

ORIGINAL

Decision 90 02 019 FEB. 7 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Rulemaking on the Commission's own
motion for the purpose of modifying
existing tariff filing rules for
telecommunication utilities, other
than local exchange carriers and
AT&T-C, and for the purpose of
addressing other issues concerning
the regulation of these utilities.

R.85-08-042
(Filed August 21, 1985)

OPINION DIRECTING THE FILING OF FURTHER COMMENTS

Background

On August 21, 1985 the Commission issued this Order Instituting Rulemaking (OIR) for the purpose of modifying existing tariff rules for non-dominant interexchange carriers (NDIECs). This order directed that workshops be held to obtain comments which could be used to revise the tariff filing requirements for NDIECs and help resolve other issues concerning the regulation of these utilities.

Workshops were held by the Telecommunications Branch of the Commission Advisory and Compliance Division (CACD) ¹ on December 19 and 20, 1985 and a draft report containing workshop recommendations was circulated to the parties for comment on January 22, 1986. (See Appendix A for a list of the workshop participants and other interested parties.)

Written comments on the draft workshop report were received from:

1 Formerly Evaluation and Compliance Division

GTE SPRINT Communications Corporation
State of California - Department of Consumer Affairs
AT&T Communications of California, Inc.
California Association of Long Distance Carriers
("CALTEL")
Pacific Bell, and
Call USA

Subsequent to the receipt of these comments a final workshop report was prepared by the Telecommunications Branch on March 26, 1986. This report was also supplied to the workshop participants and to the Administrative Law Judge Division for use in this proceeding.

Contemporaneously a number of decisions were issued in other formal proceedings which have significant bearing on the regulatory requirements for NDIECs. The relevant decisions are:

A. Decision (D.) 85-07-081 issued July 24, 1985 in Application (A.) 84-03-092 which ordered that:

- "1. In addition to the exemption granted (from the requirements of PU Code §§ 816-830) by ordering paragraph 1 of D.85-01-008, telecommunications resellers as defined in Finding 1 of this decision are exempted from applying for authority to transfer legal title to, or otherwise encumber, property to which § 851 applies, when such transfer or encumbrance is made for the purpose of securing debt."

and

- "2. Applications filed with the Commission under PU Code §§ 851-854 shall fully comply with applicable Commission rules when their subject matter is acquiring a controlling interest of a reseller, or the acquisition by a reseller of another public utility. In other applications required under PU Code §§ 851-854 (except those exempted under ordering paragraph 1):
 - "a. The notification provided by the Commission's daily calendar shall be deemed sufficient notice to any party wishing to protest the application. Protest shall be filed within the time

and in the manner required by our Rules.

- "b. Compliance shall be required with Rules 2 through 8, the applicable subsections of Rule 15, Rule 16, and Rule 35, and Rule 36." (Underlined portions are corrections per correcting order D.85-08-001 issued August 7, 1985.)

B. D.85-11-044 issued November 6, 1985 in A.84-03-092 modified D.85-07-081 by deleting Ordering Paragraph 1, as set forth above and replaced it with the following ordering paragraph:

- "1. The stocks and securities transactions of nondominant interexchange telecommunications carriers are exempted from the requirements of Public Utilities Code Sections 816 to 830. Also, the transfer or encumbrance of property of nondominant carriers is exempted from the requirements of Public Utilities Code Section 851, whenever such transfer or encumbrance serves to secure debt."

C. Then by D.86-08-057 issued August 18, 1986 in A.84-03-092, the Commission ordered further relaxation of control over NDIECs as follows:

- "1. D.85-01-008, D.85-07-081, and D.85-11-044 are hereby modified to permit the Executive Director to grant noncontroversial applications by nondominant telecommunications carriers for authority to transfer assets or control under §§ 851-855 of the PU Code.
- "2. The Executive Director is directed to sign orders granting such applications under the following conditions:
- "a. No protests to the application are filed; or,
- "b. If a protest is filed, it is withdrawn or compromised by the parties."

As a result of the issuance of the decisions quoted above, certain of the issues raised in this OIR dealing with financing or the acquisition or transfer of NDIECs have been resolved and yet some new issues have evolved. We will address, very briefly, the workshop issues first, in the sequence set forth in the final workshop report.

In addressing these outstanding issues, we take two approaches. Wherever possible, we propose solutions which we intend to adopt by subsequent order, absent persuasive comments to the contrary. However in some cases, we do not propose specific solutions because we seek additional comments before doing so.

Thus in response to today's decision, commentators may address all outstanding issues.

I. Notice of Tariff Changes

This Commission's General Order (GO) 96-A sets forth the rules governing the filing and posting of schedules of rates, rules, and contracts relating to rates applicable to gas, electric, telecommunications, water, sewer system, pipeline, and heat utilities.

GO 96-A as amended by Resolution No. M-4744 dated December 17, 1986 and effective January 16, 1987 is intended to provide reasonable notice on a formal basis to the general public, and a full opportunity for timely protests, within 20 days after the tariff is filed, by anyone regarding any tariff schedule changes proposed for adoption by the types of monopoly utilities listed above.

More recently the Commission by D.88-05-067 in R.87-08-017 dated May 25, 1988 revised GO 96-A to extend the time for effectiveness of tariff revisions filed by cellular radiotelephone service retailers from the prior 15-day period to present 30 days while retaining the 40-day requirement for the

wholesale tariff schedule revisions of facilities based cellular carriers.

As further background, GO 96-A comprises the following sections and exhibits:

| <u>Section</u> | <u>Title</u> |
|----------------|--|
| I | General Application and Purpose |
| II | Form and Construction of Tariff Schedules |
| III | Rules for Submission of Tariff Sheets |
| IV | Filed and Effective Dates |
| V | Procedure in Filing Tariff Sheets Which Do Not Increase Rates or Charges |
| VI | Procedure in Filing Increased Rates |
| VII | Tariff Sheet Rejection Procedure |
| VIII | Public Inspection of Tariff Schedules |
| IX | Contracts Authorized by Tariff Schedules |
| X | Contracts and Services at Other Than Filed Tariff Schedules |
| XI | Service to Employees |
| XII | Telephone Toll Stations and Telegraph Offices |
| XIII | Telephone Directories |
| XIV | Withdrawal of Service |
| XV | Exceptions |

Exhibit

| | |
|---|------------------------|
| A | Typical Rate Schedules |
| B | Typical Advice Letter |

Currently NDIECs are required by Section III-G of GO 96-A to provide copies of all advice letters and associated tariff revisions to all adjacent and competing utilities and other parties who request such copies.

The workshop participants favored relaxation of this requirement for NDIECs to direct copies of advice letters and associated tariff revisions only to parties who have requested such copies. Apart from advice letters and tariff revisions filed with this Commission, the question of notice to customers of any pending rate increase was discussed at length. On this issue no agreement was reached and most carriers favored a 14-day notice to customers

of impending rate increases as a compromise between no notice requirement and the current 45-day provision for companies with 30-day billing cycles, outlined in Public Utilities (PU) Code § 454(a).

The recommended 14-day notice to customers would exceed the present 5-day notice requirement set forth in D.84-01-037 issued January 5, 1984 in Order Instituting Investigation (OII) 83-06-01, which established interLATA² telephone service competition. This decision considered the effects of the Modified Final Judgment, and the antitrust consent decree between the Department of Justice and American Telephone and Telegraph Company. The order recognized 13 companies which had applied to this Commission for authority to provide intrastate intercity telecommunication services.

D.84-01-037 responded to three issues as follows:

1. It granted immediate entry to the interLATA telecommunications market for the 13 Applicants and Western Union.
2. It required all applicants to refrain from provision of intraLATA telecommunications service.
3. It relaxed the tariff filing provisions of GO 96-A Sections IV, V, and VI regarding filed and effective dates and procedures to permit the initial tariffs to become effective one day after filing and subsequent tariffs revisions to become effective five days after filing with this Commission. Tariff changes for interstate service were to become effective on the same date they became effective with the Federal Communications Commission (FCC) under D.84-01-037.

2 LATA's are Local Access and Transport Areas which include numerous local telephone exchanges. California is divided into 10 LATAs of varying geographical size.

Note: D.84-01-037 set forth the statement that; "Tariff filings will be effective five days after filing," at page 7 (mimeo) in the narrative and discussion part of that order. It did not carry that statement forward to a finding, conclusion, or ordering paragraph. The CACD has uniformly applied this five-day effectiveness provision subsequent to the issuance of D.84-01-037, except for initial NDIEC tariff filings made pursuant to specific decisions granting certificates of public convenience and necessity where the decision authorized a different effective date for tariffs.

