

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

MEMORANDUM OPINION AND
ORDER ON RECONSIDERATION

Adopted: January 28, 1992; Released: January 31, 1992

By the Commission:

In the Matter of

The Prescription of Revised
Percentages of Depreciation
pursuant to the Communications
Act of 1934, as amended for:

Alascom, Inc.
Continental Telephone
Company of Virginia
GTE North Incorporated
GTE South Incorporated
GTE Southwest Incorporated
New England Telephone
and Telegraph Company
Ohio Bell Telephone Company
Pacific Northwest
Bell Telephone Company
South Central Bell
Telephone Company
Southern New England
Telephone Company
The Chesapeake and
Potomac Telephone
Company of Virginia
The Chesapeake and
Potomac Telephone
Company of West Virginia
United Inter-Mountain
Telephone Company

AAD 91-18

and

Policy Regarding Effective Date
of Depreciation Prescriptions

I. INTRODUCTION

1. In the 1990 Depreciation Rates Prescription Order,¹ released January 31, 1991, this Commission adopted January 1 of the study year as the mandatory effective booking date for new depreciation rates, effective for carriers studied in the 1991 represetion and thereafter. Petitioners² request that we reconsider our decision and return to our transitional policy, in effect from 1981-1990, of allowing carriers to select any date within the study year or January 1 of the following year as the effective date for new depreciation rates. Five parties commented on the petitions for reconsideration, and five parties replied.³ We deny the petitions for reconsideration for the reasons discussed below with an exception made for rate of return carriers studied in the upcoming 1991 represetion.

II. BACKGROUND

2. Each year we prescribe new depreciation rates for approximately one third of the major domestic telecommunications carriers, based on studies made as of the beginning of the year. Prior to 1981, it was common practice for carriers to request, and for the Commission to prescribe, January 1 of the study year as the effective date for revised depreciation rates. The Commission followed this practice in order to assure that depreciation expense reported for the study year was based on the latest estimate of that expense.

3. In 1981, with the initial implementation of the remaining-life (RL) and straight-line equal life group (SLELG) depreciation methods,⁴ many carriers requested effective dates later than January 1 of the study year. Carriers requested later effective dates because implementation of the new methods resulted in unusually large increases in depreciation expense: carriers feared that state commissions that had resisted the new methods would not approve of rate increases until the Commission actually prescribed depreciation rates using the new methods. In response to these requests, the Commission determined that during the transition period to the new depreciation methods, carriers could select effective dates for new depreciation rates between January 1 of the study year and January 1 of the following year.⁵

¹ The Prescription of Revised Percentages of Depreciation pursuant to Section 220(b) of the Communications Act of 1934, as amended for: Alascom, Inc. *et. al.*, 6 FCC Red 750 (1991) (1990 Depreciation Rates Order).

² Petitions for Reconsideration were filed by the Southern New England Telephone Company (SNET), Southwestern Bell Telephone Company (SWBT), the United States Telephone Association (USTA), the Cincinnati Bell Telephone Company (CBT), and GTE Service Corporation (GTE).

³ The parties that filed comments are the Public Service Commission of the State of New York (NYDPS), the Virginia State Corporation Commission (VSCC), the Minnesota Department of

Public Service (MDPS), The Bell Atlantic Telephone Companies (Bell Atlantic), and The Ameritech Operating Companies (Ameritech). Reply comments were filed by the National Association of Regulatory Utility Commissioners (NARUC), GTE, CBT, SWBT, and MCI Telecommunications Corporation (MCI).

⁴ Amendment of Part 31 (Uniform System of Accounts for Class A and Class B Telephone Companies), 83 FCC 2d 267 (1980) (*Property Depreciation*), *recon.*, 87 FCC 2d 916 (1981), *Supplemental Opinion and Order*, 87 FCC 2d 1112 (1981).

⁵ The Prescription of Revised Percentages of Depreciation pursuant to Section 220(b) of the Communications Act of 1934, as amended for: AT&T *et. al.*, 88 FCC 2d 1223 (1982).

