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

In the Matter of	)	
	)	
JULY 1, 2003 ANNUAL ACCESS CHARGE TARIFF FILINGS	)	WCB/Pricing 03-15
	)	

PETITION OF AT&T CORP.

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PETITION OF AT&T CORP.

Pursuant to Section 1.773 of the Commission's Rules, 47 C.F.R. § 1.773, and the Commission's Order, DA 03-1175, released April 18, 2003,[1] AT&T Corp. ("AT&T") submits this Petition addressed to the annual interstate access tariffs filed June 16, 2003 by local exchange carriers ("LECs").

INTRODUCTION AND SUMMARY

The LECs' 2003 Annual Access Charge Tariffs contain a number of serious errors and require rejection or suspension. As detailed below, the LECs' access tariffs are, in numerous respects, flatly inconsistent with the Commission's rules, relevant court decisions, and publicly available data. The resulting overstated access charges undermine the core objectives of the 1996 Telecommunications Act, impede competition and deny consumers the corresponding benefits of competition. Accordingly, AT&T respectfully urges the Commission to suspend and investigate the unsupported and

[1] *In the Matter of July 1, 2003 Annual Access Charge Tariff Filings*, WCB/ Pricing 03-15, DA 03-1175, released April 18, 2003.

inflated tariff rates detailed below.[2] Part I of these comments demonstrates that the tariffs filed by numerous rate-of-return carriers should be rejected or suspended, and Part II addresses the tariffs of the price cap carriers.

ARGUMENT

I. TARIFFS FILED BY SEVERAL RATE-OF-RETURN CARRIERS RAISE ISSUES THAT WARRANT SUSPENSION.

A. NECA Has Failed To Properly Calculate Its TIC Apportionment.

In the *MAG Order*, released on November 8, 2001,[3] the Commission eliminated the Transport Interconnection Charge ("TIC") as a separate rate element and concluded that TIC revenues should be reallocated to all of the access categories so that the access rate structure would be more cost-based.[4] The Commission explicitly held that, for purposes of TIC reallocation, the Common Line revenue requirement must include Long Term Support, Interstate Common Line Support and Line Port costs that were reallocated from the Local Switching revenue requirement after Local Switching Support has been

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2 A tariff is subject to rejection when it is *prima facia* unlawful, in that it demonstrably conflicts with the Communications Act or a Commission rule, regulation or order. *See, e.g., American Broadcasting Companies, Inc.* v. *AT&T*, 663 F.2d 133, 138 (D.C. Cir. 1980); *MCI* v. *AT&T*, 94 F.C.C.2d 332, 340-41 (1983). Suspension and investigation are appropriate where a tariff raises substantial issues of lawfulness. *See AT&T* (Transmittal No. 148), Memorandum Opinion and Order, 56 RR2d 1503 (1984); *ITT* (Transmittal No. 2191), 73 F.C.C.2d 709, 716 n.5 (1979) (citing *AT&T*, 46 F.C.C.2d 81, 86 (1974)). Appendix A identifies the companies whose tariffs should be suspended and investigated and whose rates should be remedied.

3 *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, 16 FCC Rcd. 19,613, ¶¶ 98-117 (2001) ("*MAG Order*").

4 *Id.* ¶ 98.

removed.[5] In addition, the TIC revenues from the Transport category must be excluded from the calculation.[6]

The National Exchange Carrier Association ("NECA") has incorrectly apportioned its TIC costs based on a ratio in which Local Switching *includes* Line Port costs that should have been excluded and, as a consequence, its TIC revenues are misallocated. Specifically, NECA has understated its Common Line and Transport revenue requirements by $1,953,000 and $4,024,000, respectively, while overstating Local Switching, Information and Special Access revenue requirements by $5,724,000, $186,000, and $2,306,000, respectively.[7] To comply with the *MAG Order*, NECA should reallocate its TIC revenues according to the method prescribed by the Commission, which allocates the appropriate Line Port costs to the Common Line category and excludes Line Port costs from Local Switching prior to determining the TIC apportionment.[8]

B. Hargray Provides No Justification For Its Extraordinary Increase In General And Administrative Expense.

Hargray Telephone Company ("Hargray") reports a $7,216,107 Total Company increase in its historical costs for Account 6720 General and Administrative Expense, but it provides no cost justification for this extraordinary increase. For the years 2000 and 2001, Hargray reported actual General and Administrative Expense of $3,664,288 and

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5 *Id.* ¶ 102.

6 *Id.*

7 *See* Exhibit A.

8 In addition, it appears that NECA has allocated $2,239,000 more to the TIC than it indicates is available to be distributed. *See* NECA Rate of Return TRP, filed June 16, 2003, ACR Adjustments.

$4,733,720 respectively.[9] Without providing any explanation whatsoever in its Description and Justification, Hargray reports a General and Administrative Expense amount of $11,949,827 for 2002,[10] an astonishing 153% increase from the prior year. For the prospective 2003/2004 tariff period, Hargray has proposed to include in its operating expenses $11,147,037 of General and Administrative Expense.[11] As a result, the corresponding interstate expense for this account increased from $1,378,495[12] for the 2002/2003 prospective period to $3,587,594[13] for the 2003/2004 prospective period – an increase of 160%.

Given these unjustified increases, General and Administrative Expenses now constitute 29% of Hargray's total projected Operating Expenses for the 2003/2004 tariff period. The Commission should disallow this unsubstantiated increase in Hargray's General Administrative Expenses. At a minimum, as Hargray has failed to provide any supporting information justifying this extraordinary increase, there are serious questions as to the reasonableness of its rates and its tariff should be suspended and investigated.

C. ALLTEL Has Allocated Its Marketing Expenses Using Improper Interstate Allocation Factors.

The Commission, in an effort to simplify its Part 36 Jurisdictional Separations Procedures, froze many of the traffic allocation usage factors used by rate-of-return

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9 2001 Annual Access Tariff Filing, Transmittal No. 56, filed June 18, 2001, Att. 7, Form 10, Line 180 and 2002 Annual Access Tariff Filing, Transmittal No. 73, filed June 17, 2002, Att. 7, Form 10, Line 180.