The five-day tariff revision effectiveness period, therefore, does not permit 14 days' notice to customers. D.84-01-037 states that "Applicants are subject to ordinary complaint jurisdiction of the Commission"; however, the five-day effectiveness period leaves virtually no time for notification of those who may wish to avail themselves of the complaint procedure, much less time for them to react.

Since January 1984, it has become increasingly evident that in practice these very liberal tariff filing concessions have served to set aside or discourage the use of protests or complaint review procedure.

Generally speaking, the five-day effectiveness of tariff revisions for this emerging competitive market has worked reasonably well to foster and further competition without bureaucratic delays for the NDIEC's. Occasionally a NDIEC files a tariff revisions that seeks to expand his service offering beyond the areas of competition authorized by this Commission. In such instances the five-day notice provision does not give reasonable time to deal effectively with such filings or to legitimate protests made thereto. It is appropriate to point out that while this Commission has relaxed tariff filing provisions for NDIECs to the current 5 days' notice and has not specified any particular

customer notice requirements for them, it has at the same time increased the 30-day statutory notice provisions of GO 96-A to 40 days for regulated telecommunications, gas, electric and water utilities by Resolution M-4744 dated December 17, 1986 and effective on January 16, 1987.

More recently on May 25, 1988 by D.88-05-067 this Commission extended the notice provisions for tariff revisions of cellular radiotelephone service resellers from 15 days to 30 days. The 40-day tariff filing notice requirement for regulated utilities was adopted to allow 20 days for customers and other interested parties to protest the filing and an equal period of time (20 days) for the Commission and its staff review the filing and analyze the merits of the protests prior to the effectiveness of the new tariff offering. The 20-day review period, after the 20-day protest period, spans the regular bi-weekly Commission meeting schedule and allows the Commission to accept, reject, modify, approve, or suspend any given tariff filing for regulated utilities. No such opportunity exists for dealing with tariff filings of NDIECs made on 5 days' notice. Further, depending on the filing date, substantial portions of the 5-day notice period may be consumed by weekends and/or holidays making any meaningful review all but impossible.

We remain convinced that the five-day notice provision for tariff revisions by NDIEC's for downward rate adjustments is practical, worthwhile, and desirable. However, it may also be desirable and necessary to separately consider upward rate revisions, requests for new services and more restrictive service conditions by standard advice letter filings using the 40-day notice provisions.

This differing treatment would allow CACD's recommended 14-day or more notice to customers relative to rate increases which is not possible under the 5-day notice provision.³

We would like further comments prior to reaching a final determination on the question of 5- and/or 40-day effectiveness of interLATA tariff revisions of NDIECs. We recognize also that interstate tariff revisions are filed with and pursuant to FCC requirements and may have notice requirements that differ from either the 5- or 40-day proposals.

We will therefore solicit further comments on the following issues regarding the effectiveness of tariff filings:

- a. Is there concurrence that the present five-(5) day notice provision for tariff revisions permitted for NDIECs is reasonable, necessary, and practical for rate reductions.
- b. Is it necessary, practical, and desirable to apply GO 96-A standard 40-day notice provision for NDIEC tariff revisions seeking increases in rates, more restrictive conditions of service and the initial offering of services not currently authorized under the NDIEC's Certificate of Public Convenience and Necessity (CPC&N)?
- c. Alternatively, since the NDIECs operate under FCC rules and regulations for interstate services and have existing intrastate tariffs in place as a result of their original certificate of public convenience and necessity decision or most recently filed revision, what harm would result to them if the regular 40-day effectiveness rule of GO 96-A for all subsequent intrastate tariff revisions is

3 The current 5-day notice practice differs from notice provisions mandated by statute or general order. The practice is merely an effort of the CACD to extend to NDIECs the relaxed 5-day notice provision set forth in the discussion contained at page 7 of D.84-01-037 (mimeo.).

adopted? (This would assume that the 40-day rule would establish a level playing field among all certificated NDIECs.)

d. If the combination 5- and 40-day rules are applied to NDIECs as set out above, what would staff review of protests or complaints entail for each type of notice?

1. Service problems?
2. Unfair or anticompetitive business practices?
3. Discriminatory rate practices?
4. Application of unauthorized rates or charges?
5. Should tariff revisions be delayed until protests are resolved?

Our policy continues to be that we are not regulating NDIEC rates on a cost of service basis. Accordingly, we do not provide for cost of service review as one of the functions that staff would perform in reviewing an NDIEC filing. Parties may address whether there are any unusual or peculiar circumstances where such review might settle a legitimate anticompetitive question with regard to an NDIEC filing, although our experience suggests that such protests are more typically intended simply to hinder a competitor. Absent compelling comments to the contrary we intend to permit NDIEC rate reductions to proceed expeditiously without need for significant staff review. Competitors always have the complaint process available to address legitimate grievances about rate levels of other utilities.

II. Additional Changes to General Order 96-A Rules

The workshop participants agreed that consumers would not be negatively affected if NDIECs were exempted from filing rules on

the following subjects: contracts, notices-method of serving (NDIECs would still have to address notices for disconnection of service for nonpayment of bills), temporary service, continuity of service, line extensions, service connections and facilities on customers' premises, and meter tests. The participants looked at how AT&T Communications of California, Inc. (AT&T-C) had addressed these subjects to determine their applicability to NDIECs. Parties felt that most of the rules had been created to protect monopoly utilities against "unreasonable" demands from their customers. Presumably the purpose of this action was to protect ratepayers from having to finance the provision of unreasonable or uneconomic service. The two rules not falling into this monopoly utility oversight category were those addressing notices and contracts. It does not appear likely that NDIECs will use the many different types of notices that are typically used in the business of a local exchange telephone company. This is true because the NDIECs basically only offer interLATA telecommunications services subject to this Commission's jurisdiction. Therefore, having a rule which addresses the method of serving generic notices does not seem necessary to protect consumers of NDIECs. Disconnect notices will be sent by first class mail to the billing address, and such notices are addressed in the rule on disconnection and restoration of service. Similarly, it is not clear what purpose the rule on contracts serves since the subject of individual special contracts is addressed in GO 96-A, Sections XA and XB, regulations.

It is not likely that NDIECs would have any need for standard contract forms of the types used by local exchange telephone companies for everything from line extensions and leased duct or pole space to specialized telecommunications switching equipment. Commission approval of individual contracts at other than tariff rates is covered under Section XA of GO 96-A and this requirement applies to NDIECs. Consequently there was no objection by the participants to exempting NDIECs from filing a rule on

contracts. We will exempt NDIECs from a requirement to file a rule on contracts.

Advice Letter Protests. CACD pointed out that currently NDIEC advice letter filings are subject to Section III, H., of GO 96-A:

"Protest. A protest must be made by letter or telegram and received not less than 20 days prior to the regular effective date of the tariff filing. On the same date a protest is made to the Commission, the protestant shall serve a copy of the protest by mail on the subject utility. The utility shall respond in writing to such protest within 5 business days after its receipt and shall serve copies of its response to the protest by mail on each protestant and the Commission.

"The protest shall set forth specifically the grounds upon which the protest is based, including such items as financial and service impact."

In D.84-01-037 the Commission allowed NDIECs to file their advice letters to be effective 5 days after the filing date. Other utilities' advice letter filings become effective 40 days from the date of filing. The protest procedure outlined in GO 96-A was designed with the 40-day period in mind. If the Commission does not want NDIEC tariff filings subject to protest prior to the effective date, CACD suggests that the Commission should exempt NDIECs from the provisions of this section of GO 96-A.

It seems proper to routinely exempt NDIECs from the protest provisions of GO 96-A for tariff revisions involving rate reductions and the comments previously solicited herein regarding the propriety of applying the 40-day tariff filing requirement for California jurisdictional tariff revisions involving increased rates, new service offerings, or more restrictive conditions of the NDIECs will allow this Commission to resolve this important issue. Otherwise we should recognize explicitly that the present situation (tariff revisions become

effective on five days' notice) effectively precludes protests to such filings.

