

FCC MAIL SECTION

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

DA 97-1149

In the Matter of	)	
Local Exchange Carriers'	)	
Payphone Functions and Features	)	CC Docket No. 97- 140
	)	
Bell Atlantic Telephone Companies	)	
Revisions to Tariff F.C.C. No. 1	)	Transmittal No. 962
	)	
GTE System Telephone Companies	)	
Revisions to Tariff F.C.C. No. 1	)	Transmittal No. 206
	)	
GTE Telephone Operating Companies	)	
Revisions to Tariff F.C.C. No. 1	)	Transmittal No. 1095
	)	
NYNEX Telephone Companies	)	
Revisions to Tariff F.C.C. No. 1	)	Transmittal No. 452

**SUSPENSION ORDER**

Adopted: June 2, 1997; Released: June 2, 1997

By the Chief, Competitive Pricing Division, Common Carrier Bureau:

**I. INTRODUCTION**

1. On May 19, 1997, these four local exchange carriers (LECs) filed the above transmittals to make available under their federal access tariffs various payphone features and functions (features). The American Public Communications Council (APCC) filed petitions to suspend and investigate each of these transmittals.<sup>1</sup> Replies to these petitions were filed by NYNEX and jointly by GSTC and GTOC.<sup>2</sup> Each of these transmittals is scheduled to become effective June 3, 1997. We find that each of these transmittals raises

<sup>1</sup> On May 27, 1997, APCC filed petitions to suspend and investigate the above transmittals filed by Bell Atlantic Telephone Companies (Bell Atlantic), GTE System Telephone Companies (GSTC), and GTE Telephone Operating Companies (GTOC). APCC's petition against the above transmittal of the NYNEX Telephone Companies (NYNEX) was filed late on May 28, 1997, and included a motion to accept that late filed petition because, according to APCC, "[u]nexpected delays in completing these and other filings prevented APCC from completing its petition . . . in time." NYNEX opposes this motion contending APCC cites "no extraordinary circumstances or unforeseen events" that warrant waiver of the Commission's rules. NYNEX Opposition and Reply at 2.

<sup>2</sup> On June 2, 1997, NYNEX filed its reply to APCC and the GTE Service Corporation filed a reply on behalf of both GSTC and GTOC (GTE Companies).

issues of lawfulness under the Communications Act of 1934, as amended. Accordingly, we suspend these transmittals for one day, initiate an investigation, and impose an accounting order.

## II. TRANSMITTALS AND PLEADINGS

### A. Bell Atlantic Transmittal No. 962

2. In Transmittal No. 962, the Bell Atlantic Telephone Companies (Bell Atlantic) proposes to include in its federal access tariff six unbundled payphone features currently offered under its state tariffs to payphone service providers (PSPs).<sup>3</sup> Bell Atlantic currently makes these features available to PSPs under its state exchange tariffs. These services can be of assistance to independent PSPs in making payphone services available to the public, for example, by helping them prevent fraudulent calls from their payphones.

3. APCC petitions for suspension and investigation of this Bell Atlantic transmittal because, in its view, the proposed charges for many of these features are greatly in excess of Bell Atlantic's disclosed costs and, thus, fail to meet the requirements of Section 276 of the Communications Act<sup>4</sup> and the Commission's *Payphone Orders*.<sup>5</sup> For example, APCC contends Bell Atlantic's proposed overhead loadings on its direct charges for certain of these features fail to meet the requirements of the new services test applicable to such rates.<sup>6</sup> Bell Atlantic did not file a reply to the APCC petition.

### B. NYNEX Transmittal No. 452

4. In Transmittal No. 452, the NYNEX Telephone Companies (NYNEX) proposes to revise their access tariff to add four unbundled, payphone-specific features.<sup>7</sup> Like the similar features offered by Bell Atlantic, NYNEX's Public Access Line Optional (PAL) Features can be of assistance to independent PSPs in making payphone services available to the public.

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<sup>3</sup> Bell Atlantic D&J at 2. These unbundled Bell Atlantic features are line side answer supervision (LSAS), inward call blocking, outward call blocking, incoming/outgoing call screening, outward call screening, and limited interLATA dialing.

<sup>4</sup> 47 U.S.C. § 276.

<sup>5</sup> Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Report and Order, FCC 96-388 (released September 20, 1996) and Order on Reconsideration, FCC 96-439 (released November 8, 1996) (*Payphone Orders*).

<sup>6</sup> APCC (BA) Petition at 1 and 6. For Bell Atlantic's recurring rates on five of these six unbundled services, APCC contends that the rate to cost (or overhead) ratios range from 27:1 to over 3400:1.

<sup>7</sup> NYNEX D&J at 3. These features are LSAS and Originating Number Screening consisting of direct dialed screening, operator number screening, and terminating number screening.

5. APCC petitions for suspension and investigation of the NYNEX transmittal because, in its view, the proposed charges for some of these PAL features are considerably in excess of NYNEX's disclosed costs and, thus, fail to meet the requirements of Section 276 of the Communications Act and the Commission's *Payphone Orders*.<sup>8</sup> More specifically, APCC contends, these disparities prevent NYNEX's proposed charges from meeting the requirements of the new services test applicable to such rates.<sup>9</sup> For example, APCC claims that the proposed charges and related cost support for NYNEX's terminating (billed) number screening (BNS) and LSAS services are not consistent with the charges and cost support submitted by other LECs for similar services.<sup>10</sup> In its reply to the APCC petition, NYNEX contends that the "isolated comparisons" cited by APCC do not establish sufficient grounds for suspension or investigation of this NYNEX transmittal.<sup>11</sup>

C. GTE System Telephone Companies Transmittal No. 206 and GTE Telephone Operating Companies Transmittal No. 1095

6. In these two transmittals, GSTC and GTOC (GTE Companies) propose to add to their respective federal access service tariff an unbundled, payphone-specific feature called Selective Class of Call Screening (SCOCS). In these transmittals, the GTE Companies also clarify certain matters unrelated to payphone features such as the application of their multiline end user subscriber line charges and the addition of certain provisions regarding the warehousing and hoarding of toll free subscriber numbers.<sup>12</sup>

7. APCC petitions for suspension and investigation of each of these transmittals because, in its view, the GTE Companies direct costs are far in excess of the costs reported for similar services by other major LECs,<sup>13</sup> and, thus, these companies proposed tariff revisions fail to meet the requirements of Section 276 of the Communications

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<sup>8</sup> APCC (NYNEX) Petition at 4.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 1.