10 2003 Annual Access Tariff Filing, Transmittal No. 84, filed June 16, 2003, Att. 7, Form 32, Line 180.

11 *Id.*, Att. 3, Form 32, Line 180.

12 2002 Annual Access Tariff Filing, Transmittal No. 73, filed June 17, 2002, Att. 2, Form 9, Line 182.

13 2003 Annual Access Tariff Filing, Transmittal No. 84, filed June 16, 2003, Att. 2, Form 11, Line 182.

carriers to allocate costs between the interstate and intrastate jurisdictions.[14] Notwithstanding this explicit Commission requirement, ALLTEL has modified its marketing expense allocation factor.[15] AT&T has determined ALLTEL's frozen marketing allocation factor from its 2000 prior year cost studies filed by ALLTEL in its 2001 Annual Access Tariff Filing[16] and compared this factor to the factor used in the instant filing.[17] As shown in Exhibit B, by failing to freeze its marketing factors at the frozen levels, ALLTEL has inflated its interstate access rates by $1.12 million.

D. Chillicothe Has Overstated Its Local Switching Rates By Inflating Its Projected Costs And Understating Demand.

The Chillicothe Telephone Company ("Chillicothe") has inflated its projected costs and understated its local switching demand for the 2003/2004 prospective tariff period. Indeed, Chillicothe has routinely over-forecast cost and/or under-forecast demand in recent years, which has resulted in Chillicothe substantially exceeding its authorized interstate rate-of-return in both the 1999-2000 and 2001-2002 FCC monitoring periods, with reported interstate rates-of-return of 27.42% and 15.34%, respectively.[18]

Chillicothe repeats this pattern in the instant filing, because its total company operating expenses (and thus its interstate revenue requirement) are clearly overstated.

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14 *Jurisdictional Separations and Referral to the Federal-State Joint Board,* CC Docket No. 80-286, Report and Order, FCC 01-162 (released May 22, 2001).

15 The Commission's jurisdictional separations rules state that "Effective July 1, 2001, through June 30, 2006, all study areas shall apportion expenses in this account among the jurisdictions using the analysis, as specified in § 36.372(a), during the twelve-month period ending December 31, 2000." 47 C.F.R. § 36.372(a).

16 ALLTEL 2001 Annual Access Tariff Filing, Transmittal No. 90, filed June 18, 2001, Volume 2, 47 C.F.R. § 61.38 - Cost Study Work Papers, 2000 PRCOS.

17 ALLTEL Transmittal No. 125, filed June 16, 2003.

18 Rate of Return Monitoring Reports (FCC Form 492A), filed by the Chillicothe Telephone Company, March 29, 2001, and March 25, 2003.

As shown in Exhibit C, Chillicothe's total company operating expenses have shown steady percentage growth in recent years, culminating in $27,561,550 in such expenses for calendar year 2002. Applying a standard trend function, one could reasonably expect Chillicothe's total company operating expenses to be in the range of $29.1 million in 2003 and $30.5 million in 2004 (*see* Exhibit C). Inexplicably, however, Chillicothe projects $39,623,737 in total company operating expenses for the 2003/2004 tariff period. This projection is completely at odds with all historical data and any reasonable trend analysis. Indeed, it is clear in retrospect, based on actual data, that Chillicothe wildly overestimated total company operating expenses when it filed its 2001/2002 tariff, and it is repeating the mistake again in the instant filing. As a result of this error, Chillicothe's interstate revenue requirement is overstated by $2.1 million.

Despite these forecasted cost increases for the 2003/2004 tariff period, Chillicothe has forecasted declining access minutes of use ("MOUs") which are inconsistent with historical demand trends. Chillicothe's local switching demand increased in 2002 to 88,033,767 MOUs from 82,947,577 MOUs reported for 2001.[19] This growth in MOU demand occurred in spite of what appears to be a decline in switched access loops reported in 2001.[20] Clearly, the 2002 actual local switching demand shows an increase over the prior year and this trend would be expected to continue. However, for the 2003/2004 tariff period, Chillicothe forecasts an unsupported decline in local switching MOUs of 85,634,538 (*see* Exhibit D). Given its prior misprojections and resulting overearnings, Chillicothe should not be allowed to increase its revenue requirement for

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19 *Id.*, TRP DMD-1, page 3.

the 2003/2004 prospective period in light of its tendency to over-forecast its operating costs, nor should its local switching rates be allowed to increase as a result of its erroneous demand forecast.

E. Two LECs Have Failed To Properly Reallocate Line Port Costs From Local Switching To Common Line.

Southern Kansas Telephone Company ("SKTC") and United Telephone Association ("UTA") have failed to properly rellocate their Line Port costs from Local Switching to Common Line. In the *MAG Order*, the Commission found that rate-of-return LECs should generally use a 30% proxy to represent the amount of Line Port costs that currently are embedded in their Local Switching rates. The Commission adopted the 30% proxy because it represents the amount of Line Port Costs in Local Switching in the Commission's forward-looking high-cost model for price cap carriers.[21]

SKTC reallocated only 10.24%[22] and UTA reallocated only 18.50% of its Line Port costs[23] from Local Switching to Common Line. Because they failed to provide the required cost studies demonstrating that their Local Switching revenue requirements contained less in Line Port costs than the Commission's proxy, SKTC and UTA are in violation of the default 30% allocation factor to approximate Line Port costs in

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20 USF Data Submission, 2001 Base Year, Cat 1.3 Loops, filed October 1, 2002, and USF Data Submission, 2000 Base Year, Cat 1.3 Loops, filed October 1, 2002. Chillicothe reported 37,501 Cat 1.3 Loops for 2000 and 37,301 for 2001.

