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August 25, 1995

Ex Parte

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

Re: CC Docket No 94-1

Dear Mr. Caton:

Today, R. McDonnell, J. DiBella, and I, representing the NYNEX Telephone Companies (NTCs), met with Ms. G. Matise, Ms. K. Brinkman, and Mr. L. Selzer, of the Common Carrier Bureau's Tariff Division regarding the item captioned above.

The attached material, which puts forth the NTC suggestions for issues and items to be included in the anticipated FNPRM in this matter, served as the basis for the presentation and ensuing discussion.

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

Sincerely,

Ken Rust

Attachment

cc: K. Brinkman
G. Matise
L. Selzer

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NYNEX Recycles

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Chart 1: The NYNEX Model Concept

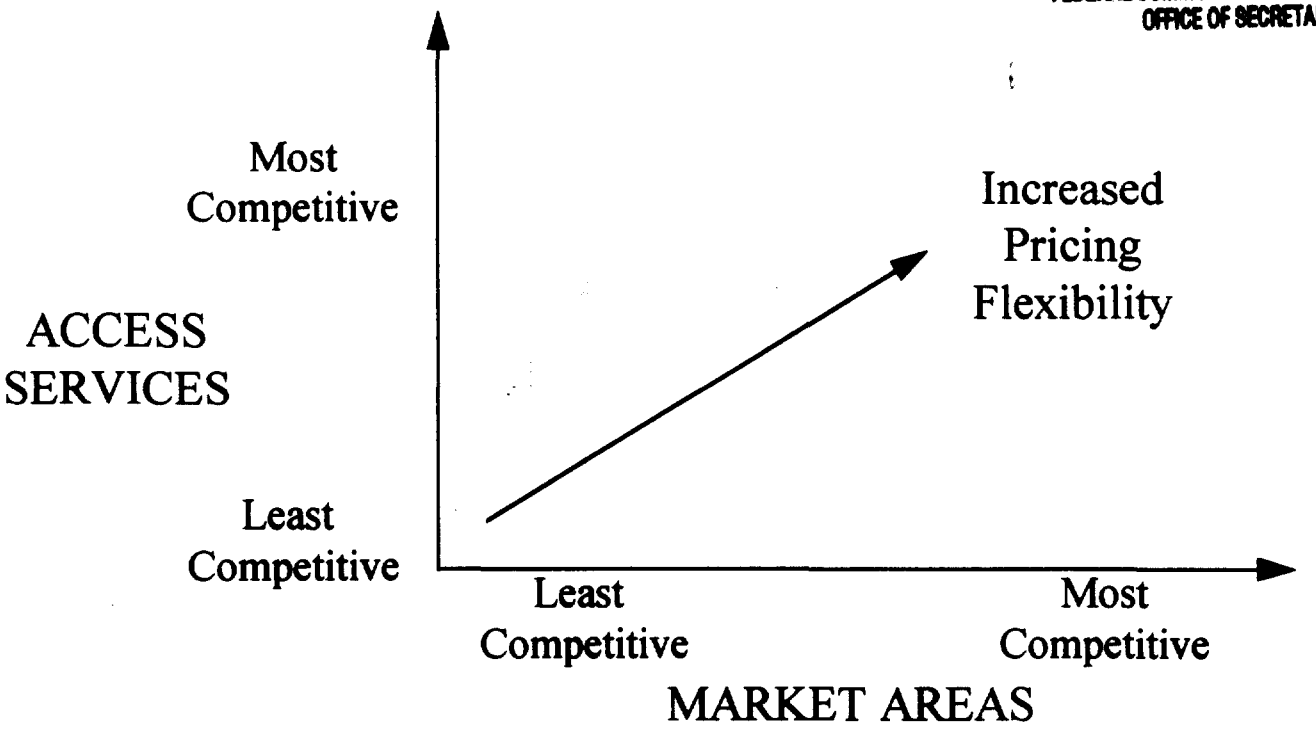
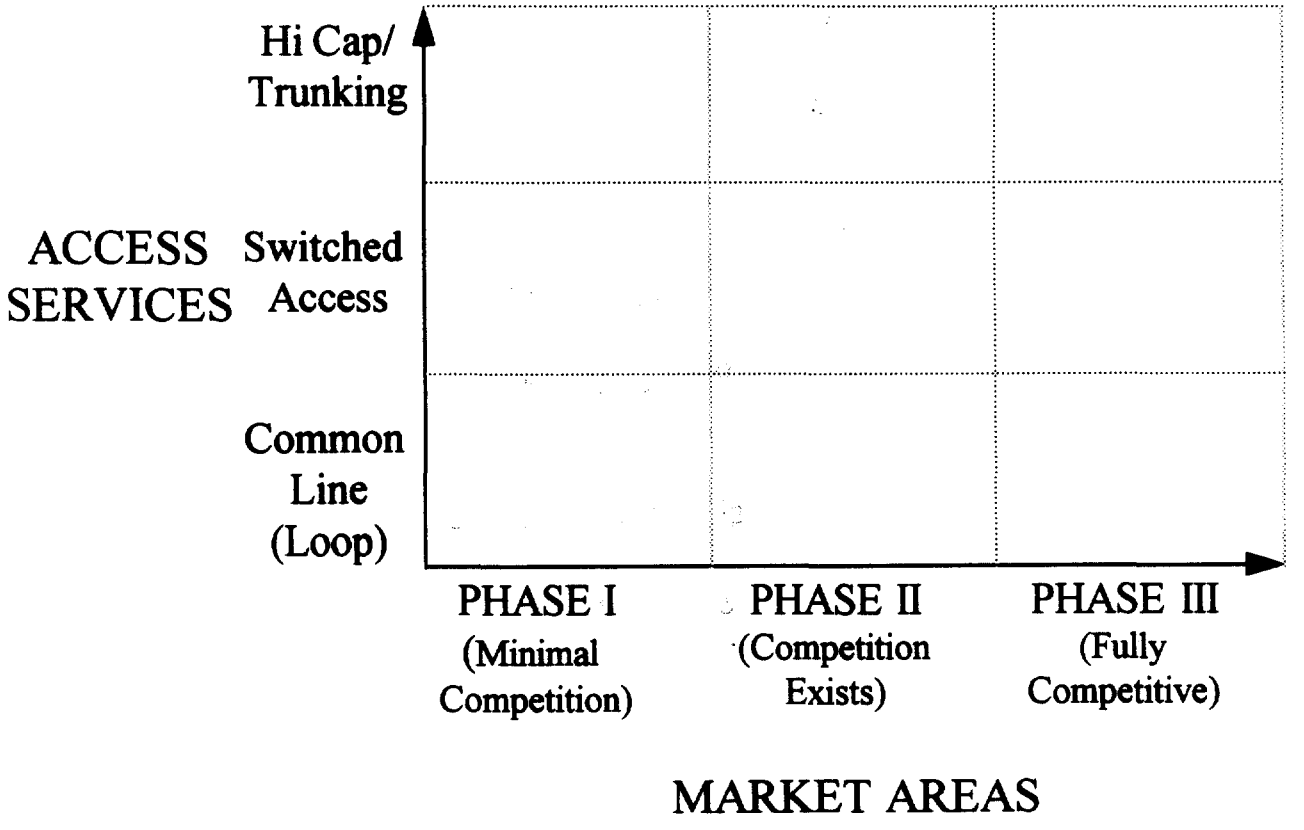


