

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE PROPERTY TAX COMMISSION
SITTING AS THE STATE BOARD OF
EQUALIZATION AND REVIEW

91 PTC 26
92 PTC 413
93 PTC 23

In the matter of:)
The appeals of Northern Telecom,)
Inc. from the decisions of the)
Durham County Board of)
Equalization and Review dated)
29 January 1991, 6 May 1992, and)
9 February 1993 concerning the)
listing, appraisal, and assessment)
of certain property.)

Final Decision

This matter was heard before the Property Tax Commission, sitting as the State Board of Equalization and Review in the City of Raleigh, Wake County, North Carolina, on February 8, 9, 10, 11, 23, 24, and 25, 1994 pursuant to the appeal of Northern Telecom, Inc. (hereinafter "Taxpayer") from decisions of the Durham County Board of Equalization and Review.

The Taxpayer was represented at the hearing by Charles B. Neely Jr. and Nancy S. Rendleman, attorneys at law; the County was represented at the hearing by William F. Maready and Clifford Britt, attorneys at law.

Issues

In their pre-hearing order filed with the Commission, the parties did not agree as to the issue or issues to be decided. In view of the guidelines set by the North Carolina Supreme Court for property tax appraisal appeals in In Re Appeal of AMP, Inc., 287 N.C. 547, 215 S.E.2d 752 (1975), the Commission finds that the issues presented in this are:

1. Did the County employ an arbitrary or illegal method of appraisal in reaching the assessed values assigned by the

County to the Taxpayer's personal property for 1986 through 1992?

2. Did the County's assessment of the subject personal property substantially exceed the true value in money of the subject property as of January 1 of the years 1986 through 1992? and
3. If the first two issues are answered in the affirmative, what was the true value in money of the subject property as of January 1 of the years 1986 through 1992?

The Commission notes that under the guidelines of the AMP decision, the Taxpayer, in order to prevail, has the burden of establishing: (1) that the County employed an arbitrary or illegal method of appraisal and (2) that the value assigned by the County was substantially greater than the true value in money of the property as of January 1 of each relevant tax year.

Stipulations

In their pre-hearing order filed with the Commission, the parties agreed to the following undisputed facts:

1. NTI abandons its appeal as to Durham County's discovery assessment of leasehold improvements for the years 1986-1991. The assessed amount of leasehold improvements discovered by Durham County for 1986-1991 are:

1986	\$1,035,207
1987	250,441
1988	1,032,605
1989	355,658
1990	362,112
1991	89,122

NTI abandons its appeal as to expensed items and supplies for 1992.

2. The parties stipulate that the assessed value of construction in progress ("CIP") pursuant to the 1986-1991 discovery assessments appealed by NTI to the Property Tax Commission are:

1986 CIP	\$15,792,327
1987 CIP	15,699,644
1988 CIP	11,825,763
1989 CIP	9,677,995
1990 CIP	11,130,067
1991 CIP	12,153,780

Durham County stipulates that the assessments are as set forth in letters from the tax assessor dated 28 August 1992, 25 November 1992, 9 February 1993, 11 February 1993, and 16 February 1993. NTI makes certain contentions with regard to the assessed value of the property subject to the 1986-1991 discovery assessments appealed by NTI to the Property Tax Commission and makes certain contentions with regard to the 1992 regular assessments on business personal property appealed by NTI to the Property Tax Commission. These contentions are set forth in Attachment 3B to the prehearing order. Durham County does not stipulate as to these contentions, other than CIP for the years 1986-1991, to which it does stipulate.

3. The parties contemplate that they will agree upon a stipulation as to the trending and depreciation tables used by Durham County to assess NTI's business personal property for both the original assessments and discovery assessments appealed by NTI. Upon agreement, this statement will be attached to the pre-trial order. Not stipulated.