21 *MAG Order* ¶ 94.

22 Southern Kansas Telephone Company, 2003 Annual Interstate Access Tariff Filing, Transmittal No. 14, filed June 13, 2003, SCHD: SWITCHING, Local Switching and Information Surcharge Rate Development.

23 United Telephone Association, 2003 Annual Interstate Access Tariff Filing, Transmittal No. 1, filed June 13, 2003, SCHD: SWITCHING, Local Switching and Information Surcharge Rate Development.

Local Switching. Accordingly, SKTC and UTA have overstated their Local Switching revenue requirements by $206,593 and $60,332, respectively. Both carriers should be required to reduce their Local Switching rates accordingly by using the 30% allocation factor to assign Line Port costs from Local Switching to Common Line.

F. Chillicothe And Virgin Islands Have Filed Excessive Cash Working Capital Requirements.

Chillicothe and Virgin Islands computed their Cash Working Capital ("CWC") requirements using excessive net lag periods (of 25 and 20 days, respectively). This error inflates the interstate revenue requirements for these LECs by $62,400.

By using excessive 25 and 20 days lags, instead of the Commission's 15-day standard, Chillicothe and Virgin Islands have inflated their interstate CWC[24] revenue requirements by $360,557[25] and have correspondingly inflated their interstate revenue requirements by $62,400.[26] These figures reflect unsupported departures from the

24 CWC is the amount of investor-supplied funds required to pay operating expenses incurred in providing services prior to the receipt of revenues for such services. CWC is computed by determining the revenue lag and the expense lag and then multiplying the difference by the carrier's average daily operating expenses. Revenue lag is the average number of days between the date a service is provided and the date the associated revenues are collected. Expense lag is the average number of days between the date a service is provisioned and the date the expenses associated with those services are paid. The difference between revenue lag and expense lag is referred to as the net lag.

25 *See* Chillicothe and Virgin Islands Cost Support, Part 69, July 1, 2003 to June 30, 2004, Cash Working Capital.

26 *See* Exhibit E. AT&T computed the impact of these LECs' excess lead lag periods as follows. Chillicothe's and Virgin Islands' projected total cash expense (excluding depreciation) was divided by 365 days to determine their average daily cash requirements. The daily cash figures were then divided into each LEC's projected CWC requirement to compute its net lag. A comparison of the results of employing the derived net lag versus the 15-day standard lag shows that these LECs' interstate revenue requirements are inflated by approximately $62,400.

majority of the filing carriers, warranting suspension and investigation of their lawfulness.[27]

Because these LECs have departed from the 15-day standard, Chillicothe and Virgin Islands are required to determine their net lag period by conducting a lead-lag study.[28] In such a study, Chillicothe and Virgin Islands must supply accurate data that is representative of current operations and adequately explain and justify their proposed lag periods.[29] Neither Chillicothe nor Virgin Islands has provided a lag study, nor any other supporting documentation to explain why it should be entitled to a lag that is well above the standard 15-day lag.[30] Accordingly, the Commission should reject or, at a minimum, suspend and investigate Chillicothe's and Virgin Islands' current CWC revenue requirements and direct those LECs either to justify the excessive CWC amounts or to reduce them to appropriate levels.

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27 For example, AT&T's survey of ALLTEL's CWC found a *maximum* lag period of only 17 days. *See* Exhibit F.

28 The Commission has recognized this problem in the past. For example, in 1997, the Commission rejected both the lead-lag study and the expense lag period proposed in PRTC's and Roseville's 1997 Annual Access Tariff Filings – which resulted in similar lag periods to those used here. *See 1997 Annual Access Tariff Filings*, Memorandum Opinion and Order, CC Docket 97-149, 13 FCC Rcd. 3815, ¶¶ 221-224 (released June 27, 1997) ("*1997 Access Tariff Filings*").

29 *See id.*

30 Chillicothe provides a written description in its current filing that it has calculated a 29.68 day lag, but it provides no lead-lag study. Chillicothe Transmittal No. 74, filed June 16, 2003, D&J, page 5.

II. THE PRICE CAP LECS' TARIFFS SHOULD ALSO BE SUSPENDED BECAUSE OF ERRORS RELATING TO TRS EXOGENOUS COSTS, EXCESS DEFERRED TAXES, AND MISCALCULATION OF THE MULTI-LINE BUSINESS PICC.

A. Price Cap LECs Have Not Correctly Allocated Their TRS Exogenous Costs Among The Price Cap Baskets.

Most of the price cap LECs have improperly allocated their Telecommunications Relay Services ("TRS") exogenous cost among the price cap baskets. These LECs have incorrectly allocated TRS costs based on *total* basket revenues, instead of *end-user* basket revenues. As a result, all price cap LECs other than Qwest have overallocated the TRS exogenous cost to the Special Access basket and underallocated such costs to the Common Line basket.

NECA submitted to the Commission the TRS provider payment formulas and fund size estimate for the period July 2003 through June 2004 on May 5, 2003, and this estimate was released in a Public Notice on May 7, 2003.[31] NECA developed a TRS contribution factor of $.00171 for the July 2003 through June 2004 tariff year to be used with the 2003 FCC Form 499A Telecommunications Reporting Worksheet. Each price cap LEC then develops its TRS exogenous adjustment by taking the difference between its 2003 TRS contribution and the 2002 TRS contribution.

In accordance with Section 64.604 of the Commission's rules, price cap LECs are to contribute to the TRS Fund on the basis of interstate end user telecommunications revenues.[32] As a result, LECs who elect to recover their TRS Fund contributions through

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31 *Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, Payment Formula and Fund Size Estimate, Interstate Telecommunications Relay Services (TRS) Fund for July 2003 through June 2004*, CC Docket 90-571, Public Notice released May 7, 2003.

32 47 C.F.R. § 64.604(c)(5)(iii)(A).

interstate access rates must allocate their TRS costs to the price cap baskets on the basis of end user revenues, consistent with the contribution methodology.