Chart 2: The NYNEX Model Illustrated



MARKET AREA CLASSIFICATION IN THE NYNEX MODEL

Market Area	Criteria for Switched Access	Criteria for Special Access
Phase I **(Minimal Competition)**	• Baseline condition. • No competitive presence in area.	• Baseline condition. • No competitive presence in area.
Phase II **(Competition Exists)**	• Barriers to entry into the market have been eliminated. • The issue of supply has been satisfied and an alternative provider is present. • Business lines (or access usage) in competitive wire centers in a LATA or MSA represent 40 - 50% of the business lines (or access usage) in the entire LATA or MSA to satisfy the supply criteria.	• Barriers to entry into the market have been eliminated. • The issue of supply has been satisfied and an alternative provider is present. • Special access circuits or revenues in the competitive wire centers represent 40 - 50 % of the total in the LATA or MSA, to satisfy the supply criteria.

Phase III
 	
(Fully Competitive)
	• Services are being offered in a fully competitive environment. Market entry is not a problem, alternative supply exists and customers are using services of all providers in the market.
	• Business lines (or access usage) in competitive wire centers in a LATA or MSA represent 40 - 50% of the business lines (or access usage) in the LATA or MSA.
	• In addition, demand responsiveness and service substitutability must be satisfied. There needs to be a demonstrable use of services obtained from the alternative carrier to satisfy the demand criteria.
	  • Considered satisfied if customers using these alternative providers in the area being measured represent 20 - 30% of the total market for that service in that area.
		• Services are being offered in a fully competitive environment. Market entry is not a problem, alternative supply exists and customers are using services of all providers in the market.
		• Special access circuits or revenues in the competitive wire centers represent 40 - 50 % of the total in the LATA or MSA.
		• In addition, demand responsiveness and service substitutability must be satisfied. There needs to be a demonstrable use of services obtained from the alternative carrier to satisfy the demand criteria.
		  • Considered satisfied if customers using these alternative providers in the area being measured represent 20 - 30% of the total market for that service in that area.

SUMMARY OF PRICING ACTIONS IN THE NYNEX MODEL

Market Area	Pricing Actions for Switched Access	Pricing Actions for Special Access
Phase I **(Minimal Competition)**	• Streamlined Part 69 waiver process to allow the introduction of new services in a more efficient and timely manner. • Recovery of the Line Port non-traffic sensitive costs currently in Local Switching from the carriers on a presubscribed line basis.	• If market entry barriers have been removed... • that area should have additional price cap band index flexibility for specific service categories known to be competitive, such as HiCap and Transport services. • Ability to respond to a competitive bid by an alternate carrier with a competitive customer specific proposal (similar to the AT&T Tariff 15).
Phase II **(Competition Exists)**	• Establish zone pricing and Single Line/Multiline rate elements for the Carrier Common Line (CCL). • Remove the subsidy in the CCL usage rate for Multiline end user usage, and recover on a presubscribed line basis. • Recovery of the Long Term Support amounts currently in the Carrier Common Line from carriers on market share. • Establish zone pricing for the Interconnection Charge (IC) rate element and for Local Switching. • Establish Single Line/Multiline distinction for the IC rate element and for Local Switching. • Expedited tariff review process for new services. • Ability to respond to competitive situations with Tariff 15 and Tariff 12 - like proposals.	• Zone pricing for Hi Cap services. • Term and Volume pricing options for HiCap and Transport. • Greater pricing flexibility in price cap banding limits. • Expedited tariff review process for new services. • Ability to respond to competitive situations with both competitive proposals (Tariff 15 - like), and packages of services for customers in situations where there are alternatives present for that customer (Tariff 12 - like).
Phase III **(Fully Competitive)**	• Competitive services and/or "baskets" of services removed from Price Caps. • Streamlining of the tariff filing process, with pricing changes for services removed from Price Caps made on one day's notice. • Part 69 requirements no longer applicable for competitive services. • Allow customer specific pricing.	• Competitive services and/or "baskets" of services removed from Price Caps. • Streamlining of the tariff filing process, with pricing changes for services removed from Price Caps made on one day's notice. • Allow customer specific pricing.