4. On August 17, 1990, the Bureau invited comments on whether the Commission should continue to adopt the effective dates proposed by the carriers.⁶ In our *1990 Depreciation Rates Order*,⁷ we ruled that beginning with the 1991 represetation period, depreciation prescriptions would be effective January 1 of the study year. We found that flexibility was no longer warranted because the transition to the new depreciation methods had been completed; because states were no longer bound by the effective dates or depreciation rates prescribed by the Commission; and because the endogenous treatment of depreciation rate changes under price cap regulation had broken the direct link between changes in depreciation expense and changes in revenue.

5. Petitioners argue (1) that mandatory retroactive booking of depreciation rates is inconsistent with the "endogenous" treatment of depreciation rates under price cap regulation; (2) that accounting principles do not support a mandatory retroactive booking date; and (3) that the flexibility to match effective dates for new depreciation rates with the implementation of tariffs based on those rates is necessary to assure that rate of return carriers achieve full capital recovery. Accordingly, petitioners urge us to reconsider our decision adopting January 1 of the study year as the effective date for depreciation rate represetations.

III. ISSUE ANALYSIS

A. Price Cap Regulation

6. In the price caps proceeding, this Commission found that depreciation rate changes should be endogenous because carriers control their depreciation costs through their decisions to deploy and retire equipment.⁸ Petitioners argue that, by denying carriers the right to choose an effective date, this Commission in effect is denying carriers such control. According to petitioners, our decision in the *1990 Depreciation Rates Order* undermines our rationale for endogenous treatment of depreciation rate changes under price cap regulation.⁹

7. NARUC objects to petitioners' claim that retroactive booking of depreciation rates is inconsistent with the "endogenous" treatment of depreciation rates under price cap regulation because "[a]lthough it may be a policy decision to rule that depreciation expenses are endogenous, it is mathematical, technical, and theoretical logic

that requires booking coincident with the study date."¹⁰ NYDPS states that "the type of regulation should have no bearing on the treatment of depreciation."¹¹

8. A mandatory January 1 of the study year effective date for depreciation rate prescriptions is not inconsistent with the endogenous treatment of depreciation rate changes under price cap regulation. Rather, these two policies serve two distinct regulatory purposes. The purpose of the mandatory effective date is to assure that a carrier's books of account for a given year reflect as accurately as possible the depreciation expenses incurred during the year,¹² which in turn helps assure that the carrier's financial reports will accurately portray its financial condition. The purpose of endogenous treatment of depreciation rate changes is to preserve the incentives we created with the price cap program by requiring carriers to live with the depreciation rates that result from their investment decisions.¹³ The flexibility that carriers possessed under our former depreciation accounting policy was not a factor in our determination in the price caps proceeding that carriers exercise a degree of control over their depreciation rates. That determination was based on the carriers' control over the capital investment and retirement decisions that form the basis of depreciation rates. Likewise, our elimination of their control over effective dates does not diminish their control over those business decisions.

9. Removal of carrier discretion over the booking of depreciation rate changes will promote the orderly operation of the price caps sharing mechanism. Under the LEC price caps plan, a LEC must share with ratepayers a portion of its earnings above a certain level. While this sharing mechanism provides a desirable "backstop" against the possibility that our price cap formula would produce unreasonable rates, it also creates an undesirable incentive for carriers to shift costs from one year to the next. Depreciation is the largest single operating expense for carriers, and changes in depreciation rates can have a significant bearing on the level of reported interstate earnings.¹⁴ Fixing the effective date eliminates this costshifting incentive.

10. SWBT states that endogenous treatment of depreciation rate changes under price caps increases the risk of rate recovery for depreciation rate changes because a price cap LEC is not assured that the price cap mechanism will allow it to recover any increase in depreciation expense. According to SWBT, a retroactive booking date compounds this risk.¹⁵ SWBT also claims that enforcing a

⁶ Comments Invited on Depreciation Rate Prescriptions Proposed for Domestic Telephone Carriers and on Commission Policy for Effective Date of Depreciation Prescriptions, 5 FCC Rcd 5257 (1990).

⁷ *Supra* note 1.