4. NTI produced MSA Fixed Asset Summaries and MSA Fixed Asset Reports to Durham County (NTI Exhibits 31-37) on August 31, 1993 as part of pre-hearing discovery. These reports described certain NTI personal property on each assessment date, January 1, 1986 - January 1, 1992. NTI produced another set of MSA Fixed Asset Reports (each entitled "Fixed Assets by State") to Durham County pursuant to subpoena in December, 1991 for each assessment date January 1, 1986-January 1, 1991 an as part of pre-trial discovery on 28 June 1993 for the assessment date January 1, 1992.
5. Exhibit 25C, exemplar pages of the computerized asset printout referred to in this action as the "dynamic" asset printout was produced by Northern Telecom, Inc. to Durham County by Jack Gribble in late July or early August 1990.
6. Exhibit 25D, exemplar pages of the computerized printout of "Fixed Assets by State" was produced by Northern Telecom, Inc. to Durham County pursuant to subpoena in December, 1991.
7. Exhibit 25E, exemplar pages of the computerized printout of "Fixed Asset Summary by State", was produced by Northern Telecom to Durham County pursuant to subpoena in December, 1991.
8. Exhibit 25F, exemplar pages of the computerized printout of "Fixed Asset Detail Listing" was produced by Northern Telecom, Inc. to Durham County on 31 August 1993.

The evidence presented by the Taxpayer and considered by the Commission consisted of the following:

1. Taxpayer Exhibit 1 - Telephony Chart.
2. Taxpayer Exhibit 2 - Photo of DMS-100 Central Office Switch.
3. Taxpayer Exhibit 3 - Photo of DMS-10 Central Office Switch.
4. Taxpayer Exhibit 4 - Display board containing NTI line cards manufactured between 1982 and 1993 at the NTI DMS-10 and Switching plants.
5. Taxpayer Exhibit 5 - Display board containing NTI information processors manufactured between 1982 and 1993 at the NTI DMS-10 and Switching plants.
6. Taxpayer Exhibit 6 - Photo of drawer containing line cards in frame.
7. Taxpayer Exhibit 7 - Photo of information processor in frame.
8. Taxpayer Exhibit 8 - Video tape showing Switching plant in 1987 and 1991.
9. Taxpayer Exhibit 9 - Switching plant floor plan 1985.
10. Taxpayer Exhibit 10 - Switching plant floor plan 1989.
11. Taxpayer Exhibit 11 - Switching plant floor plan 1991.
12. Taxpayer Exhibit 12 - Switching plant floor plan 1994.
13. Taxpayer Exhibit 13 - Poster board showing evolution of DIP (dual in line package insertion) machinery, including photographs.
14. Taxpayer Exhibit 14 - Poster board showing evolution of VCD (variable center displacement) machinery, including photographs.
15. Taxpayer Exhibit 15 - Poster board showing evolution of odd form assembly machinery, including photographs.
16. Taxpayer Exhibit 16 - Poster board showing evolution of SMD (surface mount devices) machinery, including photographs.

17. Taxpayer Exhibit 17 - Poster board showing evolution of printed circuit board assembly process test equipment, including photographs.
18. Taxpayer Exhibit 18 - Poster board showing evolution of information processor functional test equipment, including photographs.
19. Taxpayer Exhibit 19 - Poster board showing evolution of line card functional test equipment, including photographs.
20. Taxpayer Exhibit 20 - Poster board showing evolution of system test equipment, including photographs.
21. Taxpayer Exhibit 21 - Chart showing integrated circuit assembly technology vs. processing speed.
22. Taxpayer Exhibit 22 - Chart showing evolution of integrated circuit technology with components.
23. Taxpayer Exhibit 23 - American Appraisal Associate (Michael Remsha) appraisal report, January 1, 1986-January 1, 1992 including graphs, charts, tables, photos, and credentials.
24. Taxpayer Exhibit 24 - AUS Consultants Valuation Services Group (Charles Jerominski) appraisal report, January 1, 1986-January 1, 1992 including graphs, charts, tables, and credentials.
25. Taxpayer Exhibit 25 - (a) Selected N.C. Department of Revenue Trending and Depreciation Schedules for 1983 and 1986-1992; (b) N.C. Department of Revenue transmittal letters, dated January 11, 1980, December 17, 1982, December 14, 1984, December 17, 1986, December 21, 1988, and December 21, 1991.
26. Taxpayer Exhibit 26 - N.C. Department of Revenue Business Personal Property Manual, 1991.
27. Taxpayer Exhibit 27 - NTI Fixed Asset and Depreciation Guidelines dated November 30, 1984 and December, 1988.
28. Taxpayer Exhibit 28 - NTI Annual Report - 1991.
29. Taxpayer Exhibit 29 - Blank Durham County Business Personal Property Listing Forms, 1986-1992.
30. Taxpayer Exhibit 30 - Durham County Business Personal Property Listing Forms filed by NTI 1986-1992 for Switching and DMS-10.

