

Mailed

MAY 24 1991

Decision 91-05-043 May 22, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	ORIGINAL
The Ponderosa Telephone Company)	
(U 1014 C) for a Certificate of)	
Public Convenience and Necessity.)	
<hr/>	
	Application 89-05-004 (Filed May 4, 1989; amended February 6, 1990 and June 22, 1990)

Messrs. Cooper, White & Cooper, by Alvin H. Pelavin
and Mark P. Schreiber, Attorneys at Law, for
The Ponderosa Telephone Company, applicant.
Brad Walter, Attorney at Law, for Pacific Bell,
interested party.
Lionel B. Wilson, Attorney at Law, and Ramesh
Joshi, for the Division of Ratepayer Advocates.
Judith Allen, Attorney at Law, and Wade McCartney,
for Commission Advisory and Compliance Division.

I N D E X

<u>Subject</u>	<u>Page</u>
OPINION	2
Summary	2
Background	3
Description of Applicant and its Technical and Financial Capability	6
Field Visit	7
Public Participation Hearings at Baker, California on April 19, 1990	7
Evidentiary Hearing Summary	14
Proposed Rates for the Cima Exchange	17
Establishment of a Toll Rate Point for the Cima Exchange	18
Proposed Use of IMM BETRS to Serve the Cima Exchange	18
Maintenance Costs of IMM BETRS Equipment	20
Sharing of Risk of Unforeseen Failure of the IMM BETRS Radio System to Serve the Cima Exchange	22
Temporary Waiver of Installation Charges for Telephone Services	22
Environmental Impacts and Proposed Mitigated Negative Declaration	23
Should the Proposed 100-foot Antenna Near the Cima Central Office be Relocated?.....	25
Air Conditioning Equipment May No Longer Be Needed at Mountaintop Repeater Sites	27
Discussion	28
1. Noncontroversial Issues	28
2. Waiver of Line Extension Charges	31

3. Potential Exceptions to the Mitigated Negative Declaration	31
a. Location of Antennas	31
b. Air Conditioning At Mountaintop Repeater Sites	32
4. Comments: ALJ's Proposed Decision	33
Findings of Fact	34
Conclusions of Law	38
ORDER	40
APPENDIXES A - Cima Exchange Area Map	
B - Pacific Bell Withdrawal of Protest	
C - Declaration of E. L. Silkwood	
D - IMM Extended Warranty Agreement	
E - IMM Air Conditioning Requirements	
F - Mitigated Negative Declaration	
G - Proposed Rates for Cima Exchange	
H - Comments Received and CACD Responses Regarding Mitigated Negative Declaration	

O P I N I O N

Summary

This decision grants the certificate of public convenience and necessity (CPCN) requested by applicant, The Ponderosa Telephone Company (Ponderosa) to:

Establish a new Cima exchange in sparsely settled areas of eastern Mojave Desert of San Bernardino County to include approximately 1,400 square miles of unfiled territory, encompassing the area south of Interstate Highway 15 and north of Interstate Highway 40, east of the community of Kelso and extending to the California-Nevada state line to provide exchange telephone service to the travelling public and to approximately 100 potential customers who have long awaited and vitally need these services. (See Appendix A for Map of Cima Exchange.)

The telephone services in the Cima exchange will use Basic Exchange Telephone Radio System (BETRS) Ultraphone digital radio systems, manufactured by International Mobile Machines Corporation (IMM). This new technology allows complete privacy of communications along with all the usual service features normally available to customers on landwire telephone systems.

To mitigate any possible environmental impacts, Ponderosa and the Commission Advisory and Compliance Division (CACD) staff have identified the methods, practices, and conditions which must be followed to install the necessary equipment and facilities to establish this exchange telephone service without significant environmental impact. This order conditions the granting of the CPCN on compliance with these mitigating measures.

In view of the substantial proposed investment in IMM radio equipment (\$6,717 initial cost to serve each customer in the Cima exchange) and the fact that there is only one manufacturer of this particular state-of-the-art equipment, the order also requires

Ponderosa's shareholders to bear half the risk of any premature abandonment of this equipment during its recommended 15-year life cycle. Because they receive the benefits of certain reduced costs, Ponderosa's ratepayers are required to bear the remaining 50% of the investment risk for use of this equipment.¹

Background

This application was initially filed on May 4, 1989, by CN Communications (CN), a Nevada corporation which was then seeking a CPCN to establish two new telephone exchanges (Cima and Toiyabe) in California.

Pacific Bell (Pacific) filed a protest to the application on June 6, 1989 to protect its investment in serving two small remote island areas (RIAs) near Lanfair and Goffs within the proposed boundaries of the Cima exchange.

Following the November 3, 1989 public hearings in Downieville, California on CN's proposed Toiyabe exchange, CN wrote several letters to the Commission expressing intentions of withdrawing A.89-05-004. The Commission waited to address these requests pending further consideration by CN.

On February 6, 1990, CN and Ponderosa jointly filed a "First Amendment to Application" wherein Ponderosa requested that it be substituted as the applicant in A.89-05-004 and that references to the proposed Toiyabe exchange be deleted from that application.² By D.90-02-038, dated February 23, 1990, the

1 A similar risk-sharing mechanism was imposed on Citizens Utilities Company (Citizens) (U-87-C) by Decision (D.) 90-03-033, issued March 14, 1990 in Application (A.) 89-07-019, authorizing Citizens to establish the Ravendale exchange in Lassen County.

2 The proposed Toiyabe exchange was to be located in eastern Sierra County in northern California, but public support for telephone service in that area did not appear sufficient to warrant Ponderosa's investment necessary to serve that area.

Commission granted Ponderosa's request and thereafter "recognized [Ponderosa] as the successor to CN Communications as the applicant seeking authority to establish the remaining proposed Cima exchange."

Pacific filed a protest to Ponderosa's amended application on March 3, 1990 for the reasons set forth in its earlier protest of June 6, 1989. A prehearing conference was held in San Francisco on April 3, 1990 and a public participation hearing (PPH) was held in Baker, California on April 19, 1990, to ascertain the need for exchange telephone service in and near the proposed Cima exchange.

On June 22, 1990, Ponderosa filed a second amendment to A.89-05-004 to:

1. Revise the boundaries of the proposed Cima exchange.
2. Update the construction cost estimates for the exchange.
3. Update the forecast of customers, revenues, and required investment.
4. Furnish technical details concerning the facilities to be used in the proposed exchange.
5. Provide technical details concerning the interconnection of the proposed Cima exchange to the public switched telephone network.
6. State applicant's proposed rates for telephone services in the Cima exchange.
7. Incorporate applicant's proposed environmental assessment in the A.89-05-004 file.

On July 17, 1990, the supervisor of the Environmental and Special Project Section of the CACD wrote a letter to the assigned administrative law judge (ALJ) requesting that the [Second] amended

application of Ponderosa filed on June 22, 1990 "be considered as a new filing for the purpose of determining the date the application is considered accepted as complete." Such action would give CACD 30 days under the Permit Streamlining Act (Government Code § 65940 et seq.) to determine if the application is complete. If the application is deemed complete, the Commission has either one year, if an environmental impact report (EIR) is prepared, or six months, if a negative declaration is prepared, to reach a decision on the project.

By a ruling dated July 19, 1990, the assigned ALJ stated:

"It is clear that the project as now proposed in the 'Second Amendment to Application' is substantially different from the original application, including but not limited to:

- "1. A different applicant
- "2. Different project area boundaries
- "3. Different technical proposal with different serving equipment and points of interconnection
- "4. Modified customers (numbers of customers to be served and their locations), and
- "5. The first submission of an applicant's 'Proposed Environmental Assessment.'

"Accordingly, for all intents and purposes the original (May 4, 1989) application of C.N. Communications (a Nevada corporation) has been abandoned and was replaced by the [First] and 'Second Amendment to Application' filed by The Ponderosa Telephone Company."

The ALJ then ruled that Ponderosa's "Second Amendment to Application" filed June 22, 1990 would be considered a new filing for the purpose of establishing the permit review schedule pursuant to the Permit Streamlining Act under Government Code § 65940 et seq. and Rule 17.1 of the Commission's Rules of Practice and Procedure.

On September 5, 1990, Ponderosa filed a third amendment to its Proponent's Environmental Assessment. On September 28, 1990, Pacific withdrew its protest to Ponderosa's application, stating that the amendment clearly indicated that Pacific's remote island areas were not included in its proposed Cima exchange. (See Appendix B.)

A second prehearing conference was held on November 1, 1990 to review the status of the proceeding and the parties' suggested schedule for evidentiary hearings. At that prehearing conference, CACD requested more time to complete its environmental data review to determine whether an EIR or a mitigated negative declaration would later be required. Accordingly, a third prehearing conference was scheduled for December 18, 1990.

At the third prehearing conference, January 11, 1991 was established as the date for evidentiary hearings on the economic and environmental constraints related to this application.

Description of Applicant and its
Technical and Financial Capability

Ponderosa is a corporation and a California local exchange telephone company, which is authorized under the laws of the State of California to provide public utility telephone service to approximately 6,300 subscribers in portions of Fresno and Madera Counties.³ Ponderosa's principal place of business for telephone operations is at 47034 Road 201, P.O. Box 21, O'Neals, California 93645.

Ponderosa appended a certified copy of its Amended Articles of Incorporation, dated April 28, 1989 as Exhibit 1 to its

³ Ponderosa served over 6,300 customers as of April 19, 1990 according to a statement by Preston Ewing, its General Manager, at Baker, California Transcript (Tr.) page (p.) 6.

"First Amendment" to this application. These amended Articles of Incorporation had not been previously filed with the Commission.

By virtue of its long service history (over 30 years) in the 1,400 square mile area encompassing rural Big Creek, Auberry, Friant, North Fork, O'Neals, and Shaver Lake in Fresno and Madera Counties, Ponderosa has demonstrated the technical ability to carry out the necessary design and construction to provide telephone services within the proposed Cima exchange.

Ponderosa also included in its "First Amendment" its latest balance sheet and income statement for fiscal year ended June 30, 1989. Ponderosa lists total assets of \$8,861,812, a net plant investment of \$18,126,514, total operating revenues of \$10,862,522, and a net operating income of \$3,906,889 for the fiscal year. Based on these data, it is clear that Ponderosa has the necessary financial resources to undertake this new communications business in eastern San Bernardino County.

Field Visit

On April 19, 1991, the ALJ toured portions of the proposed Cima exchange, accompanied by Ponderosa's general manager, its supervising and plant engineers, its construction superintendent, his assistant, and its consultant Wayne Irwin; the Division of Ratepayer Advocates' (DRA) staff witness and staff counsel; and two representatives of Pacific and its counsel. The tour showed an area which is so sparsely settled that it is uneconomic to serve it by landwire facilities, except for the community of Cima where about 10 to 12 services can be provided by buried cable from the proposed Cima central office.

Public Participation Hearings at Baker, California on April 19, 1990

A PPH was held at 7:30 p.m. on April 19, 1990 in Baker, California to receive public input on the need for the proposed service in or near the communities of Cima, Ivanpah, and Goffs.

