

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

In the Matter of

New England Telephone and  
Telegraph Company and  
New York Telephone Company

Plan to Provide Comparably  
Efficient Interconnection to  
Providers of Enhanced Protocol  
Processing Services

**MEMORANDUM OPINION AND ORDER**

Adopted: December 26, 1989; Released: January 4, 1990

By the Chief, Common Carrier Bureau:

**I. INTRODUCTION**

1. On May 17, 1989, pursuant to the requirements the Commission adopted in the *Computer III* proceeding,<sup>1</sup> New England Telephone and Telegraph Company and New York Telephone Company (NYNEX) filed a plan to provide Comparably Efficient Interconnection (CEI) for enhanced protocol processing services (Plan), stating that it plans to provide protocol processing without structural separation. Telenet Communications Corporation (Telenet) filed comments on the Plan, and NYNEX filed a reply. In this Order, we approve the Plan, subject to certain conditions.

**II. SERVICE DESCRIPTION**

2. NYNEX requests authority to provide a variety of enhanced protocol processing services on an unseparated basis in connection with four different classes of underlying basic services: (1) Exchange Telephone Service; (2) Private Line Service (PLS); (3) INFOPATH Packet Switching Service; and (4) Central Office Local Area Network (CO-LAN) Service, including CENTREX-LAN.<sup>2</sup> In addition to the protocols listed in its Plan,<sup>3</sup> NYNEX seeks permission to provide protocol processing for new protocols that become available in the future.<sup>4</sup> NYNEX also seeks permission to engage in joint marketing of INFOPATH service and enhanced protocol processing (asynchronous to X.25 and X.75<sup>5</sup> as well as the protocols listed in the plan).<sup>6</sup>

3. NYNEX states that its Exchange Telephone Services can be used to gain access to its enhanced protocol processing offering.<sup>7</sup> NYNEX also states that PLS, used in conjunction with protocol processing, will provide dedicated analog or digital communications at various bandwidths and transmission speeds, thus allowing customers to connect disparate terminal equipment within a single private network.<sup>8</sup> NYNEX adds that INFOPATH Packet Switching Service will provide basic packet switched data transmission capabilities and access to en-

hanced protocol processing, typically for customers engaged in interactive data communication between terminals and computers.

4. NYNEX states that "CO-LAN is a switched data communications network service which provides simultaneous voice and synchronous or asynchronous data transmission over . . . exchange . . . lines . . ."<sup>9</sup> NYNEX adds that the CO-LAN line is the basic service component that will be used to access the enhanced protocol processing services,<sup>10</sup> using either asynchronous or synchronous communications, depending on the customer's needs. NYNEX states that its protocol processing services offered with CO-LAN lines may be provided outside the CO-LAN data switch or integrated within the switch. NYNEX states that it will use CO-LAN lines, including DVMs to connect the CO-LAN switch to the protocol processor when the protocol processor is located outside the CO-LAN switch.<sup>11</sup>

**III. CEI REQUIREMENTS**

*A. Minimization of Transport Costs*

5. The Plan states that NYNEX will charge its enhanced protocol processing service operation the same rates that are paid by non-collocated enhanced service providers (ESPs) for access connections.<sup>12</sup> In particular, NYNEX states that when its enhanced protocol processing equipment is located in the central office, NYNEX will charge its enhanced service operations for tariffed services as if the operations were located within the central office district but outside the central office building. NYNEX states that although the majority of basic network services used in providing enhanced protocol processing services are tariffed at averaged, non-distance sensitive rates, there are a few services which have distance-sensitive charges for intraoffice facilities.<sup>13</sup> NYNEX states that when its enhanced service operations subscribe to services which have distance sensitive-charges, it will charge its own enhanced service operation as if it were located two miles from the central office whenever the distance from the central office to the boundary is two miles or more.<sup>14</sup> However, NYNEX states that central office districts in densely populated business areas may cover very small geographic areas, sometimes only a few city blocks.<sup>15</sup> NYNEX argues that this makes "it impossible to apply the two mile rule."<sup>16</sup> Therefore, in these circumstances, NYNEX proposes to charge its enhanced service operation as though it were located at one-half the distance from the central office to the furthest portion of the central office district boundary, rather than charge its operations the two-mile price.<sup>17</sup> NYNEX argues that this pricing method is consistent with the Commission's conclusion in the *BOC ONA Order* that it would not be desirable to require the BOC to charge itself based on the furthestmost distance from the central office.<sup>18</sup>