⁸ Policy and Rules Concerning Rates for Dominant Carriers, *Second Report and Order*, 5 FCC Rcd 6786, 6809, para. 182 (1990) (*LEC Price Cap Order*); *recon.*, 6 FCC Rcd 2637, 2672, para. 74 (1991) (*LEC Price Caps Recon. Order*). "Endogenous" cost changes cannot be flowed through to the price cap index (PCI) but must be absorbed by the carrier. Under our price cap plan, most costs are considered endogenous. A few types of cost changes that are triggered by administrative, legislative, or judicial actions beyond the carriers' control are considered "exogenous"; changes in exogenous costs result in adjustments to the PCI.

⁹ USTA Petition at 2; SNET Petition at 3; SWBT Petition at

5-6; GTE Petition at 2-4, 6; Bell Atlantic Comments at 2-3; Ameritech Comments at 5; GTE Reply at 5-6; USTA Reply at 2. See also GTE Petition at 7 (because prices rather than costs are regulated under price cap regulation, detailed regulation of depreciation is "not only unnecessary but pointless.")

¹⁰ NARUC Reply at 6.

¹¹ NYDPS Comments at 2.

¹² See Section III.B. below.

¹³ *LEC Price Cap Order*, 5 FCC Rcd at 6809, para. 183.

¹⁴ In 1990, for instance, depreciation expense amounted to 22% of total operating expenses of the local exchange carriers and American Telephone and Telegraph Co. See The Prescription of Revised Percentages of Depreciation pursuant to the Communications Act of 1934, as amended for AT&T Communications *et. al.*, para. 2, FCC 92-38 (adopted January 28, 1992).

¹⁵ SWBT Petition at 7. SWBT argues that depreciation rate changes should be exogenous. We considered and rejected this

retroactive application of depreciation rate changes impairs a LEC's ability to forecast costs, and "since costs must be a key consideration in pricing decisions, the LEC's ability to make appropriate pricing decisions is also impaired."¹⁶ Ameritech contends that uncertainty with regard to the amount of depreciation change that may be imposed on a retroactive basis will make it difficult for a LEC to elect an appropriate productivity factor under the price cap plan.¹⁷ SWBT argues that depreciation rates cannot be known with any degree of certainty and carriers are unable to reasonably estimate changes in depreciation expense until we issue our final prescription order.¹⁸ SWBT also argues that because depreciation is its only source of internally generated funds for infrastructure development, uncertainty about the amount of depreciation that will be booked will force the company to take a conservative approach to capital deployment, thus handcuffing incentives for infrastructure development.¹⁹

11. According to VSCC and NYDPS, SWBT's claim that the risk of rate recovery for depreciation changes increases under price cap regulation "has no quantitative credibility."²⁰ According to VSCC, price cap regulation affords companies greater earnings flexibility than traditional rate of return regulation and with flexibility comes risk. VSCC argues that a company should not be guaranteed recovery of an expense while it is concurrently being given more earnings and pricing flexibility under incentive-based price cap regulation. In addition, VSCC disputes SWBT's claim that depreciation expense is an unknown expense: "[i]t is a safe assumption to say that any telephone utility knows well in advance and within a very narrow margin the depreciation expense it will incur in any given year, including years in which it has 'rates prescribed.'"²¹

12. Under price cap regulation, it is up to the carriers to manage their own costs and to set prices within the zones of flexibility we created in order to generate reasonable returns. In recognition of the increased risk they bear, carriers are allowed to retain more earnings under price caps than they would under rate of return regulation.²² Ameritech's and SWBT's claims that their inability to forecast changes in depreciation rates impairs their ability to make pricing decisions or to elect the appropriate productivity offset in the price cap index, are not persuasive. When carriers make decisions about pricing, or decide which productivity offset to elect, they cannot know to a certainty how any of their costs will change during the upcoming year. Like all businesses facing pricing decisions, they must make internal predictions about how they believe their costs will change. Our depreciation rate prescriptions are in fact more predictable than most kinds of costs, because our rates are based on established formulas which, in turn, are based on factors determined by the carriers' own investment decisions.