Rates Shall be Uniform on a Distance Basis. D.84-06-113 stated that NDIECs would not be allowed to deaverage toll rates. Affirmatively stated, rates shall be uniform on a distance basis, i.e., a 40-mile call in one part of the State shall be offered at the same rate as a 40-mile call in another part of the State when both calls are provided by the same carrier. Some NDIECs desire to structure their rates in ways that are technically not uniform on a distance basis. For example, some carriers have suggested pricing calls by area code rather than mileage band. These carriers claim that customers understand pricing by area code better than pricing by the number of miles. Furthermore these carriers claim that any uneven treatment of a 40-mile call in different parts of the state as a result of area code pricing would be incidental and would not result in deaveraged rates that would discriminate against those routes with less volume. Other NDIECs have requested rates which are priced higher for calls that are not completed entirely on their facilities. These calls do not travel on their network (off-net) and therefore the NDIECs must purchase the service from another carrier and resell the call to the end user. However, to the end user, calls that are completed through the NDIEC's network (on-net) are indistinguishable from off-net calls. CACD believes that this form of rate design is discriminatory and has rejected all advice letters which have requested authority to use an on-net/off-net pricing structure.

CACD noted that, although the Commission provided for exceptions to this prohibition (D.84-10-100, p. 10, mimeo.), it did not state the grounds for such exceptions so that CACD might allow them by advice letter rather than formal application, which the carriers claim requires too much time and resources. CACD believes that each NDIEC wanting to file rates which are not uniform on a distance basis should attach an example of such a structure along

with an explanation of the rationale supporting approval. The Commission could take the opportunity in this proceeding to expand upon its reasons for having prohibited non-uniform rates and respond to specific proposals. Such a discussion would give CACD enough information to evaluate future NDIEC filings which propose non-uniform rates and prepare resolutions for the Commission's approval if and when the filings are in compliance with the exception principles.

The participants at the workshop generally agreed with the opinions expressed by CACD. It is therefore appropriate to comment on the need for a general prohibition to non-uniform rates based on distance. Prior to the 1960's, most calls were handled over metallic wire lines which had a basic cost per mile. Therefore, longer distance calls required increased investment and thus required higher rates to recover the added investment. This rate setting policy continues to the present day. Uniform rates on a cost per mile basis have generally provided for the fairest method to assure customers of reasonable cost regardless of the level of traffic over such lines. Proper design of these lines, based on diversity of use, has likely precluded any substantial overbuilding of capacity on rarely used circuits.

With the advent of widespread use of microwave systems, satellite communications, fiber optics, and coaxial cable the cost per mile today may in fact not be uniform. Because of the large capacity of some of these systems or their specific physical placement, it may be that some 50 mile calls on these new systems can be handled at less expense than a 10-mile call using metallic pairs.

It is also conceivable that a regulatory requirement for uniform rates could stifle competitiveness in the market. If a number of interexchange carriers (including the larger ones) wished to become less competitive with one another, a requirement for uniformity would more easily permit a "price umbrella" or other

tacit means of maintaining similar rates at a potentially excessive level. The opportunity for individual carriers to take away market share from such a group of noncompetitive carriers would also be increased if the innovative carriers could offer a wider range of rates including non-uniform ones. Not only might non-uniform rates permit customers to take advantage of the lower costs of particular technologies, but they might also help customers by helping assure the continued vigor of competitiveness.

We will permit NDIECs to offer non-uniform rates with the requirement that any filing proposing to deviate from statewide averaged rates must be filed as a 40-day advice letter if any rate for any call or service would thereby be increased.

New carriers applying for a CPC&N may seek non-uniform rates with the understanding that justification of the derivation of such rates may be required for processing the application.

Parties should comment as to whether, and to what extent, NDIECs should include cost and/or technology justification as well as market considerations driving the need for the de-averaged rates, to be applied by the Commission in granting non-uniform rate authorizations.

Miscellaneous Changes. GO 96-A requires that tariff pages be numbered consecutively. The Commission routinely allows exemptions from this requirement in the interest of more readable tariffs. Placing this exemption in GO 96-A will obviate the need for Commission approval of each utility's individual request.

Another exemption sought by NDIECs is one which would allow them to place more than one rule on a tariff sheet. For large monopoly utilities, rules normally require more than one sheet. Allowing only one rule per sheet prevented a utility from beginning a rule on the same sheet the previous rule had ended - thus causing confusion. For small NDIECs the rules can be short since they may not need to address the subject as extensively as a monopoly utility. Therefore allowing them to place more than one

rule on a tariff sheet will save paper and not reduce the clarity of the tariffs.

There were two other changes suggested by CACD to which no opposition was voiced in the workshops:

1. NDIECs should be exempt from including sample forms in their tariff schedules, and
2. NDIECs should not be required to furnish revenue effects of new tariff changes.

The first item recommending exemption for NDIECs from the requirement to file sample forms appears reasonable and should be adopted. We will also consider adoption of the second proposed change after we have further comments on the more substantive issues of customer protests and complaints, effective dates and uniformity of rates.

III. Additional Regulations to Safeguard Customer Deposits

Present General Order 96-A requires that utilities include a deposit rule among their tariff rules, in order to ensure consistent treatment of customers. Over the years the Commission has critically reviewed these rules prior to their adoption, and as a result, the rules are reasonably standardized. For the NDIECs, a more relaxed rule may be appropriate, and this was the focus of the workshop inquiry.

Workshop participants were divided on this issue. Some carriers believed that customers could be protected by limiting deposits to an estimated one month's bill. If this were done, customers would be protected since long distance services are billed for one month in arrears. If an NDIEC went out of business without returning the deposit, it could be applied to the last month's usage. Moreover, various carriers at the workshop asserted that they only charged deposits to those relatively few customers who had established no credit or who had a history of poor credit.

Otherwise carriers claimed that customers would select a carrier who does not charge deposits to "good credit" customers. Many (carriers) have adopted this practice. A trust or escrow account was suggested by some participants, but it appears that implementation problems and doubts of protection against bankruptcy make this a poor solution.

Sprint felt that a deposit equal to one month's usage was inadequate. Sprint suggested that two or three months' usage provides a more appropriate basis, but that any limitation on deposits should be confined to residential customers.

The Commission's Consumer Affairs Branch (CAB) reviewed its complaint file to determine how many complaints were received regarding deposit requirements. Upon learning that less than 10 complaints were received on a statewide basis, the CACD recommended that we adopt California Association of Long Distance Telephone Companies' (CALTEL) recommended deposit amount equal to one month's usage unless a compelling case can be made for a higher level. However, a five-day effective filing would be inappropriate for revising a tariff rule on deposits to make it more restrictive, as there would be insufficient time for the staff to analyze the NDIEC's filing or to address any protests. Normally a filing of this type should be required with a 40-day effective date per recently revised Resolution M-4744.

The final CACD recommendation of a deposit equal to one-month's usage, unless otherwise justified by an advice letter filing, will be adopted as the standard deposit rule.

IV. Unfair Business Practices

CACD asked the workshop participants to answer the question, "Are additional regulations required to protect customers from unfair business practices?" Led by the Department of Consumer Affairs, the participants said "No, but more information is!" In

response to the need of providing more information, CACD recommends that NDIECs provide consumer notice with regard to mergers or other forms of a change in identity. It is also critical that consumers be made aware of changes in calling routines, such as changed access codes, or calling routes.

The Department of Consumer Affairs informed the participants of chaptered legislation which protects customers of long distance telephone companies as well as consumers in general from unfair business practices. However, according to the Department of Consumer Affairs, neither its staff nor that of the Attorney General's office are able to monitor the practices of NDIECs to identify violations. Competitors and consumers of course can bring charges against violators and receive damages. But more importantly this Commission should be aware of what actions violate the laws prohibiting unfair business practices so that these practices can be enunciated and legal prohibitions can be communicated to existing and prospective NDIECs. The Department of Consumer Affairs committed to making itself available on a one-time basis to educate and train Commission staff on unfair business practices as they may exist in the long distance telephone service industry. Staff in turn has proposed to make this information available to existing carriers. Prospective carriers would learn of these prohibitions by way of the certification process.⁴

CACD recommends adoption of the suggestions made at the workshop and in response to a further comment by the Department of Consumer Affairs, requested that a reasonable level of scrutiny of applications be made.

⁴ It is clear from the workshop record that CACD's offer extends only to distribution of the information prepared and presented to it by the Department of Consumer Affairs. CACD is not staffed to do the oversight or enforcement work of the Department of Consumer Affairs, as may apply to any unfair business practices of the NDIECs.

We will adopt the workshop suggestion that further information be disseminated relative to "Unfair Business Practices."

V. Regulation of Entry Into the InterLATA Market

CACD noted that currently prospective NDIECs must apply to the CPUC for a CPC&N in order to provide intrastate interLATA telephone service. The Commission's Rules of Practice and Procedure (Rule 18) state which information must be contained in the application. The application is reviewed by the Commission on an ex-parte basis unless consideration of an issue requires a hearing; the latter condition is rarely required, and hearings on these CPC&Ns are exceptions rather than the norm.