In this regard, the LECs' recovery of their TRS Fund contributions through interstate access rates is no different than when LECs were permitted to recover their Universal Service Fund ("USF") contributions through interstate access rates. Like the TRS Fund contribution, the LECs' USF contributions were also based on their interstate end user telecommunications revenues. In the case of USF contribution recovery through interstate access rates, the FCC held that "[p]rice cap LECs electing to recover their universal service obligation through interstate access charges must therefore apply the full amount of the exogenous adjustment among these three baskets on the basis of relative size of end user revenues."[33]

With the exception of Qwest, price cap LECs have allocated their TRS exogenous cost among the price cap baskets on the basis of *total* revenues for those baskets, rather than *end user* revenues for those baskets. This has resulted in a larger portion of the TRS exogenous cost being allocated to the Special Access basket and a smaller portion being allocated to the Common Line basket.

In addition, although BellSouth claims to have allocated its TRS exogenous costs among the baskets based on end user revenues, it has made a calculation error in reporting its Special Access end user revenues on Form 499A. In its Form 499A, BellSouth reports its Special Access end user revenues as $660 million.[34] However, in its 2003 annual filing BellSouth reports its Special Access *total* revenues as only

33 *Access Reform Order*, 12 FCC Rcd. 15982, ¶ 379 (1997).

34 BellSouth Transmittal No. 724, filed June 16, 2003, Appendix A, Exhibit A-4, page 2 of 3, line 406(d).

$458 million.[35] Because the *end user* Special Access revenues reported in Form 499A should be a subset of the total Special Access revenues reported in its annual filing, the $660 million should not be larger than the $458 million. Instead, the end user revenues for the Special Access basket should be a very small portion of the total Special Access revenues reported in the annual filing.[36] Because BellSouth has overstated its end user revenues for the Special Access basket, it has also allocated a larger portion of the TRS exogenous cost to the Special Access basket than warranted and a correspondingly smaller portion to the Common Line basket.

Finally, and in all events, the Commission should recognize that permitting the LECs to recover their TRS contributions through access charges at all constitutes an unlawful implicit subsidy. Indeed, the Fifth Circuit has held not once, but three times, that "the plain language of § 254(e) does not permit the [Commission] to maintain *any* implicit subsidies."[37] The Fifth Circuit thus found, and the Commission has since acknowledged, that permitting LECs' to recover contributions to the USF through access charges was an impermissible implicit subsidy that had to be eliminated, and that such contributions must be recovered from end users.[38] Contributions to the TRS Fund are

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35 BellSouth Transmittal No. 724, TRP Chart SUM-1, line 340 (c).

36 For example, Qwest has reported its Special Access end user revenues on Form 499A, line 406(d) as $72 million, while reporting its total Special Access revenues in its 2003 Annual Filing on the SUM-1 TRP chart as $475 million. Qwest is therefore, reporting that its Special Access end user revenues are only 15% of its total Special Access revenues.

37 *Texas Office of Public Utility Counsel* v. *FCC*, 183 F.3d 393, 425 (5th Cir. 1999) (emphasis in original); *see also COMSAT Corp.* v. *FCC*, 250 F.3d 931, 938 (5th Cir. 2001); *Alenco Comm.* v. *FCC*, 201 F.3d 608, 623 (5th Cir. 2000).

38 Thus, in the *CALLS Order,* 15 FCC Rcd. 12962, ¶¶ 120, 219-21, 244 (2000), the Commission eliminated the flowback of the price cap LECs' USF contributions via access charges, and in a separate order it waived the requirements of certain

indistinguishable from contributions to the USF for these purposes. Like universal service subsidies, carriers' contributions to the TRS Fund are not access-related costs but rather are the costs of supporting a subsidy program designed to make telephone service more accessible to persons with hearing and/or speech disabilities and thus benefit all users of the telecommunications network. Accordingly, the Commission should eliminate recovery of LECs' TRS Fund contributions from carrier access charges altogether.

B. Price Cap LECs Should Be Required To Provide Data To Confirm That Their Excess Deferred Tax Account Balances Are Greater Than Zero.

The Commission should also reject or suspend the tariffs of SBC-Ameritech, Verizon East, Qwest, and Cincinnati Bell, because each of these LECs has claimed exogenous costs adjustments for Excess Deferred Taxes ("EDT") without any cost support to demonstrate that their EDT balances are positive.

AT&T first addressed the impact of the LECs' EDT accounts in its comments in response to the Commission's April 18, 2003 Public Notice, and demonstrated, based on data available from prior annual filings, that SBC-Ameritech and Verizon East should have exhausted their EDT accounts.[39] Verizon East's reply comments did not refute

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access charge rules to permit NECA and other rate-of-return carriers to recover their USF contributions from end users. *See Waiver of Sections 69.3(a) and 69.4(d) of the Commission's Rules*, 16 FCC Rcd. 12499 (2001).

39 Comments of AT&T Corp, *2003 Annual Access Charge Tariff Filings*, WCB/Pricing 03-15, filed May 13, 2003. Excess deferred tax impacts normally occur as a result of tax benefits resulting from the fact that LECs prior to 1987 accrued deferred taxes at a marginal tax rate of 46%. The deferred tax account largely represented the impact of accelerated depreciation practices allowed for tax purposes but not for regulatory purposes. With the passage of the Tax Reform Act of 1986 the marginal corporate tax rate was reduced from 46 to 34 percent. As a consequence, LEC deferred tax accounts substantially overstated the amount of taxes that would ultimately be actually paid. To reflect this tax windfall LECs

these showings.[40] Indeed, Verizon East did not even attempt to show that it has not exhausted its EDT account. SBC, by contrast, did provide information in its Exhibit 1 to show that AT&T had used an initial amortization amount that is incorrect. In this respect SBC is correct. Since SBC never reported the EDT amortization used to establish its initial price cap rates, AT&T made a reasonable estimate of SBC's initial EDT amortization as it entered price caps.[41] After reviewing SBC Exhibit 1 along with its associated explanation, AT&T agrees that SBC-Ameritech appears to have a remaining EDT balance.