31. Taxpayer Exhibit 31 - (a) MSA Fixed Asset Detail Summary by Actual Location, Tax Year 1986; (b) Fixed Asset Detail Report, January 1, 1986.
32. Taxpayer Exhibit 32 - (a) MSA Fixed Asset Detail Summary by Actual Location, Tax Year 1987; (b) Fixed Asset Detail Report, January 1, 1987.
33. Taxpayer Exhibit 33 - (a) MSA Fixed Asset Detail Summary by Actual Location, Tax Year 1988; (b) Fixed Asset Detail Report, January 1, 1988.
34. Taxpayer Exhibit 34 - (a) MSA Fixed Asset Detail Summary by Actual Location, Tax Year 1989; (b) Fixed Asset Detail Report, January 1, 1989.
35. Taxpayer Exhibit 35 - (a) MSA Fixed Asset Detail Summary by Actual Location, Tax Year 1990; (b) Fixed Asset Detail Report, January 1, 1990.
36. Taxpayer Exhibit 36 - (a) MSA Fixed Asset Detail Summary by Actual Location, Tax Year 1991; (b) Fixed Asset Detail Report, January 1, 1991.
37. Taxpayer Exhibit 37 - (a) MSA Fixed Asset Detail Summary by Actual Location, Tax Year 1992; (b) Fixed Asset Detail Report, January 1, 1992.
38. Taxpayer Exhibit 38 - Tax year 1986 analysis of property, plant, and equipment.
39. Taxpayer Exhibit 39 - Tax year 1987 analysis of property, plant, and equipment.
40. Taxpayer Exhibit 40 - Tax year 1988 analysis of property, plant, and equipment.
41. Taxpayer Exhibit 41 - Tax year 1989 analysis of property, plant, and equipment.
42. Taxpayer Exhibit 42 - Tax year 1990 analysis of property, plant, and equipment.
43. Taxpayer Exhibit 43 - Tax year 1991 analysis of property, plant, and equipment.
44. Taxpayer Exhibit 44 - Tax year 1992 analysis of property, plant, and equipment.

* Taxpayer Exhibits 45, 46, 47, and 48 identified in the pre-hearing order were not admitted, and therefore were not considered.

45. Taxpayer Exhibit 49 - Codes 1, 2, 3, and 4 Ghost Asset Lists and Summaries, produced December 2, 1991 December 18, 1991 and October 30, 1992.

* Taxpayer Exhibits 50 and 51 were not admitted; Taxpayer Exhibit 52 was not admitted or considered except as noted below.

46. Taxpayer Exhibit 52(p) - 1/1/87 Fixed Asset Summary by State, Division 540 (2304).

47. Taxpayer Exhibit 53 - (a) Business Personal Property Listing Returns for 4001 E. Chapel Hill-Nelson Highway and 4600 Emperor Boulevard for tax year 1985.

* Taxpayer Exhibits 53(b), (c), and (d), were not admitted or considered.

48. Taxpayer Exhibit 54(a) - 1989 State Fixed Asset Apportionment Data, NTI Spreadsheet.

49. Taxpayer Exhibit 54(b) - 1987 State Fixed Asset Apportionment Data, NTI Spreadsheet.

* Taxpayer Exhibits 55, 56, 57, and 58 were not admitted or considered.