CACD stated that most of the participants were concerned about the lack of a stringent review of these CPC&N applications. Pacific was concerned because of the number of NDIEC bankruptcies, because LECS often provide bulk services to NDIECs with payment in arrears.

CACD reported that the Department of Consumer Affairs was concerned about the lack of stringent review allowing at best poorly prepared carriers to serve the public and at worst some dishonest individuals to take advantage of the public. As previously noted in the "Unfair Business Practices" section, the Department of Consumer Affairs believes marketing techniques of the carriers need to be reviewed both before and after entry.

CACD also stated that NDIECs were concerned that poorly prepared carriers were being allowed into the market where their failure tended to reflect negatively upon the image of the entire industry. However, they were also concerned that the requirements of Rule 18 unnecessarily prevented viable competitors from entering the market in a timely manner. The Commission's CPC&N decision making process normally takes anywhere from 6 to 12 weeks, and in the past did not address the viability or non-viability of

resellers. The historical process appeared to carriers as accomplishing nothing that a permit process would not accomplish, while taking much more time.

CACD recommended that the question of entry into the market be addressed in the Commission's current investigation into interLATA competition, I.85-11-013. CACD also suggested that an advisory board be established for giving aid to prospective carriers. Members of CALTEL volunteered to be on such a panel, but this idea as well as others should be considered in the light of those principles the Commission determines should now govern the regulation of interLATA carriers, according to CACD.

CACD reported that the Department of Consumer Affairs concurred with its recommendation and felt that part of the review of NDIECs' marketing techniques prior to entry should be a more thorough review of applications by CPUC staff to detect unfair business practices. The Department of Consumer Affairs further suggested that Rule 18 of Rules of Practice and Procedure be revised to require sufficient disclosure by applicants to facilitate the review suggested.

We see considerable merit in revising our decision making process to at least review the reported financial and technical worthiness of any new applicant for a CPC&N as an NDIEC. Recognizing this need, we have for the last year, or more, given some attention to the financial and technical qualifications of NDIEC applicants, especially those entering the intraLATA high speed digital private line service market. This additional review of financial and technical qualifications is intended to gain reasonable assurances that the new or expanded entity has the ability to remain solvent for the first year of business. Our added internal review of applications has not significantly delayed CPC&N's for responsible applicants, and we do not wish to see any unreasonable delays or unrealistic burdens required to bring forth this verified information. However, absent this increased review

of new certificate applications there could well be further increases in the number of NDIEC bankruptcies with attendant loss of revenues to Pacific Bell and other Local Exchange Companies which provide local and intraLATA services to the NDIECs. These bankruptcies also cause financial burdens and inconvenience to customers of poorly financed NDIECs. We currently customarily scrutinize the financial integrity of new applicants for NDIEC reseller CPC&N's to obtain reasonable assurance that they possess cash sufficient to meet all expenses in anticipation of revenues for a period of about one-year of operation. Generally speaking this represents a minimum cash requirement of about \$400,000. We will formally adopt this continuing level of scrutiny for new reseller applications as well as for transfers of operating authority of established NDIEC's.

VI. Commission Approval Of NDIEC Issuance Of Stock

As set forth earlier, this Commission has by D.85-11-044 issued November 6, 1985 in A.84-03-092 granted approval for NDIECs to issue stock and incur other financial liabilities without further specific Commission authority. We see no reason to revisit this issue at this time.

VII. Commission Approval of the Sale of Assets or Merger With Another Utility

Article 9 of the Rules of Practice and Procedure and Sections 851-854 of the PU Code require NDIECs and other utilities to obtain the approval of the Commission prior to selling assets or merging with another utility. In D.85-07-081 the Commission denied CALTEL's initial request to delegate this power to the Executive Director for NDIECs; however, by D.86-08-057 issued August 18, 1986 in A.84-03-092 the Commission modified D.85-07-081 to permit the Executive Director to grant noncontroversial applications by NDIECs

for authority to transfer assets or control under Sections 851-855 of the PU Code, provided that:

- a. No protests to the application are filed;
or,
- b. If a protest is filed, it is withdrawn or
compromised by the parties.

This is a satisfactory resolution which we do not wish to reconsider.

VIII. Abandonment of Service

Currently any carrier wishing to abandon service must apply for permission from the Commission. CACD noted that most participants in the workshop believed this requirement serves no useful purpose. The most frequent reason given for NDIECs abandoning service to their customers is bankruptcy. The general feeling of the workshop participants was that a carrier going into bankruptcy would not be concerned about Commission requirements. They suggested that a more realistic requirement would be to require notification of the Commission and the utility's customers at least 30 days in advance of abandonment. However, because long distance services are billed in arrears, no carrier would likely be willing to advise customers that it is going out of business in 30 days. With this advance knowledge customers could run up bills they had no intention of paying since the carrier would not be in business at the time of collection.

CACD stated that at present when they suspect that a carrier has abandoned service, they attempt to contact the carrier by phone and mail. If such attempts fail, the local exchange carrier is notified and asked to report if and when service was disconnected. Once the staff has gathered this data and verified that in fact service has been abandoned, a resolution removing the carrier's certificate is prepared for the Commission's approval.

Workshop participants did not object to this process. However, they did suggest that the principals of carriers who abandon service without notifying the Commission be identified. If these individuals should be part of another entity that subsequently applies for a certificate, the application should be denied for lack of fitness.

CACD recommended that it continue to monitor abandonment of service and prepare resolutions decertifying the carrier in question for the consideration of the Commission and that these carriers be identified to prevent them from receiving a new certificate at a later date. CACD also suggested that the Commission adopt a recommendation by the Department of Consumer Affairs that any notices to the public (customers) should describe any arrangements for refunds of deposits and other information that will facilitate appropriate actions by customers, LEC's and the Commission.

We will adopt the CACD recommendation with the suggested amendment advanced by the Department of Consumer Affairs.

**IX. Protection of Access Services Investment
By Local Exchange Companies Against
NDIEC Bankruptcy**

Pacific Bell explained in its compliance report relative to D.85-06-115 and D.85-09-111 (page 24) that many people have entered this market absent one or several of the above noted technical and/or financial fitness factors. This is attested to by the numbers of businesses forced to seek financial protection through the courts. Through the first half of 1985, Pacific stated that it was involved in more than twenty pending Chapter 11 bankruptcy proceedings regarding resellers. The revenue at risk to Pacific in these filings was reported to exceed \$6 million, exclusive of legal and administrative expenses generated by these proceedings. It is also exclusive of any direct or indirect losses

incurred by the customers of these businesses. Pacific suggests that the trend is toward increasing numbers of such bankruptcy proceedings as the number of new entrants increases. The impact of this activity is that California telephone service ratepayers, at large, may ultimately be in the position of bearing risk of failure in the resale marketplace.

CACD stated that the only apparent solution was for the LECS to request and receive a suitable deposit or surety bond from the NDIECs to cover any connecting equipment and associated service costs provided to the NDIECs. We will adopt the CACD recommendation to allow the LECs to revise their deposit requirements for service to the NDIECs.

X. Should Classes be Established Among NDIECs for Regulatory Purposes?

No participant spoke in favor of establishing separate classes of NDIECs. In fact, it was the consensus that such uneven regulatory treatment could work to prohibit development of the industry. CACD therefore recommended that no action be taken to establish classes among NDIECs. We concur.

XI. How Long Should NDIECs be Required to Maintain Billing Records?

General Order 28 requires permanent retention of billing and other records of public utilities and common carriers. The question of how long billing records of NDIECs should be retained should be evaluated in view of the competitive environment in which these carriers operate. When asked the above question by CACD, the workshop participants replied that they saw no need to keep billing records for any longer than one year, but gave no good reason for such short recordkeeping requirements. CACD concluded that it

would make no recommendation to the Commission regarding this question at this time.

It appears that any business should retain its financial records for at least the length of time normally used as an open period for federal, state, and local tax audit or review. Also, for other legal purposes, it is normally wise to retain records covering the legal requirements of the statute of limitations for business records which generally extends for three years, except for written contracts where a four-year period may apply. To cover all normal business contingencies, it appears wise for NDIECs to retain all customary business and financial records for a period of four years in addition to the current year of operation. We will adopt a four-year recordkeeping requirement for regulatory purposes as well.

XII. Additional Issues

CALTEL requested that NDIECs with a fiscal year different from the calendar year be exempt from the calendar year reporting requirement of General Order 104-A.