Both SBC and Verizon, however, improperly claim the right to seek exogenous cost adjustments in excess of their current amortized balances. Verizon simply asserts that, irrespective of the fact that it appears to have a zero account balance, it should be allowed to recover its estimate of a revenue requirement that may well be associated with EDT amounts that have now been fully exhausted. Similarly, SBC–Ameritech asserts that the correct measure of whether it has reversed its EDT tax reserve is not whether the account has in fact reached a zero balance but whether some unknown measure of exogenous cost has been recovered. Specifically, SBC-Ameritech asserts that in addition to the amounts in the account that remain to be amortized, it should be entitled to an

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were required to provide ratepayers with reduced rates to reflect the reduction in the federal tax liability. The Commission has in fact previously determined that the depreciation rates across the RBOCs should be similar. *See Annual 1991 Access Tariff Filings, National Exchange Carrier Association, Universal Service Fund and Lifeline Assistance Rates*, Transmittal No. 452, DA 91-768, ¶¶ 38-48 (released June 21, 1991).

40 *See July 1, 2003 Annual Access Charge Tariff Filings*, WCB/Pricing 03-15, Reply Comments of SBC Communications Inc., filed May 20, 2003, and Reply of Verizon, filed May 20, 2003.

41 *Id.* SBC appears to have approximately $3.255 million of remaining EDT balance. *See* Exhibit 1, Line 2.

additional $4.163 million that it calculates to have been somehow miscalculated in its prior work papers.[42]

These LECs should not be allowed to recover amortized amounts from previous years in their current year's rates. First, recovery of prior year calculation errors would violate the fundamental premise that rates cannot be set retroactively.[43] Each year EDT exogenous costs must be calculated based on the change in the EDT account balance for that particular year. If a LEC fails to claim a sufficient amount of EDT exogenous cost in a given year, it cannot reclaim this deficiency in its EDT exogenous cost claim in future years. Second, any LEC claiming an EDT exogenous cost in any given year must demonstrate that there is in fact some balance left in its EDT account; none of these LECs have done so.

In addition, as AT&T has previously demonstrated, additional depreciable assets should *not* have been added to this account after December 31, 1986. As the assets that existed in these accounts depreciate over time, the balance diminishes. Simply put, EDT cannot increase over time. Rather, the balances in these accounts will decrease until the longest depreciable life for the last asset of its class put into service has been fully depleted. In fact, nearly all price cap LECs already report that this account is at or near zero. As the depreciation lives of the assets underlying the EDT account expire, the underlying EDT exogenous costs will also decline, eventually reaching zero.

42 *Id.*, Exhibit 2, Total Cumulative Under Recovery. SBC does not suggest that it intends to recover these additional amounts through exogenous cost adjustments. Instead it appears to be suggesting that the correct assessment of whether an under recovery has occurred is whether a LEC may have miscalculated its revenue requirement. *See* Exhibit 1, Line 2.

43 *See Nader v. FCC*, 520 F.2d 182, 202 (D.C. Cir. 1975).

For all of these reasons, the Commission should now insist that any LEC seeking an EDT-related exogenous cost adjustment must provide sufficient cost support data to establish that the full EDT account has not been exhausted. This year, SBC, Verizon, Qwest, and Cincinnati Bell all claim exogenous cost adjustments, even though none of these LECs has provided any data that show that its EDT balance has not reached zero. Without knowing the initial price cap EDT account amounts, and the amounts that have already been exhausted, it is not possible to verify if the EDT exogenous claims made by any of these LECs are justified. Because ratepayers ultimately bear the burden of paying these costs, it is critical that they and the Commission have sufficient information to assess whether these costs have been properly computed.

Accordingly, at a minimum, all price cap LECs that request exogenous treatment for the continued amortization of EDT exogenous costs should be required to provide the EDT account balances that entered price caps, the change in EDT amortization in each annual filing and the balance of EDT that remains.[44] These data are required to help ratepayers (and the Commission) assess the validity of LEC EDT exogenous cost claims. Unless a LEC can support its EDT cost adjustments with such underlying data, the Commission should, at a minimum, suspend and investigate its filing.

C. Valor New Mexico Has Used An Incorrect Primary Residential And Single-Line Business End User Rate Cap For Its Common Line Basket Rate Calculations.

Finally, Valor New Mexico is incorrectly using a primary residential and single-line business subscriber line rate cap of $6.01, instead of the correct rate cap of $6.50.[45]

44 AT&T Exhibit G provides an example of a potential standard format that a LEC should use.

45 Valor New Mexico Transmittal No. 1164, filed June 16, 2003, TRP chart CAP-1, line 400(a) shows $6.01. 47 C.F.R. § 69.152 (d)(1), states that beginning July 1,

This error results in an under-recovery of its common line revenues from these rate elements, and a corresponding over-recovery of its common line revenues from the multiline business (MLB) PICC rate. By using a primary residential SLC cap of only $6.01, Valor has computed a MLB PICC rate of $3.42.[46] If Valor New Mexico were to input the correct primary residential SLC cap of $6.50, it would have computed a MLB PICC rate of only $2.01.[47] Because of this error as to its primary residential and single-line business SLC rate cap in its Common Line basket rate calculations, Valor New Mexico's MLB PICC rate is overstated by $181,134.[48]

2003 the primary residential SLC rate should be the lesser of the average CMT revenue per line per month or $6.50. Valor New Mexico's average CMT revenue per line per month shown on its CAP-1, Line 460(a) is $9.21. Therefore, its primary residential SLC rate should be $6.50.

46 *Id.*, line 830(a).