50. Taxpayer Exhibit 59(a) and 59(b) - Location Codes and State Codes.

* Taxpayer Exhibits 60, 61, 62, and 63 were not admitted or considered.

51. Taxpayer Exhibit 64 - Summary of Current Durham County Assessed Values on Appeal.

52. Taxpayer Exhibit 65 - 1991 MSA Reconciliation Summary (all).

53. Taxpayer Exhibit 66 - 1987 MSA Reconciliation Summary (all).

* Taxpayer Exhibits 67-69 were not admitted.

54. Taxpayer Exhibit 70(a) - Durham County trending and depreciation.

* There was no Taxpayer Exhibit 71.

55. Taxpayer Exhibit 72 - Handwritten flip-chart used by Mr. Jerominski.
56. Taxpayer Exhibit 73 - Analysis of County errors per Mr. Loftis for 1989 only.
57. Taxpayer Exhibit 74 - Equipment sort report.
58. County Exhibits 46B-I - NTI income tax returns.
59. County Exhibits 60, 61(a), and 61(b).
60. Oral testimony of Mr. Dennis Brown.
61. Oral testimony of Mr. Donald Gilchrist.
62. Oral testimony of Mr. Charles Edward Jerominski. Admitted to testify as an expert witness in the field of business personal property appraisal.
63. Oral testimony of Mr. Michael J. Remsha. Admitted to testify as an expert witness in the field of business personal property appraisal.
64. Oral testimony of Mr. Glenn Creasman.
65. Oral testimony of Mr. Mark Loftis.

The evidence presented by the County and considered by the

Commission consisted of the following:

1. County Exhibit 1 - Amended Assessment: 1986-1991 years; 1992 Assessment dated February 16, 1993.
2. County Exhibit 1(a) - 1986 Assessment dated December 31, 1991.
3. County Exhibit 2 - Summary of all Durham County Tax Listings by Northern Telecom, Inc., years 1984-1992.
4. County Exhibit 2(a) - Summary of Tax Listings: Combined 4001 E. Chapel Hill Blvd. (540) and 4600 Emperor Blvd. (530), years 1984-1992.
5. County Exhibit 3 (all) - As described in the pre-hearing order.
6. County Exhibit 4 (all) - As described in the pre-hearing order.

7. County Exhibit 5 (all) - As described in the pre-hearing order.
8. County Exhibit 6 (all) - As described in the pre-hearing order.
9. County Exhibit 7 (all) - As described in the pre-hearing order.
10. County Exhibit 8 (all) - As described in the pre-hearing order.
11. County Exhibit 9 (all) - As described in the pre-hearing order.
12. County Exhibit 10 (all) - As described in the pre-hearing order.
13. County Exhibit 11 (all) - As described in the pre-hearing order.

* County Exhibits 12 through 19 were not admitted.
14. County Exhibit 20 (all) - As described in the pre-hearing order.
15. County Exhibit 21 (a) and (b) - As described in the pre-hearing order.
16. County Exhibit 22 (a) and (b) - As described in the pre-hearing order.
17. County Exhibit 23 - Standard Report Options List.

* County Exhibit 24 was not admitted.
18. County Exhibit 25 (all) - As described in the pre-hearing order.
19. County Exhibit 26 - NTI Administrative Procedure: Fixed Assets and Depreciation.

* County Exhibits 26(a) and 26(b) and County Exhibits 27 and 28 were not admitted.
20. County Exhibit 29 (all) - As described in the pre-hearing order.
21. County Exhibit 30 (all) - As described in the pre-hearing order.

* County Exhibits 31, 31(a), 32, 32(a) and 33 were not admitted.

