III. ANALYSIS AND FINDINGS

A. Elimination of the Coin Rate from NYNEX tariffs

Under the FCC's rules, after October 7, 1997, payphone providers will be allowed to charge rates based on market conditions, not subject to Department review (cite). In its filing, NYNEX states that for a pay telephone call, its cost-based rate is $.17 and the market-based price is $.25 (cite). In its comments, the Attorney General, …. request that the Department conduct a full investigation of this request Before making a determination as to whether NYNEX's cost analysis is accurate, the Department would need to conduct a full investigation of approximately six months. Given the fact that the Department's determination in this case would be short-lived, we find that it is not an efficient use of Department resources to conduct such an investigation.1 Moreover, since payphone rates are currently subsidized, allowing payphone rates to go to market-based levels and therefore, removing the subsidy, means that rates for other services can be expected to decrease at the time of NYNEX's next annual price cap filing in June 1997. Therefore, the Department will allow NYNEX to remove the $.10 coin rate from its filed tariffs.

B. PASL Tariff

The Act prohibits Bell operating companies, like NYNEX, from "discriminat[ing] in favor of its payphone services." 47 U.S.C. § 276(a)(2). In the Payphone Orders, the FCC established a requirement that Local Exchange Carriers ("LECs") provide under tariff the same payphone services to competing Payphone Service Providers ("PSPs") that they provide their own payphones. Payphone Order, at _____. Thus, incumbent LECs must offer individual

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[1] The Department has conducted or will be opening shortly more than a dozen new investigations concerning the implementation of the requirements of the Act.

central office coin transmission services to payphone providers under nondiscriminatory, public tariffed offerings, if the LECs provide those services for their own payphone operations (cite). LECs must provide access lines to payphone providers that will allow them to offer either smart payphone service or dumb payphone services (cite).2 The FCC requires LECs to file tariffs for this new service to go into effect by April 15, 1997 (cite). The FCC rules are intended to ensure that the costs associated with regulated services are separated from an LEC's new "competitive" payphone service and that no subsidies are provided from basic exchange, and exchange access revenues or access charge payphone service elements (cite).

Given the competitive implications of NYNEX's PASL service, it is important that the Department ensure that the PASL service is not discriminatory and fully complies with the FCC's requirements. Therefore, we find that additional investigation of the PASL service is needed. This investigation will be conducted while the tariffs are in effect. Should the Department find any problem....we will give you some money back somehow.

C. Entry and Exit Barriers and Public Interest Payphones

In adopting its Payphone Orders, the FCC stated that it sought to "eliminate those regulatory constraints that inhibit the ability both to enter and exit the payphone marketplace, and to compete for the right to provide services to customers through payphones. Payphone Order, at Para. 2. Specifically, states must examine and eliminate entry and exit barriers in the payphone market by October 7, 1997. Id. at para 163.

In addition, because "the market may fail to provide adequately for payphones in locations serving important public needs," the FCC "establish[ed] criteria by which the states

[2]define

may maintain and fund public interest payphones in locations serving health, safety, and welfare goals, and where they would not otherwise exist as a result of the operation of the market." Id. at Para. 7. The FCC requires that states complete their pubic interest payphones investigations by October 7, 1998. The Department intends to open a docket to address these requirements.