47 Increasing its primary residential SLC rate from $6.01 to $6.50 results in additional recovery of its common line revenues from the primary residential SLC rate of $181,134 {($6.50 minus $6.01) * number of primary residential lines (369,661) = $181,134}. Reducing Valor New Mexico's proposed MLB PICC rate by $181,134 results in a corrected MLB PICC rate of $2.01 {$3.42 minus $2.01) * number of MLB PICC lines (128,463) = $181,134}.

48 *See* n.47 above.

CONCLUSION

For the reasons stated above, the Commission should suspend for one day and investigate the tariff revisions filed by all LECs detailed in Appendix A and impose an accounting order, except for Hargray and UTA whose tariff revisions the Commission should suspend for five months.

Respectfully submitted,

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By /s/ Judy Sello

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APPENDIX A

TARIFFS WHICH THE COMMISSION SHOULD SUSPEND AND INVESTIGATE

RATE-OF-RETURN LEC TARIFFS

COMPANY	TARIFF NO.	TRANSMITTAL NO.
ALLTEL	1	125
CHILLICOTHE	1	74
HARGRAY (JSI)	1	84
NECA	5	988 & 988 - Amended
SOUTHERN KANSAS (TCA)	1	14
VIRGIN ISLANDS	1	51
UNITED TEL ASSOC (TCA)	1	1

NOTE: Hargray and United Telephone Association should be suspended for five months and the other above rate-of-return LEC tariffs should be suspended for one day.

PRICE CAP LEC TARIFFS

COMPANY	TARIFF NO.	TRANSMITTAL NO.
ALLTEL (ALIANT)	3	125
BELLSOUTH	1	724
CENTURYTEL	1	30
CINCINNATI BELL	35	783
CITIZENS	1	138
FRONTIER (MN & IA)	1	55
FRONTIER (ROCHESTER)	1	67
IOWA TEL	1	35
QWEST	1	164 & 164 - Amended
SBC (AMERITECH)	2	1347
SBC (NEVADA BELL)	1	44
SBC (PACIFIC BELL)	1	117
SBC (SNET)	39	793
SBC (SWBT)	73	2952
SPRINT	3	224
VALOR	1	30
VERIZON	1, 11,14,16	327 & 327 - Amended

NOTE: The above price cap LEC tariff should be suspended for one day.

EXHIBITS

EXHIBIT A

NECA TIC Error

($000)

Line #	A	B	C	D	E	F	G
		Common Line	Local Switching	Information	Transport	Special Access	Total
1	**NECA Filed Revenue Requirement**	$ 1,988,053	$ 671,807	$ 3,701	$ 264,359	$ 360,946	$ 3,288,866
2	**Local Switching Support**		$ (319,660)				
3	**Line Port Transfer**	$ 98,079	$ (98,079)				
4	**TIC Revenue Requirement**				$ (110,241)		
5	**Universal Service Fund Contribution**	$ (103,649)					
6	**Correctly Calculated Rev. Req. for TIC Reallocation (sum of lines 1 through 5)**	$ 1,982,483	$ 254,068	$ 3,701	$ 154,118	$ 360,946	$ 2,755,316
7	**NECA Filed Rev. Req. for TIC Reallocation**	$ 1,982,483	$ 450,226	$ 3,701	$ 110,241	$ 360,946	$ 2,907,597
8	**Correctly Calculated Ratio for distribution of TIC (line 6, each column B through F / line 6, column G)**	71.95%	9.22%	0.13%	5.59%	13.10%	100%
9	**Correctly Calculated Distribution of TIC (line 8, each column B through F x line 8, column G)**	$ 79,320	$ 10,165	$ 148	$ 6,166	$ 14,442	$ 110,241
10	**NECA Calculated***	$ 77,367	$ 15,889	$ 334	$ 2,142	$ 16,748	$ 112,480
11	**Rev. Req. (Excess/Shortfall) (line 9 - line 10)**	**$ 1,953**	**$ (5,724)**	**$ (186)**	**$ 4,024**	**$ (2,306)**	**$ (2,239)**

NECA filed data is taken from transmittal No. 988 rate of return ACR adjustments test year, 7/03 - 6/04

* NECA does not display the value of TIC that was redistributed to transport. AT&T calculates the amount allocated to transport as the difference between the transport revenue requirement less the TIC and the interstate revenue requirement NECA displays in column M of its ACR adjustment form.

EXHIBIT B

Frozen Part 36 Allocation Factors
ALLTEL
Account 6610 Marketing-billed revenue factor