22. County Exhibit 33(a), 33(b), 33(c) and 33(d) - As described in the pre-hearing order.
* County Exhibits 34, 35, 36, 37, and 38 were not admitted.
23. County Exhibit 39 - 1992 Fixed Assets Inventory Proposal.
24. County Exhibit 40 - Product handbook.
* County Exhibit 41 was not admitted.
25. County Exhibit 42 (all) - As described in the pre-hearing order.
26. County Exhibit 43 (#'s 15, 16 and 25) - Photographs and Video from NTI plant tour.
* County Exhibit 43(a) was not admitted.
* County Exhibits 44, 45, and 46(a) were not admitted.
27. County Exhibit 46(b) through 46(i) - As described in the pre-hearing order.
28. County Exhibit 47 - 3-year life assets.
29. County Exhibit 48 - 4-year life assets.
30. County Exhibit 49 - 5-year life assets (codes 26512 & 26513).
31. County Exhibit 50 - 5-year life assets (other codes).
32. County Exhibit 51 - 7-year life assets.
33. County Exhibit 51-1 - Retirement of assets.
34. County Exhibit 51-2 - 10-year life assets.
35. County Exhibit 52 - 1986 Fixed Asset Work Papers.
36. County Exhibit 53 - 1987 Fixed Asset Work Papers.
37. County Exhibit 54 - 1988 Fixed Asset Work Papers.
38. County Exhibit 55 - 1989 Fixed Asset Work Papers.
39. County Exhibit 56 - 1990 Fixed Asset Work Papers.
40. County Exhibit 57 - 1991 Fixed Asset Work Papers.

41. County Exhibit 58 - 1992 Fixed Asset Work Papers.
42. County Exhibit 60rr - Comparison of listings to discovery (revised).
43. County Exhibit 61(a)rr - Alternative 1 (revised).
* County Exhibit 62 was not admitted.
44. County Exhibit 63 - Summary.
* County Exhibit 64 was not admitted.
45. County Exhibit 65 - Analysis of Cost Amounts Reported by NTI on Schedule D of North Carolina Income Tax Returns.
* County Exhibits 66 and 66(a) were not admitted.
46. County Exhibit 67 - Comparison of costs listed by NTI for 530 and 540 locations.
47. County Exhibit 68r - Summary of all amounts due and owing from NTI to Durham County for all of Durham County (revised).
48. County Exhibit 69 - Curriculum Vitae for R. Fred Lipscomb.
49. County Exhibit 70 - Curriculum Vitae for J. Finley Lee.
50. County Exhibit 71 - Kenneth S. Jones.
51. County Exhibit 73 - All discovery responses by NTI.
* County Exhibits 74, 75, 76, 77, and 78 not admitted.
52. County Exhibit 79 - Code 2 year-end 1989 Ghost Asset Listing, DMS-10, and Code 3, year-end 1989 Ghost Asset Listing, DMS-10.
53. County Exhibit 80 - Wake County 1989 listings.
54. County Exhibit 81 - Durham County 1989 listings; 81 (a) Original 1989 4001 E. Chapel Hill Blvd. listing; 81 (b) Original 1989 Imperial Center listing.
55. County Exhibit 82 - Information on missing DIP machine.
56. County Exhibit 83 - Curriculum Vitae for Roger Ellis.
57. County Exhibit 84 - Curriculum Vitae for David Peterson.
* County Exhibit 85 not admitted.

58. County Exhibit 86 - Curriculum Vitae for Larry Freeland.
59. County Exhibit 87 - Apportionment data, tax year 1988.
60. County Exhibit 88 - Form FA-5, tax year 1990.
61. County Exhibit 89 - Time and cost chart.
62. County Exhibit 90 - ROA chart drawn by Mr. Lipscomb.
63. County Exhibit 91 - Curriculum Vitae for Patricia Antley.
64. County Exhibit 92 - Curriculum Vitae for Hugh Sparks Owen.
65. Oral testimony of Roger Ellis. Admitted to testify as an expert witness in the development and use of North Carolina Department of Revenue Trending Tables.
66. Oral testimony of Larry Freeland.
67. Oral testimony of Robert Frederick Lipscomb. Admitted to testify as an expert witness on issues in manufacturing, including cost analysis and ROA, also in statistics as applied to his expertise in manufacturing. Not admitted as an expert in the value of manufacturing assets.
68. Oral testimony of Patricia Antley. Admitted to testify as an expert witness in the appraisal of business personal property in the State of North Carolina and in Durham County.
69. Oral testimony of David Kelly Peterson. Admitted to testify as an expert witness in the appraisal of business personal property in the State of North Carolina and in Durham County.
70. Oral testimony of Hugh Sparks Owen. Admitted to testify as an expert witness in the field of accounting.
71. Oral testimony of Kenneth S. Jones. Admitted to testify as an expert witness in the field of accounting.
72. Oral testimony of Joseph Finley Lee Jr. Testimony admitted only as pertains to the Commission's ruling that he not be admitted as an expert witness in appraisal or be allowed to testify as to the value of assets under appeal.