The PPH started with an opening statement by Preston Ewing detailing applicant's proposed service to the Cima exchange, and its history of service to other rural areas of California in Fresno and Madera Counties. Ewing explained that Ponderosa serves elevations from Friant, at 400 feet above sea level, to above Big Creek at about 9,000 feet above sea level. He explained how Ponderosa planned to use IMM Ultraphone digital radio systems to provide affordable service to the 100 potential customers spread out over the 1,400 square mile Cima exchange. With 56 employees who have over 802 years of combined experience, Ewing made it clear that Ponderosa has the technical know-how to provide the proposed service.

Kristin Ohlson, counsel for Pacific, made the next opening statement regarding Pacific's protest of Ponderosa's application. She explained that Pacific now serves about 20 people in the small RIAs of Lanfair and Goffs which are within the proposed Cima exchange. She also said that Pacific had recently spent approximately \$1 million to upgrade the microwave and telephone facilities in the desert region from Baker to Danby and from Cadiz Summit to Goffs and Lanfair. Accordingly, Pacific did not think another telephone company should be permitted to serve those same areas.⁴

Staff counsel Lionel Wilson next gave an opening statement explaining the Division of Ratepayer Advocates's (DRA) review process for such applications. He described DRA's work on this application and its earlier involvement in a similar Citizens' application (A.89-07-019) which requested a CPCN to establish a new Ravendale exchange. Citizens application had recently been approved by the Commission.

⁴ Pacific later withdrew its protest to Ponderosa's application on September 28, 1990 (supra and Appendix B).

Testimony was then taken from six witnesses who expressed their needs for telephone service and, for some, their prolonged and heretofore unsuccessful attempts at obtaining service. Several of the six witnesses made statements on behalf of friends and neighbors who also needed exchange telephone service but could not be present that night.

Seventeen other people stated their needs for telephone service primarily for health, safety, security, business, and personal communications. Many of these people also included the names of neighbors, friends, and business acquaintances who had expressed an interest in obtaining telephone service.

The need for reliable telephone service for public health, safety, welfare, and security was best represented by the testimony of Michael Medina, an officer of the California Highway Patrol and a resident in the area, and by Robert Asmus, owner and operator of the Cima General Store, who has lived in the area for about 62 years.

Officer Medina testified as to both his personal needs and the general public safety needs for good telephone communications in the area of the proposed Cima exchange:

"Now, my wife and I just recently purchased some property, Round Valley Ranch. It's located on Round Valley Road.

"I'm also a California Highway Patrol resident officer out of Mountain Pass for the last seven years.

"I, too, firsthand have witnessed extended time of arrivals from emergency services, ambulances and such, all along the Kel Baker, Kelso, Cima, Cima Road, Morning Star Road, all through that area, because of lack of phone services. Usually, Union Pacific [Railroad] engineers call in the accidents for us.

"What the people are doing are using [the road] for Palm Springs or 29 Palms, they're using that as a short-cut. Instead of going through down around [Highway] 60 or 10 to I-15 and on

up, they're cutting across and taking that route.

"Now, what's happening is not just [U.S.] Marines. There is a lot of Marine traffic. They have a tendency to roll their vehicles over and such, as well as just your typical tourist, and we're not getting to them in time.

"Usually we can get a helicopter in there with no problem. Within about 20 minutes we can have somebody there, as long as somebody would phone it in for us, which they can't, so it's taking approximately an hour.

"I mean, let's just say some people have died. I'm a firsthand witness to that.

"Well, setting that aside now, for selfish reasons I would like to have phone service for my family, for emergency purposes mainly."
(Tr. pp. 35-37.

Asmus gave a detailed historical account of the ever-increasing need for telecommunications service in the area (Tr. pp. 52-65) and recounted some of his experiences due to the lack of such service. A synopsis of that testimony is as follows:

"I have been there [62] years in the East Mojave area, and in the old days we didn't need telephones as bad as we do now because we didn't have the influx of visitors that come out there, people who don't know the country. And, as other witnesses have already said, they have not learned how to drive on the back roads. They don't realize that there's gravel roads under their tires, and almost every weekend we have a rollover someplace, especially in the Cedar Canyon area.

"There's no way to get to a phone. My wife and I found a woman lying in the Black Canyon Road several years ago, bleeding internally. There was no one else around, just the overturned car and the woman laying in the middle of the road. We found later there was another man and an infant. They had walked to the campground for help.

"But we found her there. I had to go 25 miles to Kelso. I left my wife there to keep the woman's head turned so she wouldn't choke on her own blood.

"When I got to the Kelso phone, I even had a difficult time getting the call through. It was wintertime. I was wearing coveralls. I had my wallet in my Levi pockets, and I was in this little phone booth. In the excitement of the moment, I couldn't remember my credit card number, and Pacific -- at that time it was Pacific Telephone, not Pacific Bell, same company --- but the operator wouldn't put the call through without the credit card number.

"I said but this is an emergency. The woman is probably dying. I want to get this call through. Please put the call through to the ambulance in Baker, and then I will get you my card number after the call.

"She said, I'm sorry, we can't do that.

"Well, I got pretty violent with some language. Finally, she put the call through. After I got the ambulance on its way I gave her my number, and when I got the bill the next month, it was a lousy 65 cents. The woman is dying and Pacific Bell is quibbling over 65 cents. But I can verify everything else everybody else has said about Pacific Bell. And I have a big file here of correspondence with Pacific Bell, dating back 15 years, when I've been trying to get telephone service from them, and they haven't done anything for us.

". . . I was told verbally they weren't interested in providing any service that didn't make a profit for the stockholders. That was 20 years [ago] I was told that.

"I had a chance one time to -- Union Pacific Railroad had a circuit out of copper wire on the poles that had been used as a hot box detector, which is a device to find the hot wheels on the trains, and they were no longer using this. They had abandoned it. The line was still there. They were going to sell it for the salvage value of the copper, which was

about \$6,000 for the 18 miles, two lines of copper, down to where it crossed Pacific Bell lines at Kelso....

"I contacted Pacific Bell. All I wanted to do was get a public phone at the Cima store and post office because that's where people come to and report accidents all the time and there's no telephone.

". . . They said that if I would buy the line for \$6,000 and give it to them for one dollar, they would put in a phone.

"Well, I couldn't see that. I figured if I was going to put \$6,000 in, I wanted to own the system myself. And I was -- I even got things where I tried to apply to the PUC for a little company just in Cima there, five miles diameter, just to get a pay phone there.

"And I was in the process of filling out the applications forms for PUC when Pacific Bell said oh, no, you don't need to do that, we'll take care of it, we'll buy the wire.

"They changed their whole attitude when they saw I was intent on doing something.

"And so then I had arranged a meeting between Union Pacific representatives and Pacific Telephone representatives at Kelso. We all met. Everybody shook hands. It was agreed that they would buy the line, and they said to me you will have a public phone at the Cima store. And they said you'll have a phone there within 90 days. That was six years ago. Nothing has ever been done.

"No, I think someone else said here just recently that Pacific Bell has had its chance, and I subscribe to that, because they have had their chance." (Tr. pp. 53-56.)

"There's a tremendous amount of traffic through there now, as I think Marilyn Smith mentioned, or someone mentioned just before this. People cutting through there on the way to Las Vegas. The Marines from 29 Palms Base, every Friday evening and every Sunday evening the little

road going through Cima is almost like a freeway when they turn the Marines loose and they go through there. Those boys have a heavy foot on the accelerator. There's rollovers there all the time.

"My daughter drives a school bus, and she ran across a bad accident, with the Marines dead over on the KelBaker Road one time. No way to call anybody. No phones available.

"And we have Palm Springs people now coming through there now on the short-cut to Las Vegas. You see stretch limousines going through Cima, which is an unusual sight.

"Now we've got the National Scenic Area, East Mojave National Scenic Area, which is bringing more people, and the proposal, of course, to make a national park, which we, of course, are opposing that.

"But, nevertheless, the people are coming in there, and there's a great need for phones for safety reasons.

"Like I say, we got along without phones in the early years because...no one was there, except the people who lived there, and therefore, we knew how to handle ourselves. We didn't get into trouble as much as the influx of visitors that do come in there. People who don't know anything about the desert and they get into trouble.

"And I think someone mentioned, just mentioned the Mojave green rattlesnake, a very vicious snake. They have a double acting poison. It affects the muscles and nerves both. They're an aggressive snake. They don't want to get away. They want to fight immediately. It's a very dangerous situation to have no way of getting help.

"... Of course, the automobile accidents are the worst of all. Just this last Easter week we had two rollovers on Cima, on Black Canyon Road just about where it joins Cedar Canyon Road. Same place that my wife and I found the woman laying bleeding to death."

* * *

"I once drove 120 miles one morning to make a phone call because every phone I came to was out of order. By the time I added up my mileage until I reached a phone that was working and got back home again it added up to 120 miles. Ordinarily I have to drive only 40 miles, 40-mile round trip. I don't think Pacific Bell has been sincere in making any effort to provide service." (Tr. pp. 57-59.)

"And I, if I have a preference, I would say Ponderosa, because Pacific Bell has had its chance.⁵ A long time they've had a chance." (Tr. p. 59.)

Evidentiary Hearing Summary

The second and third prehearing conferences were held on November 1 and December 18, 1990, respectively. The evidentiary hearing was held in San Francisco on January 11, 1991.

The evidentiary hearing was delayed from April 1990 to January 11, 1991 to allow further staff review of the environmental data and associated field work of the environmental consultant to determine whether an EIR or a mitigated negative declaration would later be issued.⁶

5 Regrettably Robert Asmus died, of a heart attack, at the age of 69 during the summer of 1990 at his General Store in Cima without seeing the realization of exchange telephone service to the area. Some residents believe that with good telephone service he could have received life-saving assistance and might well be alive today. (Tr. p. 341 and correspondence.)

6 The CACD employed the services of EIP Associates (EIP); 150 Spear Street, Suite 1500, San Francisco, CA 94105 as its EIR consultants.

The evidentiary hearing yielded 147 pages of transcript. Three residents of the area and Scott Taylor, Chief of Staff to Assemblyman Paul Woodruff of the 61st California Assembly District, who represents approximately 400 residents in the area of the proposed Cima exchange provided additional testimony, and/or statements on the urgent need for telephone service.

Taylor read a statement on behalf of Assemblyman Woodruff in support of Ponderosa's efforts to provide the proposed service. Woodruff stated that while recognizing the need for adherence to the California Environmental Quality Act (CEQA) the Legislature did not intend that CEQA be used as a roadblock to providing these basic services. He referred to a statement from the initial study prepared by EIP that,

"...there is one public telephone approximately in the middle of the proposed [exchange] which is grossly inadequate coverage for such a large area, particularly for the reporting of emergencies and seeking response from essential services such as law enforcement, fire and medical teams. For these reasons it is very dangerous for this area to be without basic telephone service."

Woodruff further stated that:

"The residents of the East Mojave sought to bring telephone service to this area for over 30 years. They adequately support the current efforts to deliver service to them.

"I would very much like to see an agreement reached where any problems can be mitigated in a manner that will allow Ponderosa Telephone to provide cost effective telephone service to the area as soon as possible." (Tr. pp. 364-365.)

Testimony was then received from seven other witnesses, three for Ponderosa, one from IMM, two for DRA,⁷ and one (EIP associates) on behalf of CACD's Environmental and Resource Advisory Section. The testimony covered the economic, technical, policy, and environmental aspects of the proposed telephone services.

Eight exhibits were identified and subsequently received in evidence. Hearings were concluded on January 11, 1991 and this application was to be submitted upon receipt of the hearing transcript and three late-filed exhibits due on or before February 25, 1991.

