, Notice, and Erratum combines all OPEB investigations into one investigation and this investigation is designated CC Docket No. 94-157.