Commission Exhibits

In addition to the evidence presented by the parties, the Commission also considered all pleadings and procedural documents filed with the Commission in these appeals, including, but not limited to: (1) notices of appeal to the Property Tax Commission, (2) Applications For Hearing (Form AV-14), (3) motions and responses to motions, (4) stipulations, and (5) the Order On Final Pre-hearing Conference. The Commission also considered the following items:

1. Commission Hearing Exhibit 1 - Summary of the County's contentions regarding the values to be assigned to the property under appeal.
2. Commission Hearing Exhibit 2 - Summary of the Taxpayer's contentions regarding the values to be assigned to the property under appeal.
3. Commission Hearing Exhibit 3 - Deposition testimony of Roger Ellis.
4. Deposition testimony (multiple pages and lines) designated by Durham County for the following persons: Cynthia A. Kelly, Joseph Shoulars, Jerry Hurst, Timothy Michael Cody, Mark D. Loftis, Fletcher J. Pate, Jack Gribble, Andrew Joseph Flaherty, Robert L. Ashby, and Edward J. Boles.

Findings of Fact

After carefully considering all the evidence presented, the Commission adopts the Stipulations of the parties listed above as part of its Findings of Fact, and makes the following additional Findings of Fact:

1. After carefully considering the testimony of all witnesses and the other evidence presented at the hearing on this critical issue, the Commission finds that while the Taxpayer's original

business personal property listings for the years under review were clearly deficient, the Taxpayer, during the years since the initial discovery, has been able to locate and trace substantially all of its assets located at its Durham County locations and subject to ad valorem taxes by Durham County for these years. Several witnesses for the Taxpayer described the laborious and time-consuming processes by which the problems with the Taxpayer's accounting records were resolved. Part of this effort is briefly summarized at pages 35 and 36 of Taxpayer Exhibit 24. The Commission specifically finds that the Taxpayer's handling of the \$6,500,000 of original investment in assets with no known retirement date was reasonable, and further finds that the data upon which Mr. Jerominski based his appraisal was complete and correct within acceptable limits of materiality.

2. The data provided by the Taxpayer to its expert witnesses (Mr. Jerominski and Mr. Remsha) was checked by both experts for accuracy and completeness. Both experts tested the raw data in both directions, i.e. these experts verified that a random sample of items listed in the MSA were actually located on the Taxpayer's premises, and also verified that a random sample of items located on the Taxpayer's premises could be found in the MSA. After considering the conflicting evidence presented by the parties on this point, the Commission finds that the MSA data provided by the Taxpayer to Mr. Jerominski

and Mr. Remsha adequately described the original costs of the Taxpayer's assets, even though some problems with the MSA remained unresolved at the time of the hearing (e.g. Amdahl computers described as "disk storage").

3. The methodology employed by Mr. Jerominski was well calculated to determine the true value in money of the property under appeal as of January 1 of each year. The conclusions contained in Mr. Jerominski's report regarding the degree of obsolescence suffered by the subject property are both credible and persuasive.
4. In his report, Mr. Jerominski properly considered the statutory definition of "true value" set out in G.S. 105-283; see Taxpayer Exhibit 24 at page one. Mr. Jerominski correctly concluded that the subject property was to be appraised at its highest and best use, and correctly concluded that the present use of the property was its highest and best use; see Taxpayer Exhibit 24 at pages one and two.
5. Mr. Jerominski's division of the subject property into nine (9) major categories is helpful and appropriate. The nine categories employed are: (1) product test equipment, (2) general test equipment, (3) peripherals, (4) furniture and fixtures, (5) telecommunications and training equipment, (6) personal computers and work stations, (7) CPU, (8) machinery and equipment, and (9) miscellaneous; see Taxpayer Exhibit 24 at pages 10 through 13.