On February 27, 1991, the Environmental and Resource Advisory Section of CACD wrote a letter to the assigned ALJ stating that:

"On February 20, 1991, CACD received a letter from the State Clearinghouse stating that the 30-day review period was closed and that there were no comments from the state agencies which had received the proposed Negative Declaration. To date, CACD has also received no comments to the proposed Negative Declaration. However, on February 25, 1991, CACD learned that some of the public agencies which were required to be served copies of the proposed Negative Declaration pursuant to CEQA Guidelines section 15073 had not, in fact, been provided such copies.

"In order to assure full compliance with CEQA, CACD is sending copies of the proposed Negative Declaration to the omitted agencies. All such agencies should receive a copy of the document by tomorrow. Pursuant to CEQA Guidelines section 15073(d), the agencies have 30 days to review the document. However, CACD is doing all that it can to have those agencies perform an expedited review if at all possible."

7 The testimony of a third DRA witness who prepared part of the DRA staff exhibit (Ex. 7a) was received by stipulation of the parties to its admission without his presence (Tr. pp. 463-468).

Submission was subsequently delayed to April 3, 1991, to allow receipt of CACD's comments (Late-Filed Ex. 8a) on the "Mitigated Negative Declaration-Initial Study" from the public agencies that were not timely served by the State Clearinghouse.

Proposed Rates for the Cima Exchange

In its second amendment to A.89-05-004, filed June 22, 1990, Ponderosa requested monthly rates of \$17.85 and \$33.90 for single-party residence and business services, respectively, in the Cima exchange. These proposed monthly recurring rates are comparable with rates for similar services in applicant's other exchanges.

DRA's Separations, Settlements and Rate Design witness, Dale G. Piiru, confirms that Ponderosa's proposed rates for the Cima exchange, "...are the same as Ponderosa's current local exchange rates on file with the Commission." (Ex. 7a, pp. 31-32.) Piiru observes that Ponderosa presently concurs in Pacific's intrastate access, intrastate intraLATA message toll service, and toll private line tariff schedules, and therefore is a participant in the state pooling process. He recommends that Ponderosa continue its concurrence in Pacific's relevant tariff schedules, including the intrastate settlement arrangements for its proposed Cima exchange, and that the Commission approve these arrangements.

Piiru also reviewed the Cima exchange and found no desirable calling patterns outside the exchange and no specific needs for free extended calling to any locations including Pacific's RIAs, at this time. Therefore, he recommended that any needs for extended area calling be studied after the implementation rate design (IRD) is in place in the New Economic Regulatory Framework proceeding (I.87-11-033).

Piiru recommends that Ponderosa conduct such a study after IRD is in place and that it distribute the results of its

study within 180 days after the effective date of the decision adopting Pacific's and Ponderosa's IRD in I.87-11-033. (Ex. 7a, p. 32.)

Establishment of a Toll Rate
Point for the Cima Exchange

Ponderosa agreed that the CPCN to establish its proposed Cima exchange be subject "...to the same conditions as set forth in D.90-03-033 with respect to the application of Citizens Utilities Company of California (Citizens) to establish its new Ravendale exchange in Lassen County." (Ex. 1a and Appendix C.) However, Ponderosa did not specify the criteria or method it would use to establish the toll rate point for the Cima exchange.

In response to questions from the ALJ, DRA technical witness Maurice F. Crommie did recommend that the toll rate point for the Cima exchange be co-located with the Cima post office. This practice that dates back to before 1920 and is consistent with D.90-03-033 noted above. (Tr. pp. 461-462.) Under this longstanding practice, Ponderosa would determine the vertical (V) and horizontal (H) coordinates of the Cima post office and use these to establish a new toll rate point for all incoming and outgoing message toll telecommunications.

Proposed Use of IMM BETRS
to Serve the Cima Exchange

Ponderosa has noted Citizens' successful use of the IMM BETRS (Ultraphone) digital radio equipment for its rural Ravendale exchange, and has determined that a similar application of the IMM Ultraphone would be economically advantageous in its proposed Cima exchange.

DRA's witness Crommie estimated that the cost of service per customer in the Cima exchange using conventional copper cable would be about \$41,861. (Ex. 7a, p. 24.) The cost of service using the IMM Ultraphone equipment is estimated at \$6,717 based on service to 87 customers scattered throughout the Cima exchange.⁸

The cost of adding an additional subscriber using the IMM Ultraphone equipment is about \$3,000-\$3,200 based on published data (Late-Filed Ex. 3a) and including a \$200 allowance for a subscriber antenna. The lower per-subscriber costs of \$3,000 to \$3,200 will be possible after the mountaintop radio repeater sites are in place and the Cima central office is built and equipped with IMM BETRS interface equipment.

These per-subscriber costs using IMM Ultraphones compare favorably with those in Ponderosa's other rural service areas such as the Big Creek exchange where per subscriber costs run \$4,055 to \$5,273 per access line (Ex. 7a, p. 24).

Therefore as previously noted in D.90-03-033,

"...the IMM radio option clearly presents an opportunity for Citizens to install an affordable system which can provide all the same customer service features that are available from copper cable pairs. The exception is that the customers will be required to provide electric power to maintain the radio equipment in standby-ready condition and for its operation during calls. Maslin testified that the IMM customer radio equipment uses about the same power as a 40-watt bulb during standby (75 watts when busy) and is equipped with batteries to maintain service for up to eight hours during power failures."
(D.90-03-033, p. 17, mimeo.)

⁸ Developed from the cost data for all radio equipment (excluding pay stations) listed in Table 2 on pages 16 and 16a of Ex. 7a (\$584,400). Therefore, the cost of a single-party service with an IMM Ultraphone is about 16% of the cost of a similar service by conventional copper cable.

In the current application, Ted Clair, Western Regional Sales Manager for IMM, testified that IMM had improved its subscriber radio equipment and that the new unit is about half the size of the old unit, with lower weight and a 50% reduction in power consumption.⁹ (Tr. pp. 386 and 393.)

Maintenance Costs of IMM BETRS Equipment

As noted above, the IMM BETRS Ultraphone digital radio system recommended by Ponderosa was proposed and successfully used by Citizens in A.89-07-019 for its Ravendale exchange. D.90-03-033, which granted the CPCN to Citizens to establish the Ravendale exchange, addressed the Commission's concern about potential maintenance costs since IMM is the sole supplier of the equipment. It also addressed the possibility that IMM would not remain in business throughout the 15-year projected useful life of that equipment.

In that proceeding IMM offered Citizens a previously unavailable "Extended Warranty Agreement" under which, for a 5% annual charge representing about \$134 per year for a typical customer unit costing \$2,684, IMM would service any defective units returned to its service center in Philadelphia. The transportation costs to and from the service center were to be borne by Citizens. The extended warranty included additional charges for on-site repairs or replacement of IMM equipment at the Cima central office or the mountaintop repeaters.

⁹ This information was confirmed by Late-Filed Exhibit 3a which describes the size, power consumption, and weight of the new subscriber unit. The new unit is smaller, weighs less than 15 pounds, and uses 17 watts in standby operation and 35 watts while transmitting. The power reduction is significant compared to the earlier unit which used 40 watts on standby and 75 watts while busy. The reduced shipping weight is also significant if a unit must be returned to the Philadelphia factory for service during its 15-year estimated life.

D.90-03-033 was somewhat critical of IMM's extended warranty charges but left it to Citizens management to contract service commitments with IMM for both efficient maintenance and premature abandonment of the IMM equipment.

IMM has since responded with a new reduced-cost Extended Warranty Agreement which it offered to Ponderosa by Late-Filed Exhibit 3a.¹⁰ The annual cost under the new agreement is based on 3% of the purchase price of the equipment. Thus, for a \$3,000 subscriber Ultraphone unit the current extended warranty now costs about \$90 per year.

Under the new agreement IMM places monetary penalties on local exchange companies who elect not to buy the "Extended Warranty Agreement" and later opt either to buy it, or in lieu thereof request one-time maintenance on specific equipment.

IMM asserts that it remains committed to long-term service and specifically states:

"The manufacturer of the Ultraphone system is Hughes Network Systems through an exclusive agreement between GM/Hughes and IMM. As a result of our strong position in the market and our relationship with GM/Hughes, IMM will remain committed to long-term support of the Ultraphone product and our customers.

"However, if future market conditions prevent IMM from supporting the Ultraphone equipment in a manner deemed appropriate, IMM will, at the customers' request, provide the necessary documentation to allow that customer to maintain the Ultraphone equipment." (Late-Filed Ex. 3a.)

10 See Appendix B.

**Sharing of Risk of Unforeseen Failure
of the IMM BETRS Radio System to Serve
the Cima Exchange**

Based on its analysis of the Citizens' application, decision, and installation success achieved at Ravendale, and on its own discussions with IMM, Ponderosa has agreed to accept a CPCN to establish the Cima exchange subject to the conditions set forth in D.90-03-033 for the Ravendale exchange.

Ponderosa accepts the provisions to assure the Commission that the IMM BETRS digital radio equipment will remain used and useful over its entire 15-year projected service life.¹¹

The total estimated investment in IMM BETRS equipment is about \$588,900¹² for service to 87 customers and three pay telephone stations in the Cima exchange. This investment, plus the cost of any additional IMM equipment needed to serve these or additional customers, is subject to the 50%/50% risk-sharing between Ponderosa's shareholders and ratepayers, over the 15-year period following activation of service to customers in the Cima exchange.

**Temporary Waiver of Installation
Charges for Telephone Services**

In D.90-03-033 the Commission granted Citizens' request for a one-time waiver of its usual installation and service order charges during the first 60 days after Citizens announced that it would take applications for service in the Ravendale exchange. The Commission allowed Citizens to waive the line extension charges for subscribers who were to receive service via BETRS radios. The request reflected the fact that no line extensions were required

¹¹ See Appendix A.

¹² Source Table 2, pp. 16-16a of Ex. 7a (all IMM radio equipment, 2 GHz Subscriber radio equipment, and 6' antennas).

for the IMM Ultraphones. Therefore, the value of the waiver of the usual one-time charges totaled \$44 and \$59 for basic one-party residence and business services, respectively.

Ponderosa's comparable service order, central office, and premise visit charges total \$59.75 for new residence and business services alike.

Crommie, in response to questions from the ALJ, recommended that the Commission also authorize Ponderosa to waive, on a one-time basis, all line extension, service establishment, and premise visit charges as it had for Citizens in D.90-03-033. (Tr. p. 460.) Ponderosa had already accepted the same conditions that the Commission adopted for Citizens in D.90-03-033 as set forth in Exhibit 1a.

The one-time waiver of these charges will enable Ponderosa to better coordinate its installations of services while its construction and installation crews are still working in the Cima area rather than to have other crews make individual trips to Cima.

**Environmental Impacts and Proposed
Mitigated Negative Declaration**

The proposed Cima exchange telephone service system will be located within an approximately 1,400 square mile portion of the eastern Mojave Desert Scenic Area of San Bernardino County. Accordingly, it was necessary under Rule 17.1 of the Commission's Rules of Practice and Procedure (Rules) for Ponderosa to prepare a Proponents Environmental Assessment (PEA), as a part of its request (application) for a CPCN.

