

standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

6. Unfunded Mandates

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 902

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 13, 1997.

James F. Fulton,
Acting Regional Director, Western Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 902—ALASKA

1. The authority citation for part 902 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 902.15 is amended in the table by adding a new entry in chronological order by "Date of Final Publication" to read as follows:

§ 902.15 Approval of Alaska regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	*
December 12, 1996	[Insert date of publication in the Federal Register].	11 AAC 90.207(f) (3) and (8).

3. Section 902.16 is amended by removing and reserving paragraph (b)(1).

[FR Doc. 97-8104 Filed 3-28-97; 8:45 am]
BILLING CODE 4310-05-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 65

[CC Docket No. 96-22; FCC 97-56]

Interstate Rate of Return Prescription Procedures and Methodologies

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On February 19, 1997, the Commission adopted a Report and Order that amends the Commission's rules with respect to other postretirement benefits other than pensions (OPEBs). This Order also

denies an MCI petition for reconsideration of the Commission's March 7, 1996, Order (*Vacate Order*), that rescinded ratemaking instructions for OPEBs given by the Common Carrier Bureau in Responsible Accounting Officer Letter No. 20 (RAO 20). The intended effect of the rules is to standardize the Commission's rate base rules with respect to similar types of assets and liabilities.

EFFECTIVE DATE: April 30, 1997.

FOR FURTHER INFORMATION CONTACT: Thaddeus Machcinski, Accounting and Audits Division, Common Carrier Bureau, (202) 418-0808.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order adopted February 19, 1997, and released February 20, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Public Reference Room (Room 230), 1919 M St., NW., Washington, DC. The complete text of this decision may

also be purchased from the Commission's copy contractor, International Transcription Service, Suite 140, 2100 M Street, NW., Washington, DC 20037.

Summary of Report and Order

1. On March 7, 1996, the Commission released an Order (*Vacate Order*), (61 FR 9968, March 12, 1996), rescinding the rate base instructions issued by the Common Carrier Bureau (*Bureau*) in RAO 20. With that Order, we also issued a Notice of Proposed Rulemaking (NPRM) (61 FR 9968, March 12, 1996), that proposed amendments to Part 65, Subpart G to address the ratemaking treatment of OPEBs.

2. On April 8, 1996, MCI filed a Petition for Reconsideration of the *Vacate Order*. MCI requests that the Commission reconsider its decision to rescind the rate base instructions for OPEBs set forth in RAO 20.

3. In this Order, we amend Part 65 of our rules to include OPEBs in ratemaking and to remove all items

recorded in Account 4310, Other long-term liabilities, that were derived from above-the-line expenses from the interstate rate base. We also deny MCI's petition for reconsideration of the *Vacate Order*.

4. In the *NPRM*, we proposed that prepaid *OPEBs* recorded in Account 1410, Other noncurrent assets, should be included in the interstate rate base. In this Order, we have decided not to adopt our proposal automatically to include prepaid *OPEBs* in the interstate rate base. We find our current rules are adequate to determine what, if any, of the assets recorded in Account 1410 should be included in the rate base. Therefore, if a carrier can show that any of its assets recorded in Account 1410 (including prepaid *OPEBs*) meet the used-and-useful standard, we will allow that asset to be included in the interstate rate base. This decision is consistent with our treatment of similar costs, such as prepaid pension costs. A certain amount of prepaid pension costs are allowed in the rate base because these costs can earn a return that later reduces expenses. Thus, any prepaid *OPEB* costs that meet the used and useful standard will be included in the interstate rate base.

5. In the *NPRM*, we also proposed to amend § 65.830 to remove from the interstate rate base the interstate portion of all accrued liabilities recorded in Account 4310, Other long-term liabilities. In this Order we have decided to modify our proposal so that only those zero-cost sources of funds that result from above-the-line expenses are removed from the rate base. Thus, only those liabilities recorded in Account 4310 that are derived from the expenses specified in § 65.450(a) will be removed from the rate base.