6. After determining that the original cost data was correct and complete within reasonable limits and after separating the cost data into the categories described in the preceding paragraph, Mr. Jerominski used generally accepted appraisal techniques to arrive at estimates of replacement cost and accumulated depreciation. In particular, Mr. Jerominski employed: (1) market-derived depreciation information where sufficient data was available, and (2) a combination of market-derived and economic age/life approaches where insufficient market information was available. These approaches are described at pages 45 through 52 of Taxpayer Exhibit 24. The Commission finds Mr. Jerominski's method of analyzing and quantifying the obsolescence affecting the subject property particularly persuasive.
7. The true value in money of the Taxpayer's business personal property which is the subject of this appeal for tax years 1986 through 1992 is:

Appraisal Date	DMS-10	DMS-100	Total
1 January 1986	\$18,518,952	\$ 91,958,044	\$110,476,996
1 January 1987	\$14,892,394	\$102,016,058	\$116,908,452
1 January 1988	\$17,823,901	\$107,419,691	\$125,243,592
1 January 1989	\$19,164,416	\$112,219,900	\$131,384,316
1 January 1990	\$21,457,036	\$ 87,527,555	\$108,984,591
1 January 1991	\$19,320,970	\$ 80,195,844	\$ 99,516,814
1 January 1992	\$11,989,735	\$ 98,073,121	\$110,062,856

See Taxpayer Exhibit 24 at page 54 and Appendix 3.

8. In making its appraisal of the Taxpayer's computer equipment categories, the County employed sections of the Department of

Revenue trending tables which assumed rising prices over time. This is directly contrary to the actual activity in the marketplace for computer equipment, in which the overall price trend was downward during the period of time under consideration. The trend in the computer industry during this time was that each year equipment was offered for sale that had more capacity, for a lower price, than equipment available the prior year. As Mr. Jerominski points out at page 31 of Taxpayer Exhibit 24 and in his oral testimony, significant price reductions on computer equipment were common during this period.

9. The trending and depreciation tables applied by the County to the computer and product test categories of the Taxpayer's property suffered from the following problems: (1) understated first year depreciation, (2) inappropriately long useful lives, and (3) unrealistically high residual values.
10. The County, in its appraisal of the subject property, did not follow the advice of the Department of Revenue (contained in the letters transmitting the schedules to North Carolina counties) that the Department's trending tables are intended as a general guide and must be applied with recognition of their limitations and with the exercise of proper judgment by a qualified appraiser. The County's failure to adjust its appraisal to reflect the impact of obsolescence rendered the County's appraisal arbitrary and excessive.

11. The Taxpayer's industry has been greatly affected by rapid technological change and an extremely competitive commercial environment. These factors have directly and substantially affected the value of the Taxpayer's property, causing more rapid declines in value than contemplated by the trending tables applied by the County. Further, the County's use of relatively high residual values resulted in excessive appraisals of older equipment. One indication of the pace of changes affecting the Taxpayer's industry is that the Taxpayer found it necessary to rearrange its production floor an average of once a year during the years in question.
12. The result of the County's failure to adjust its appraisal to recognize the impact of obsolescence on the value of the Taxpayer's property was an appraisal substantially greater than the true value in money of the Taxpayer's property for each year under consideration.

Conclusions, Decision, and Order

Based on the Findings of Fact set forth above, the Commission makes the following Conclusions of Law:

1. The County's appraisal of the subject property was affected by several deficiencies, including: (1) use of trending tables on computer equipment that assumed rising prices over time, when prices of computer equipment were declining during this period; (2) application of inadequate first-year depreciation to some categories of property; (3) use of an unrealistic 25%

residual value on categories of property severely affected by obsolescence; and (4) failure to consider market information about the prices of new and used equipment in the Taxpayer's industry. These errors, discussed at greater length in the Commission's Findings of Fact, rendered the County's appraisal arbitrary.