As part of its "Second Amendment to Application" Ponderosa filed its PEA on June 22, 1990. In its review of the PEA, on behalf of the Commission, CACD retained a consultant, EIP Associates (EIP), to conduct an initial study of the proposed

service plan. During that study¹³ Ponderosa responded to questions and data requests by the CACD and its consultant. Ponderosa filed a revised PEA on September 5, 1990 and a supplement to the revised PEA on September 21, 1990.

CACD carefully reviewed the impacts of the proposed project and studied alternatives to the project. The alternatives involved other locations for the radio base stations and repeater sites which had been recommended by Ponderosa. However, the proposed system requires a clear line of sight between radio station antenna towers and the repeater sites. Two alternative mountain repeater sites were eliminated from consideration because they were too low in elevation and did not present a clear line of sight. Ponderosa then selected its four recommended sites based entirely on system coverage requirements.

Since the cost of providing exchange telephone service by conventional buried copper cable (approximately \$41,861 per customer) is generally uneconomic except for those customers very near the Cima central office, there was no reasonable alternative project. Therefore, the remaining choices are to build the project as proposed or not to build it at all.

With the project clearly defined, CACD, as part of its initial study, discussed the potential environmental impacts in an 11-page checklist (Late-Filed Ex. 5a, pp. 68-79). Thereafter, CACD and its consultant prepared a "Mitigated Negative Declaration Pursuant to Division 13 California Public Resources Code."¹⁴

13 The EIP study, which contains 80 pages of text and numerous appendices, represents a significant review of the potential impacts of this project and reasonably assesses the measures needed to mitigate the negative impacts noted. (See Appendix F.)

14 See Appendix F for the proposed Mitigated Negative Declaration and Conditions of Approval contained in Late-Filed Ex. 5a.

Late-Filed Ex. 5a was identified at the January 11, 1991 hearing and was filed on January 18, 1991. A preliminary version of that study was circulated for the parties to review for the cross-examination of EIP's Project Director William F. Dietrich.

Ponderosa accepted the measures and conditions contained in the Mitigated Negative Declaration with two exceptions:

1. The proposed relocation of the 100-foot tower at Cima.
2. The need for mechanical air conditioning for the mountaintop repeaters to cool the IMM equipment.

Should the Proposed 100-foot Antenna
Near the Cima Central Office be Relocated?

Frank Fish, Ponderosa's consulting radio engineer, selected the particular antenna site at Cima to provide effective radio propagation to the mountaintop repeater sites. CACD, as part of its Mitigated Negative Declaration, recommends, as its preferred alternative, that the Cima antenna tower be co-located with the existing Union Pacific Communications (UP) tower. No study was done to determine if co-location is technically feasible; instead, CACD suggested a second alternative of moving the proposed new tower to a location outside of the viewshed of Cima Road. There is no evidence on the record to suggest that equally effective radio propagation will result when the antenna tower is moved, as suggested in Paragraph 9.b. of Ex. 5a (see Appendix F), to the "...north or northeast side of the proposed hill site, near the proposed access route outside of the viewshed of Cima Road..."

Lori Lee Brown has lived much of her life near Cima and is now a senior at Humboldt State University studying environmental resource engineering and biology. She emphasized the technical benefits of the Cima antenna tower as contrasted to its visual impact as follows:

"When we talk about the aesthetic value of the tower in Cima, California, we also have to note

that there are ways that we can engineer a system in order to aesthetically blend into an environment.

"When we look at the aesthetic value of the tower in Cima, California, we wouldn't be looking at the tower as a negative thing. We would be looking at it as being a safe thing.

"It is like a hospital, a great big blue hospital being out in the middle of downtown L.A. We don't think gosh, that is an ugly building. We think that is a place that really helps someone. That is a place that helps something. That's a necessity." (Tr. pp. 351-353.

CACD, as part of Late-Filed Ex. 8a, dated April 3, 1991, included comments received in a letter dated March 6, 1991, from the Land Management Department of the County of San Bernardino (LMDCSB), primarily regarding visibility of antenna towers. Exhibit 8a also includes CACD's response to the comments received.¹⁵ LMDCSB recommends that the Commission require that Ponderosa obtain a "Conditional Use Permit" from San Bernardino County before constructing any of the antenna facilities, buildings, and access roads needed to provide telephone service in the Cima exchange. CACD's response addressed the concerns raised by LMDCSB and made recommendations for modest revisions to the Mitigated Negative Declaration as it deemed reasonable and necessary. Thereafter, on April 15, 1991 the ALJ, after mailing his "Proposed Decision," received a letter dated April 12, 1991 from the LMDCSB withdrawing its request that the Commission require Ponderosa to obtain a "Conditional Use Permit" from San Bernardino County. Specifically, LMDCSB stated:

¹⁵ See Appendix H to review all comments received on the Mitigated Negative Declaration and CACD's responses to those comments.

"[T]he County has determined that a separate CUP application is not necessary solely to address those issues/concerns previously identified by the County. It appears our concerns will be reviewed and addressed as part of the Public Utilities Commission process. This process would meet the 'Alternate Review Procedure' requirement specified in Section 84.0405 of the San Bernardino County Development Code, and in effect, be the equivalent of our CUP process." (LMDCSB April 12, 1991 Letter, p. 1.)

Air Conditioning Equipment May No Longer
Be Needed At Mountaintop Repeater Sites

Based on the initial information on the IMM radio equipment to be used in the mountaintop repeaters, Ponderosa's consultant believed that mechanical air conditioning would be required in the small equipment enclosures (buildings) to meet IMM's equipment specifications in summer weather. Fish explained to the ALJ that he specified air conditioning because the IMM equipment required it. He stated:

"Normally, unless it's a big repeater [mountain] top site up there, we don't provide air conditioning." (Tr. pp. 416-417.)

Accordingly, Ponderosa was asked to consult with Clair and IMM and then submit Late-Filed Ex. 4a to explain whether IMM could supply Ponderosa with certain mountaintop repeater equipment that would operate in the specific locations without air conditioning.

In Late-Filed Ex. 4a, dated March 15, 1991, IMM hedges somewhat by specifying its repeater operating temperature limits as +40°F to +100°F on a long-term basis and +36°F to +120°F on a short-term basis. However, IMM did state that:

"IMM believes that its equipment is suitable for use in Ponderosa's Cima exchange project and further substantiates this belief through its Extended Warranty Program."

Without knowing the specific environmental (temperature) conditions in the mountaintop shelters suggested by Ponderosa, IMM did not want to speculate on the guaranteed performance of its equipment. However, IMM appears to be willing to allow Ponderosa to install and operate its equipment in naturally ventilated shelters (without mechanical air conditioning) to obtain a long-term field trial in those specific locations. There is apparent optimism that these units will operate without mechanical air conditioning at those locations.

We again applaud IMM for working with Ponderosa in an attempt to reduce Ponderosa's potential need for fuel and generators at the mountaintop repeater sites in the Cima exchange. If successful, as now proposed, such operation exclusively with solar energy at the repeater sites would not only be more environmentally sound, but would also greatly reduce Ponderosa's cost of operation and maintenance of these remote facilities.

Discussion

1. Noncontroversial Issues

Based on public input, Ponderosa's request for a CPCN to establish a new Cima exchange to serve about 100 customers in the sparsely settled areas of the eastern Mojave Desert of San Bernardino County is long overdue. The Cima exchange will include about 1,400 square miles of unfilled territory encompassing the area south of Interstate Highway 15 and north of Interstate Highway 40, east of the community of Kelso and extending to the California-Nevada state line.

Telephone service to this area is necessary for the health, safety, and welfare of the residents and the traveling public. Telephone service is also needed to expedite business, agricultural, and mining transactions and to improve commerce generally in the area. The proposed exchange service will also provide the convenience of free local calling and a 911 Universal

Emergency Reporting Service number for the personal convenience and public safety needs of area residents.

By this order, we will grant a CPCN to Ponderosa to establish its new Cima exchange. All parties agree that telephone service to the area is vitally needed and that the uniform rates recommended by Ponderosa and DRA are reasonable.

Ponderosa is also authorized to establish a toll rate point for the Cima exchange based on the V and H coordinates of the Cima post office as recommended by the DRA. Ponderosa's concurrence to accept the same conditions which the Commission had adopted for Citizens in D.90-03-033, including a temporary one-time waiver of the service establishment and premise visit charges within 60 days after Ponderosa gives notice that it will take applications for exchange service in the area, is also reasonable.

Ponderosa also agreed to share the risk of unforeseen failure of the IMM BETRS radio system in the same manner as we adopted for Citizens by D.90-03-033 where we stated that:

"For Citizens' customers the BETRS radio system will allow prompt installation without the need for line extensions, and in most cases costly line extension charges, from the nearest state or county road to the premises. All of these benefits will keep first costs affordable for both Citizens and its customers and will allow the utility to delay construction of wireline facilities until customer growth takes place within the exchange and sufficient customer demand develops to permit the installation of the cable at or about the cost it now experiences in its other more populated exchanges. [Footnote omitted.]

"The IMM BETRS digital radio system also permits the customers to choose any regularly offered telephone service available from Citizens and still expect the same quality of service that is available to Citizens' customers served by wireline." (D.90-03-033, pp. 29-30.)

After addressing the requirement for factory service of the IMM Ultraphone units, we concluded in D.90-03-033, that the cost benefits of using IMM equipment clearly outweighed its disadvantages. Nonetheless, the possible risk that IMM would not continue in business for the full 15-year planned useful life of its equipment remained a concern to us. Accordingly, we adopted a 50%/50% risk sharing plan between Citizen's shareholders and its ratepayers. (D.90-03-033, pp. 31-33.)

A similar treatment of Ponderosa's planned investment of approximately \$588,900 in IMM equipment appears to be reasonable for such 50%/50% risk sharing. This would essentially place Ponderosa at a risk that it can most likely control, involving a first year amount of approximately \$294,450. This risk would be fully avoided at the end of 15 years of continued service, and normal and routine reasonable maintenance costs will be allowed.¹⁶

We again express our appreciation to IMM for its interest and cooperation in presenting testimony at the public hearings to explain its products, their applications, strengths and weaknesses, and its proposed long-term support for those products. We also applaud IMM's efforts in reducing the physical size, weight, and power consumption of its subscriber "Ultraphone" units, as well as the cost reduction of its extended warranty program from 5% to 3% of the purchase cost per year following the regular one-year factory warranty.

¹⁶ Any IMM BETRS Ultraphone digital radio, removed from service when cable facilities become available, or when a customer discontinues service, can and should be used to serve another customer in some other sparsely settled area. Accordingly, Ponderosa should take necessary steps to assure that removed Ultraphone units are handled with care upon removal, tested for serviceability after any needed repairs, and placed in clean and dry ready storage for reinstallation.

2. Waiver of Line Extension Charges

Because Ponderosa will serve the bulk of the Cima exchange with IMM radio equipment, it has not proposed to apply line extension charges for any service in that exchange.

We concur that the one-time waiver of line extension, service establishment, and premise visit charges is reasonable while its crews are in the Cima exchange. However, unlike Citizens' new Ravendale exchange which is located within an hour's drive from a Citizens service center, the Cima exchange is quite remote from Ponderosa's service areas in Fresno and Madera Counties. Therefore, Ponderosa may wish to consider the need for a Special Circumstances Installation Charge for future individual installations of IMM BETRS Ultraphone subscriber units. Such a charge would apply to installations sought after the expiration of the initial one-time waiver offer.

