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NYNEX

July 15, 1997

Ex Parte

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W. - Room 222
Washington, D.C. 20554

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JUL 15 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: CC Docket No. 97-149

Dear Mr. Caton:

The following material responds to questions posed by FCC staff regarding the annual filing made by NYNEX. NYNEX requests that it be incorporated into the record of the proceeding related to that filing.

When the Interexchange carriers changed to a self-reporting percent interstate usage (PIU) in New York in May of 1996, they increased their minutes of use subject to the lower intrastate rates. This resulted in an estimated $1.15M annual savings to them (based on estimated restatement of 1996 data if self reporting PIU for May-December 1996 had not occurred). If the impact of the change to self-reporting PIU for New York in 1996 is "normalized" out of the growth in MOU per line from 1995 to 1996, the impact is a higher g factor for the 1997 annual access tariff filing, i.e., 2.8675% versus 1.6606%. The effect was calculated by using a trend analysis of actual PIUs for 1993 through April 1996 to forecast May 1996 through December 1996 PIUs. This restatement of 1996 data, then, is an estimate of 1996 interstate MOUs assuming self reporting of PIUs in New York did not occur in May - December of 1996. The effect of the higher g factor is approximately an additional $1.6M reduction for CCL that, in the 1997 Annual filing, would be targeted to the TIC.

As an alternative method of "normalizing" the effect of self-reporting PIUs in 1996, we attempted to restate 1995-96 data to reflect what the PIUs would have been if the Interexchange Carriers had self reported PIUs during all of 1995 and through 4 months of 1996. Using the self reported PIUs for the last 8 months of 1996 to "trend backwards" to 1995 produced unreliable results, and actually resulted in PIUs that were *higher* than actuals for some of the time period. Using an alternative approach of assuming a constant PIU for the 1995 period based on actual self reported PIUs for the last 8 months of 1996 does not capture the gradual downward trend in PIUs that have been evident over time. In short, there does not appear to be a reliable way to estimate a restated view of 1995 to reflect self reported PIUs for New York.

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Staff's request for these calculations suggests an approach that should not, in all equity, be pursued. Requiring a normalization of NYNEX's g factor in the 1997 annual filing places an inequitable burden on NYNEX. First, a normalized g factor would be based on minutes that NYNEX never billed or realized as revenues. Section 61.45(c) of the price cap rules requires the LECs to calculate the g factor based on *actual* minutes of use. The purpose of the g factor is to share the benefit of growth in minutes with the interexchange carrier and the LEC. The effect of the growth is based on actual historical data and impacts prospective rates at each annual filing. In the 1996 annual filing, the rates reflect a growth factor that was based on actual 1995 and 1994 data. In reality, the 1996 growth did not meet the growth factor used in the 1996 annual filing price cap formula.

The original price cap order discussed the purpose of the g factor. In the October 4, 1990 LEC Price Cap Order (pars. 69-70) the order stated that ". . . a CCL formula that provides approximately half of the benefit of demand growth to LECs and half to interexchange carriers is the most reasonable approach to ensuring that both will have the opportunity for CCL demand productivity improvements, and the incentives to exploit them, in light of the special programs for common line rates." The Order stated further that ". . . the balanced 50-50 formula shares both gains and losses in usage per line between LECs and customers, so that customers enjoy lower rates when demand growth slumps than they would under a per line formula. In addition, as the added incentive of the Balanced 50-50 formula encourages LECs to upgrade their networks in ways that stimulate growth in demand, consumers should benefit from improved services. They will also benefit from a half share of productivity gains that might never have occurred at all if LECs had not been given the incentive to generate them." The Commission in the same Order also noted that ". . . the 50-50 formula reduces the PCI by a percentage representing half the growth in demand per line in the prior year. The formula, as revised, will accomplish the intended balance of goals. As demand increases, the CCL rate will be pressed down, though not by as much as in a per line formula. The difference should provide a substantial incentive for LECs to undertake programs and activities to stimulate CCL usage."

Adjusting the g factor for minutes that were never billed would provide a greater benefit to customers than was originally intended by the 50-50 formula. It would double count the revenue reduction that the interexchange carriers are enjoying by shifting billed MOU to the lower Intrastate Access rates. This is obviously inequitable. It also raises questions concerning what threshold warrants an adjustment in the g factor, viz., at what point is normalization required? The PIU factors used to bill interstate minutes are affected by other events, and in fact there has been a gradual decrease in PIU factors for all NYNEX areas over time. These changes are reflected in the g factor. Additionally the g factor is affected by changes in line growth, and over time the g factor has varied from year to year, as shown below.

Annual Filing/ g factor:

- 1991 NET 6.4%
- 1991 NYT 5.50%

- 1992 NYNEX 3.3235%
- 1993 NYNEX 4.4538%
- 1994 NYNEX 2.2292%
- 1995 NYNEX 3.8363%
- 1996 NYNEX 3.5951%
- 1997 NYNEX 1.6606%

The general trend in the growth per line (since the factor is also based on changes in line growth) has been downward, and g factor used in the 1997 annual filing was affected by the change in NY PIU reporting. But the historical g factors show that there is variability from year to year, and normalizing any individual year, and potentially only normalizing to smooth out downward adjustments to the g, is clearly inequitable. The 1995 factor represented an increase of 72% over the 1994 g factor, versus a 54% decrease in the 1997 factor from 1996, yet NYNEX was never asked to normalize the 1995 annual filing g factor. Nor did any intervenor question the factor as unreasonable. An adjustment now is unwarranted.

As a final point it should be noted that adjusting the g factor to reflect demand other than *actual* demand makes the g factor demand inconsistent with the base period demand used in the price cap model and formulas. Adjusting the base period demand to be consistent with the "normalized" g factor demand would lead to other changes and a movement away from basic price cap rules, which require the use of actual ARMIS data.

In summary, a normalization of the g factor without a sound basis provides an arbitrary and unfounded adjustment that reduces interstate access revenues.

Any questions on this matter should be referred to me at either the address or telephone number shown above.

Sincerely,

Kim Burt

cc: J. Scott
J. Simmons