2. The values assigned by the County to the Taxpayer's property for each year under appeal were substantially greater than the true value in money of the Taxpayer's property in these years.
3. The true values in money of the Taxpayer's business personal property for the years under appeal are the values described in Finding of Fact paragraph 7 above and in Taxpayer Exhibit 24.

G.S. 105-283 requires that all property be appraised at its "true value in money," a term of art under the Machinery Act, G.S. 105-271 et seq. G.S. 105-317.1 requires that in any appraisal of personal property the following elements "shall" be considered:

- (1) The replacement cost of the property;
- (2) The sale price of similar property;
- (3) The age of the property;
- (4) The physical condition of the property;
- (5) The productivity of the property;
- (6) The remaining life of the property;
- (7) The effect of obsolescence on the property (emphasis added);
- (8) The economic utility of the property, that is, its usability and adaptability for industrial, commercial, or other purposes;

and

(9) Any other factor that may affect the value of the property.

The weight to be accorded relevant evidence is a matter for the fact finder, which is the Commission. In re Appeal of Greensboro Office Partnership, 72 N.C. App. 635, 325 S.E.2d 24, disc. rev. denied 313 N.C. 601, 330 S.E.2d 610 (1985); In re Appeal of Westinghouse, Inc., 93 N.C. App. 710, 379 S.E.2d 37 (1989).

The County's appraisal of the equipment comprising the bulk of the value under appeal was excessive in that the County failed to consider elements enumerated in G.S. 105-317.1 that substantially affect the value of the subject property, including the remaining life of the property and "the effect of obsolescence" on the property. The Taxpayer's evidence reveals an industry driven by rapid advances in technological capabilities and by intense price competition. The Taxpayer's industry is, in many respects, similar to the computer industry. Each year, products are offered that have increased capabilities, at a lower cost. Many of the items of equipment under appeal here are affected by similar trends in the marketplace.

The Commission concludes that the Taxpayer's evidence met the burden of proof imposed by the North Carolina Supreme Court for property tax appraisal appeals in In Re Appeal of AMP, Inc., 287 N.C. 547, 215 S.E.2d 752 (1975), and that the Taxpayer is therefore entitled to a reduction in the appraised value of the property under appeal to the value found by this Commission.

WHEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED that the decisions of the Durham County Board of Equalization and Review dated 29 January 1991, 6 May 1992, and 9 February 1993 for the property which is the subject of this appeal are hereby **Modified**, and the County shall revise its tax records as may be necessary to reflect: the abandonment of the appeal as regarding leasehold improvements and items and supplies expensed in 1992, and the Stipulations, the Findings, and the Conclusions of the Commission set forth herein as follows:

The assessed amounts of leasehold improvements discovered by Durham County for 1986-1991 are:

1986	\$1,035,207
1987	250,441
1988	1,032,605
1989	355,658
1990	362,112
1991	89,122

NTI abandons its appeal as to expensed items and supplies for 1992.

The assessed values of construction in progress ("CIP") pursuant to the 1986-1991 discovery assessments appealed by NTI to the Property Tax Commission are:

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The true value in money of the Taxpayer's business personal property which is the subject of this appeal for tax years 1986 through 1992 is:

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1 January 1990	\$21,457,036	\$ 87,527,555	\$108,984,591
1 January 1991	\$19,320,970	\$ 80,195,844	\$ 99,516,814
1 January 1992	\$11,989,735	\$ 98,073,121	\$110,062,856

Entered this the 20th day of MAY, 1994.

NORTH CAROLINA PROPERTY TAX COMMISSION

George G. Cunningham

 George G. Cunningham, Chairman



Attest:

C. B. McLean Jr.

 C. B. McLean Jr., Secretary