Any regular charge proposed by Ponderosa for installation of individual IMM BETRS Ultraphones should be cost-based and should include only the average out-of-pocket expenses incurred by Ponderosa for travel, lodging, and incidental costs associated with installing an individual Ultraphone. To invoke such a "Special Circumstances Installation Charge" for IMM BETRS subscriber units in its Cima exchange, Ponderosa must first file an advice letter with an appropriate tariff revision under the provisions of General Order 96-A and include cost justification with its filing.

We do not adopt any specific charge herein, because we have no evidence on which to base such a charge.

3. Potential Exceptions to the Mitigated Negative Declaration

a. Location of Antennas

A substantial amount of time, energy, attention, and concern has been devoted to review of the potential visual impacts of the antenna tower needed at the Cima site. No one who is awaiting the vitally needed telephone service, raised a single word

against siting a new and potentially quite visible antenna tower at Cima. In fact, some spoke of it as an object of beauty (supra).

Nonetheless, LMDCSB's concerns, about visual impacts, as stated in its March 6, 1991 comments on the Mitigated Negative Declaration, have some validity. While we will not apply restrictions to unnecessarily delay Ponderosa's provision of telephone service in the Cima exchange we will require it to co-locate with UP if it is economically practical and technically feasible to do so.

Accordingly, we will require Ponderosa to study the economical viability and technical feasibility of co-locating the tower in a manner that does not interfere with either its own telephone communications or the communications of UP. If it is technically feasible to do so, then we encourage UP to allow sharing of its antenna tower with Ponderosa for a reasonable one-time cost plus sharing of annual maintenance expenses or alternatively a reasonable annual lease payment.

If co-location is not feasible and the proposal to hide the antenna from the viewshed of Cima Road is equally impractical, we will then require Ponderosa to paint the tower and the noncritical antenna parts to blend in with the desert landscape and the sky. This is possible, since the antenna is not located in the vicinity of an airport runway, which could otherwise require special visible marking and lighting under Federal Aviation Administration regulations.

b. Air Conditioning At Mountaintop Repeater Sites

IMM has offered to work with Ponderosa to permit it to use its BETRS radio repeater equipment in naturally ventilated shelters (without mechanical air conditioning). Therefore, we will direct Ponderosa to not install mechanical air conditioning at its mountaintop repeater sites, unless, after extensive operational testing, it finds that the IMM equipment cannot be made to operate reliably without it.

4. Comments: ALJ's Proposed Decision

In accordance with PU Code § 311, the ALJ draft decision prepared by ALJ George Amaroli was issued on April 15, 1991. Timely comments on the proposed decision were filed by Ponderosa and DRA. No timely reply comments were filed.

In its comments, Ponderosa noted its concurrence with the vital and urgent need for exchange telephone service throughout the 1,400-square mile area proposed for the Cima exchange. Ponderosa also noted that exceptions to the mitigated negative declaration contained in Appendix F are critical to the viability of establishing telephone service in the proposed Cima exchange. Ponderosa then called attention to the fact that LMDCSB wrote to the assigned ALJ [on April 12, 1991] withdrawing its prior request that "...Ponderosa be required to submit an application for a conditional use permit." Accordingly, "Ponderosa requests that the Commission update the Proposed Decision to reflect the current views of San Bernardino County."

DRA noted a reference error regarding one of its witnesses, and made a similar request to that of Ponderosa that we correctly refer to the current position of LMDCSB and modify the decision accordingly. DRA also requested that Ordering Paragraph 1 granting the CPCN to Ponderosa be "...conditioned on the applicant's compliance with Ordering Paragraph No. 11...."

Ponderosa's and DRA's statements, notes, and references are correct, and their respective requests are reasonable. Accordingly, this order has been revised to incorporate the requested modifications. We are also making minor textual revisions and corrections to this order.

Apart from the modest changes, noted above, we are of the opinion that the ALJ's proposed decision constitutes a fair, factual, and thorough resolution of the remaining issues in this proceeding. Therefore, we will adopt the ALJ proposed decision without further changes to the results reached therein.

Findings of Fact

1. By its "First Amendment to Application" filed jointly with CN on February 6, 1990 Ponderosa requested that it be substituted as the applicant for A.89-05-004, and that a CPCN be authorized to establish a new Cima exchange in the sparsely settled areas of the eastern Mojave Desert of San Bernardino County.

2. By a second amendment to A.89-05-004 filed June 22, 1990, Ponderosa revised the boundaries of its proposed Cima exchange to include approximately 1,400 square miles of unfilled territory, encompassing the area south of Interstate Highway 15, north of Interstate Highway 40, east of the community of Kelso, and extending to the California-Nevada state line.

3. Approximately 100 potential customers in the proposed Cima exchange need and are awaiting telephone service.

4. Ponderosa proposes to provide individual line (one-party) exchange telephone service to all prospective business and residential customers in the new Cima exchange. Ponderosa also proposes to make available all of the service features it customarily provides in its other exchanges.

5. Ponderosa proposes to use a modern digital central office at Cima to serve about 11 subscribers with buried cable (near the central office) and approximately 87 subscribers throughout the exchange using BETRS technology.

6. The proposed rates and charges to telephone services in the Cima exchange are uniform and consistent with those offered in Ponderosa's other rural exchanges as set forth in Appendix G to this order. Cima exchange telephone service is also subject to all other regulatory required surcharges applicable to Ponderosa exchange telephone service, and Cima exchange telephone service subscribers will be eligible to qualify for Universal Lifeline Telephone Service pursuant to Ponderosa's tariff Schedule A-26, "Universal Lifeline Telephone Service."

7. Historical estimated costs of providing exchange telephone service with traditional copper cable to the area now proposed for the Cima exchange were considered uneconomic by

Pacific, which provides telephone service to neighboring communities.

8. The current estimated cost of landlines to serve a potential customer in the new Cima exchange is nearly eight times greater than that in Ponderosa's Big Creek exchange (\$41,861 versus \$5,273).

9. Pacific had once agreed to provide a public pay telephone at the Cima General Store & Post Office using 18 miles of abandoned railroad communications circuits, but in the subsequent six years it has not yet installed the service.

10. Pacific initially protested this application, but later withdrew its protest after Ponderosa amended its application on September 5, 1990 and made it clear that it would not include Pacific's RIAs in its Cima exchange.

11. Exchange telephone service is vitally needed throughout the 1,400 square mile area proposed for the new Cima exchange.

12. Currently there is no telephone service available for the safety, convenience, and welfare of the residents and the traveling public or for the mining, agriculture, and other business activities in the area of the proposed Cima exchange.

13. Because of the urgent and longstanding need for telephone service, Ponderosa, when asked, voluntarily examined cost-effective alternatives to the uneconomic use of traditional landwire services and now proposes to use IMM BETRS digital radio equipment based on affordable first costs.

14. The IMM BETRS digital radios will provide equal privacy of communications and the full array of service features normally available to customers on landwire systems.

15. Subscribers in the new Cima exchange would have to provide standby and operational electric power for the BETRS customer Ultraphone units.

16. The IMM BETRS system's expected service life is 15 years, or about half that of traditional copper landlines.

17. The IMM BETRS digital radio system including the customer Ultraphone units is available from a single source manufacturer/supplier, IMM.

18. Neither the IMM BETRS digital radio system modules and circuit boards used in the utility's central office nor the customer's Ultraphone unit can be repaired in the field; they must be returned to the factory for any required maintenance.

19. There is a risk that replacement units and modules may not be readily available to Ponderosa for the 15-year useful life of the IMM BETRS system if IMM should fail to, or decide not to, remain in that business for the next 15 years.

20. Whereas in the early years the net investment risk for IMM equipment is large, it declines to zero after the end of the expected 15-year life.

21. For equity reasons, the investment risk may be reasonably apportioned to Ponderosa's shareholders and its customers in a manner similar to that adopted for Citizens by D.90-03-033 which granted it a CPCN to serve the Ravendale exchange with IMM equipment.

22. Risk sharing has the distinct advantage of encouraging Ponderosa to make well-reasoned purchase decisions and contractual agreements with IMM, which will permit it to maintain the IMM BETRS system, down to the failed components, should IMM terminate its factory service operations.

23. IMM, in its February 12, 1991 letter accompanying Late-Filed Ex. 3a, did offer to provide documentation necessary to allow Ponderosa to maintain the BETRS Ultraphone system should it discontinue its factory service.

24. To provide long-term system reliability, which will benefit both Ponderosa and its ratepayers, it is in Ponderosa's interests to arrange to buy peculiar spare parts for the IMM BETRS Ultraphone from IMM, when and if the latter discontinues its factory service; this will enable Ponderosa to maintain the equipment rather than to abandon it prematurely.

25. A 50%/50% sharing of risk between Ponderosa's shareholders and ratepayers for its proposed net investment in IMM BETRS equipment, depreciated over a 15-year service life, is reasonable and equitable under Ponderosa's current ratemaking methods.

26. Ponderosa has agreed to accept its CPCN to establish the Cima exchange subject to the same conditions adopted for Citizens by D.90-03-033 for that utility's Ravendale exchange.

27. The IMM BETRS digital Ultraphone systems seems ideally suited for use in an application of state-of-the-art radio facilities to serve widely scattered subscribers in the proposed Cima exchange area.

28. The uniform rates and charges proposed by Ponderosa and the DRA for telephone services in the Cima exchange, as set forth in Appendix G hereto, are reasonable.

29. A temporary one-time waiver of service establishment and premise visit charges associated with services, applied for within a 60-day period following notice that applications for new services will be taken, is reasonable.

30. A waiver of Ponderosa's line-extension charges to customers served with IMM BETRS digital radio systems in its new Cima exchange is reasonable, since few, if any, line extensions will be needed with these radio systems. Such a waiver is also consistent with a similar waiver adopted for Citizens' new Ravendale exchange, by D.90-03-033.

31. Ponderosa has the technical ability and financial resources to establish a new Cima exchange, as proposed in A.89-05-004, without adverse effects on its current telephone subscribers.

32. There are no remaining protests to this application; accordingly it can be decided on its own merits.

33. The use of the V and H coordinates of the location of the Cima post office to establish a new toll rate point for all incoming and outgoing message toll telecommunications is reasonable

and consistent with the longstanding practice of the telephone industry.

34. The mitigating measures necessary for adopting a "Negative Declaration" to assure that no significant negative impacts to the environment will result from the authorization of the CPCN, requested by Ponderosa, have been clearly identified and are set forth in Appendix F hereto.

35. Adequate notice of the new Cima exchange services will benefit Ponderosa by increasing the number of timely applications for these new services.

36. Reasonable and adequate notice will most likely reduce or eliminate entirely any future complaints alleging a lost opportunity to receive the one-time waiver of service connection and premise visit charges associated with the initial offering of services.

Conclusions of Law

1. Ponderosa's request for a CPCN to provide exchange telephone service to the new Cima exchange should be granted to help meet the longstanding public safety, commercial, and public convenience needs for telecommunications services.

2. Ponderosa's proposed use of the new technology of IMM BETRS Ultraphone digital radio systems to serve the widely separated customers in the Cima exchange could present risks of premature failure during the expected 15-year equipment service life, and therefore its use should be authorized on a risk-sharing conditional basis.

3. Ponderosa by its contractual agreements with IMM should establish maintenance alternatives to eliminate or reduce the risks of premature abandonment of the IMM equipment.

