

Kenneth Rust
Director
Federal Regulatory Matters

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NYNEX

March 23, 1995

Ex Parte

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W. - Room 222
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Re: CC Docket No 94-1

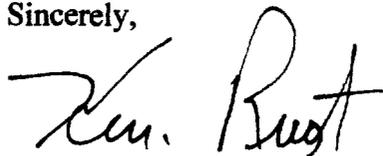
Dear Mr. Caton:

Today, Don Evans, Frank Gumper, and I, representing the NYNEX Telephone Companies (NTCs), met with James Coltharp, Special Advisor to Commissioner Barrett, and Kim Rosenthal, an intern in Commissioner Barrett's Office, regarding the item captioned above.

During the meeting, the NTC representatives expressed positions already espoused by NYNEX in its filings in this proceeding. They stressed the uniquely competitive circumstances NYNEX faces, which reflect efforts NYNEX has made to foster local exchange competition in its operating region, and which warrant specific regulatory treatment for NYNEX. The attached material was used in the course of the discussion.

Any questions on this matter should be directed to me at either the address or the telephone number shown above.

Sincerely,



Attachment

cc: J. Coltharp
K. Rosenthal

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

RECEIVED

MAR 23 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Price Cap Performance Review)
for Local Exchange Carriers)
_____)

CC Docket No. 94-1

AN ALTERNATIVE NYNEX PROPOSAL FOR LEC PRICE CAPS

In an *ex parte* filing with the FCC made on March 3, 1995, NYNEX put forth a method by which the Commission could link the elimination of sharing to LEC initiatives to foster local exchange competition. NYNEX also advanced this position in its filing on the proposed USTA plan submitted January 31, 1995. The rationale underlying the NYNEX proposal has to do with the benefits that accrue to the public and to participants in a competitive environment.

The conceptual basis of the NYNEX proposal was greeted with general support both within the Commission and by many industry participants, although most felt that the criteria put forth tentatively by NYNEX needed to be studied and refined further. More serious concerns were raised by Commission staff in so far as the NYNEX proposal effectively traded off the short term benefits brought about by the elimination of sharing in favor of the greater benefits in the long term created by local competition. Moreover, some at the Commission expressed concern that the NYNEX proposal would not accord with the telecommunications legislation that is pending in Congress that would ban all rate of return type regulation.

To address those concerns, NYNEX hereby puts forth an alternative proposal by which sharing could be eliminated immediately, while still encouraging LECs to open up their respective markets to local competition. As is laid out in more detail in the attached, this alternative to the March 3 NYNEX proposal would allow the Commission to eliminate sharing immediately, while still holding out incentives to LECs to foster local exchange competition. The plan has as its basis an Enhanced Consumer Productivity Dividend (ECPD) designed to reflect individual LEC performance during the price cap review period just ending. The assumption implicit in the ECPD is that the initial X factor was insufficient to assure that consumers served by some LECs in some areas reaped the

intended benefits of price cap regulation, and that, absent the introduction of local exchange competition, a higher X factor is appropriate going forward. As steps are taken by the LEC to foster competition, and as local competition gains a foothold, consumers reap the benefits of competition, and the ECPD can be reduced to zero, or a baseline level of average LEC productivity.

NYNEX puts forth this alternative in the hope that it will aid the Commission in its deliberations on establishing clear public policy goals in regard to price caps, and that the concept of tying price cap incentives for LECs to efforts by them to encourage local exchange competition can be digested and approved in time for adoption later this month. As with its original proposal, NYNEX does not put forth the associated criteria with any expectation that they can be adopted by the Commission without sufficient public comment provided through a Further Notice of Proposed Rulemaking.

Criterion for establishing the Enhanced CPD (ECPD): based on the average earnings for 1992 through 1994, the ECPD reflects the average number of basis points (BPs) above the 11.25% ROR benchmark. One might also choose to use data for four full years, but the first year under price caps had some anomalies that perhaps ought to be excluded. Nevertheless, a 4-year average is an option.]

> = 0BP but < 100BP above 11.25% for the 3 year period would warrant an ECPD of 0.0%

> = 100BP but < 200BP above 11.25% for the 3 year period would warrant an ECPD of 1.0%

> = 200BP but < 300BP above 11.25% for the 3 years period would warrant an ECPD of 1.5%

> = 300BP above 11.25% for the 3 year period would warrant an ECPD of 2.0%

The base for everyone would be an industry productivity factor established by the Commission as part of its anticipated March 30 decision. On top of that industry productivity base would be added an ECPD based on the criterion noted above.

This same approach could be used to determine a company-specific, one-time, up-front price reduction if this were deemed necessary. For example, the up-front adjustment could be one-half the cumulative effect of using the larger X-Factor.

ECPD	Up-Front
0.0%	0.0%
1.0%	2.0%
1.5%	3.0%

2.0%	4.0%
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Once the Productivity Factor for each Price Cap LEC had been established using the procedure shown above, the ECPD would remain at that level until the LEC took steps to open its local exchange market to competition. As the LEC took appropriate measures and met predetermined criteria (the criteria would have to be determined by the Commission, although they could resemble those put forth in the NYNEX March 3 *ex parte*), the ECPD would be reduced to zero in a series of steps. When all the criteria had been met, the LEC would operate at the baseline industry productivity factor.