

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

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Federal Communications Commission  
Office of Secretary

In the Matter of )  
)  
800 Data Base Access Tariffs and ) CC Docket No. 93-129  
the 800 Service Management )  
System Tariff and )  
)  
Provision of 800 Services ) CC Docket No. 86-10

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REPLY COMMENTS OF  
GTE SERVICE CORPORATION

GTE Service Corporation ("GTE"), on behalf of its affiliated domestic telephone operating companies, hereby files its Reply Comments to the comments filed by AT&T and MCI on June 3, 1997, in the above-captioned docket. Pursuant to the Commission's Reconsideration Order,<sup>1</sup> LECs offering 800 data base services each filed a schedule of proposed refunds on May 14, 1997 to reflect the effect of disallowed exogenous costs ordered in the Report and Order in this proceeding.<sup>2</sup> The comments filed by AT&T and MCI challenge these refund plans.

<sup>1</sup> In the Matter of 800 Data Base Access Tariffs and the 800 Service Management System Tariff and Provision of 800 Service, CC Docket Nos. 93-129 and 86-10, released April 14, 1997 ("Reconsideration Order").

<sup>2</sup> In the Matter of 800 Data Base Access Tariffs and the 800 Service Management System Tariff and Provision of 800 Service, Report and Order, 11 FCC Rcd 15227 (1996) ("Report and Order").

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List A B C D E

**I. THE REFUND PLAN FILED BY GTE ACCURATELY REFLECTS THE ACTUAL REFUND DUE.**

GTE carefully calculated the effect of removing the \$6,386,301 of disallowed exogenous costs detailed in the Report and Order. To ensure accuracy, GTE had to calculate the effect of removing these disallowed costs by tariff filing area and for each of the 19 tariffs that were in effect between May 1, 1993 and December 21, 1996.

In determining whether GTE's rate was excessive in each tariff, GTE analyzed the traffic sensitive basket for each tariff filing to determine if the disallowed exogenous cost amount would, in fact, result in the API exceeding the recalculated PCI. Only in that situation would GTE have charged a rate higher than would be allowed under price cap rules. Consistent with the Reconsideration Order, GTE did not use any headroom from the other baskets. GTE also used the actual headroom for each tariff filing and for each tariff filing area and not the weighted average with which MCI takes exception. GTE also reflected the full amount of the calculated refund and made no reduction for sharing. Interest compounded daily was calculated as required by the Reconsideration Order<sup>3</sup> and has not been challenged by the commenters in this proceeding.

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<sup>3</sup> Reconsideration Order at ¶22.

**II. HEADROOM MUST BE CONSIDERED TO DETERMINE IF A RATE IS EXCESSIVE OR UNLAWFUL UNDER THE COMMISSION'S PRICE CAP RULES AND POLICIES.**

AT&T states (at 3) that "the LECs' initial calculation of their refunds, prior to any adjustments and interest calculations, appear to be correct. However, all of the filing LECs then propose to adjust their refund liability for headroom and/or sharing." Since GTE did not use sharing in any of its calculations, this is not an issue for GTE. GTE, however, did take into account the applicable headroom.

Headroom, the term used to define gap between the PCI and the API (actual price) for a given basket, was properly considered. Under the Commission's price cap rules and policies, a carrier is permitted to set rates anywhere under the price cap. Thus, a rate would not be excessive or unlawful until the headroom is exceeded. Even MCI recognizes in its comments that the "Commission's methodology requires a refund only when the rate in effect exceeds the corrected cap."<sup>4</sup> Under the Commission's price cap rules, if there is headroom, the actual price is less than the authorized price cap and need not be adjusted. GTE has complied with the Reconsideration Order and calculated its refund amount consistent with the price cap rules using only the headroom available in the traffic sensitive basket.

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<sup>4</sup> MCI Comments at 6.

### III. RECALCULATING EACH TARIFF DOWN TO THE SUBCATEGORY BAND IS NOT NECESSARY.

AT&T argues that Subcategory Band Indices ("SBI") must also be calculated to determine the appropriate amount of allowable headroom "[i]n the event the Commission allows a headroom offset to refund amounts...."<sup>5</sup> MCI also argues for this level of detail. Such a calculation would be both cumbersome and subjective.

Although the Commission determined in the Reconsideration Order that LECs could not take into account that they could have raised rates in other baskets, utilizing headroom in the traffic sensitive basket was acceptable.<sup>6</sup> As stated above, for this reason, GTE only considered the headroom in the appropriate traffic sensitive basket. There was no suggestion that the LECs would have to recalculate the headroom at the sub-category level. To require a rerun of each of GTE's 19 past tariffs to SBI level would be very time consuming and would not change the available headroom in the traffic sensitive basket for those tariffs. To make rate decisions retroactively at this detailed level for all tariffs, all tariff areas and for all service bands is unnecessary since shifts in the service band rates would result in the same traffic sensitive headroom.

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<sup>5</sup> AT&T Comments at 4, n.12.

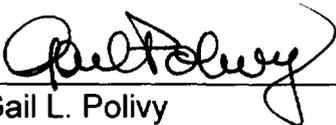
<sup>6</sup> Reconsideration Order at ¶17.

#### IV. CONCLUSION

GTE has calculated the its refund obligation as required by the Reconsideration Order. Headroom must be considered under the Commission's price cap rules and regulations and GTE only used the headroom in the traffic sensitive basket as ordered. GTE did not utilize the disputed weighted average or annual headroom and did not reduce its refund obligation with sharing. To recalculate all service band indices within the traffic sensitive basket would not change the total basket headroom and is unnecessary. For these reasons, GTE's proposed refund plan should be accepted as reasonable.

Respectfully submitted,

GTE SERVICE CORPORATION, on behalf of  
its affiliated domestic telephone operating  
companies

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June 13, 1997

## Certificate of Service

I, Ann D. Berkowitz, hereby certify that copies of the foregoing "Reply Comments of GTE Service Corporation" have been mailed by first class United States mail, postage prepaid, on June 13, 1997 to the following parties:

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