4. Because it now has the capacity to protect itself with contractual purchase commitments with IMM, Ponderosa should share the risk of any premature abandonment of the IMM BETRS equipment with its ratepayers.

5. Ponderosa's ratepayers will benefit from the reduced investment in plant and thus should share the risk of premature

abandonment of the IMM BETRS equipment with Ponderosa's shareholders.

6. The risk for the IMM BETRS system net investment should be split on a 50%/50% basis between Ponderosa and its ratepayers and should be amortized over the 15-year useful life projected for that plant property.

7. DRA's proposed uniform rates and charges for exchange telephone services for the new Cima exchange, accepted by Ponderosa and as set forth in Appendix G hereto, should be adopted.

8. Ponderosa's proposal to waive line-extension charges to prospective customers who are to be served by IMM BETRS digital radio systems should be authorized.

9. A one-time waiver of Ponderosa's service establishment and premise visit charges should be authorized if service is applied for within 60 days following notice that applications for new services will be taken.

10. Approval of this application should have no significant impact on the environment, provided that Ponderosa constructs the facilities to serve the Cima exchange in a manner consistent with, and under the mitigated conditions set forth in this order, and in Appendix F, and with consideration of the comments noted in Appendix H, to this order.

11. The V and H coordinates of the location of the Cima Post Office should be used to establish the toll rate point for the new Cima exchange.

12. Because of the longstanding urgent need for exchange telephone service in the area proposed for the Cima exchange, where 100 potential customers are awaiting that service, this order should be made effective today.

13. The application should be granted to the extent set forth in the following order.

ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to applicant, The Ponderosa Telephone Company (U-1014-C) (Ponderosa), conditioned on the applicant's compliance with Ordering Paragraph 11 to:

Establish a new Cima exchange in San Bernardino County, California to include about 1,400 square miles of unfiled territory, generally encompassing the area south of Intrastate Highway 15 and north of Interstate Highway 40, east of the community of Kelso and extending to the California-Nevada state line to serve approximately 100 or more new customers with exchange telephone service.

2. Ponderosa is authorized to file an advice letter with associated tariff sheets containing the same rates and charges for exchange services to its new Cima exchange as set forth in Appendix G to this order. Cima exchange telephone service is subject to all surcharges regularly required by this Commission for exchange telephone service. Cima exchange telephone service subscribers will also be eligible to qualify for Universal Lifeline Telephone Service pursuant to Ponderosa's tariff Schedule A-26, "Universal Lifeline Telephone Service."

3. The advice letter and associated tariff sheets described in Ordering Paragraph 2 above shall also include a service area map similar to that contained in Appendix A to this order for Ponderosa's new Cima exchange, and shall be filed in compliance with the provisions of General Order (GO) 96-A after the effective date of this order. These tariff schedules shall apply only to service rendered after their effective date which shall be at least 5 days after filing.

4. Since Ponderosa plans to use IMM BETRS Ultraphone digital radio systems to serve most of its prospective customers in the new

Cima exchange, it is hereby authorized to waive its usual line-extension charges to applicants for new services within that exchange.

5. Because of the significant investment in IMM BETRS digital radio equipment and the need to assure that this equipment will remain used and useful over its entire 15-year projected life cycle, Ponderosa's shareholders shall be placed at risk along with its ratepayers on a 50%/50% basis for the net investment in that equipment amortized over a 15-year period.

6. To reduce its risk for possible abandonment of the IMM BETRS equipment, Ponderosa shall, in its equipment purchase contract with IMM, include a written condition that, should IMM for any reason discontinue offering factory service on the BETRS Ultraphone equipment and any related spares, IMM will give Ponderosa the necessary documentation, together with reasonable quantities of any peculiar spare parts and nonstandard supplies or test equipment, to allow Ponderosa to maintain the IMM BETRS equipment itself. Ponderosa shall also seek a condition which will, in that event, require IMM to provide the necessary documentation without charge and the spare parts at the standard trade net quantity prices with Ponderosa paying the shipping charges from IMM's factory service center or warehouse.

7. While we will not require any new reports from Ponderosa at this time, we place it on notice that it should maintain proper accounting, including any necessary memorandum accounts, to permit it to file future reports as may be required on the investment depreciation, amortization, and maintenance expenses associated with the use of IMM BETRS Ultraphone digital radio systems in its Cima exchange.

8. Ponderosa is authorized on a one-time basis, to waive its service establishment and premise visit charges to new applicants for a period not to exceed 60 days following its notice that applications for new services will be taken throughout its new

Cima exchange. Ponderosa shall, however, first inform the Chief of the Telecommunications Branch of our Commission Advisory and Compliance Division (CACD) by letter of the beginning and ending dates of this one-time waiver of charges.

9. Within 30 days after this order is effective, Ponderosa shall file a written acceptance of the certificate granted in this proceeding; without such filing, the authority granted by this certificate may be revoked.

10. Ponderosa is authorized to establish a new toll rate point using the V and H coordinate method at the location of the post office in Cima. Ponderosa shall arrange with Pacific Bell to include the applicable V and H coordinates for the Cima exchange in Pacific Bell's next tariff filing containing revisions of V and H coordinates.

11. Ponderosa shall fully comply with the mitigated negative declaration contained in Appendix F to this order with these two exceptions:

- a. If Ponderosa can purchase radio equipment that does not require mechanical air conditioning for its remote mountain top repeater sites, it shall do so and thus avoid the added cost of the mechanical air conditioning and associated noise mitigation measures, and potential fuel requirements.
- b. The function of the 100 ± foot antenna tower at or near the Cima central office is to communicate effectively with the mountaintop IMM repeater sites, and with microwave toll routes. Therefore, if Ponderosa determines that it cannot reasonably co-locate its antennas on the existing Union Pacific Communications tower and that the alternative locations suggested in Appendix F after field strength measurements do not provide effective and adequate radio frequency propagation needed for clear communications, Ponderosa may then locate its proposed tower as it recommended. But

it must paint the non-critical parts of the antennas and the tower with colors that blend in with the desert scenery and the sky so as to reduce the visual impact.

12. Ponderosa shall, when ready to take applications for the new services authorized herein:

- a. Issue a press release to the local newspaper(s) serving the Cima service areas, describing the introduction and availability of new exchange telephone services for those areas, and stating therein the date(s) when applications will be taken for such services under terms including the provisions set forth in Ordering Paragraph 8.
- b. Place at least four bi-weekly notices in the same newspapers during the subsequent 60 days to inform the general public that it is taking of applications for the new exchange telephone services, under the terms and conditions set forth in this order, including the time limit associated with the waiver of service connection and premise visit charges set forth in Ordering Paragraph 8.
- c. Mail a timely notice to each known resident or property owner in the Cima exchange, containing general information similar to that described in Ordering Paragraph 12a and b relative to the prospective offering of exchange telephone services in these areas.

13. Ponderosa shall notify the CACD director in writing after the date exchange telephone service is first rendered to the public in its new Cima exchange.

14. The certificate granted and the authority to render service under the rates, charges, and rules authorized herein will expire if not exercised within 12 months after the effective date of this order.

15. Since all issues raised in this proceeding have now been resolved, this proceeding is closed.

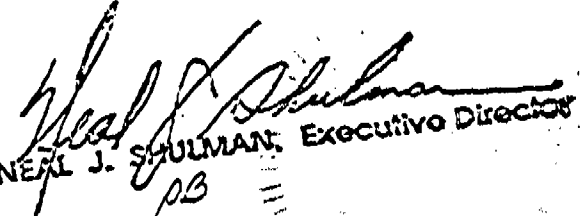
This order is effective today.

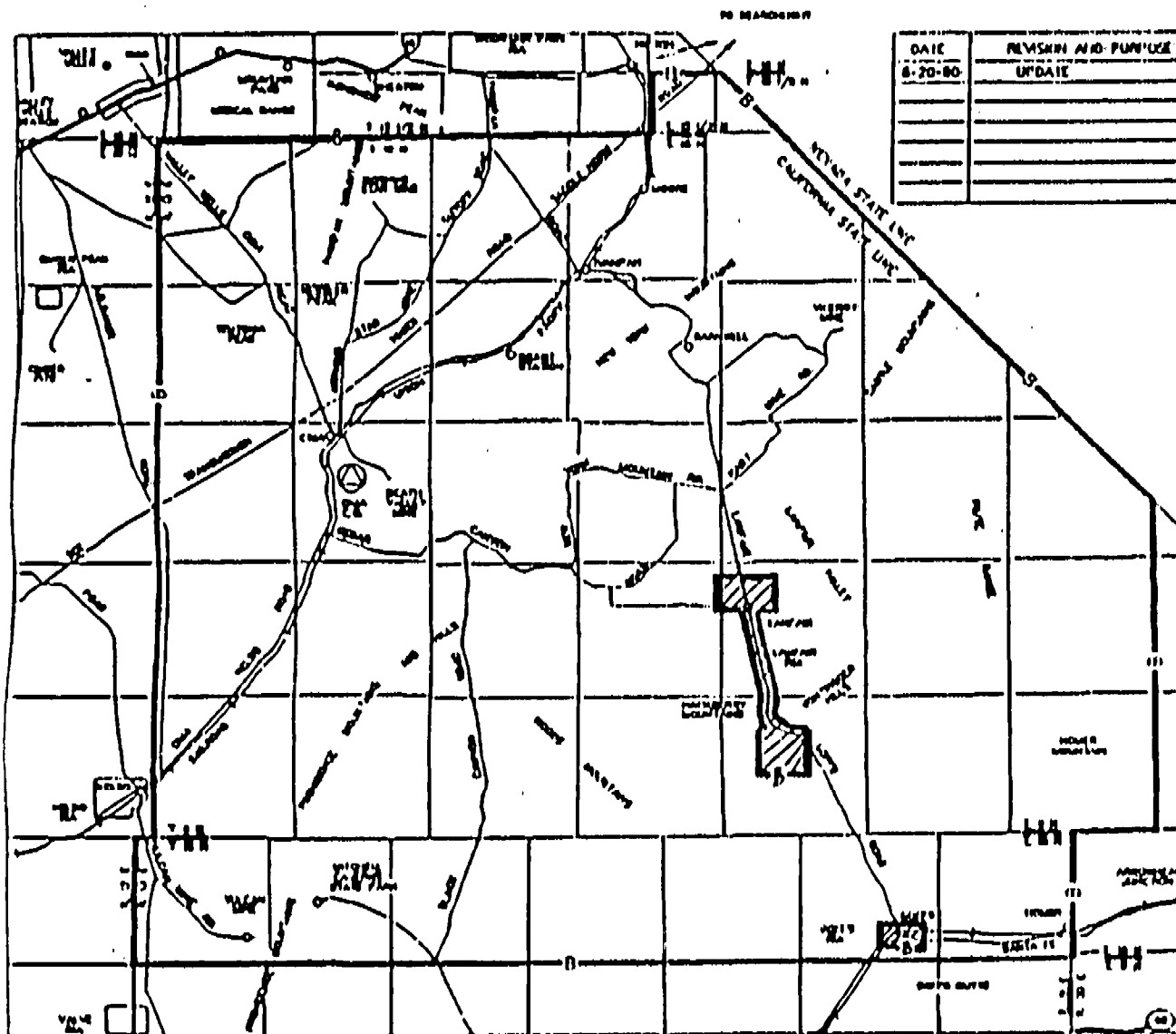
Dated May 22, 1991, at San Francisco, California.