The investor-owned utilities all file annual reports on a calendar year basis, as provided for in General Order 104-A. When such companies maintain their business accounts on any other fiscal year basis, they may provide twelve (12) months ended December 31, data for annual reports to the Commission. This permits a consistent basis for staff review and does not present an undue burden, since most businesses maintain monthly records of business activity for internal use. We will adopt this reporting standard for NDIECs as well.

New Issues Subsequent to Workshop

XIII. Non-Certified InterLATA Carriers

In June 1987 CALTEL wrote to the Commission stating its concerns about unfair competition to certificated NDIECs in the form of avoidance of normal regulatory administrative and legal burdens by non-certificated telecommunications companies.

Upon review of CALTEL's letter, CACD prepared a background memorandum regarding this issue from which the following discussion was excerpted and digested. Under the current regulatory framework, non-dominant carriers must have a CPC&N and tariffs on file with the Commission before they offer interLATA service to the general public. Those who comply with these requirements incur significant and ongoing administrative expenses. This is especially true of tariff filings which occur whenever legitimate non-dominant carriers change their rates and conditions of service, or whenever they wish to establish a new offering. Further, these carriers are subject to the Universal Lifeline Telephone Service (ULTS) tax and various surcharges. CALTEL also points out that they are required to purchase access services from local exchange carriers' access tariffs, rather than the less costly exchange tariffs. Those carriers who do not comply with these rules avoid a significant administrative burden and are able to purchase services under the exchange tariffs, thereby deriving a distinct market advantage over companies which do comply.

CACD believes that this is not simply an enforcement problem caused by lack of the necessary authority, power, and staff to accomplish this task effectively. CACD believes instead that the problem is structural. It has to do with the requirements themselves.

CACD explains that in order to resell interLATA services, a company must purchase bulk services from the major interLATA

carriers in the state (AT&T Communications of California, MCI Telecommunications Corporation, GTE Sprint Communications Corporation etc). It must also purchase some services from local exchange carriers (Pacific Bell, General Telephone, Continental Telephone, etc.) for access to the local network. According to AT&T-C and Pacific Bell, it is very difficult to know during the ordering process whether purchasers of their services intend to resell interLATA service. If their assessment is correct, it may not be feasible to establish a procedure to prevent new non-certificated interLATA carriers from entering the long distance market.

The inability to ascertain the intended use of purchased services compounds the problem, since once these non-certificated interLATA carriers begin operating, it is difficult to identify who they are and the extent of their operations. Parenthetically, AT&T-C representatives have already approached CACD to help them develop a way to identify and track non-certificated carriers, with whom AT&T-C must also compete. Currently AT&T-C follows a cumbersome procedure which involves investigating public records available from the State Board of Equalization and the Franchise Tax Board. In contrast, CACD relies on customer complaints and referrals from the CAB to identify non-certificated carriers.

But even when CACD becomes aware of a non-certificated carrier, it is still faced with the difficult task of convincing the carrier to voluntarily obtain a CPC&N and to file tariffs. Often a carrier refuses to comply, or ignores notices to comply with Commission rules and regulations.

CACD believes that there are shortcomings in the Commission's current regulatory framework governing non-dominant interLATA carriers. There is a need to re-examine this framework, or acknowledge the available enforcement tools, in order to ensure that compliance with the law does not disadvantage those who play by the rules of the game.

It is obvious that there is a need to address this new issue together with the procedure for reviewing tariff filings, complaints, and a more objective review of applications of new CPC&Ns.

The Commission does require NDIECs to apply for CPC&Ns prior to their operations and to pay the appropriate tariff rates for the bulk (wholesale) services that they resell. It follows that any violations of lawful operation should be dealt with in a standard manner, under the provisions of PU Code §§ 2101-2110.

The NDIEC industry has grown from virtual nonexistence in 1984 to over one hundred operating companies today. A review of CACD's correspondence files (as of January 12, 1990) reveals that there are currently 12 (identified) non-certificated resellers of telecommunications services, which have not responded to a voluntary compliance "Notice" letter sent by CACD. Two of these non-certificated resellers have had the "Notice" letter for over 60 days and the remaining ten received the notice over a year ago.

One effective way to bring these non-certificated resellers into compliance is to commence enforcement actions under the provisions of the PU Code sections noted above, starting with the oldest noticed entity first and proceeding forward. Others with varying perspectives and experience on this problem may wish to suggest alternative strategies. For this reason, and because the enforcement issue was not addressed during the earlier workshop sessions, we believe there is merit in seeking further comment (and suggested solutions) before we make a final decision on this issue.

CACD reports that it is becoming common practice among some NDIECs to not inform customers or the local exchange company of disconnection for nonpayment of service. In most cases since Pacific Bell and the other local exchange companies are not notified of the disconnection for non-payment, local exchange and interLATA service continues, as well as the ability of the customer to use interLATA service on an occasional basis through the NDIEC.

Still later if the customer fails to pay for the NDIEC provided interLATA service portion of the bill, the local exchange company will discontinue all services.

The tariffs of the local exchange companies do not offer disconnection of local service as a means to secure payment of NDIEC rendered interLATA service unless the NDIEC arranges for billing its customers by the local exchange company. Therefore, through the lack of adequate notice to the customer or the local exchange company, the NDIEC's customer receives services through the local exchange company for which no payment was made to the local exchange company.

CACD recommends that the NDIECs should be required to notify their customers and the local exchange companies promptly of all terminations of service for nonpayment of bills.

We believe that prompt notification of customers and the local exchange companies of all terminations for nonpayment of bills is proper and will adopt this requirement.

Policy Questions

In reviewing the fourteen issues previously discussed, it is readily apparent that certain procedural and policy changes must be made by the Commission to provide reasonable guidance to the staff and the NDIEC utilities if this industry is to develop with any degree of public confidence and customer satisfaction.

These changes, many of which are discussed as potential solutions to current problems in the prior narrative, should help the NDIEC's to gain more public confidence in the coming years, and while we do not intend to control overall rate levels and limit rates of return, we do wish to create an environment which will allow competition while still providing consumer safeguards. Certain changes which must be considered are noticing requirements when NDIECs change identity or require different calling codes, number sequences, and circuit overcrowding. It is clear from the

workshop comments that the current regulatory atmosphere has not been problem free.

Such an atmosphere does not enhance competition. It is apparent that a broader standard of customer safeguards is necessary to improve the general credibility of firms participating in the interLATA market.

It follows that, if we are to enhance public confidence, we may have to restore in part our oversight of this industry. Therefore, we will ask the NDIEC industry to think in broad terms of what the longer term future goals are for this industry and help us determine the degree to which regulation can assist in achieving these goals.

Request for Further Comments

Based on the prior discussion, and in view of the substantial period of time which has elapsed since the parties to this proceeding responded to the workshop issues, we have determined that it is reasonable and necessary to receive further comments on this proposed decision. Therefore, interested parties will be given 30 days from the mailing date of this proposed decision to comment on the unresolved issues set forth below. As noted previously, Commentors are also free to address issues resolved in this proposed decision. All comments should be filed in original and 12 copies with a separate copy addressed to the assigned Administrative Law Judge (ALJ). Copies should be sent to the parties that actively participated in the workshops (See Appendix A for names and addresses.) Parties will have 15 days to file reply comments.

1. Notice of Tariff Changes

(Reference Item I of prior discussion)

- a. Is the present five-(5) day notice provision for tariff revisions permitted for NDIECs reasonable, necessary or practical? Should it be permitted only for rate reductions and not for new service

offerings or rate increases or for non-routinely approved services which appear to require wider public notice and further Commission authorization?

- b. If the present five-day notice for tariff revisions is continued, what notice to customers should be made relative to these revisions?
 - c. Since the NDIECs operate under FCC rules and regulations for interstate services and have existing intrastate tariffs in place, as a result of their original certificate of public convenience and necessity decision or most recently filed revision, would harm result to them if the regular 40-day effective rule for some or all subsequent tariff revisions is adopted for all tariff revisions? (This would assume that the 40-day rule would establish a level playing field among all certificated NDIECs.)
 - d. If the 40-day rule is applied to NDIECs as set out in b. above, what would staff complaint or protest review entail?
 - 1. Service problems?
 - 2. Unfair or anticompetitive business practices?
 - 3. Discriminatory rate practices?
 - 4. Application of unauthorized rates or charges?
 - 5. Should tariff revisions be delayed until protests are resolved?
2. Rates Shall be Uniform on a Distance Basis
(Reference Item II of prior discussion)
- a. Should the Commission adopt non-uniform rates over selective routes, for individual carriers with protection of all other existing rates of that carrier?