13. We do not agree with SWBT that depreciation is its only source of internally generated funds for infrastructure development, nor do we agree that our decision fixing the effective date for depreciation rates creates uncertainties about the amount of internally generated funds that will be available for investment. Net income is also an important source of internally generated funds. Moreover, net income and depreciation expense are inversely related: if a carrier's depreciation expense is higher due to an earlier effective date, its net income is lower. Thus, a carrier's internally generated funds from operations are unaffected by the effective date of depreciation rate changes. The total of net income plus depreciation expense would be the same regardless of which effective date is used for new depreciation rates. Thus, fixing the effective date does not introduce uncertainty about the amount of internally generated funds. In any case, we believe that our price cap plan contains sufficient incentives to encourage LECs to develop their infrastructure in ways that improve productivity and efficiency over the long-run.²³

B. GAAP

14. In the *1990 Depreciation Rates Order*, we affirmed our historically-held view that sound accounting calls for immediate recognition of new depreciation rate estimates, and that January 1 of the study year is therefore the preferred effective date for accounting purposes.

15. Petitioners contend that a mandatory January 1 effective date fails to comply with generally accepted accounting principles (GAAP). SWBT and SNET argue that the GAAP rule which prohibits accounting for a change in estimate by restating amounts reported in prior period financial statements applies to depreciation expense, because estimates are used to determine the asset's useful life and salvage value. Accordingly, a change in depreciation "should be prospectively accounted for in the period of change and in future periods if the change affects both."²⁴ According to SNET, the "period of change", for purposes of this GAAP rule, is the quarter in which the change occurs. SNET bases this interpretation on the fact that it files quarterly financial reports with the Securities and Exchange Commission.

16. VSCC, NARUC, NYDPS, and MCI challenge petitioners' claim that a mandatory January 1 of the study year booking date conflicts with GAAP. VSCC claims that the "period of change" for purposes of changes in depreciation expense estimates is annual, not quarterly. According to VSCC, a quarterly statement is, by definition, an interim statement; the intent of APB Opinion No. 20 was to prohibit restatement of prior years' accounting statements.²⁵ VSCC and NARUC submit that booking a remaining-life or equal life group rate at any time other than the study date results in the booking of an inac-

argument in *LEC Price Cap Order*, 5 FCC Rcd at 6809, para 182-187; *LEC Price Caps Recon. Order*, 6 FCC Rcd at 2671-2, para. 73-75.

¹⁶ SWBT Petition at 7.

¹⁷ Ameritech Comments at 6; SWBT Petition at 7.

¹⁸ SWBT Petition at 2.

¹⁹ *Id.* at 4, 6, 8-9; USTA Petition at 3; Ameritech Comments at 6.

²⁰ GTE Reply at 4. *See also*, GTE Petition at 7-8.

²¹ VSCC Comments at 5; NARUC Reply at 5.

²² VSCC Comments at 4. *See also*, VSCC Comments at 3

("[o]ne of the few things that is not speculative... is the reserve ratio used in calculating a RL or ELG rate....[D]epreciation is one of the more predictable expenses.")

²³ *LEC Price Cap Order*, 5 FCC Rcd at 6787, para. 2-3.

²⁴ *Id.*, 5 FCC Rcd at 6809, 6829, paras. 183, 351.

²⁵ SWBT Petition at 3 (referring to Accounting Principle Board Opinion (APB) No. 20, "Accounting Changes," para. 31); SNET Petition at 5-6; CBT Petition at 8-9.

