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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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MAY 14 1997

Federal Communications Commission
Office of Secretary

In the Matter of)
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800 Data Base Access Tariffs and the)
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800 Service Management System Tariff)
)
and)
)
Provision of 800 Services)

CC Docket No. 93-129

CC Docket No. 86-10

NYNEX REFUND PLAN

Pursuant to the Order on Reconsideration in the above-captioned matter,¹ the NYNEX Telephone Companies ("NYNEX")² hereby file their refund plan to effectuate refunds associated with exogenous cost disallowances for 800 Data Base service.

I. BACKGROUND

NYNEX's initial PCI adjustment and rates associated with the implementation of 800 Data Base service became effective on May 1, 1993, subject to an accounting order and an investigation. The Commission concluded the investigation with the release of a

¹ FCC 97-135 (April 14, 1997).

² The NYNEX Telephone Companies are New York Telephone Company and New England Telephone and Telegraph Company.

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Report and Order on October 28, 1996.³ In that Order, the Commission disallowed \$1,597,885 of NYNEX's exogenous cost adjustment associated with 800 Data Base implementation and directed NYNEX to adjust the price cap PCI to reflect the disallowance on a going-forward basis. NYNEX did so in a filing (Transmittal No. 436) submitted on November 27, 1996, and the adjusted PCI and associated rates became effective on December 21, 1996. The Order on Reconsideration requires LECs to effectuate refunds based upon the exogenous costs that were disallowed in the October 28, 1996 Report and Order.

As discussed below, NYNEX proposes to effectuate the required refund through a one-year exogenous cost adjustment to the Traffic Sensitive (TS) basket PCI, effective July 1, 1997. This refund method is consistent with the manner in which NYNEX implemented the previous going-forward disallowance which reduced the PCI of the TS basket. Adjusting the PCI of the TS basket for the refund will also ensure that the refund is directed to the proper parties, i.e., those customers who purchase traffic sensitive switched access services included within the TS basket.⁴ The exogenous adjustment will be reversed out of the TS PCI the following year to remove the refund from rates at the completion of the refund period.

³ FCC 96-392 (October 28, 1996).

⁴ Use of a one-year PCI-adjustment refund mechanism is consistent with the refund method recently ordered to effectuate refunds associated with the 1993 Annual Filing Order, CC Docket No. 93-193, Phase I, Part 2, and CC Docket No. 94-65, Memorandum Opinion and Order (released April 17, 1997) ("1993 Annual Filing Order").

II. REFUND METHODOLOGY

A. Calculation of Refund Amounts Before Interest

In general, the proposed refund obligation was derived by reducing the annual 800 Data Base exogenous cost disallowance which applied to the period May 1, 1993 through December 20, 1996 by the amount of available headroom in the Traffic Sensitive basket and by the refunds already effectuated through the price cap sharing mechanism. Exhibit A contains the data used in the refund calculation. The following explains the calculation process which was performed for each calendar year 1993-1996.

First, the ordered disallowance of \$1,597,885, which represents an annual amount, was pro-rated for any partial years. Thus, the 1993 disallowance was pro-rated to reflect a start date of May 1, 1993, the day on which the 800 Data Base PCI exogenous adjustment became effective. The 1996 disallowance was similarly pro-rated to reflect an end date of December 20, 1996, the day before the PCI was effectively adjusted for the disallowance.

Second, the available headroom in the TS basket was calculated for each year. The headroom in the TS basket was used because it is the basket to which NYNEX applied the initial exogenous adjustment and the corresponding disallowance that was associated with this refund. The headroom for each year was derived by weighting the annual headroom for each period in which either the PCI or the API changed by the number of days in that period. The data for the headroom calculations are displayed in Exhibit B.⁵

⁵ Reducing the PCI disallowance by available headroom is appropriate because the refund

Third, refund offsets associated with sharing were calculated. NYNEX had a sharing obligation based on the 1993 rate of return which required NYNEX to give back one-half of the 1993 earnings above 12.25%. However, had the disallowance been effective in 1993, the rates and revenues would have been lower, resulting in a lower rate of return and a lower sharing obligation than was actually incurred for calendar year 1993. Thus, NYNEX has already refunded one-half of the 1993 disallowance through the price cap sharing mechanism and should receive credit for that amount against the total disallowance in calculating refunds. Since under the price cap rules sharing generated by 1993 earnings was incorporated into the PCI in the 1994-95 annual filing period, the sharing offset is credited against the 1994 and 1995 periods (half in each year) in the refund calculations. Finally, each annual disallowance was reduced by the amounts of the headroom and sharing offsets discussed above for each year.

The proposed refund amounts, before interest, are calculated and displayed in Exhibit A. It can be seen in this exhibit that after reducing the annual disallowances by the corresponding headroom and sharing, refunds are required for only the 1993 and 1996 periods. No refunds are required for 1994 or 1995 as the annual disallowance amounts were exceeded by the available headroom and sharing credits in those years. The net refund amounts, before interest is applied, are \$848,254 for 1993 and \$1,536,886 for 1996.

allowable rates, given the disallowance. A reduction in the PCI to reflect disallowed exogenous costs would not necessarily result in an equal reduction in the API rates. The allowance of headroom to offset explicit PCI reductions is also consistent with the method for calculating refunds that was described in the 1993 Annual Filing Order. There, the PCI was first adjusted and then the refund was determined by calculating the amount by which the API exceeded the adjusted PCI.