	A	B	C = B/A	D	E	F = E/D	G = C x D	H = E - G
	Total Company Marketing	2001 Filing 2000 ALLTEL INTERSTATE Marketing Allocation	AT&T Calculated Interstate Marketing Factor	Total Company Marketing	2003 Filing 2003/2004 ALLTEL INTERSTATE Marketing Allocation	Calculated Interstate Marketing Factor	2003/2004 Corrected INTERSTATE Marketing Allocation	2003/2004 Excess Interstate Allocation
Alltel-Alabama	$214,494	$42,524	0.1983	$352,429	$84,182	0.2389	$69,870	$14,312
Alltel-Arkansas	$789,826	$218,737	0.2769	$713,745	$250,675	0.3512	$197,667	$53,008
Alltel-Florida	$1,016,396	$256,357	0.2522	$1,151,372	$324,494	0.2818	$290,401	$34,093
Alltel-Georgia	$613,419	$141,183	0.2302	$792,757	$226,581	0.2858	$182,459	$44,122
Alltel-Georgia Comm	$4,707,501	$1,227,137	0.2607	$6,128,278	$1,820,225	0.2970	$1,597,501	$222,724
Alltel-Georgia Telecom	$1,239,137	$294,427	0.2376	$1,577,110	$426,037	0.2701	$374,732	$51,305
Alltel-Kentucky	$240,568	$49,321	0.2050	$410,392	$135,794	0.3309	$84,138	$51,656
Alltel-Missouri	$556,109	$143,945	0.2588	$511,522	$139,608	0.2729	$132,404	$7,204
Alltel-Mississippi	$90,494	$20,834	0.2302	$90,957	$24,685	0.2714	$20,941	$3,744
Alltel-North Carolina	$3,014,843	$695,518	0.2307	$3,334,733	$939,420	0.2817	$769,316	$170,104
Alltel-NY-Red Jacket	$18,374	$4,637	0.2524	$16,529	$4,433	0.2682	$4,171	$262
Alltel-NY-Fulton	$367,562	$93,858	0.2554	$372,554	$120,921	0.3246	$95,133	$25,788
Alltel-NY-Jamestown	$536,118	$185,167	0.3454	$556,196	$225,222	0.4049	$192,102	$33,120
Alltel-Oklahoma	$157,513	$50,174	0.3185	$138,746	$45,003	0.3244	$44,196	$807
Alltel-Ohio	$2,223,332	$612,362	0.2754	$2,744,017	$787,979	0.2872	$755,772	$32,207
Oklahoma Alltel	$169,000	$41,482	0.2455	$190,931	$48,055	0.2517	$46,865	$1,190
Alltel-Pennsylvania	$1,558,173	$409,872	0.2630	$1,548,111	$530,601	0.3427	$407,225	$123,376
Alltel-South Carolina	$587,017	$159,961	0.2725	$942,360	$272,545	0.2892	$256,791	$15,754
Alltel-Sugarland	$798,055	$236,876	0.2968	$1,344,911	$510,308	0.3794	$399,192	$111,116
Alltel-Texas	$326,256	$86,316	0.2646	$460,111	$143,739	0.3124	$121,729	$22,010
Alltel-Western Reserve	$2,474,642	$688,284	0.2781	$3,288,479	$1,018,657	0.3098	$914,640	$104,017
TOTAL								**$1,121,919**

EXHIBIT C

The Chillicothe Telephone Company
2003 Annual Access Tariff Filing
Transmittal No. 74

Comparison of Actual Total Company Operating Expenses to Forecast

Transmittal No.	Filed Date	Year	Operating Expenses Actuals	Yr/Yr Growth	Tariff Period	Actuals^	Part 36 Forecast
61	6/16/98	1997	20,680,794		1998/1999	23,248,018	23,929,221
		1998E*	22,392,277	8.28%			
67	6/16/00	1999	24,103,759	7.64%	2000/2001	25,834,655	27,822,580
		2000E*	25,257,690	4.79%			
71	6/17/01	2001	26,411,620	4.57%	2002/2003	28,362,203	37,134,182
74	6/16/03	2002	27,561,550	4.35%	2003/2004	29,843,080	39,623,737
		2003T+	29,162,856	5.81%			
		2004T+	30,523,305	4.67%			

Notes:
*1998 is an average of 1997 and 1999; 2000 is an average of 1999 and 2001
+Excel trend function was used to forecast 2003 and 2004
^Sum of year's actuals divided by 2

EXHIBIT D

The Chillicothe Telephone Company
2003 Annual Access Tariff Filing
Transmittal No. 74

Comparison of Actual Local Switching Demand to Forecast

Year	USF Data Cat 1.3 Loops	Yr/Yr Growth	TRP DMD-1 Page 3 Actuals	Yr/Yr Growth	Tariff Period	Actuals^	TRP DMD-1 Page 3 Forecast
1998	35,990		66,450,907		1998/1999	67,959,916	74,112,650
1999	36,267	0.77%	69,468,925	4.54%			
2000	37,501	3.40%	85,622,270	23.25%	2000/2001	84,284,924	96,219,114
2001	37,201	-0.80%	82,947,577	-3.12%			
2002			88,033,767	6.13%	2002/2003	91,765,884	79,972,956
2003T*			95,498,001	8.48%	2003/2004	98,330,219	85,534,538
2004T*			101,162,438	5.93%			

Notes:
*Excel trend function was used to forecast 2003 and 2004
^Sum of year's actuals divided by 2

EXHIBIT E

2003 AT&T CALCULATION OF REVENUE REQUIREMENT OVERSTATEMENT DUE TO OVERSTATEMENT OF CASH WORKING CAPITAL (CWC) REQUIREMENTS

A	B	C	D	E	F	G	H	I	J
COMPANY	TOTAL INTERSTATE EXPENSES(1)	DEPRECIATION & AMORTIZATION (2)	DAILY EXPENSES (3) (B - C) / 365	FILED CWC (4)	COMPUTED LAG DAYS (5) E / D	AT&T CALCULATED CWC @ 15 DAYS (6) D x 15	EXCESS CWC E - G	EFFECT ON INTERSTATE INCOME (7) H x .1125	EFFECT ON INTERSTATE REV. REQ. (8) I x 1.538462 (9)
CHILLICOTHE TELEPHONE COMPANY, THE	$9,003,393	$2,186,162	$18,677	$467,282	25	$280,160	$187,122	$21,051	$32,386
VIRGIN ISLANDS TELEPHONE CORPORATION (Vitelco)	$19,015,580	$6,659,080	$33,853	$681,237	20	$507,801	$173,436	$19,512	$30,018
						Total =	$360,557		$62,404

NOTES:
(1) See Col. B - TRP, COS(P), Column E, Line 300, Total Interstate
(2) See Col. C - TRP, COS(P), Column E, Line 190, Total Interstate
(3) Daily Expenses = (Total Interstate Expenses - Depreciation and Amortization) / 365 Days
(4) See Cost Support, Part 69 (Prospective), Cash Working Capital, Total Interstate
(5) Company Filed CWC / Daily Expenses = LEC's Proposed Lead/Lag
(6) Standard Cash Working Capital Allowance = Daily Expenses * 15 Days
(7) Effect on Interstate Income = Excess CWC * LEC's Return at 11.25% rate of return
(8) Effect on Interstate Revenue Requirement = LEC's Return * Gross Up Factor for Federal Income Taxes (35%)
(9) Gross Up Factor = 1 + (0.35 / (1 - 0.35))