ADAPTING PRICE CAP REGULATION TO COMPETITIVE MARKETS

THE NYNEX MODEL

INTRODUCTION

The Commission has long-recognized the fact that there must be lifting of regulation as competition in a market develops. The evolution of AT&T as the dominant carrier in the long distance market out from under a complete price cap regulatory mantle into its present state where it is nearly completely free of price cap regulation is testimony to this fact.

The access reform proposal presented by USTA on May 6, 1994, as part of its Comments in CC Docket No. 94-1, represents a useful model in crafting a regulatory framework that can accommodate the rapidly evolving telecommunications marketplace. Some of the basic concepts of the USTA proposal, such as distinguishing, or classifying, market areas by specific competitive criteria, and affording streamlined regulation and price management in concert with the development of competition, can be combined with some of the concepts put forth and tested during Staff's consideration of the NYNEX's Universal Service Preservation Plan (USPP). In the USPP, the FCC recognized the unique problems with the existing switched access per minute usage rates, and allowed NYNEX to remove specific subsidies, by class of end user usage, and retarget these subsidy amounts. In addition, the concept of zone pricing was extended to the usage sensitive Interconnection Charge. While there have been major steps forward in the area of access reform suggestions and interim solutions, the pace of competition in specific market areas calls for an "adaptive" regulatory process that can adjust to the development of competition. This process must recognize the important and distinctly different characteristics of both Switched Access and Special Access competition, and how these characteristics must be accommodated by a plan for price cap regulation evolution.

This proposal presents the NYNEX recommendation of how this process should evolve for NYNEX (and other LECs) as the inroads of competition prove that regulation is no longer needed. While the NYNEX Model may need further study and refinement, it sets in place a "blueprint in concept" of how the local exchange carriers can move services out from under the price cap process.

August 1995

PUBLIC POLICY GOALS

The NYNEX Model is consistent with many of the goals that have been espoused in various reform proposals and comments before the Commission.

- Regulation is a less efficient substitute for true competition.
- Regulatory restrictions must be removed whenever possible to allow competitive markets to flourish.
- The Price Cap process must allow prices to move towards more efficient levels.
    - Subsidies need to be identified and removed.
    - There needs to be movement away from "averaged" pricing.
    - Allowances need to be made for "class of customer" pricing.
- New services and technologies must be introduced in a timely manner.
- Revising the waiver oriented regulatory process for structural changes and minor revisions will benefit the marketplace.
- There is a requirement to preserve the concept of Universal Service, while enabling the prices of services to be priced competitively.
- And, in the FCC's words in the recent Price Cap Review Order in CC 94-1:
  "... we expect to pursue the goal of amending the features of the LEC price cap plan so that it replicates the competitive outcome as closely as practicable ..." and that "... we also prefer policies and programs that minimize distortion of competitive marketplace forces in telecommunications."

CHARACTERISTICS OF THE CURRENT MARKET FOR ACCESS SERVICES

Although more intense in the NYNEX region, the characteristics of competition in the access market are identifiable. The industry is experiencing evolving competitive markets. The relative competitive levels of the markets vary, with competition developing differently, and at varying paces, by geographical area and by type of service.

A mixture of markets exists across the NYNEX service area, and across the service areas of most typical LECs. For example, at present the level of competition in some areas, such as the New York City metropolitan area, would be readily recognized as extremely intense, while the upstate rural areas and smaller cities have minimal competition. The different market areas throughout the NYNEX region, and across the country, are by no means or measure homogeneous, and any plan for reform must allow for varying stages of competition within and across a region.

Additionally, there have been demands from within the marketplace for change. These have been in the form of calls for structural flexibility, for pricing flexibility, and for streamlined regulation, and have come from both the providers and the purchasers of interstate access.

The characteristics of the access marketplace are such that the regulatory framework must adapt to competitive developments in the marketplace. This "adaptive" regulatory process

should have as its ultimate goal a regulatory scheme that assesses the competitive developments, and upon determination of the marketplace as "competitive," enables the movement of services, groupings of services, and geographical areas out from under Price Cap regulation. This paper proposes such a process, called the NYNEX "Adaptive" Model.

DETERMINATION OF MARKET POWER

Market Power is defined as the ability to control price. It is also the ability to restrict output, or raise prices over what would exist in a competitive market. Market share loss is not always needed to demonstrate lack of market power. For example, a LEC laboring under excessive regulatory controls and processes in a market where there are financially strong and viable alternatives will be unable to compete fairly. A demonstration of market power must be coupled with a definition of the market area for which the market power is being determined. Development of competition will not be initially pervasive, and competition will not evolve evenly or in a pattern. Alternative suppliers will initially exist in selected market areas only, and the evolution of competition is very dependent upon the legal/regulatory developments in the state jurisdictions.

Markets are not static, the players are not always the same, and development of markets are affected greatly by technologies, alliances, and the financial strength of the players. The nature of the NYNEX market is not atypical. For example, New York City represents the most competitive telecommunications market area in the nation. In addition, there are market areas in other parts of NYNEX where competitive alternatives have existed for some time, users have alternatives, yet competitive inroads are not at the level seen in the New York City metropolitan area. However, there are some other areas, like some of the smaller urban areas, that have yet to see a competitive provider, but for which it is simply a matter of time (and economics) before there will be a provider in the market. Lastly, there are some areas within the NYNEX region where there may be a substantial period of time before there are alternative providers.