6. Telenet opposes NYNEX's "departure from the 'two-mile rule' concerning parity pricing for distance-sensitive intra-office loops . . ."<sup>19</sup> Telenet agrees with NYNEX that it "makes no sense" to require the BOC to charge itself a two-mile rate when the greatest distance to the district boundary is less than two miles.<sup>20</sup> Telenet, however, proposes another solution--allowing NYNEX to charge its enhanced service operations based on the actual distance to the furthest boundary.<sup>21</sup> Telenet argues that its solution is "simpler" than that proposed by NYNEX and

will ensure that the BOC enhanced service operations are not always charged a rate that exceeds the rate paid by other ESPs.<sup>22</sup> In addition, Telenet believes that this solution "would perpetuate the modest incentive for the BOC to permit collocation",<sup>23</sup> which Telenet views as inherent in the current rule. Although Telenet recognizes that there are very few services offered under distance-sensitive tariffs at present, it is concerned that NYNEX could amend its tariffs in the future to establish distance-sensitive rates for services currently offered at flat rates.<sup>24</sup>

7. In its reply, NYNEX argues that under Telenet's proposal NYNEX's enhanced service operation would "typically" pay higher rates than other ESPs.<sup>25</sup> In support of this contention, NYNEX observes that Telenet's proposal would ensure that the BOC enhanced service operations pay rates based on the maximum distance to the central office district boundary while other ESPs would be able to select locations within the district boundaries to ensure lower rates than NYNEX's enhanced service operation.<sup>26</sup> As a result, NYNEX argues that it would be at an "unreasonable competitive disadvantage" if it must pay the two-mile rate or charges reflecting the full distance to the farthest point of the central office district boundary in these cases.<sup>27</sup>

8. The *BOC ONA Order* states that the requirement for minimization of transport costs may be satisfied through the use of price parity, and describes ways that a BOC can implement price parity for collocated enhanced services.<sup>28</sup> That Order established the two-mile rule to ensure that collocated BOC affiliates would not have an unfair advantage over other ESPs located close to the switch.<sup>29</sup> We believe that NYNEX's plan represents a reasonable application of existing pricing principles in these circumstances. The two-mile rule is designed to ensure that collocated BOC enhanced service operations do not have an unfair price advantage over other ESPs located close to the switch. It is not intended to force the integrated BOC operations to pay the maximum distance-sensitive rate in small, densely populated central office districts in business areas, as Telenet proposes. Accordingly, we conditionally approve this aspect of the Plan, pending Commission review of these issues in the context of NYNEX's Amendment to its ONA Plan.<sup>30</sup>

#### B. Other CEI Requirements

9. NYNEX also describes how it will comply with the other CEI parameters described in the *Phase I Order*.<sup>31</sup> NYNEX states that all the basic services and functions that it will use to provide enhanced protocol processing services have been unbundled, and are currently available under tariff.<sup>32</sup> NYNEX adds that it will not use any network functions for its enhanced services that are not "available to all ESPs under the same terms and conditions, and at the same degree of unbundling."<sup>33</sup> NYNEX states that its enhanced service operations will purchase "underlying basic services at the same unbundled tariff rates, terms and conditions available to other ESPs."<sup>34</sup> NYNEX adds that all basic services used to access the enhanced protocol processing functions are tariffed and available to all ESPs and end users.<sup>35</sup> In addition, NYNEX states that all underlying basic services will be available to all ESPs at the same time and under the same terms and conditions.<sup>36</sup> Furthermore, NYNEX states that all service features available to its enhanced protocol processing service will be available to all end users on the same terms and conditions.<sup>37</sup>