- b. Would the standard (approximately 40-day) advice letter procedure with the NDIECs requesting authority by Resolution under PU Code §§ 454 and 532 be a reasonable way to deal with requests for non-uniform rates based on distance?
- c. Would a requirement for such requests that would retain existing rates for low traffic or hard to serve routes and a requirement that the NDIECs continue to accept and handle that traffic when non-uniform rates are adopted be reasonable?
- d. Are there circumstances such as the following in which NDIECs should be allowed to structure rates which are not uniform on a distance basis?
 - 1. Efficient equipment or facilities are used to provide the specific service?
 - 2. On-net vs. off-net method of completing calls?
 - 3. Pricing by area code?
- e. Would it be reasonable or necessary to require that the NDIECs who request non-uniform rates provide cost data showing that the rates requested are compensatory?
- f. Should NDIECs be required to set forth the estimated revenue impact of any and all proposed rate revisions?
- g. Should new carriers be allowed to establish non-averaged rates at the time they receive a CPC&N?

3. Customer Noticing Requirements

(Reference Item IV of prior discussion concerning "Unfair Business Practice")

- a. Should customer notices be required of NDIECs? If so, in which cases: rate increases, change of conditions, NDIEC change in identity, etc?

- b. Should CACD be directed to require NDIECs to provide customer notices on request?
 - c. What mechanism should the Commission use in response to NDIECs which do not conform to customer noticing requirements?
- 4. Regulation of Entry into the InterLATA Market
(Reference Item V of prior discussion)
 - a. Historically only limited review was made of the financial or technical ability of applicants for CPC&Ns as new NDIECs. Would formal extension to NDIECs of our current routine analysis done to determine, from affidavits or declarations by the applicant, that funds of varied types and sources are available to carry on the business during the first year of operation, prior to allowing applicants to obtain reseller certificates (CPC&Ns), be reasonable?
 - b. If the level of scrutiny set forth in the above recommendation is not reasonable, what level of financial and technical competence should be required of applicants for CPC&Ns as new NDIECs?
- 5. How Long Should NDIECs be Required to Maintain Billing Records?
(Reference Item XI of prior discussion)
 - a. Is it reasonable to require NDIECs to maintain billing and all other financial records dealing with their business for a period of 4 years?
 - b. If not, why not?
- 6. Non-Certified InterLATA Carriers
(Reference Item XIII of prior discussion)
 - a. Should the operations of non-certified carriers and violations of normal utility operations by the NDIECs be investigated in greater detail by the staff and enforcement of code provisions be carried out as set forth in PU Code §§ 2101-2110? Note, this

is recognized as a problem deserving of legal review and recommendations based on authority currently possessed by this Commission. Recommendations should focus on what sanctions the Commission and its staff should seek to impose to assure responsible and lawful operations by resellers who have heretofore disregarded the need of a certificate.

- b. Should and can a simplified regulatory procedure be adopted to lawfully discontinue all local exchange telephone service for continued tariff non-compliance, after five days written notice, to persons engaging in the resale of telephone service without possession of a CPC&N?
- c. What further sanctions, if any, should be imposed for repeated violations by non-certificated resellers of telephone service?

Findings of Fact

1. Additional public comment is necessary and desirable, prior to reaching a final determination on the question of utilizing a 5- and/or 40-day effectiveness of interLATA tariff revisions of NDIECs for the future.

2. NDIEC's will not likely need standard contract forms of the types used by local exchange telephone companies. Therefore, we will exempt NDIECs from a requirement to file a rule on contracts.

3. With the advent of microwave systems, satellite communications, fiber optics and coaxial cable, the NDIECs' cost per mile for rendering telecommunications service may no longer be uniform.

4. Additional comments should be solicited on how to establish reasonable non-uniform rates to assure that existing interLATA communications rates are not increased to allow for selective predatory rate reductions over certain specific routes.

5. No need has been shown to require NDIECs to include sample forms as part of their tariff schedules.

6. NDIECs should likely be exempted from a requirement to furnish revenue effects of new tariff changes affecting rates, after we have further comments on the more substantive tariff related issues of customer protests and complaints, effective dates, and uniformity of rates.

7. NDIECs should include in their tariff schedules, a standard deposit rule providing for a deposit equal to one months' estimated usage, unless a compelling case is made for a greater amount in cases of individual company hardship.

8. The Department of Consumer Affairs has offered to make available, on a one-time basis, training on unfair business practices for the CACD personnel who in turn have proposed to make this information available to the current NDIECs as listed on Appendix C hereto.

9. There is considerable merit to giving some greater scrutiny on a formalized basis, to the financial integrity of new applicants, when they apply for certificates of public convenience and necessity as NDIECs, to avoid further increases in the number of bankruptcies in this evolving industry.

10. The Commission has, by D.86-08-057 modifying D.85-07-081 delegated to its Executive Director, authority to grant noncontroversial applicants by NDIECs for authority to transfer assets or control under PU Code §§ 851-855 when the applications are not protested. This procedure continues to operate in a satisfactory manner and there is no need to reconsider this issue.

11. We should allow local exchange telephone companies to take suitable deposits or surety bonds from NDIECs to protect themselves and their ratepayers from NDIEC bankruptcies.

12. No reasonable arguments have been advanced to establish classes among NDIECs.

13. There is good cause to require NDIEC's to maintain their records for a period of four years in addition to the current year of operation.

14. For consistency of review and analyses we plan to require the filing of annual reports for twelve (12) month periods ending each December 31, with this Commission, as provided for in General Order 104-A.

15. It is appropriate to solicit additional comments on the use of sanctions for the unlawful operation of non-certificated resellers of communications services.

Conclusions of Law

1. Additional public comments are needed prior to revising (extending) the current five-day effectiveness period for NDIEC tariff revisions.

2. NDIECs do not use standard contract forms of the type used by local exchange telephone companies for specialized facilities or line extensions, and therefore NDIECs should be exempted from the requirement to file standard contracts as part of their tariff schedules.

3. There is an argument that current telecommunications technology may no longer support the longstanding requirement of uniform costs per mile for telecommunications service by NDIECs. However, additional comments are needed on how existing interLATA rate levels can be retained (not aggravated) prior to permitting cost-based selective rate reductions over specific longer routes.

4. NDIECs should be exempted from the requirement to include forms as a part of their tariff schedules.

5. Further public comment is needed on the issue of whether estimated revenue effects data relative to NDIEC tariff revisions, are necessary for oversight of this industry.

6. Except for specific individual cases of significant hardship, NDIECs should include a standard deposit rule providing for a deposit equal to one month's estimated usage.

7. Local exchange telephone companies should be permitted to take reasonable and suitable deposits or surety bonds from NDIECs to protect themselves and their ratepayers from NDIEC bankruptcies.

8. NDIECs should be required to maintain their business records for a period of four years in addition to the current year of operation.

9. It is reasonable and necessary to obtain further comments prior to the final adoption of the recommendations set forth in this proposed decision, especially as the comments may apply to new issues which have emerged subsequent to the workshops held in late 1985.

ORDER

IT IS ORDERED that:

1. All respondents and interested parties to this OIR may submit comments on the issues previously set forth within 30 days after the mailing date of this proposed decision and may file reply comments 15 days after filing initial comments. All comments shall be filed in original and 12 copies with a separate copy addressed to assigned Administrative Law Judge Amaroli. Copies shall also be sent to the parties that actively participated in the workshops. (See Appendix A for names and addresses.)

2. Respondents and interested parties may also comment on issues which we have set forth as resolved, or for which we have indicated a proposed solution for adoption. Comments shall address serious areas of concern only, and not be used to raise, once again, issues that we have fully discussed and disposed of herein.

3. The Executive Director shall mail copies of this order to the respondents and interested parties listed in Appendices A, B, and C to this order.

This order is effective today.

Dated FEB 7 1990, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN D. CHANAN
PATRICIA M. ECKERT
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.