²⁶ VSCC Comments at 6.

curate rate.²⁶ According to NYDPS, our policy appropriately treats depreciation as any other current expense would be treated on a telephone company's books: depreciation is recorded at the cost actually incurred, when incurred. Once the proper revised depreciation rate is known, it is inappropriate to continue to book an outdated level of expense.²⁷ Therefore, knowingly booking an incorrect depreciation rate, which occurs when a date other than January 1 is chosen, is inconsistent with standard accounting principles and encourages carriers to manipulate their financial statements.²⁸

17. We agree with VSCC and NARUC that booking a remaining-life and equal life group rate at any time other than the study date results in the booking of an inaccurate rate.²⁹ Furthermore, we agree with VSCC that the "period of change" referenced in APB Opinion No. 20 is annual, not quarterly. "Historically, generally accepted accounting principles have been established in the context of the annual period."³⁰ Depreciation expense, like pension expense and amortization, is recognized on the basis of ongoing estimates. These estimates vary based on experience and are booked in the current period, *i.e.*, the current year, based on the best information available. If a better estimate of the level of expense becomes available during the year, as it does when the Commission prescribes a new depreciation rate, then accounting entries for the year must be revised to reflect the new estimate. Otherwise, annual financial reports will not reflect the company's true financial condition. Carriers refer to this as "retroactive" booking, but, from an accounting perspective, revisions in expenses for any month of a year are not "retroactive" as long as they are made before the company closes its books for the year. Anything less than one year is deemed an "interim period". Investors and others who rely on company financial statements are aware that quarterly reports are interim in nature, and that the picture presented by quarterly reports may differ from what ultimately appears in the annual report. Our rule focuses on preserving the integrity of the annual financial results reported by the carriers under our jurisdiction.

C. Coordination of Depreciation Rate Changes with Federal Tariff Changes; Capital Recovery.

18. In the 1990 *Depreciation Rates Order*, we found that because depreciation rate increases are treated as endogenous, "the direct link between changes in depreciation expense and changes in revenue is broken. Any concern

about the coordination of depreciation rate changes based on those rates, at least with respect to federal tariffs, is no longer a factor for consideration for most of the carriers."³¹ Petitioners and their supporters, however, urge us to reinstate the Commission's transitional policy permitting carriers flexibility to match the effective date for depreciation rates with the effective date of new federal tariffs.³² According to SNET, CBT, and USTA, this "direct link" remains for rate of return carriers who still need to coordinate the effective dates of depreciation rates with the effective dates of new federal tariffs.³³ CBT argues that if the Commission has the ability to dictate depreciation expenses retroactively to a time period before changes in current depreciation expenses are incorporated into tariffed rates, insufficient revenues may be generated. Therefore, according to CBT and SNET, a carrier's ability to manage and control its budget and capital recovery is limited by our decision and confiscation may result.³⁴

19. NYDPS, MDPS, VSCC, and NARUC disagree with petitioners' claim that flexibility is needed in order to match depreciation rate changes with their annual access tariff filings.³⁵ In particular, VSCC and NARUC argue that of the two dates in question (depreciation rate effective date and tariff effective date), only the tariff date should be discretionary. According to the state commissions, there should be no discretion in effecting a remaining-life or SLELG depreciation rate because booking at any date other than the study date yields an inaccurate rate. Therefore, the fact that a carrier is required to book depreciation expense before such changes can be incorporated into tariffed rates "may be a problem, but is *not* a depreciation problem."³⁶

20. With respect to price cap carriers, we affirm our previous decision that the direct link between changes in "depreciation expense and changes in revenue is broken. The endogenous treatment of depreciation expense under price cap regulation obviates a price cap carrier's need to coordinate changes in depreciation expense with federal access tariffs.

21. We find that rate of return carriers for whom we prescribe depreciation rates may still legitimately claim a need to match depreciation rate changes as closely as possible with tariff rate changes.³⁷ In recent years, annual access tariffs have been due in April, and rates have been in effect from July 1 of one year to June 30 of the following year. Thus, during the first half of a study year, existing tariff rates may reflect depreciation estimates that predate the depreciation study filed at the beginning of

²⁶ VSCC Comments at 1-2; NARUC Reply at 4; MCI Reply at 2.

²⁷ NYDPS Comments at 1.

²⁸ NARUC Reply at 4, 6; MCI Reply at 2; VSCC Comments at 7.