10. NYNEX states that all basic network services listed in its Plan will use standard published interfaces.<sup>38</sup> NYNEX adds that interconnection to its enhanced protocol processing service will be through the same standard network interfaces which are currently available to other ESPs under tariff.<sup>39</sup> NYNEX also states that its network is designed to ensure that all customers receive "services that are equivalent in technical quality."<sup>40</sup> NYNEX adds that it will use the installation, maintenance and repair procedures that the Commission approved in the NYNEX ONA Plan.<sup>41</sup>

11. NYNEX also describes how it will comply with the other nonstructural safeguards described in the *Phase I Order*. NYNEX states that it will use the installation and maintenance nondiscrimination reporting procedures described in its original ONA plan with modifications to reflect the amended ONA plans NYNEX filed on May 19, 1989.<sup>42</sup> NYNEX also states that it will satisfy the Customer Proprietary Network Information (CPNI) requirements in the same manner described in a previously approved CEI plan.<sup>43</sup> NYNEX adds that its cost allocation manual describing the procedures for identifying nonregulated revenues, investments, and expenses has been approved by the Commission.<sup>44</sup> NYNEX further states that it will comply with the Commission's network information disclosure requirements if any new network interfaces arise, although its Plan does not propose any changes to existing network interfaces.<sup>45</sup>

12. We approve NYNEX's Plan to offer CEI to providers of enhanced protocol processing services described herein, finding that NYNEX has shown that it will comply with the CEI parameters, other non-structural safeguards, and the CEI pricing requirements.<sup>46</sup>

#### IV. ORDERING CLAUSE

13. Accordingly, IT IS ORDERED, that pursuant to Sections 0.91 and 0.291 of the Commission's Rules, 47 C.F.R. §§ 0.91 and 0.291, NYNEX's Plan to provide comparably efficient interconnection to providers of enhanced protocol processing services described herein, IS APPROVED, subject to conditions.

#### FEDERAL COMMUNICATIONS COMMISSION

Richard M. Firestone  
Chief, Common Carrier Bureau

#### FOOTNOTES

<sup>1</sup> The Commission's decision in *Computer III* requires a Bell Operating Company (BOC) that wishes to offer an enhanced service on an unseparated basis prior to implementation of a comprehensive Open Network Architecture (ONA) Plan to submit and obtain approval of a CEI plan for the specific service, or class of services, it proposes to offer. See Amendment of Section 64.702 of the Commission's Rules and Regulations, *Report and Order*, 104 FCC 2d 958 (1986) (*Phase I Order*), modified on reconsideration, 2 FCC Rcd 3035 (1987) (*Phase I Reconsideration*), further reconsideration, 3 FCC Rcd 1135 (1988) (*Phase I Further Reconsideration*), second further reconsideration, 4 FCC Rcd 5927 (1989) (*Phase I Second Further Reconsideration*), ap-

peals pending sub nom. California v. FCC, No. 87-7230 (9th Cir.) (pet. for rev. filed May 28, 1988) and sub nom. Illinois Bell Telephone Co. v. FCC, No. 88-1364 (D.C. Cir.) (pet. for rev. filed May 16, 1988). See also *Report and Order*, 2 FCC Rcd 3072 (Phase II Order), modified on reconsideration, 3 FCC Rcd 1150 (1988) (Phase II Reconsideration), further reconsideration, 4 FCC Rcd 5927 (1989) (Phase II Further Reconsideration), appeal pending sub nom. California v. FCC, No. 88-7183 (9th Cir.) (pet. for rev. filed May 13, 1988).

<sup>2</sup> Plan at 2.

<sup>3</sup> *Id.* at Attachment A.

<sup>4</sup> NYNEX states that the "processing of such additional protocols will use the underlying basic services specified" in its Plan, and that its enhanced services operations "will use such basic services in the same manner as specified" in its Plan. *Id.* at 3.

<sup>5</sup> NYNEX notes that the Plan does not apply to asynchronous to X.25 and asynchronous to X.75 protocol conversion to the extent that NYNEX is already permitted to provide those services in connection with its INFOPATH service. *Id.* at 5, n.5.