Market power, therefore, must be assessed separately by geographical area. Also, the market power of the provider of the service is related to not only the area, but also to the service type.

THE MODEL FOR DETERMINING CARRIER "MARKET POWER" AND LEVEL OF COMPETITION IN THE MARKETPLACE

The FCC has adopted a model for determining when the dominant carrier in the marketplace has lost sufficient market power to warrant and be accorded relaxed regulation. The model, or the FCC test for determining market power, is essentially a three part process, where each criteria for assessment represents a higher or more intense level of competition, and subsequently, less market power for the dominant carrier.

These criteria are:

Criteria #1 - Market entry

- Have the legal and regulatory barriers into the market been removed?

Criteria #2 - Supply availability

- Are there alternative sources of supply in the market?
- Do the other carriers providing this alternative have capacity, and are they able to readily absorb additional users?

Criteria #3 - Demand responsiveness and substitutability of services

- Is there demand for the services of the alternative provider, and are the services offered substitutable among and between carriers?
- Are the products and services among the carriers essentially the same, and the differences in features indistinguishable to users?
- Can users of services of the carriers readily move from one provider to another without difficulty?

The components for assessing market entry, Criteria #1, for access services have been debated at length. Some carriers have presented lengthy lists of "steps" that need to be taken for the market to be open. Attachment 1 is the NYNEX proposal of a checklist for assessing ease of market entry for *switched access services*. Also included are the details for assessing and determining the market's competitive development for switched access services using Criteria #2 and #3. How these criteria are used is discussed below.

For special access type services, the assessment of the market's competitive development must use separate and distinct criteria. These are shown on Attachment 2, where the market entry issues that must be addressed for *special access services* are detailed under Criteria #1, and in a manner similar to that used for switched access, the criteria for assessing availability of alternative suppliers for special access services is shown as Criteria #2, and assessment of use and substitutability of services is determined using Criteria #3.

Attachment 3 is a summary matrix demonstrating which "checklist issues" need to be addressed for specific service types.

MARKET AREA CLASSIFICATION AND DEFINITION

In this proposal, there are three gradations of regulation envisioned for each of three different market areas. These market areas are geographic areas comprised of a grouping of wire centers satisfying the applicable behavioral for competitiveness. These classifications for market areas are:

Phase I Market Area - minimal competition

- The "baseline" status, or an area where there presently is little or no competitive activity.

- (A Phase I area may also be defined as a grouping of one or more wire centers not designated as Phase II or Phase III areas.)

Phase II Market Area - competition exists

- Defined as a grouping of one or more wire centers satisfying the criterion of "emerging competition." A Phase II market area is one in which the issue of supply availability has been addressed, and there is the presence of substitutable services from another source. This market is sometimes also referred to as being "addressable."

Phase III Market Area - fully competitive

- Wire centers and groupings of wire centers satisfying additional competitive criteria.
- Customers within the serving area of the wire centers being assessed not only have available an alternative source of supply but represent demand for these services, and are able to move readily from one service provider to another.
- Not only is the market "addressable," but there is identifiable demand in the form of market share from the alternatives.

Compared to other industry proposals for streamlined regulation, the NYNEX proposal defines the market areas in a slightly different manner and interrelates the degree of competition for both "market areas" and for "access services." That is, an area could be classified as a "Phase III," or very competitive market area, for services like HiCap and transport special access type services, but may be classified as still in "Phase II" for other services such as switched access.

THE CONCEPT OF THE NYNEX "ADAPTIVE" MODEL

The important variables determining the competitive nature of the access marketplace are the "market areas" where services are offered, and the type of "access service" being marketed in the market area.

"The NYNEX Model Concept," Chart 1 attached, indicates that there is additional pricing flexibility needed as services and market areas become more competitive. The most flexibility would obviously be needed for the most competitive services in the most competitive areas.

The concept of the NYNEX model becomes real when the service types and the market area designations are added. This is seen in the attached Chart 2 "The NYNEX Model Illustrated." As can be seen, in the NYNEX Model pricing flexibility is needed for some services in both a Phase II and in a Phase III market area. The most flexibility is needed for services which are already in Phase III, such as HiCap services and transport. The pricing flexibility appropriate, and recommended in this adaptive model, consists of moving these services in Phase III out from under price cap regulation. Competitive evaluation must be

service specific, and recognize the differences between special access and switched access.[1]

In regard to "special access," so long as a requirement for collocation is in place, Competitive Access Providers (CAPs) have at least the potential to compete effectively with incumbent LECs. The Part 69 rules allow LECs greater flexibility in developing new services, since no waivers are required to introduce a new rate element, and thus LECs are somewhat better positioned to respond to competitive threats in special access, even though pricing flexibility is still a major need. The situation is not the same with switched access, both in regard to ease of CAP entry and the ability of LECs to respond to competition.

Special access is, of course, made up of dedicated facilities connecting two points within a LATA, and competition for some of these facilities, e.g., POP-to-POP or large end user-to-POP, existed even before collocation was mandated. Collocation greatly expanded the opportunity for CAPs to compete for dedicated circuits by allowing them to use LEC facilities at one end of a circuit in instances where, for whatever reason, CAPs had not connected end user locations to their networks. Since special access constitutes a more readily defined market with lower barriers to entry than does switched access, establishing criteria for evaluating competition in it is somewhat more straightforward.