²⁹ Both SWBT and Ameritech quote the Commission's 1981 statement that flexibility strikes a proper balance between the requirements of proper accounting (which argues for immediate imposition of new rates) and the realities of the regulatory process. SWBT Reply at 4; Ameritech Comments at 2. *See also*, *Property Depreciation*, 83 FCC 2d 267 (1980). As far back as 1981, therefore, the Commission has found that proper accounting calls for the immediate imposition of new rates. As we have stated, because regulatory conditions have changed since 1981, the balance has changed in favor of proper accounting. *See 1990 Depreciation Rates Order*, 6 FCC Rcd at 754, para. 29.

³⁰ J. Williams, K. Stanga & W. Holder, *Intermediate Accounting*

1271 (2d ed. 1987). *See also*, *Accountant's Handbook* 4 (L. Seidler 2d ed. 1981).

³¹ *1990 Depreciation Rates Order*, 6 FCC Rcd at 753, para. 23.

³² USTA Petition at 3; SNET Petition at 4; CBT Petition at 4-5, 6-7; USTA Reply at 1-2.

³³ SNET Petition at 3-4; CBT Petition at 5, 8; USTA Petition at 2-3; USTA Reply at 1-2; CBT Reply at 3.

³⁴ CBT Petition at 8; SNET Petition at 4-5. *See also*, GTE Petition at 4; GTE Reply at 7.

³⁵ NYDPS Comments at 2; MDPS Comments at 1-2; VSCC Comments at 3; NARUC Comments at 5.

³⁶ VSCC Comments at 3 (emphasis in original); NARUC Comments at 5.

³⁷ Currently, there are only two rate of return carriers for whom the Commission prescribes depreciation rates, *Citizens Utilities of California* and CBT. Both companies are up for repricing this year.

that year. Our policy permitting carriers to file a mid-course correction as soon as their three-way meeting has concluded allows a carrier for whom the staff is proposing a depreciation increase to begin charging rates based on that increase well before the end of the study year. However, there still exists an interval between January 1 of the study year and the three-way meeting during which rate of return carriers may not be able to include in rates depreciation expense that will ultimately be booked during those months. In order to alleviate this situation in the future, we direct our staff to schedule three-way meetings for rate of return carriers very early in the study year. In this way, they may file early mid-course corrections if they find that their depreciation expense is higher than the rate filed with their access tariff.

22. We acknowledge, however, that rate of return carriers studied in the 1991 represcription may be disadvantaged by our failure to have scheduled their three-way meetings early in the study year.³⁸ Because the three-way meeting schedule was set prior to the release of our 1990 *Depreciation Rates Order* wherein we first ordered the new policy, we were unable to schedule three-way meetings for these carriers earlier in the study year. CBT requested that, if we do not reinstitute our former policy, we delay implementing our new policy until the 1992 triennial represcription proceeding. We will grant this request, but only for rate of return carriers. For the 1991 triennial represcription only, rate of return carriers will not be required to apply the mandatory January 1 of the study year effective date and instead may apply the effective date requested in their formal filings with the Secretary. Thereafter price cap carriers and rate of return carriers will be handled the same with respect to our effective date policy.

D. Flexibility with Regard to Controversy Among the States.

23. According to SWBT, we are correct in recognizing that, in 1981, the Commission permitted carriers flexibility because there was controversy among the states concerning the new depreciation methods. SWBT, however, claims that instead of diminishing, this controversy has increased over the last ten years because a number of states use rates other than those authorized by us to record intrastate depreciation expense.³⁹

24. MDPS argues that LECs do not need the flexibility to match the implementation of new depreciation rates with the results of state rate cases. Both the Virginia and Minnesota commissions also order that depreciation rates be effective January 1 of the study year. VSCC maintains that no utility has requested that it change to a more flexible policy.⁴⁰

25. In 1981, our depreciation rate prescriptions had preemptive effect and thus controlled the amount of depreciation expense that would be allowed in state rate cases. Therefore, carriers could assure that depreciation increases would be reflected in intrastate tariff rates by matching the effective date of the depreciation rate to the state tariffing process. Now, however, as SWBT points out, states are under no obligation to use our prescribed depreciation rates for ratemaking purposes. Therefore, state ratemaking considerations no longer provide a reason to retain our previous flexible policies.