Wesley Franklin

WESLEY FRANKLIN, Acting Executive Director

pb

APPENDIX A

List of interested parties who filed written comments in this proceeding, and who should be provided informational copies of further comments as may be filed in this proceeding:

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(END OF APPENDIX A)

APPENDIX B
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APPENDIX B

Page 2

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(END OF APPENDIX B)

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Vancouver, WA 98668-3535

U-5061-C

ARGO COMMUNICATIONS CORP.
Fred L. Koerner
145 Huguenot Street
New Rochelle, NY 10801

U-5062-C

CALL AMERICA - PALM DESERT
David Clem
73-757 Highway 11
Palm Desert, CA 92260

U-5063-C

CALL AMERICA PARTNERSHIP-RIVERSIDE
Vernon Hall
2530 E. La Cadena Drive
Riverside, CA 92507

U-5066-C

EXECULINES OF SAN FRANCISCO
Chuck Boggs
1941 O'Farrell St., Ste. 1
San Mateo, CA 94403

APPENDIX C

U-5067-C

MOON-O-DIAL OF LAKE ISABELLA
 Leven H. Rapp
 156 N. Main
 Bishop, CA 93514

U-5070-C

CALL AMERICA (TM ASSN)
 1832 Buchanan St., Ste. 205
 San Francisco, CA 94115

U-5071-C

AA TEL-COMM AND SIERRA TEL-COM
 P.O. Box 6915
 Auburn, CA 95604

U-5076-C

ESCONDIDO TEL. CORP.
 Gary Cook
 333 S. Juniper St., Ste. 200
 Escondido, CA 92025-4939

U-5077-C

WESTEL COMMUNICATIONS, INC.
 Jerry Chyo
 411 Pacific, Suite 200
 Monterey, CA 93940

U-5078-C

TEL, LTD.
 Larry Davis
 177 Park Center Plaza, Ste. 360
 San Jose, CA 95113

U-5079-C

ADVANCED COMMUNICA. SOFTWARE INC.
 Pete Dalton
 P. O. Box 162877
 Sacramento, CA 95816

U-5080-C

MOON-O-DIAL OF RIDGECREST
 John Hall
 250 Balsam Street
 Ridgecrest, CA 93555

U-5081-C

CHICO TELECOM LTD.
 James A. Smith
 770 L Street
 Sacramento, CA 95814

U-5082-C

COM-SYSTEMS NETWORK SERVICES
 Ronald F. Evans
 200 Haskell Ave.
 Murys, CA 91406

U-5083-C

THRIFTY TELEPHONE
 William Kettle, Sr.
 300 Plaza Alicante #380
 Garden Grove, CA 92640

U-5084-C

TELAMARKETING COMM. OF BAKERSFIELD
 Julie McFadden
 1528 Chapala St.
 Santa Barbara, CA 93101

U-5085-C

TELAMARKETING COMM. OF
 SAN LUIS OBLISPO-Julie McFadden
 1528 Chapala St.
 Santa Barbara, CA 93101

U-5086-C

TELAMARKETING COMM. OF SO. CALIF.
 Pete Stamison
 1025 S. Oak Knoll Ave.
 Pasadena, CA 91106-4421

U-5087-C

TELAMARKETING COMM. OF VENTURA
 Julie McFadden
 1528 Chapala St.
 Santa Barbara, CA 93101

U-5088-C

TMC OF SAN DIEGO
 Jackie Lortz
 525 B Street, Suite 435
 San Diego, CA 92101

U-5090-C

COMEX
 Athena Wang
 5859 Margarido Drive
 Oakland, CA 94618-1806

U-5091-C

CONTEL OFC. COMMS. INC. (REALCOM)
 Michael J. Flagg
 12935 North Forty Dr., Suite 200
 Saint Louis, MO 63141

U-5092-C

COMPUTE-A-CALL INTERNATIONAL, INC.
 Melvin Gish
 1935 S Main Street, #535
 Salt Lake City, UT 84115-2005

U-5094-C

RANGER CALIF.
 Van C. V. Francisco
 Two Embarcadero Center, Ste. 2320
 San Francisco, CA 94111

U-5095-C
RAD COMMUNICATIONS, INC.
1325 Airmotive Way, Suite 100
Reno, NV 89502

U-5096-C
NEVADA SUPERPHONE
(SUPERPHONE CORP)
3000 S. Highland
Las Vegas, NV 89109

U-5097-C
NATIONAL PAY TEL. CORP. OF CALIF.
Ross Scheer
9655 Irondale Avenue
Chatsworth, CA 91311-5009

U-5098-C
ASSOC. COMMUNICATIONS OF LA (WANG)
Herb Holzman
200 Gateway Tower
Pittsburgh, PA 15222

U-5099-C
NETWORK MICROWAVE INC.
Eugene S. Royal
461 West Avenue K
Castroville, CA 95034

U-5100-C
UNITEL
James Peterson
432 Royal Crest Circle
Pancho Cordova, CA 95670

U-5101-C
WESTERN EXPRESS COMMUNICATIONS
1439 Thousand Oaks Blvd., Ste. E
Thousand Oaks, CA 91362

U-5102-C
GRACE COMMUNICATIONS
Bruce Ripley
515 116th N.E.
Bellevue, WA 98004

U-5105-C
DIAL-N-SAVE CORP.
7241 Raintree Drive
Citrus Heights, CA 95621-3745

U-5106-C
ATN TELECOMMUNICATIONS, INC.
1207 Princeton Ave.
Pittsfield, CA 93305

U-5107-C
GENESIS COMMUNICATIONS, INC.
1241 West Alton Avenue
Santa Ana, CA 92707

U-5108-C
PTT TELECOMMUNICATIONS
M.R. Pardani
P.O. Box 985
Beverly Hills, CA 90213

U-5109-C
BAY AREA TELEPORT
Michael Rosenquist
1141 Harbor Bay Pky., Ste. 101
Alameda, CA 94501

U-5110-C
SOUTH BAY COMMUNICATIONS, INC.
William Van Vliet
1299 E. Artesia Blvd., #190
Carson, CA 90746-1603

U-5112-C
U.S. SPRINT
Richard Purkey
700 Airport Blvd.
Burlingame, CA 94010

U-5113-C
AMER. COMS. ENTER. (FUTURTEK)
Cynthia Wilbrand
2855 Campus Drive, #150
San Mateo, CA 94403

U-5114-C
METROMEDIA LONG DISTANCE INC.
3305 S.W. Ninth Ave.
Ft. Lauderdale, FL 33315

U-5115-C
CALL SAVERS OF FRESNO
John L. Campbell
55 Shaw Ave., Ste. 201
Clovis, CA 93612

U-5116-C
MEGAWATS
Bruce Ripley
515 116th, N.E.
Bellevue, WA 98004

U-5117-C
COACHELLA VALLEY COMMUNICATIONS
73-754 Highway 111
Palm Desert, CA 92260

APPENDIX C

U-5119-C
CALIFORNIA RAMTEL, INC.
Oris McKinnie
1221 Broadway, Suite 2140
Oakland, CA 94612

U-5120-C
TELECOM PLUS TENANT SERVICES, INC.
Herbert J. Breger
Telecon Bldg. 48-40 - 34th St.
Long Island City, NY 11101

U-5121-C
T&C OF FRESNO
Julie McFadden
1528 Chapala St.
Santa Barbara, CA 93101

U-5122-C
UNITED COMMUNICATIONS, INC.
Craig Nelson
1334 McPherson
North Bend, OR 97459

U-5123-C
INTERNATIONAL TELECHARGE, INC.
David L. Scott
103 South Akard
Dallas, TX 75202

U-5124-C
WILTEL OF CALIFORNIA, INC.
624 Grand Ave., Suite 1420
Los Angeles, CA 90017

U-5125-C
T&C OF STOCKTON
Julie McFadden
1528 Chapala Street
Santa Barbara, CA 93101

U-5126-C
COASTAL TELEPHONE NETWORK, INC.
One Wilshire Building
624 Grand Avenue
Los Angeles, CA 90017

U-5127-C
TELESTAR 900 CORP.
Don Merrian
2880 Sunrise Blvd., Ste. 124
Rancho Cordova, CA 95742

U-5128-C
TELECOM EXCHANGE OF SACRAMENTO
B. Markeley
9700 Fair Oaks Blvd., Ste. F
Fair Oaks, CA 95628

U-5129-C
U.S. DTEL, INC.
Steven Reynolds
9333 Tech Center Dr., Ste. 250
Sacramento, CA 95826

U-5130-C
TELECONNECT COMPANY
Michael J. Ensrud
P.O. Box 3163
Cedar Rapids, IA 52401

U-5131-C
CABLE & WIRELESS MGMT. SVC. INC.
Charles A. Trevshy
1919 Gallows Rd.
Vienna, VA 22182

U-5132-C
AMERICAN NATIONAL TELECOM
Stephen W. Efroymsen
11365 Ventura Blvd., Suite 100
Studio City, CA 91604

U-5133-C
Donald R. Cook
2493 W. Shaw Avenue
Fresno, CA 93711

U-5134-C
VORTEL COMMUNICATIONS INC.
John Lerch
50 Santa Rosa Ave. Ste. 300
Santa Rosa, CA 95404