"Switched access" presents a more difficult problem. Not only do the Part 69 rules for switched access work to limit severely a LEC's ability to respond to competition, but CAPs have a more difficult task in establishing a competitive foothold. CAPs cannot compete for all of switched access revenues until local exchange competition is established on the state level. This is because in the absence of local exchange competition CAPs can only compete for the *facilities* that carry the switched traffic. They cannot compete for switched access revenues derived from the Carrier Common Line, Local Switching or Interconnection Charge elements. In evaluating the extent of competition for switched services, therefore, the criteria used must include some measure of how firmly local exchange competition has been established within a geographic area, such as a LATA or MSA. Adding to the problem of evaluating competition, with switched access there are two distinct classes of end users to be considered in measuring local exchange competition, since in most instances competitive alternatives will be available to multiline customers well before they are available for single line users.

The NYNEX Model recognizes the importance of evaluating competitive special access and switched access services differently and defines specific criteria for competitive assessment and for defining each of the market areas.

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[1] Although the distinction between "special access" and "switched access" services has become blurred, the terms refer to the nature of the access provided. Special access includes services provided over dedicated facilities, and includes such services as HiCap, Dedicated Transport, Voice Grade , and other similar services. Switched access refers to that access provided on a usage basis, and includes access services such as Local Switching, Interconnection Charge, Carrier Common Line, as well as several other miscellaneous services. When specific pricing actions are necessary in competitive situations, the specific service (e.g., HiCap, Transport, Local Switching, etc.) category is referred to because the pricing must be done within the concepts of the price cap rate structure.

NYNEX PROPOSAL FOR A PHASE I MARKET AREA

In the NYNEX proposal, a Phase I market is an area where there are minimal competitive concerns because there is no alternative present. It also consists of those areas not designated as Phase II or III areas.

A Phase I Market Area categorization represents those areas where there are, at present, no alternative providers. However, there could be no barriers to market entry in a Phase I area. The market entry barriers may have been removed, that is Criteria # 1 has been satisfied, but there is not a competitive presence in the area.

NYNEX PROPOSAL FOR A PHASE II MARKET AREA

A market area in Phase II is one where at least one competitive alternative exists. Market entry is not an obstacle and there is a competitive presence in the area designated.

Under the NYNEX proposal, a LATA (or alternatively an MSA, but not a smaller subset of wire centers) will be considered to be in Phase II after both Criteria #1, "market entry," and Criteria #2, "supply availability," of the model have been satisfied. Phase II represents an area where competition is emerging.

That is, the barriers to entry into the market have been eliminated. The issue of supply has been satisfied and alternative sources exist. For switched access, this measurement of supply is determined by the relationship of lines or usage in wire centers designated as "competitive" to the total of all lines or usage in the LATA or MSA. Business lines (or access usage) in competitive wire centers in a LATA or MSA must represent 40 - 50% of the business lines (or access usage) in the entire LATA or MSA to satisfy the criteria. A wire center is "competitive" if there is a physical and/or collocation presence, or announced plans for a facilities-based alternative carrier in the wire center area.

For special access, the measurement of supply would be obtained in a similar manner using circuit counts, or revenues, in the designated "competitive" wire centers, and relating these to the entire LATA or MSA. When the special access circuits or revenues in the competitive wire centers represents 40 - 50 % of the total in the LATA or MSA, the criteria would be satisfied and the LATA or MSA would be defined as being a Phase II market area for the service or services being assessed.

It is important to note that determining when an area enters Phase II is done separately for special access and switched access. Also, it should be noted that the demand response, service substitutability, and measurements of alternative demand are not part of the Phase II determination. That is, Criteria #3 has not yet been met.

NYNEX PROPOSAL FOR A PHASE III MARKET AREA

Under the NYNEX proposal, services being offered in a Phase III market area are in a fully competitive environment. Market entry is not a problem, alternative supply exists and customers are using services of all providers in the market. The most pricing flexibility is appropriate, and a LEC would be classified as "non-dominant" for competitive services in a Phase III area.

An area in Phase III is defined as a geographical area such as a LATA (or alternatively an MSA, and possibly even be a smaller subset of wire centers) which is considered fully competitive when all three criteria of the market power assessment have been satisfied.

That is, the barriers to entry into the market have been eliminated. The issue of supply has been satisfied, and alternative sources exist. Criteria #1, #2, and #3 have all been satisfied.

Similar to the manner discussed above for Phase II, measurement of supply for switched access is determined by the relationship of lines or usage in wire centers designated as "competitive" to the total of all lines or usage in the LATA or MSA. Business lines (or access usage) in competitive wire centers in a LATA or MSA must represent 40 - 50% of the business lines (or access usage) in the entire LATA or MSA to satisfy the criteria. A wire center is "competitive" if there is a physical and/or collocation presence, or announced plans for a facilities-based alternative carrier in the wire center area.

For special access, the measurement of supply would be obtained in a similar manner using circuit counts, or revenues, in the designated "competitive" wire centers, and relating these to the entire LATA or MSA. When the special access circuits or revenues in the competitive wire centers represents 40 - 50 % of the total in the LATA or MSA, the supply criteria would be satisfied for the service or services being assessed.

In addition, to be a fully competitive Phase III market area, Criteria #3, demand responsiveness and service substitutability, must be satisfied. There needs to be a demonstrable use of service, or services, obtained from the alternative carrier. Criteria #3 is considered satisfied if customers using these alternative providers in the area being measured represent 20 - 30% of the total market for that service in that area.