PATRICIA M. ECKERT
President
G. MITCHELL WILK
DANIEL Wm. FESSLER
NORMAN D. SHUMWAY
Commissioners

Commissioner John B. Ohanian,
being necessarily absent, did
not participate.

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


NEAL J. SHULMAN, Executive Director
PB



DATE
6-20-80

REVISION AND PURPOSE
UPDATE

THE PINKFLOSA TELEPHONE CO.
ONEALS, CALIFORNIA 93845

CIMA EXCHANGE

SAN BERNARDO COUNTY

EXCHANGE BOUNDARY MAP

CALIFORNIA 528

DRAWN BY: G.V.Z.W.
CHECKED BY:

APPROVED BY:
DATE: 6-20-80

SHEET 1 OF 1

- PROPOSED BOUNDARY
- INTERSTATE HIGHWAY
- HIGHWAY
- COUNTY ROAD



Pacific Bell
Remote Island
Areas not included
in the proposed
Cima Exchange.

A.89-05-004 ALJ/GAM/gab

APPENDIX A

Bonnie B. Packer
Senior Counsel

A.89-05-004 /ALJ/GAA/vd1
Legal Department
140 New Montgomery Street
San Francisco, California 94105
(415) 542-7698

APPENDIX B
Page 1

PACIFIC  BELL
A Pacific Telecable Company

September 28, 1990

Honorable George A. Amaroli
Administrative Law Judge
California Public Utilities
Commission
505 Van Ness Avenue, Room 5010
San Francisco, CA 94102

Re: A.89-05-004

Dear Judge Amaroli:

On June 5, 1989, Pacific Bell (U 1001 C) ("Pacific") protested the above-referenced Application because the Applicant was proposing to serve to remote island areas already being served by Pacific. These remote island areas are known as Baker-Goff and Baker-Lanfair. On March 7, 1990, Pacific protested the First Amendment to A.89-05-004 for the same reason.

On September 5, 1990, the Applicant filed its Revised Proponent's Environmental Assessment. Attachment A to this filing clearly indicates that Pacific's remote island areas are not included in Applicant's proposed Cima exchange. Since the Applicant has now formally indicated that it does not intend to serve the Baker-Goff and Baker-Lanfair remote island areas, Pacific is hereby withdrawing its Protests to A.89-05-004.



Bonnie B. Packer
Senior Counsel

cc: Service List (attached)

SERVICE LIST - A.89-05-004

ALJ George A. Amaroli
California Public Utilities Commission
505 Van Ness Avenue, Room 5010
San Francisco, CA 94102

Mark P. Schreiber, Attorney at Law
Cooper, White & Cooper
101 California Street, 16th Floor
San Francisco, CA 94111

W. Preston Ewing, General Manager
The Ponderosa Telephone Co.
Post Office Box 21
O'Neals, CA 93645

Lionel B. Wilson, Attorney at Law
Division of Ratepayer Advocates
California Public Utilities Commission
505 Van Ness Avenue, Room 5026
San Francisco, CA 94102

(END OF APPENDIX B)

Exhibit 1a
Proceeding A. 89-05-004
ALJ George A. Amaroli
Date 1/11/91

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

In the Matter of the)
Application of The Ponderosa) A. 89-05-004
Telephone Co. (U 1014 C) for)
a Certificate of Public)
Convenience and Necessity.)

DECLARATION OF E. L. SILKWOOD

I, E. L. Silkwood, hereby declare:

I am an officer, the President, of The Ponderosa Telephone Co. ("Ponderosa"), the applicant seeking to establish the proposed Cima telephone exchange in San Bernardino County and I am making this declaration on behalf of Ponderosa.

Upon receipt of approval to construct the proposed Cima telephone exchange from the relevant governmental authorities, Ponderosa is prepared to enter into an extended equipment warranty with the provider of the Basic Exchange Telecommunications Radio Service ("BETRS") equipment. Ponderosa has proposed to use equipment furnished by International Mobile Machines Corporation ("IMM") and the form of extended warranty agreement contained in Appendix B of Decision 90-03-033. IMM has confirmed to me that


1 such an extended warranty agreement will be made available to
2 Ponderosa.

3
4 Further, Ponderosa has reviewed the report of the
5 Division of Ratepayer Advocates dated December 3, 1990. Ponderosa
6 concurs in the findings and recommendations contained in the DRA
7 report.

8
9 Finally, Ponderosa is willing to accept its certificate
10 of public convenience and necessity to establish its proposed Cima
11 exchange subject to the same conditions set forth in D. 90-03-033
12 with respect to the application of Citizens Utilities Company of
13 California to establish its new Ravendale exchange in Lassen County
14 including the provisions to assure the Commission that the IMM
15 BETRS digital radio equipment will remain used and useful over its
16 entire 15-year projected life cycle.

17
18 I declare under penalty of perjury under the laws of the
19 State of California that the foregoing is true and correct.

20
21 Executed this 9th day of January 1991 at O'Neals,
22 California.

23 
24 E. L. Silkwood
25 President
26 The Ponderosa Telephone Co.

INTERNATIONAL
MOBILE
MACHINES
CORPORATION

3600 Horizon Drive
Suite 130
King of Prussia, PA 19406

Telephone (215) 278-7800
Facsimile (215) 279-8632
Telex 710-670-1955 INMOCORP PHA

The logo for International Mobile Machines Corporation (IMM) is displayed in a stylized, bold, italicized font within a black rectangular border.

January 22, 1991

Mr. W. Preston Ewing
General Manager
Ponderosa Telephone Company
Post Office Box 21
O'Neals, California 93645

Dear Mr. Ewing:

In response to the January 11 Public Utilities Commission hearing regarding the installation and maintenance of an Ultraphone system in the Cema, CA area, you will find enclosed a copy of IMM's standard one year warranty*and Extended Warranty agreements.

The Extended Warranty provides for Ultraphone system maintenance and service after the original twelve (12) month warranty has expired. The Extended Warranty agreement is for a twelve (12) month period. IMM currently charges three (3) percent of the original price of the equipment. This agreement is renewable on a yearly basis.

IMM is the leader in the creation and development of the Basic Exchange Telecommunications Radio (BETRS) market. Currently, IMM is providing Ultraphone systems and service to BellSouth, Southwestern Bell, US West, Bell Atlantic, Pacific Telecom, Inc., Contel, GTE and many independent telephone companies here and in Mexico. As a result of our unique technology and the continued acceptance of the Ultraphone system, IMM has experienced substantial growth during 1990, adding over 40 Ultraphone systems to the network.

The manufacturer of the Ultraphone system is Hughes Network Systems through an exclusive agreement between GM/Hughes and IMM. As a result of our strong position in the market and our relationship with GM/Hughes, IMM will remain committed to long-term support of the Ultraphone product and our customers.

* (Omitted in this Appendix, but included in late-filed Ex. 3a.)

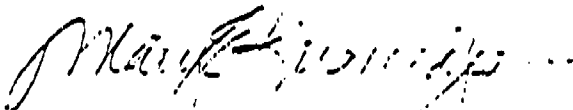
However, if future market conditions prevent IMM from supporting the Ultraphone equipment in a manner deemed appropriate, IMM will, at the customers' request, provide the necessary documentation to allow that customer to maintain the Ultraphone equipment.

Please see the attached Product Bulletin announcing the addition of the Model 103 subscriber unit to IMM's product line. The Model 103 subscriber will be the subscriber version supplied for this project. The benefits of this new unit are many; including the ability to operate with alternate power sources, the reduced size, weight and power consumption and the ability to operate in a mobile environment.

Please do not hesitate to contact me with any further questions you may have. I can be reached at 215-278-7911.

Sincerely,

INTERNATIONAL MOBILE MACHINES CORPORATION



Mary E. Keramedjian

Manager, Sales Support

cc: Mark Schreiber (Cooper White & Cooper)
Ted Clair (IMM)

Enc.

EXTENDED WARRANTY AGREEMENT

THIS EXTENDED WARRANTY AGREEMENT, made this ____ day of _____, 1990, by and between INTERNATIONAL MOBILE MACHINES CORPORATION, a Pennsylvania corporation, with its principal place of business at 2130 Arch Street, Philadelphia, Pennsylvania 19103 (hereinafter "IMM") and _____, a _____ corporation, with its principal place of business at _____ (hereinafter the "Customer").

BACKGROUND

Customer has purchased IMM Ultraphone wireless digital telephone equipment from IMM under a certain purchase agreement dated _____, 1990 and now desires to have IMM maintain such Equipment. IMM desires to provide such maintenance services on the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and agreements hereinafter set forth, the parties intending to be legally bound, hereby agree as follows:

1. Purchase of Services. Customer agrees to purchase and IMM agrees to furnish maintenance services at the installation site and on the equipment more particularly described in Schedule 1 attached hereto (hereinafter called "Equipment"), subject to the terms and conditions of this Agreement.

2. IMM Obligations.

a. IMM shall, for the fee set forth in Schedule 2 attached hereto, bear all costs of labor and parts required to maintain the Equipment in good working order and make all necessary adjustments, replacements, and repairs caused by normal wear and tear.

b. Upon notification either verbal or written, of any equipment malfunction, IMM shall determine if the part is defective and, if so, supply replacement parts within a seventy-two (72) hour period. An inventory of on-site replacement parts shall be maintained by Customer at its own expense. This inventory level will be determined by IMM considering the system size and location. All inoperative parts shall be returned to IMM for repair.

c. If IMM determines that on-site service is necessary, IMM shall provide on-call remedial maintenance services to Customer during the maintenance period which is defined for purposes of this Agreement as any eight (8) consecutive hours between the hours of 9:00 a.m. and 5:00 p.m. Philadelphia time, Monday through Friday, excluding holidays observed by IMM locally (hereinafter the "Maintenance Period"). IMM shall render such remedial maintenance services to the Customer within seventy two (72) hours, Monday through Friday, excluding holidays, of receiving notice from Customer that the Equipment is inoperative except as provided under Section 8 of this Agreement.

d. In addition, IMM shall provide to Customer at no additional cost:

- (i) Telephone consultation through IMM's Technical Assistance Center in Philadelphia;
- (ii) Updates to all IMM documentation previously provided to Customer; and
- (iii) Resolve any problems that may occur with IMM's software.

e. IMM shall, for the additional charges referred to in Section 4(b) below, provide maintenance services and make required repairs to the Equipment when either is required due to causes not attributable to normal wear and tear including, but not limited to:

- (i) the failure of Customer to continually maintain the installation site in conformance with IMM's specifications;
- (ii) impairments in the performance of the Equipment resulting from changes in the design of the Equipment made by Customer or mechanical, electrical, or electronic interconnections made by Customer;
- (iii) damage caused by accidents or natural disasters, or the negligence of, or improper use or misuse of the Equipment by Customer;
- (iv) damage or necessity of repair resulting from unauthorized maintenance by Customer or any third party other than IMM or its authorized representative; or
- (v) damage or repair necessitated as a result of relocation of the Equipment.

f. IMM may, at its option, designate a third party contractor to provide maintenance services to Customer hereunder on behalf of IMM. The appointment by IMM of such an authorized representative shall not relieve IMM of its obligations hereunder nor be considered an "assignment" under Section 9 of this Agreement.

g. IMM shall attempt to be responsive to requests from Customer for maintenance services outside the Maintenance Period, subject to reasonable notice and manpower availability. Such services rendered outside the Maintenance Period shall be performed for the additional charges referred to in Section 4(b) hereof.

h. If Customer, with IMM's prior approval, causes modifications or interconnections to be made or accessories, features, attachments added to the Equipment, then maintenance services shall be furnished with respect thereto only on mutual agreement between IMM and Customer and the total monthly maintenance charge shall be adjusted accordingly.

i. Title to all maintenance tools and spare parts shall remain with IMM, except that upon installation of parts into Customer-owned equipment, title to such parts shall pass to Customer.

j. As part of providing maintenance services hereunder, IMM sponsored modifications may be made to the Equipment by IMM. Customer shall provide time, if required, and ready access for IMM's personnel to the Equipment upon notification from IMM that such modifications are ready to be made. The time required shall be mutually agreed upon by Customer and IMM, and shall be in addition to the normal preventive maintenance hours.

