

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

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Washington, D.C. 20554
Telephone (202) 418-0100

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

REPLY OF SOUTHWESTERN BELL TELEPHONE COMPANY

I. INTRODUCTION

Commentors in this docket find no fault with SWBT's calculation of its 800 data base exogenous cost disallowance before offsets amount of \$2,784,502 and its plan to refund through an immediate billing credit to current 800 data base customers. However, AT&T and MCI disagree with SWBT's proposed adjustments for headroom offsets and sharing offsets and seek to disallow these proposed adjustments. In addition, they request that the Commission require the use of a one-time exogenous cost adjustment as the refund mechanism.¹ For the reasons set forth herein, SWBT's proposed adjustments for headroom offsets and sharing offsets are necessary and appropriate and should be allowed. In addition, SWBT's proposed billing credit is an appropriate refund mechanism.

¹In the Matter of 800 Data Base Access Tariffs and the 800 Service Management System Tariff and Provision of 800 Services, CC Docket No. 93-129, MCI Comments, Page 2 and AT&T Comments, Page 3.

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A. SWBT's Proposed Billing Credit is an Appropriate Refund Method.

SWBT's proposed plan to implement the refund via a billing credit is an appropriate method to refund the disallowed exogenous costs to the affected customers. SWBT's method provides refunds directly in proportion to the 800 service purchased by customers of record. This is in compliance with the Commission's directive that "necessary refunds are paid to the proper parties."² The billing credit is preferable to the suggested exogenous cost adjustment method because a billing credit allows for a prompt, fair and simple disposition of the matter and does not require any payment delays or subsequent year price cap index (PCI) reversal adjustments.

B. SWBT's Proposed Adjustments for Headroom Offsets are Necessary and Appropriate.

The Commission should recognize that an equitable calculation of the refund must allow for adjustment of the refund for below-cap headroom. Even MCI acknowledges that the Commission has previously allowed "a form of headroom offset".³

The Commission has already considered the permissibility of the headroom offset in its Order on Reconsideration in this docket. The Commission only found unpersuasive the argument that rates in other baskets (not containing 800 data base exogenous costs) could have been raised to recover the revenue loss from the disallowance. Thus, by not expressly addressing the potential to offset refunds by the head room in the baskets containing 800 data base exogenous costs, the Commission implicitly recognized that such offsets are necessary and appropriate.

² 800 Data Base Access Tariffs and the 800 Service Management System Tariff, CC Docket No. 93-129, and Provision of 800 Services, CC Docket No. 86-10, FCC 97-135, Order on Reconsideration, Para. 21, (rel. April 14, 1997) ("Order on Reconsideration").

³MCI Comments, Page 6.

Moreover, AT&T and MCI's own arguments support the position that headroom offsets are appropriate in these circumstances. AT&T states that "(t)he adjustments are made to PCIs, not rates".⁴ This statement supports the use of headroom offsets because it recognizes that an exogenous cost disallowance PCI adjustment simply does not result in a decrease in actual rates, revenue or actual price indexes (APIs) if the APIs for the baskets affected by the PCI reductions are below the PCIs. Similarly, MCI recognizes that "the Commission . . . did not find any particular rate to be unlawful. Instead, it found the local exchange carrier's (LEC's) tariffs unlawful to the extent that the PCIs included excess exogenous costs."⁵ Thus, MCI itself recognizes that headroom offsets, as proposed by SWBT, are appropriate.

AT&T suggests that headroom offsets should not be allowed because LECs are required to adjust their PCIs in annual filings irrespective of below-cap pricing. AT&T's argument is a non sequitor. The requirement to adjust PCIs in annual filings has no implication on the refunds ordered here. Moreover, LECs' annual filings do take head room into account in the computation of mandated revenue reductions. It is irrelevant that a LEC cannot demonstrate that its below-cap pricing is the result of 800 data base exogenous costs. By the Commission's own rules, exogenous costs affect baskets rather than service categories or particular services or rate elements. Since the refund obligation results from the disallowance of a portion of basket-affecting exogenous costs, it is entirely reasonable to offset the refund by the amount of the basket allowable revenue that was foregone.