In summary, an area moves into Phase II status for specific services when the market entry barriers have been eliminated, and availability of alternative sources for these services exists in wire centers that represent 40 -50 % of the total market for that service in the entire LATA or MSA.

An area moves from Phase II into Phase III status when, in addition to the above, there is a demonstrable measurement of use and demand for the alternatives. When the use of competitive providers in the area being measured represent 20 -30 % of the total market for the service, the area is then classified as being in Phase III. Competitive services in these Phase III areas should be afforded the most pricing flexibility.

PRICING REFORMS REQUIRED IN THE CURRENT, OR "BASELINE" ENVIRONMENT

Although there may not be a current competitive threat in a Phase I market area, the NYNEX proposal recommends that certain steps need to be taken now across all market areas. These steps involve identifying and eliminating some of the subsidy in access usage rates, and moving all access rates to levels that are more representative of the underlying costs of the services.

Specific action items that need to be undertaken immediately across all areas include:

- If Criteria #1 has been satisfied, and market entry barriers have been removed for special access type services ...
    - that area should have additional price cap band index flexibility for specific service categories known to be competitive, such as HiCap and Transport services.
- Ability to respond to a competitive bid by an alternate carrier with a competitive customer specific proposal (similar to the AT&T Tariff 15).

Additional actions that should be part of "baseline" pricing reforms for switched access are:

- Streamlined Part 69 waiver process to allow the introduction of new services in a more efficient and timely manner.
- Recovery of the Line Port non-traffic sensitive costs currently in Local Switching from the carriers on a presubscribed line basis.

PRICING REFORMS REQUIRED FOR SERVICES IN A PHASE II MARKET AREA

In addition to the actions identified above, the NYNEX proposal specifies that there are additional pricing reforms required when services and areas reach a Phase II categorization. That is, when the barriers to entry have been eliminated and there is a competitive provider in the market area. In general, subsidies must be eliminated from the multiline usage rates, rates need to move closer to underlying costs, and there must be geographic deaveraging of these usage rates. Many of these pricing actions represent concepts included in the NYNEX USPP, as well as some pricing actions already allowed under specified circumstances, and these can easily be grafted onto the initiatives contained in this paper.

For special access services, specific pricing actions that need to be taken in the Phase II areas include:

- Zone pricing for HiCap services.
- Term and Volume pricing options for HiCap and Transport.
- Greater pricing flexibility in price cap banding limits.
- Expedited tariff review process for new services.

- Ability to respond to competitive situations with both competitive proposals (Tariff 15 - like), and packages of services for customers in situations where there are alternatives present for that customer (Tariff 12 - like).

For switched access, the specific pricing actions that are necessary for the services offered in the Phase II market areas should include:

- Establish zone pricing and Single Line/Multiline rate elements for the Carrier Common Line (CCL).
- Remove the subsidy in the CCL usage rate for Multiline end user usage, and recover on a presubscribed line basis.
- Recovery of the Long Term Support amounts currently in the Carrier Common Line from the carriers on a market share basis, in a manner similar to that being implemented in LATA 132.
- Establish zone pricing for the Interconnection Charge (IC) rate element and for Local Switching.
- Establish Single Line/Multiline distinction for the IC rate element and for Local Switching.
- Expedited tariff review process for new services.
- Ability to respond to competitive situations with Tariff 15 and Tariff 12 - like proposals.

PRICING REFORMS REQUIRED FOR SERVICES IN A PHASE III MARKET AREA

In a market that is fully competitive and categorized as in Phase III, there are additional pricing actions needed. The Phase III designation reflects the fact that all barriers have been removed, alternative carriers are present and there is sufficient customer demand for the other carriers' services that all three of the market power assessment criteria have been satisfied. When an area attains the Phase III classification, Price Cap regulation for competitive services in the Phase III area is eliminated.

For Phase III market area, the following specific pricing actions are appropriate:

- Competitive services and/or "baskets" of services are removed from Price Caps. (For example, the Interexchange basket for NYNEX, consisting primarily of interLATA Interstate services, also known as "corridor" traffic, is a situation wherein there is little doubt that NYNEX is not a dominant force in the market. A showing could be readily made that the Interexchange services should be removed from Price Caps.)
- Streamlining of the tariff filing process, with pricing changes for services removed from Price Caps made on one day's notice, similar to the AT&T process.
- Part 69 requirements no longer applicable for competitive services.
- Allow customer specific pricing.

SUMMARY ... THE NYNEX PROPOSAL FOR ADAPTING PRICE CAP REGULATION TO COMPETITIVE MARKETS IS AN EFFICIENT AND EASILY ADMINISTERED MODEL

This proposal will enhance the LEC's incentive to operate efficiently. The LEC will respond to market forces and will price competitively in the competitive areas.

LECs will not be able to "cross-subsidize" because services that have not met the competitive criteria would remain subject to existing Price Cap regulations and processes.

The transition of areas, and services within these areas, to the classification of a fully competitive Phase III market area requires a rigid demonstration that there is a presence of competitive alternatives and that there is a quantifiable demonstration of the use of these alternatives.

The customers and the marketplace will benefit from streamlined regulation. Removal of services from Price Cap regulation will coincide with the presence of effective competition. Therefore, Price Cap regulation is not necessary.

