

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

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JUN 15 1997

Federal Communications Commission
Office of Secretary

In the Matter of)
)
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
)

REPLY

BellSouth Telecommunications, Inc. ("BellSouth") hereby submits its response to the comments of AT&T Corp. ("AT&T") and MCI Telecommunications Company ("MCI") on BellSouth's refund plan that was submitted in compliance with the Commission's *Order on Reconsideration* in the above referenced proceeding.¹

In its *Reconsideration Order*, the Commission directed the price cap local exchange carriers (LECs) to submit a refund plan that reflects the disallowance of certain exogenous costs claimed by the LECs.² On May 14, 1997, BellSouth, in compliance with the *Reconsideration Order*, submitted its plan. The Plan showed that in 1993, 1994, 1995 and 1996, respectively, BellSouth's actual price index (API) was below the price cap index (PCI) in the Traffic Sensitive Basket such that the annual \$43,355 exogenous disallowance required by the *Reconsideration*

¹ 800 Data base Access Tariffs and the 800 Service Management System Tariff and Provision of 800 Services, CC Docket No. 93-129 and CC Docket No. 86-10, Order on Reconsideration, released April 14, 1997. ("Reconsideration Order")

² *Reconsideration Order* at ¶ 50.

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Order would not result in the API exceeding the PCI in any of those years. Accordingly, no refund is required.

MCI and AT&T object to the refund plan. Both contend that the adjustment to the PCI for the disallowed exogenous cost should have been made on a prospective basis, without regard to the headroom that existed during the relevant annual periods. Neither commenter's arguments have merit.

The refund plan need not be done on a prospective basis to be consistent with price cap rules and policies, as both AT&T and MCI apparently believe. As the Commission noted in the *Reconsideration Order*, the prospective reduction for the disallowed exogenous costs had already been ordered by the Commission and implemented.³ The purpose of the refund plan is to determine whether a refund is necessary for the disallowed exogenous cost.

Hence, the relevant inquiry is whether any adjustment would have been required were the disallowed exogenous cost adjustments made to the PCI during the investigation period. The required analysis is retrospective, not prospective in nature. This is precisely the type of analysis that BellSouth's refund plan employs.

Contrary to MCI and AT&T, there is nothing in the *Reconsideration Order* or the price cap rules that preclude taking into account headroom that existed during the investigation period in determining whether an adjustment for the disallowed exogenous cost results in a refund. To the contrary, the Commission acknowledged in the *Reconsideration Order* that headroom

³ *Reconsideration Order* at ¶ 20.

adjustments could be a relevant factor to be considered when determining whether refunds had to be made.⁴

More importantly, it is appropriate to consider the headroom in the relevant price cap basket to give full effect to the operation of the price cap rules. The disallowance here is an exogenous cost. To effectuate the disallowance, the PCI is adjusted. In this particular case, it is the PCI of the traffic sensitive basket. MCI and AT&T argue that the only index that the Commission should consider, in determining whether refunds are necessary, is the data base service band index (SBI). MCI and AT&T are incorrect. Irrespective of where an SBI may be within the basket, headroom within the traffic sensitive basket demonstrates refunds are unwarranted. Other rates could have been adjusted to offset any decrease in an SBI that might have been occasioned by the PCI adjustment.

Further, because the Commission must determine what would have occurred had the exogenous adjustment taken place during the investigation period, the Commission should not ignore the price cap rules that permit carriers to adjust their rates upward provided that the API is at or below the PCI. To do so would be arbitrary. BellSouth has demonstrated that, in each annual period during the investigation, it could have made such adjustments. The total amounts paid by access customers would not have changed had the exogenous adjustment been made.⁵

⁴ *Reconsideration Order* at ¶ 19.

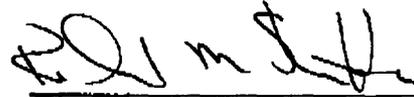
⁵ Because the relevant basket is the traffic sensitive basket, the customers of the other services included in traffic sensitive basket (the most significant being local switching) are also the 800 data base customers. Hence, even if 800 data base rates were lowered, these same customers would have paid higher traffic sensitive switched rates.

BellSouth's refund plan is consistent with the Commission's price cap rules. BellSouth has shown for each of the years during which the tariff investigation was continuing, it had sufficient headroom in the traffic sensitive basket such that no refund is necessary because of the disallowed exogenous cost. Accordingly, the Commission should approve BellSouth's plan.

Respectfully submitted,

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DATE: June 13, 1997

CERTIFICATE OF SERVICE

I hereby certify that I have on this 13th day of June, 1997 served the following parties to this action with a copy of the foregoing **REPLY** by placing a true and correct copy of the same in the United States Mail, postage prepaid, addressed to the parties listed below.


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