<sup>11</sup> NYNEX Opposition and Reply at 4. NYNEX also claims that for certain other payphone features not cited by APCC, NYNEX's direct costs are lower than those of other LECs.

<sup>12</sup> GTOC Tariff F.C.C. No. 1, Transmittal No. 1095, and GSTC Tariff F.C.C. No. 1, Transmittal No. 206, both issued May 19, 1997. We exclude from the application of this order the tariff revisions included in these two transmittals but unrelated to the provision of payphone features and functions by GSTC and GTOC.

<sup>13</sup> GSTC's cost justification is based upon a claimed investment of about \$50. per line which amount, APCC contends, is far higher than the investment reported for similar features by other large LECs such as Bell Atlantic, Southwestern Bell, and U.S. West. APCC asserts these other LECs report direct investments of \$1.50 for similar features. *See, e.g.,* APCC (GSTC) Petition at 6-7.

Act<sup>14</sup> and the Commission's *Payphone Orders*. More specifically, APCC contends the disparities between the direct costs of the GTE Companies and other companies prevent the GTE Companies' proposed rates from meeting the requirements of the new services test.<sup>15</sup>

8. The GTE Companies replied to the APCC petition by stating that their proposed tariff revision meet the required new services criteria and that the tariff would be revised to clarify subscription to 1+ and O+/O- call restrictions.<sup>16</sup>

### III. DISCUSSION

9. We hereby suspend the above transmittals for one day because we find that these transmittals raise questions of lawfulness, including whether they (1) are unreasonably discriminatory in violation of Section 202(a) of the Communications Act, (2) contain any unjust and unreasonable charge, practice, classification or regulation in violation of Section 201(b) of the Communications Act, or (3) include any subsidy, preference, or discriminatory provision in violation of Section 276 of the Communications Act. We therefore shall suspend each of these transmittals for one day until June 4, 1997, impose an accounting order, and initiate an investigation into the lawfulness of their respective provisions. We will issue a separate order designating the issues to be investigated and establishing a pleading cycle.

### IV. ORDERING CLAUSES

10. Accordingly, **IT IS ORDERED** that pursuant to Section 204(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 204(a), and Section 0.291 of the Commission's Rules, 47 C.F.R. § 0.291, the following transmittals **ARE SUSPENDED FOR ONE DAY** from their respective effective dates and an investigation of these transmittals **IS INSTITUTED**: Bell Atlantic Telephone Companies Revisions to Tariff F.C.C. No. 1, Transmittal No. 962; GTE System Telephone Companies Revisions to Tariff F.C.C. No. 1, Transmittal No. 206; GTE Telephone Operating Companies Revisions to Tariff F.C.C. No. 1, Transmittal No. 1095; and NYNEX Telephone Companies Revisions to Tariff F.C.C. No. 1, Transmittal No. 452.

11. **IT IS FURTHER ORDERED** that, pursuant to Section 204(a) of the Communications Act, as amended, 47 U.S.C. § 204, each of these four carriers **SHALL KEEP ACCURATE ACCOUNT** of all earnings, costs, and returns associated with the rates that are subject to this investigation, and of all amounts paid thereunder and by whom such amounts are paid.

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<sup>14</sup> 47 U.S.C. § 276.

<sup>15</sup> See, e.g., APCC (GSTC) Petition at 1.

<sup>16</sup> GTE Companies Reply at 2.

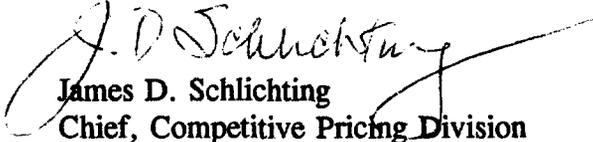
12. **IT IS FURTHER ORDERED** that each of these four carriers **SHALL FILE** tariff revisions within five business days from the release of this Order to effect this suspension. For these purposes, we waive Sections 61.56, 61.58, and 61.59 of the Commission's Rules, 47 C.F.R. §§ 61.56, 61.58, and 61.59. Each carrier should cite the "DA Number" of this Order as its authority for making these changes.

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14. **IT IS FURTHER ORDERED** that the Motion of the American Public Communications Council For Leave to File One Day Late its petition against the above NYNEX transmittal **IS GRANTED**.

15. **IT IS FURTHER ORDERED** that the petitions filed by the American Public Communications Council to suspend and investigate Bell Atlantic Telephone Companies Transmittal No. 962, GTE System Telephone Companies Transmittal No. 206; GTE Telephone Operating Companies Transmittal No. 1095; and NYNEX Telephone Companies Transmittal No. 452 **ARE GRANTED** to the extent indicated herein.

**FEDERAL COMMUNICATIONS COMMISSION**

  
**James D. Schlichting**  
**Chief, Competitive Pricing Division**  
**Common Carrier Bureau**