⁴AT&T Comments, Page 4.

⁵MCI Comments, Page 2.

Finally, had the Commission taken prompt action in ordering a disallowance, the LECs would have had the opportunity to utilize existing headroom in those baskets affected by the exogenous costs to offset the disallowance, thereby experiencing a reduction in actual revenue collected less than the total disallowance. Regulatory delay resulting in a disallowance three and a half years later should not penalize a LEC beyond any penalty that would have been imposed by prompt action.

C. SWBT's Proposal for the Calculation of Headroom Offsets is Correct and Appropriate.

AT&T's argument that LECs, including SWBT, have incorrectly calculated their headroom offsets is erroneous. SWBT has correctly stated its headroom offset as the PCI-API difference. AT&T suggests that the offset should be the lower of the PCI-API difference or the SBI-SBI Upper Limit difference for each service category. SWBT's experience indicates that it is highly unlikely that the sum of the SBI headroom for all categories in a basket (the method recommended by AT&T) is ever less than the API headroom. The SBI headroom should be greater because the API effectively has a 0% upward limit relative to the change in the PCI, whereas all service categories (other than the Transport Interconnection Charge), have either a 2% or 5% upward limit that is reestablished in each annual filing.

A demonstration of this is shown on Attachment 1, where SWBT calculated its annualized SBI headroom for the 7/1/96 point in time (a point at which SWBT had some of its highest headroom). SWBT had annualized API headroom of \$0.546 million in the Traffic Sensitive basket, representing 0.17% of total basket revenue, and \$10.075 million in the Trunking basket, representing 1.42% of total basket revenue. (See SWBT Refund Plan Attachment 2) The

Trunking basket SBI headroom, including the TIC service category, was \$30.977 million or over 3 times the API headroom. The Traffic Sensitive basket SBI headroom was \$16.718 million or over 30 times the API headroom. Calculation of SBI headroom for other time points would produce similar results since SWBT's API headroom never equated to a significant percent of total basket revenue. Thus, AT&T's argument regarding upper SBI limits, at least as it applies to SWBT, is wrong. SWBT's method results in the proper, in this instance lower, headroom offset amounts.

Finally, MCI disputes the use of annualized headroom to calculate the refund because comparing headroom and refund amounts for each tariff filing or for periods of less than one year could result in less headroom offset. While this is possible, use of annualized revenue in these circumstances is reasonable and appropriate. The issue here is how much revenue was actually collected and retained and how much would have been collected and retained if only the allowed exogenous cost amount had been included in the original PCI(s). It is appropriate to compare the actual revenue to the allowable revenue for calendar year periods since the opportunity to recover the revenue would have existed and sharing is based on calendar year results.

D. SWBT's Proposed Adjustments for Sharing Obligations are Necessary and Appropriate.

AT&T and MCI also dispute SWBT's proposed adjustments for sharing offsets. Specifically, AT&T claims that sharing offsets should be disallowed because LECs are unable to "demonstrate that any sharing obligation resulted from their 800 data base rates."⁶ Similarly,

⁶AT&T Comments, Page 6.

MCI argues against sharing offsets claiming that there is no direct link between “inflated traffic sensitive PCIs” and sharing obligations.⁷

AT&T’s and MCI’s arguments against sharing offsets are entirely incorrect. Any prior sharing that a LEC incurred translates directly into an early, though partial, refund of a future disallowance of revenue previously collected if a future disallowance is ordered. The source of the sharing obligation is revenue collected beyond a certain benchmark amount.⁸ If a portion of the revenue collected is later found to be subject to refund, thereby effectively changing the amount of revenue that would have been collected during the sharing measurement period (after adjusting for headroom offsets), then the sharing obligation would have indisputably been reduced. No claim made by either AT&T or MCI changes this fact.

AT&T also mistakenly claims that using offsets for both sharing and headroom is “paradoxical”,⁹ and therefore headroom offsets should not be claimed if sharing offsets are allowed. SWBT correctly applied its sharing offsets only to the revenue reductions computed after pricing below cap had been taken into account. Thus, the method used by SWBT resolves any apparent “paradox” as expressed by AT&T that both a headroom offset and a sharing offset are appropriate. **If headroom offsets are not allowed, the sharing offsets would need to be increased to reflect 50% sharing of the refund amount, excluding the headroom offset,** to the extent sharing actually took place.