U-5135-C
TELECOM CELLULAR
P. O. Box 861
Camino, CA 95709-0667

U-5136-C
CENTRAL CORP.
Stephen M. Rawls
3212 N.W. 9th Ave.
Fort Lauderdale, FL 33309

U-5137-C
HENDRIX
William D. Crockett
496 W. Euclid Rd.
El Centro, CA 92243

U-5138-C
ANNEX
5295 Town Center Rd.
Boca Raton, FL 33486

APPENDIX C

U-5139-C
 BKONE CLUB USA
 46 La Loma Drive
 Palo Park, CA 94025

U-5140-C
 CHARTER COMMS. (CCI COMMUNICATIONS)
 Ronald Zajack
 15303 Ventura Blvd., Suite 651
 Sherman Oaks, CA 91403

U-5141-C
 MTEL DIGITAL SYSTEMS, INC.
 Ernie Oswalt
 P. O. Box 2469
 Jackson, MI 39225

U-5142-C
 GTE MOBILNET OF SAN FRANCISCO
 616 FM 1960 West, Suite 400
 Houston, TX 77090

U-5143-C
 TEL TEC EXCHANGE OF SOUTH BAY
 3222 Scott Boulevard
 Santa Clara, CA 95054

U-5144-C
 CELLOOM
 945 W. Hyde Park Blvd.
 Hollywood, CA 90302

U-5145-C
 GTE MOBILNET OF SANTA BARBARA
 616 FM 1960 West, Suite 400
 Houston, TX 77090

U-5146-C
 BITTEL TELECOM (ARCHITEL CORP)
 Robert Bral
 16 California St., Ste. 801
 San Francisco, CA 94111

U-5147-C
 TAC COMMUNICATIONS
 Julie McFadden
 1528 Chapala St.
 Santa Barbara, CA 93101

U-5148-C
 NETWORK USA
 2100 W. Loop S., Ste. 1000
 Houston, TX 77054

U-5149-C
 LONG DISTANCE/USA
 Wesley A. Yasuda
 1001 Bishop St., Suite 880
 Honolulu, HI 96813

U-5150-C
 GLOBAL ACCESS TELECOMMUNICATIONS
 Jack Dod
 77 Cadillac Dr., Suite 235
 Sacramento, CA 95825

U-5151-C
 LOCAL AREA TELECOMMUNICATIONS
 Stuart N. Dolgin
 17 Battery Place, Suite 1200
 New York, NY 10004-1256

U-5152-C
 TELECONNECT LONG DISTANCE
 SERVICES & SYSTEM
 500 Second Ave., S.E.
 Cedar Rapids, IA 52401

U-5154-C
 FAIRCHILD COMMUNICATIONS
 300 West Service Road
 Chantilly, VA 22021-9998

U-5155-C
 ATLANTIC WESTERN TELECOM
 Kenneth G. Thomas
 8033 Sunset Blvd., #320
 West Los Angeles, CA 90046

U-5156-C
 NATIONAL TELEPHONE SERVICES INC.
 Heather B. Gold
 6100 Executive Blvd., 4th Floor
 Rockville, MD 20852

U-5157-C
 ARMOUR, ST. JOHN, WILCOX, ET AL
 Tom MacBride
 505 Sansome St.
 San Francisco, CA 94111

U-5158-C
 ARMOUR ST. JOHN, WILCOX, ET AL
 Tom MacBride
 505 Sansome St.
 San Francisco, CA 94111

U-5159-C
 ELOOTEL LD OS
 Dennis Ertzbischoff
 6428 Parkland Drive
 Sarasota, FL 34243

U-5160-C
 SACRAMENTO LONG DISTANCE
 77 Cadillac Drive, Suite 270
 Sacramento, CA 95825

APPENDIX C

U-5161-C

FIBERNET COMMUNICATIONS

Mahler Road, Suite 140
Burlingame, CA 94010

U-5162-C

LONG DISTANCE FOR LESS

Toby Mandell
4561 E. McDowell Rd., #211
Phoenix, AZ 85008

U-5163-C

WESTCOAST LONG DISTANCE, INC.

Michael Surde
P. O. Box 975
Zephyr Cove, NV 89448

U-5164-C

TELECOMMUNICATIONS INT'L

Aaron Amid
6399 Wilshire Blvd., Penthouse
Los Angeles, CA 90048

U-5165-C

COMMUNIQUE TELECOMMUNICATIONS INC.

Vincent P. Murone
4015 Guasti Road
Ontario, CA 91761-7807

U-5166-C

FIBER DATA SYSTEMS

7668 Telegraph Rd.
City of Commerce, CA 90040

U-5167-C

TELEPORT COMMS. OF SAN FRANCISCO

Bonney Scott
One Teleport Dr., Suite 301
Stanton Island, NY 10311-1011

U-5168-C

INTELLICAL OPERATOR SERVICES

Reid Presson
2155 Chenault, Suite 410
Carrollton, TX 75006

U-5169-C

PAMTEL LONG DISTANCE MANAGEMENT CO.

Ross McCreary
1907 Smith Tower
Seattle, WA 98104

U-5170-C

PAYLINE SYSTEMS INC.

Frank A. Boers
921 S.W. Washington St., Suite 250
Portland, OR 97205

U-5171-C

TELEPORT COMMS. - LA INC.

Robert Atkinson
One Teleport Dr., Suite 301
Stanton Island, NY 10311-1011

U-5172-C

OAKBROOK FIBER SYSTEMS, INC.

Douglas Frazier
One Tower Land, Suite 1600
Oakbrook Terrace, IL 60181

U-5173-C

NATIONAL TELEPHONE & COMMS. INC.

1000 E. Williams St., Suite 100
Carson City, NV 89071

U-5174-C

US OPERATORS INC.

108 S. Akard, Suite 2400
Dallas, TX 75202

U-5175-C

ASSOCIATED COMMS. OF LA INC.

Charles Conety
3600 Wilshire Blvd., Suite 1700
Los Angeles, CA 90010

U-5176-C

CALIFORNIA INTERCALL, INC.

5808 Lake Washington Blvd., N.E.
Kirkland, WA 98033

U-5177-C

ON LINE COMMUNICATIONS INC.

2355 Old Oakland Rd., Suite One
San Jose, CA 95131

U-5178-C

NORTHWESTERN PAYPHONE SYSTEMS

5045-199 Valley Crest Dr.
Concord, CA 94521

U-5179-C

TELENATIONAL COMM. LTD. PINTSHP

7300 Woolworth
Omaha, NE 68124

U-5180-C

INTERNET COMMUNICATIONS CORP.

500 Washington St., Suite 820
San Francisco, CA 94111

U-5181-C

US FIBERCOM NETWORK

Robert R. Vance, Jr.
2 Trap Falls Rd., Suite 202
Shelton, CT 06484-4635

U-5182-C

COMMUNHEALTH COMMS. NETWORK

56 Ventura Blvd.

Sunnyvale, CA 91436

U-5183-C

AMERICAN TELECOMMUNICATIONS CORP.

1666 Firman, #400

Richardson, TX 75081

U-5184-C

TRIPLE CROWN INMATE SERVICES

1201 E. McFadden Ave.

Santa Ana, CA 92705

U-5185-C

PHONE AMERICA INC.

12323 S.W. 66th Ave.

Portland, OR 97223

U-5186-C

ZERO PLUS DIALING INC.

4243 Piedras Drive East, Ste. 225

San Antonio, TX 78228

U-5187-C

AMERI. LONG DISTANCE EXCHANGE, INC.

23232 S. Voss St., Ste. 630

Houston, TX 77057

U-5189-C

NETWORK TELEPHONE SERVICES

6271 Variel Avenue

Woodland Hills, CA 91367

U-5190-C

COMMUNTEL, INC.

Michael Lozano

185 Berry Street, Suite 3819

San Francisco, CA 94107

U-5191-C

SAN DIEGO LINKATEL

James Bechtel

2330 Faraday Avenue

Carlsbad, CA 92008

U-5192-C

WIG WEST INC.

ONE Wilshire Building

624 Grand Avenue, Suite 1420

Los Angeles, CA 90017

U-5194-C

TELCO SYSTEMS MGMT., INC.

REGULATORY CONTACT

190 Mill Street

Reno, NV 89502

U-5195-C

WEST COAST TELECOMMUNICATIONS, INC

REGULATORY CONTACT

1187 Coast Village Road #1-160

Santa Barbara, CA 93108

(END OF APPENDIX C)