6. In the *NPRM*, we noted that the Bureau in *RAO 20* directed carriers to remove accrued *OPEB* liabilities recorded in Account 4310, Other long-term liabilities, from their rate bases on the basis that *OPEB* benefits are similar to pension benefits, which are deducted from the rate base pursuant to part 65. The Bureau concluded that accrued *OPEB* costs should receive similar rate base treatment. We believe the Bureau was correct in that conclusion. Moreover, in the *NPRM*, we noted that all accrued liabilities recorded in Account 4310 represent zero-cost sources of funds including accrued pension and *OPEB* liabilities. We therefore proposed to accord to all items recorded in Account 4310 the same treatment currently accorded to pensions. After reviewing the comments in this proceeding, we conclude that, because the amounts recorded in

Account 4310 are zero-cost sources of funds, rates should not provide a return on those amounts. Accordingly, we adopt our proposal except as modified in the preceding paragraph.

7. Finally, we state that the conclusion in the *Vacate Order* that the Bureau did not have the delegated authority to amend the Part 65 rules in *RAO 20* was correct. MCI's petition for reconsideration does not refute this conclusion. Accordingly, the Order denies MCI's petition for reconsideration.

Ordering Clauses

Accordingly, it is ordered, pursuant to Section 4(i) and 405 of the Communications Act of 1934, 47 U.S.C. §§ 154(i) and 405 that the Petition for Reconsideration filed April 8, 1996, by MCI Telecommunications Corporation is denied.

It is further ordered, that pursuant to Sections 1, 4(i), 4(j), 201 through 205, 220, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 201 through 205, 220 and 403, Part 65, Subpart G of the Commission's Rules, 47 CFR Part 65, Subpart G, is amended as shown below, effective April 30, 1997.

It is further ordered, that the Secretary shall serve a copy of this Order on each state commission.

It is further ordered, that the Secretary shall send a copy of this Report and Order including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 605(b) of the Regulatory Flexibility Act, Public Law 96-354, 94 Stat. 1164, 5 U.S.C. §§ 601 *et seq.* (1981).

List of Subjects in 47 CFR Part 65

Communications common carriers, Reporting and recordkeeping requirements.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Part 65 of Title 47 of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 65 continues to read as follows:

Authority: 47 U.S.C. 151, 154, 201, 202, 203, 204, 205, 218, 219, 220, 403.

2. Section 65.830 is amended by revising paragraphs (a)(3) and (c) to read as follows:

§ 65.830 Deducted items.

(a) * * *

(3) The interstate portion of other long-term liabilities (Account 4310) that were derived from the expenses specified in § 65.450(a).

* * * * *

(c) The interstate portion of other long-term liabilities (Account 4310) shall bear the same proportionate relationship as the interstate/intrastate expenses which gave rise to the liability. [FR Doc. 97-8040 Filed 3-28-97; 8:45 am]

BILLING CODE 6712-01-P

47 CFR Part 76

[MM Docket No. 92-266; FCC 97-87]

Low-Price Cable Television System Rate Regulation

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted a Report and Order regarding low-price system rate regulation. The Report and Order makes permanent the transition relief afforded to low-price cable television systems, and establishes final rules for low-price system rate regulation. Based on data received in a cost survey conducted in the Fall of 1995, the Report and Order finds that low-price system operators have lower cash flow ratios and receive lower profit margins for their low-price systems than operators of systems already regulated under the Commission's revised benchmark approach receive for their systems. The Report and Order, therefore, states that low-price system rates are reasonable and that low-price systems will not be required to reduce their rates by the full competitive differential or any lesser amount. Low-price systems will be able to continue charging for cable services in accordance with the current rules for such systems.

EFFECTIVE DATE: April 30, 1997.

ADDRESSES: In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, NW., Washington, DC 20554, or via the Internet to dconway@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, NW., Washington, DC 20503 or via the Internet to fain_t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Rodney McDonald, Cable Services Bureau, (202) 418-7200. For additional information concerning the information collections contained in the Report and