⁷MCI Comments, Page 5.

⁸ The benchmark amount is determined based on the Commission’s definition of interstate rate of return on investment.

⁹AT&T Comments, footnote 9.

AT&T's claim that headroom offsets should not be allowed if sharing offsets are used is also erroneous. This claim is based on AT&T's incorrect assumption that "(o)nly if a LEC has earned the full amount (of the disallowed exogenous cost) can it have any basis to claim that it returned half of any overearnings to its customers".¹⁰ SWBT only claimed a 50% sharing offset against the refund amount remaining after the offset for headroom was used. SWBT's calculations properly follow the flow of revenue and comply with the Commission's price cap rules. The mechanics of a PCI reduction in price cap regulation is as follows: (1) if there is sufficient headroom to accommodate the full PCI reduction, no revenue reductions are required; (2) if there is not sufficient headroom to accommodate the full PCI reduction, the only revenue reduction mandated is that remaining after the existing headroom amounts have been exhausted. It is then only to the extent that actual revenue reductions are required that the 50% sharing offset is computed. Thus, a 50% sharing offset was calculated only for the difference between the revised revenue amount and the actual revenue, and then only to the extent sharing had already been made.¹¹

E. SWBT's Proposed Interest Calculations are Accurate and Appropriate.

AT&T claims that several LECs did not calculate interest up to the point at which the refund is paid. This claim was not directed to and does not apply to SWBT. SWBT's description of its calculations clearly indicated that the refund amount includes interest calculated up to June 30, 1997. If the refund is paid after that time, additional interest will be added.

¹⁰AT&T Comments, footnote 19.

¹¹ In other words, in periods where SWBT's prior sharing amounts by basket were smaller than 50% of the mandated revenue reductions, no sharing offsets were computed.

II. CONCLUSION

For all the foregoing reasons, SWBT respectfully requests the Commission to accept its proposed refund schedule as submitted.

Respectfully submitted,

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7/1/96
HEADROOM CALCULATIONS

<u>TRUNKING</u>	<u>REVENUE</u>	<u>API/SBI</u>	<u>PCI/SBI UL</u>	<u>ANNUALIZED HEADROOM</u>
RIC	\$228,227,152	88.6533	88.7953	\$ 366K
TANDEM TRANSPORT	29,774,593	94.0421	95.7365	536K
VOICE GRADE	71,224,603	97.9559	102.6635	3,423K
AUDIO-VIDEO	2,600,956	99.3381	104.1120	125K
HIGH CAP	<u>378,803,760</u>	75.9916	81.3131	<u>26,527K</u>
TOTAL SBI				\$30,977K
TOTAL TRUNKING	\$710,631,064	82.0415	83.2047	\$10,075K
<u>TRAFFIC SENSITIVE</u>	<u>REVENUE</u>	<u>API/SBI</u>	<u>PCI/SBI UL</u>	<u>ANNUALIZED HEADROOM</u>
LOCAL SWITCHING	\$275,685,659	86.5009	90.9723	\$14,251K
INFORMATION	43,051,178	91.1868	95.5558	2,063K
DATABASE	8,401,179	92.2903	96.7122	403K
BNA	<u>26,485</u>	95.8435	100.4356	<u>1K</u>
TOTAL SBI				\$16,718K
TOTAL T.S.	\$327,164,501	78.6396	78.7709	\$ 546K

CERTIFICATE OF SERVICE

I, Katie M. Turner, hereby certify that the foregoing, "REPLY OF SOUTHWESTERN BELL TELEPHONE COMPANY IN THE MATTER OF 800 DATA BASE" in Docket No. 93-129 & 86-10 has been filed this 13th day of June, 1997 to the Parties of Record.

A handwritten signature in cursive script that reads "Katie M. Turner". The signature is written in black ink and is positioned above a horizontal line.

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June 13, 1997

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