Chart 1: The NYNEX Model Concept

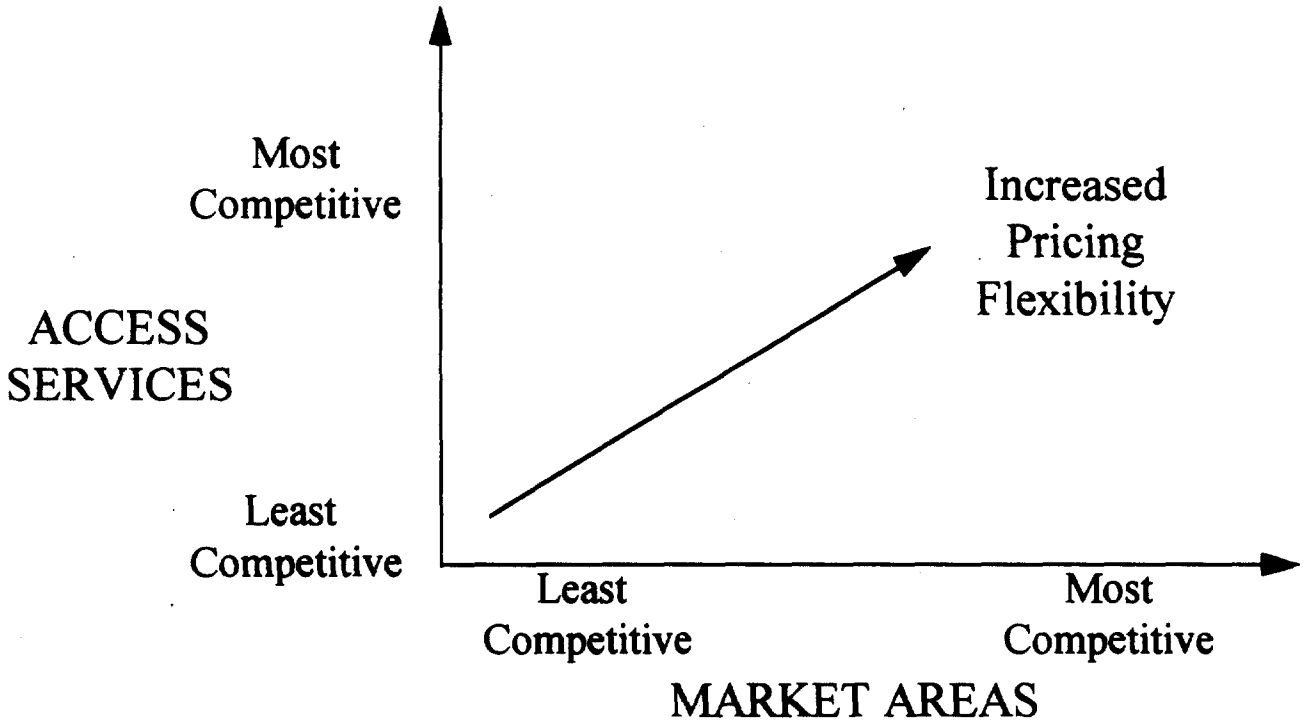
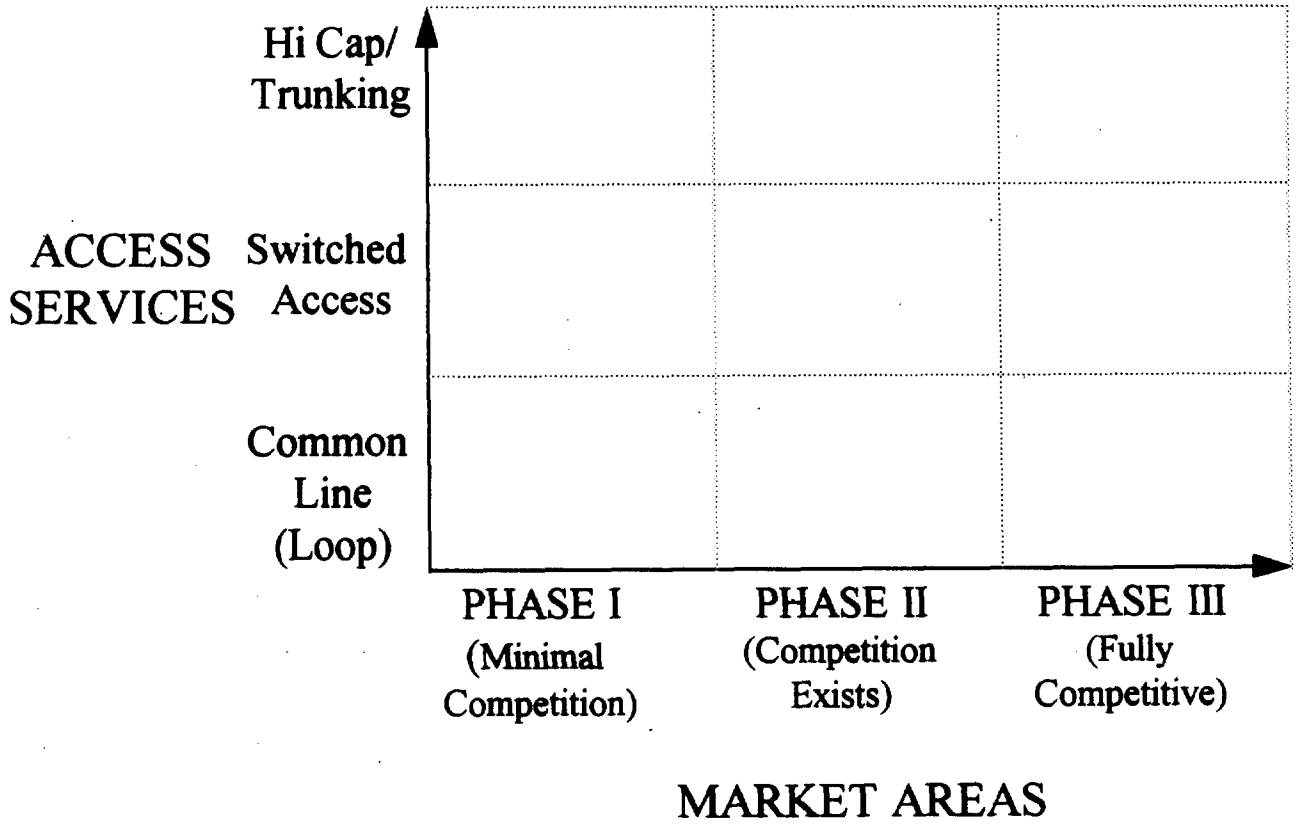