E. Alternative Proposals

26. Were we to decide not to reinstate the Commission's previous policy allowing carriers flexibility in booking new depreciation rates, SNET, VSCC and NARUC recommend a possible alternative. This alternative would require that the effective date coincide with the study date but would allow carriers to choose their study date.⁴¹ CBT suggests that we allow carriers to submit their study one year prior to the study date using estimated data in order to complete the review process before the effective date.⁴²

27. We reject SNET, VSCC and NARUC's suggestion that carriers be permitted to choose their study dates. First, the accounting principles discussed above would require application of the latest estimate for the entire year (*i.e.*, on January 1 of the study year) regardless of the study date. Second, the Commission must prescribe depreciation rates for approximately 13 carriers each year. To do this with the limited resources at our disposal requires careful advance planning by our staff, including extensive coordination with state commission staffs to set each year's schedule of three-way meetings. It would be administratively infeasible to accommodate varying study dates for different carriers.⁴³ We reject CBT's request because submitting estimated data would inject unneeded controversy into the depreciation process over the accuracy of the carriers' projected data.

IV. CONCLUSION

28. We have reviewed the petitions for reconsideration and the comments thereon. We do not find persuasive petitioners' argument that we should reinstitute the Commission's transitional policy permitting carriers flexibility in choosing effective dates for depreciation rate changes. A mandatory January 1 of the study year effective date is compatible with price cap regulation and ensures that depreciation rate changes are accurately booked. We find that, in general, the needs of rate of return carriers can be addressed through early scheduling of their three-way meetings. Finally, we find that, as a limited exception,

³⁸ In the 1991 represcription, we will prescribe rates for two rate of return carriers, Citizens Utilities Company of California and CBT. Citizens Utilities requested an effective date of January 1, 1991. See Letter from Arthur J. Stimson, Vice President and General Manager to Donna R. Searcy, Secretary, Federal Communications Commission, dated July 16, 1991. CBT requested a July 1, 1991 effective date. See Letter from Robert Sigmon, Vice President -- Regulatory Affairs to Donna R. Searcy, Secretary, Federal Communications Commission, dated July 8, 1991. Since filing its petition for reconsideration, SNET has elected to become a price cap carrier.

³⁹ SWBT Petition at 8. See also, Ameritech Comments at 5.

⁴⁰ VSCC Comments at 2; MDPS Comments at 1.

⁴¹ SNET Petition at 6; VSCC Comments at 7; NARUC Petition at 7; CBT Reply at 4.

⁴² CBT Petition at 2, 9; CBT Reply at 4. GTE also suggests that rather than change the price cap rule or our decision with respect to effective dates, we should attempt to reform governmental depreciation policies "so the process is not outside the carrier's control." GTE Petition at 6-8; GTE Reply at 3. We reject this suggestion since GTE has not described how this reform should be implemented and, furthermore, reformation of the depreciation process is beyond the scope of this proceeding.

⁴³ Accord, MCI Reply at 3.

rate of return carriers studied in the 1991 represcription should be allowed to apply the effective date they requested when filing their formal depreciation estimates with the Secretary. Accordingly, we affirm our decision to the extent indicated herein.

V. ORDERING CLAUSES

29. Accordingly, IT IS ORDERED, pursuant to Sections 1, 4(i), 4(j), 201-205, 220(b), and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 201-205, 220(b), and 405, that the Petitions for Reconsideration of our Policy Regarding the Effective Date of Depreciation Prescriptions ARE DENIED to the extent indicated herein.

30. IT IS FURTHER ORDERED, pursuant to Section 43.43(e) of the Commission's rules, 47 C.F.R. § 43.43(e), that rate of return carriers submitting depreciation studies for review during the 1991 represcription only, may use an effective date requested in their formal filings with the Secretary.

31. IT IS FURTHER ORDERED, pursuant to Section 43.43(e) of the Commission's rules, 47 C.F.R. § 43.43(e), that the effective date for all other carriers submitting depreciation studies for review during the 1991 represcription and thereafter will be January 1 of the study year.

FEDERAL COMMUNICATIONS COMMISSION

Donna R. Searcy
Secretary