B. Calculation of Interest on Refund Amounts

The Order on Reconsideration requires that refunds include interest computed on a daily compounded basis. NYNEX proposes to apply interest to the refund amounts calculated above, beginning on January 1, 1994 for the 1993 refund obligation, and beginning on January 1, 1997 for the 1996 refund obligation. The rates to be used are the IRS overpayment rates, which vary by quarter, applied on a daily compounded basis through June 30, 1997, assuming a July 1 effective date for the PCI adjustment effectuating the refund. Use of the IRS rates for calculating interest is consistent with refunds ordered relative to past overearnings complaints, as well as with the 1993 Annual Filing Order. Ending the accrual of interest coincident with incorporation of the refund into the PCI is also consistent with the 1993 Annual Filing Order.

As shown in Exhibit A, the refund amounts, including interest, are \$1,108,324 for 1993 and \$1,599,075 for 1996. The sum of the refunds for both years is \$2,707,399, which is the amount of the exogenous cost adjustment that NYNEX proposes to make to the Traffic Sensitive basket, effective July 1, 1997.⁶

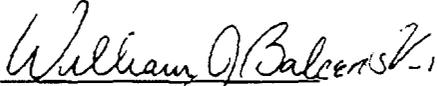
⁶ If the PCI adjustment is made effective on a date other than July 1, 1997, the interest will be recalculated accordingly.

III. CONCLUSION

The Commission should approve the refund plan described herein.

Respectfully submitted,

The NYNEX Telephone Companies

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Dated: May 14, 1997

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EXHIBIT A

800 Data Base Refund Calculation
 NYNEX

	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>
a) No. of days of disallowance	245	365	365	355
b) Pro-rated disallowance = \$1,597,885 * (a)/365	\$ (1,072,553)	\$ (1,597,885)	\$ (1,597,885)	\$ (1,554,107)
c) Headroom offset from Exhibit B	\$ 224,299	\$ 1,596,424	\$ 6,124,553	\$ 17,221
d) Sharing offset (see note)		\$ 268,138	\$ 268,138	
e) Net disallowance = (b) + (c) + (d)	\$ (848,254)	\$ 266,677	\$ 4,794,806	\$ (1,536,886)
f) Refund obligation = (e) if less than 0	\$ (848,254)	\$ -	\$ -	\$ (1,536,886)
g) Interest through 6/30/97 (IRS rates compounded daily beginning Jan. 1)	\$ (260,070)			\$ (62,189)
h) Refund including interest = (f) + (g)	\$ (1,108,324)			\$ (1,599,075)
TOTAL REFUND DUE 1993-1996		\$ (2,707,399)		

Note: Sharing generated from 1993 ROR; total offset equals 1/2 of 1993 disallowance (\$536,276), 1/2 of which is allocated to 1994 and 1/2 to 1995.

EXHIBIT B

Calculation of Headroom in TS Basket

$$\text{Headroom} = ((\text{PCI}/\text{API}) - 1) * (\text{proposed revenue}) * (\text{days}/365)$$

<u>Effective Date</u>	<u># Days</u>	<u>PCI</u>	<u>API</u>	<u>Proposed Revenue</u>	<u>Headroom</u>
1993					
May 1	2	99.4281	99.3774	\$1,494,256,999	\$ 4,177
May 3	60	99.4281	99.3454	\$1,493,775,458	\$ 204,410
July 2	69	90.3393	90.3393	\$1,422,923,839	\$ -
Sept 9	99	90.3324	90.3293	\$1,421,255,748	\$ 13,230
Dec 17	13	90.4073	90.4031	\$1,422,418,243	\$ 2,354
Dec 30	2	90.4073	90.4058	\$1,422,459,633	\$ 129
<u>1993 Total</u>	245				<u>\$ 224,299</u>
1994					
Jan 1	70	90.4073	90.4058	\$1,422,459,633	\$ 4,526
Mar 12	111	90.4073	90.4031	\$ 696,791,884	\$ 9,845
July 1	183	89.9694	89.5839	\$ 720,173,181	\$ 1,553,780
Dec 31	1	90.9216	89.6379	\$ 720,607,527	\$ 28,273
<u>1994 Total</u>	365				<u>\$ 1,596,424</u>
1995					
Jan 1	14	90.9216	89.6379	\$ 720,607,527	\$ 395,827
Jan 15	198	90.9513	89.6379	\$ 720,607,527	\$ 5,727,650
Aug 1	153	87.3857	87.3854	\$ 747,217,755	\$ 1,075
<u>1995 Total</u>	365				<u>\$ 6,124,553</u>
1996					
Jan 1	4	87.3857	87.3854	\$ 747,217,755	\$ 28
Jan 5	178	84.9826	84.9792	\$ 726,642,519	\$ 14,178
July 1	173	82.5111	82.5104	\$ 749,893,164	\$ 3,015
<u>1996 Total</u>	355				<u>\$ 17,221</u>