<sup>6</sup> NYNEX states that it will provide the additional protocol processing services employing INFOPATH in the same manner that protocol conversion is currently provided with INFOPATH. *Id.* at 5.

<sup>7</sup> NYNEX states that the Exchange Telephone Services that can be used for this purpose include Business Access Lines, Residence Access Lines, CENTREX Lines, and Foreign Exchange Lines. *Id.* at 4.

<sup>8</sup> NYNEX's basic PLS offerings which can be used to access its enhanced protocol processing services are Analog Private Line, Quickway and Digipath (Digital Data Service (DDS)), Superpath 1.544 megabit/second services, and Superpath Optical 1.544 megabit/second services. *Id.* at 4-5.

<sup>9</sup> *Id.* at 6. CO-LAN service requires a customer-provided data, voice multiplexer (DVM) located at the customer's premises and similar equipment in the central office. NYNEX notes that CO-LAN service is offered under tariff in Massachusetts and that a tariff for this service is pending in New York. CENTREX-LAN service is currently tariffed in both states. *Id.*

<sup>10</sup> NYNEX states that a CO-LAN line consists of a "derived data channel and a data switch termination." *Id.*

<sup>11</sup> *Id.* When the protocol processor is integrated into the CO-LAN switch, NYNEX will impute CO-LAN line charges as if the protocol processor were located outside the switch. *Id.*

<sup>12</sup> *Id.* at 11.

<sup>13</sup> NYNEX cites its Superpath 1.544 megabit/second service as an example of a service with distance-sensitive charges. *Id.* at 12.

<sup>14</sup> The Commission established the "two-mile" requirement in the BOC ONA proceeding. See Filing and Review of Open Network Architecture Plans, CC Docket 88-2, Phase 1, *Memo-randum Opinion and Order*, (BOC ONA Order) 4 FCC Rcd 1 (1989), reconsideration pending, appeal pending sub nom., Pacific Bell and Nevada Bell v. FCC, No. 89-1194 (D.C. Cir.) (pet. for rev. filed Mar. 20, 1989).

<sup>15</sup> Plan at 12.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* NYNEX notes that when the BOC ONA Order was released, NYNEX "foresaw no circumstance in which [it] would utilize [its] few distance sensitively priced intra-office loops in the provision of an enhanced service." However, NYNEX states that it recently identified a market for the provision of enhanced protocol processing using such services. *Id.* at 12-13, n.14.

<sup>18</sup> *Id.*

<sup>19</sup> Telenet at 2.

<sup>20</sup> *Id.* at 4.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at 5.

<sup>25</sup> NYNEX Reply at 4.

<sup>26</sup> *Id.* at 5.

<sup>27</sup> *Id.* at 6.

<sup>28</sup> BOC ONA Order, 4 FCC Rcd at 86-89, para. 166-172.

<sup>29</sup> *Id.* at 86-87, para. 168.

<sup>30</sup> NYNEX also proposes this means of satisfying the price parity requirements in its ONA Plan Amendments. A final determination concerning this proposal will be made in the context of that proceeding.

<sup>31</sup> Phase I Order, 104 FCC 2d at 1039-1057, paras. 154-193.

<sup>32</sup> Plan at 8.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.* at 11.

<sup>36</sup> *Id.* at 10.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.* at 7.

<sup>39</sup> *Id.* at 8.

<sup>40</sup> *Id.* at 9.

<sup>41</sup> *Id.* at 9-10.

<sup>42</sup> *Id.* at 15-16.

<sup>43</sup> *Id.* at 16. See New York Telephone and New England Telephone and Telegraph Company CEI Plan for the Provision of Voice Messaging Services, 4 FCC Rcd 554, at 557, para. 39 (1989).

<sup>44</sup> Plan at 17.

<sup>45</sup> *Id.*

<sup>46</sup> Of course, if and when NYNEX's ONA Plan ultimately is approved, NYNEX must implement any changes for its protocol processing services as well as its other enhanced services.