Chart 2: The NYNEX Model Illustrated



Attachment 1

THE NYNEX CHECKLIST FOR DEFINING A COMPETITIVE MARKETPLACE FOR SWITCHED ACCESS

Criteria #1 Market Entry

There are no limitations on market entry by new market participants. The following barriers to entry have been removed:

- **Authority (or certification);**
  No unreasonable federal, state or local requirements for market entry.

- **Interconnection/Collocation;**
  New market entrants can be interconnected in seamless manner at reasonable rates.

- **Compensation;**
  Reasonable and reciprocal compensation for the exchange of calls between carriers.

- **Unbundling;**
  Major network elements are unbundled at reasonable rates and made available on reasonable terms.

- **Resale;**
  All services available for resale without restrictions (exception for subsidized services).

- **Number portability;**
  Numbers are easily transportable for customers, and NXX resources provided to new market entrant carriers on non-discriminatory basis.

- **Dialing Parity;**
  Dialing arrangements are available on same basis for all carriers providing toll services

- **Access to poles, conduits and rights of way;**
  Non-discriminatory access between authorized providers of telecommunications services.

- **Access to network features and functions and telephone directories;**
  Non-discriminatory access, at reasonable reciprocal rates, for access to and inclusion in DA, 800, LIDB, and other like databases. Similar access to 911, TRS, and operator services

Criteria #2 Presence of Alternative Sources of Supply

Once the barriers to entry into the market have been removed, there are clear and easily identifiable sources of service alternatives in the market.

- Carriers are actually offering services
- Coverage of market area by carriers is substantial (lines vs. geography)
- Presence of networks and switching capability, along with carrier advertising and marketing materials, show that alternative providers are in the market

Criteria #3 Presence of Demand for, and Substitutability of, Services

Given the presence of alternative suppliers, there is evidence of demand from the customer base for the services from these alternative carriers. The market is open and operating efficiently.

- Jurisdictional issues do not define services, nor providers of service
- Clear quantifiable customer demand
- Customers are able to switch providers with ease
- No clear distinction can be made between services of the different carriers
- Evidence of customers opting for alternative sources
- Use of other carriers can be seen in NXX assignments, expanding networks of alternative providers, and other empirical and anecdotal evidence

Attachment 2

THE NYNEX CHECKLIST FOR DEFINING A COMPETITIVE MARKETPLACE FOR SPECIAL ACCESS

Criteria #1 Market Entry

There are no limitations on market entry by new market participants. The following barriers to entry have been removed:

- **Authority (or certification);**
  No unreasonable federal, state or local requirements for market entry.

- **Interconnection/Collocation;**
  New market entrants can collocate and interconnect in seamless manner at reasonable rates. Collocation is tariffed.

- **Unbundling;**
  Network elements, e.g., channel terminations, multiplexers, are unbundled with reasonable rates and terms.

- **Access to poles, conduits and rights of way;**
  Non-discriminatory access between authorized providers of telecommunications services.

Criteria #2 Presence of Alternative Sources of Supply

Once the barriers to entry into the market have been removed, there are clear and easily identifiable sources of service alternatives in the market.

- Carriers are actually offering services
- Presence of networks and carrier advertising and marketing materials, show that alternative providers are offering service
- Coverage of market area by carrier networks is substantial (lines vs. geography)

Criteria #3 Presence of Demand for, and Substitutability of, Services

Given the presence of alternative suppliers, there is evidence of demand from the customer base for the services from these alternative carriers. The market is open and operating efficiently.

- Jurisdictional issues do not define services, nor providers of service
- Clear quantifiable customer demand
- Customers are able to switch providers with ease
- No clear distinction can be made between services of the different carriers
- Evidence of customers opting for alternative sources
- Use of other carriers can be seen in expanding networks of alternative providers, and other empirical and anecdotal evidence

Attachment 3

Checklist of Market Entry Issues Applicable to Access Services:

Issue Applicable?

	HICAP Services	Trunking & Transport	Switched Access	Interexchange Services
Authority	YES	YES	YES	YES
Interconnection[1]	YES	YES	YES	NO
Compensation	NO	NO	YES	NO
Unbundling[2]	YES	YES	YES	NO
Resale	NO	NO	YES	NO
Number Portability	NO	NO	YES	NO
Dialing Parity	NO	NO	YES	NO
Access to Poles, Conduits, etc.[3]	YES	YES	YES	NO
Access to Network, Features, etc.	NO	NO	YES	NO

[1] Interconnection needed for HiCap, Transport/Trunking competition. Interstate collocation tariff in place. For switched access, interconnection needs to be coupled with unbundling of loop and access to numbers.
[2] Unbundling of network elements may be required for competitive providers of HiCap, Transport and Trunking. Unbundling of loop into link and port necessary for full switched access competition.
[3] Access to poles, conduits, etc. not always necessary for facilities-based carriers, but is shown because of the controversial nature of the issue of pole/conduit access.