SOURCES:
Col. B - TRP, COS(P), Col E, Line 300, Total Interstate
Col. C - TRP, COS(P), Col E, Line 190, Total Interstate
Col. E - Cost Support, *Part 69 (Prospective), Cash Working Capital*, Total Interstate

2003 AT&T CALCULATION OF RATE OF RETURN REVENUE REQUIREMENT OVERSTATEMENT DUE TO OVERSTATEMENT OF CASH WORKING CAPITAL (CWC) REQUIREMENTS

	A	B	C	D	E	F
	COMPANY	TOTAL INTERSTATE EXPENSES(1)	DEPRECIATION & AMORTIZATION (2)	DAILY EXPENSES (3) (B - C) / 365	COMPANY FILED CWC (4)	COMP LAG DAYS (5) E / D
1	CHILLICOTHE TELEPHONE COMPANY, THE	$9,003,393	$2,186,162	$18,677	$467,282	25
2	VIRGIN ISLANDS TELEPHONE CORPORATION (Vitelco)	$19,015,580	$6,659,080	$33,853	$681,237	20
3	ALLTEL ALABAMA, INC. (Alltel)	$4,336,709	$1,361,894	$8,150	$130,166	16
4	ALLTEL ARKANSAS, INC. (Alltel)	$18,638,066	$6,241,614	$33,963	$545,857	16
5	ALLTEL CAROLINA, INC. (Alltel)	$32,194,043	$9,024,617	$63,478	$1,028,985	16
6	ALLTEL FLORIDA, INC. (Alltel)	$12,688,506	$4,311,787	$22,950	$358,951	16
7	ALLTEL GEORGIA PROPERTIES (Alltel)	$78,057,810	$24,409,046	$146,983	$2,313,750	16
8	ALLTEL KENTUCKY, INC. (Alltel)	$4,259,921	$904,264	$9,194	$143,752	16
9	ALLTEL MISSISSIPPI, INC. (Alltel)	$1,943,656	$820,607	$3,077	$47,451	15
10	ALLTEL MISSOURI, INC. (Alltel)	$9,561,243	$3,065,529	$17,796	$281,811	16
11	ALLTEL NEW YORK, INC. (Alltel)	$13,856,477	$3,072,836	$29,544	$466,838	16
12	ALLTEL Ohio (Alltel)	$19,058,788	$5,665,306	$36,694	$556,989	15
13	ALLTEL OKLAHOMA PROPERTIES (Alltel)	$6,772,252	$2,147,746	$12,670	$205,486	16
14	ALLTEL PENNSYLVANIA, INC. (Alltel)	$28,564,795	$8,325,628	$55,450	$875,034	16
15	ALLTEL SOUTH CAROLINA, INC. (Alltel)	$7,941,435	$2,943,174	$13,694	$216,745	16
16	SUGAR LAND TELEPHONE CO. (Alltel)	$13,813,946	$3,853,534	$27,289	$436,811	16
17	TEXAS ALLTEL, INC. (Alltel)	$5,319,346	$1,881,504	$9,419	$158,535	17
18	WESTERN RESERVE TELEPHONE COMPANY (Alltel)	$29,593,897	$9,720,820	$54,447	$858,522	16

NOTES:

(1) See Col. B - TRP, COS(P), Column E, Line 300, Total Interstate
(2) See Col. C - TRP, COS(P), Column E, Line 190, Total Interstate
(3) Daily Expenses = (Total Interstate Expenses - Depreciation and Amortization) / 365 Days
(4) See Cost Support, Part 69 (Prospective), Cash Working Capital, Total Interstate
(5) Company Filed CWC / Daily Expenses = LEC's Proposed Lead/Lag

SOURCES:

Col. B - TRP, COS(P), Col E, Line 300, Total Interstate
Col. C - TRP, COS(P), Col E, Line 190, Total Interstate
Col. E - Cost Support, Part 69 (Prospective), Cash Working Capital, Total Interstate

EXHIBIT G

Illustration of EDT Amortization

A	B	C	D	E	F
ROW	Tariff Year	Beginning of Period Balance	Amortization Current Period	End of Period Balance COL(C)-COL(D)	Change in Amortization COL(D)(ROW)-COL(D)(ROW-1)
1	1990/1991	$1,000,000.00	$200,000.00	$800,000.00	N/A
2	1991/1992	$800,000.00	$164,000.00	$636,000.00	($36,000.00)
3	1992/1993	$636,000.00	$134,480.00	$501,520.00	($29,520.00)
4	1993/1994	$501,520.00	$110,273.60	$391,246.40	($24,206.40)
5	1994/1995	$391,246.40	$90,424.35	$300,822.05	($19,849.25)
6	1995/1996	$300,822.05	$74,147.97	$226,674.08	($16,276.38)
7	1996/1997	$226,674.08	$60,801.33	$165,872.75	($13,346.63)
8	1997/1998	$165,872.75	$49,857.09	$116,015.65	($10,944.24)
9	1998/1999	$116,015.65	$40,882.82	$75,132.83	($8,974.28)
10	1999/2000	$75,132.83	$33,523.91	$41,608.92	($7,358.91)
11	2000/2001	$41,608.92	$27,489.61	$14,119.32	($6,034.30)
12	2001/2002	$14,119.32	$14,119.32	$0.00	($13,370.29)
13	2002/2003	$0.00	$0.00	$0.00	($14,119.32)

* It appears that the balance and any change to the balance that would have initially entered price caps would represent the balance for the period July 1, 1990 through June 30, 1991.

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of June, 2003, I caused true and correct copies of the forgoing Petition of AT&T Corp. to be served on all parties by telecopier and mailing, postage prepaid to their addresses listed on the attached service list.

Dated: June 23, 2003
Washington, D.C.

/s/ Patricia A. Bunyasi
Patricia A. Bunyasi

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