3. Customer Obligations.

a. Customer shall provide, free of charge and with ready access, storage space for maintenance tools and spare parts, working space, heat, light, ventilation, electric current, and outlets for the use of IMM's maintenance personnel. Such facilities shall be within a reasonable distance from the Equipment being maintained.

b. Customer shall notify IMM's maintenance personnel immediately upon equipment failure and shall allow IMM full and free access to the Equipment and the use of necessary data communications facilities and equipment at no charge to IMM, subject to Customer's security rules. Customer shall provide technical personnel necessary to assist IMM with system trouble shooting.

c. Customer shall maintain the installation site throughout the term of maintenance service identified herein in accordance with the specifications established by IMM.

d. Customer's personnel shall not perform maintenance or attempt repairs to Equipment while such Equipment is being maintained under this Agreement, except as specified and approved by IMM.

e. Customer shall not cause modifications or interconnections to be made, or accessories, attachments, or features to be added to the Equipment being maintained by IMM under this Agreement without IMM's prior written approval. Notwithstanding the above, Customer shall be entitled to make mechanical and electrical connections to the Equipment with IMM's prior approval; provided, that if such connections interfere with the normal functioning of the Equipment in a manner which increases IMM's cost of maintaining the Equipment or creates a safety hazard, Customer agrees to remove such connections promptly upon notice from IMM.

4. Charges and Payments.

a. Customer shall commence the total maintenance charge for each item of Equipment:

- (i) for installed Equipment, on the date IMM notifies Customer that such Equipment is out of warranty coverage.

(ii) for installed Equipment which has not previously been maintained by IMM, on the date on which IMM commences performing maintenance hereunder (hereinafter referred to as the "Commencement Date").

b. In addition to the total maintenance charges set forth in Schedule 2 hereto, Customer agrees to pay for:

- (i) labor, parts, and expenses for maintenance or repair due to causes not attributable to normal wear and tear including, without limitation, those instances described in Section 2(c) above;
- (ii) labor and other expenses for maintenance or repairs required due to normal wear and tear performed outside of the Maintenance Period at the request of Customer;
- (iii) IMM's actual reasonable travel expenses plus fifteen percent (15%) incurred in providing all maintenance services under this Agreement;
- (iv) all reasonable travel expenses plus fifteen percent (15%) for any on-site maintenance services which in the opinion of IMM is not deemed necessary; and
- (v) labor, parts and other expenses for refurbishment and overhaul of Equipment performed by IMM at the request of Customer.

All the above additional charges for labor and parts shall be at IMM's published rate in effect at the time such labor and parts are furnished. Charges for labor shall include travel time to and from the installation site. Travel expenses shall be billed at the actual cost plus fifteen (15) percent to IMM of the transportation used. Lodging, food, parking and toll expenses shall be billed as actually incurred plus fifteen (15) percent.

c. IMM may adjust the maintenance charges in Schedule 2 upon the expiration of the initial term set forth in Section 6 hereof or by giving Customer at least thirty (30) days prior written notice.

d. Customer shall pay (or reimburse IMM), in addition to the charges for the maintenance services specified herein and as a separate item, all taxes (exclusive of IMM net income taxes), however designated, or amounts legally levied in lieu thereof, based on or measured by the charges set forth in this Agreement or on this Agreement, or on the services rendered hereunder, now or hereafter imposed under the authority of any federal, state or local taxing jurisdiction.

e. The maintenance charges as specified on Schedule 2 shall be invoiced annually in advance and paid by December 31 for the following calendar year. All other charges payable hereunder shall be invoiced during the month in which they have been incurred. All charges hereunder shall be due and payable upon receipt. Maintenance charges due for a fractional part of a

calendar month shall be computed at the rate of one-thirtieth (1/30th) of the monthly rate for each day. The prime rate of interest per annum then charged by Mellon Bank of Philadelphia plus three percent (3%) shall automatically be charged on all amounts, including additional charges, not paid by Customer when due hereunder.

5. DISCLAIMER OF WARRANTY AND LIMITATION OF REMEDIES.

THE WARRANTIES SET FORTH HEREIN ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, WHICH ARE HEREBY DISCLAIMED AND EXCLUDED BY IMM, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE AND ALL OBLIGATIONS OR LIABILITIES ON THE PART OF IMM FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE USE, REPAIR, OR PERFORMANCE OF THE EQUIPMENT. IMM SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY DELAY IN FURNISHING EQUIPMENT AND SERVICES OR ANY OTHER PERFORMANCE UNDER OR PURSUANT TO THIS AGREEMENT. THE SOLE AND EXCLUSIVE REMEDIES FOR BREACH OF ANY AND ALL WARRANTIES AND THE SOLE REMEDIES FOR IMM'S LIABILITY OF ANY KIND (INCLUDING LIABILITY FOR NEGLIGENCE) WITH RESPECT TO THE EQUIPMENT AND SERVICES COVERED BY THIS AGREEMENT SHALL BE LIMITED TO THE REMEDIES PROVIDED IN SECTION 5 OF THIS AGREEMENT. IN NO EVENT SHALL IMM'S LIABILITY OF ANY KIND INCLUDE ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL LOSSES OR DAMAGES, EVEN IF IMM SHALL HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGE.

6. Term. This Agreement shall become effective as of the first day of January _____ and shall continue for an initial term of one (1) year, unless earlier terminated pursuant to Section 7 below, until December 31, _____ and shall remain in effect thereafter until termination by either party on ninety (90) days prior written notice.

7. Termination.

a. In the event Customer defaults on any payment due under this Agreement, IMM shall be entitled to immediately terminate this Agreement on written notice.

b. In the event either party commits a material breach of any of its obligations hereunder, except for a default in payment by Customer as provided for in this Section 7(a) above, the other party may terminate this Agreement on written notice to the defaulting party unless the defaulting party cures such breach within thirty (30) days of written notice thereof.

c. Either party may terminate this Agreement upon written notice in accordance with the provisions of Section 9(c) hereof.

d. This Agreement shall automatically terminate as to any Equipment covered by an Equipment Lease between Customer and IMM upon the termination of such Equipment Lease.

8. Force Majeure. If the performance of either party is made impossible by reason of any circumstances beyond such party's reasonable control, including without limitation, fire,

explosion, power failure, acts of God, war, revolution, civil commotion, or acts of public enemies, any law, order, regulation, ordinance, or requirement of any government or legal body or any representative of any such government or legal body, labor unrest, including without limitation, strikes, slowdowns, picketing or boycotts, then the affected party shall be excused from such performance on a day-to-day basis to the extent of such interference, provided that it shall use reasonable efforts to remove such causes of non-performance. Under no circumstances shall economic considerations or economic impossibilities and inefficiencies delay performance or be considered an event of force majeure.

9. Assignment. Customer shall not have the right to assign or otherwise transfer its rights and obligations under this Agreement except with the prior written consent of an authorized executive officer of IMM provided, however, that a successor in interest by merger, operation of law, assignment or purchase, or otherwise of the entire business of Customer shall acquire all interests of Customer hereunder. Any prohibited assignment shall be null and void.

10. Entire Agreement. This Agreement, including Schedule 1 attached hereto and incorporated as an integral part of this Agreement, constitutes the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all previous proposals, oral or written, and all negotiations, conversations or discussions heretofore had between the parties related to this Agreement.

In the event that any of the terms of this Agreement are in conflict with any rule of laws, regulations, provisions or otherwise unenforceable under the laws or regulations of any government or subdivision thereof, such terms shall be deemed stricken from this Agreement, but such invalidity or unenforceability shall not invalidate any of the other terms of this Agreement and this Agreement shall continue in force, unless the invalid or unenforceable provisions comprise an integral part of, or are otherwise inseparable from, the remainder of this Agreement.

11. Waiver. This Agreement shall not be deemed or construed to be modified, amended, rescinded, cancelled or waived, in whole or in part, except by written amendment signed by the parties hereto.

12. Notices. Notices permitted or required to be given hereunder shall be deemed sufficient if given by registered or certified air mail, postage prepaid, return receipt requested, addressed to the respective addresses at the addresses set forth below or at such other addresses as the respective parties may designate by like notice from time to time. Notices so given shall be effective as of the date stamped on the receipt.

If to IMM:

IMM
2130 Arch Street
Philadelphia, PA 19103
Attn: Contracts Administrator

If to Customer:

c/o Customer
at the address first written above.

14. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Pennsylvania, and the parties hereto irrevocably commit to the jurisdiction of the Commonwealth of Pennsylvania and the venue of Philadelphia County in any action brought by the parties hereto concerning this Agreement or the performance thereof.

IN WITNESS WHEREOF, the parties have executed this Agreement under seal effective as the day and year first above written.

ATTEST:

INTERNATIONAL MOBILE
MACHINES CORPORATION

By: _____ (SEAL)

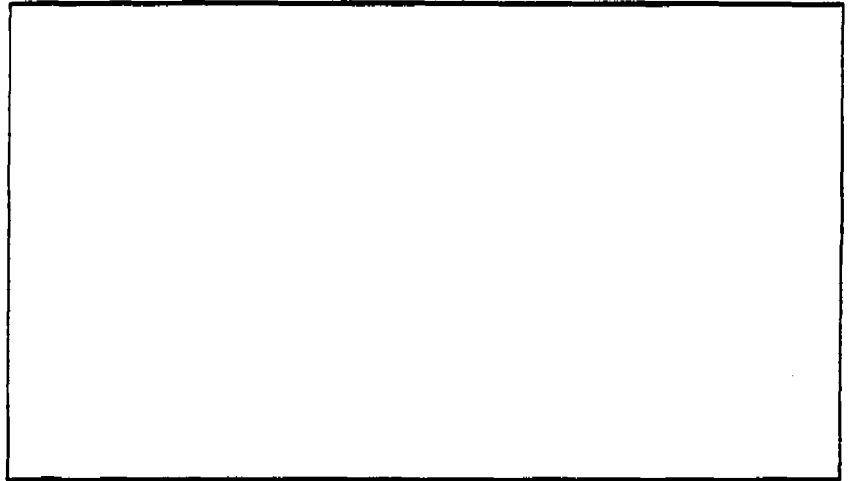
CUSTOMER

By: _____ (SEAL)

[5.1.90]

(END OF APPENDIX D)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26



BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

In the Matter of the)
Application of the Ponderosa)
Telephone Company (U 1014 C) for a)
Certificate of Public Convenience)
and Necessity.)

A. 89-05-004

EXHIBIT 4-A (Revised March 15, 1991)

UNIVERSAL
SERVICE
TELEPHONE
CORPORATION

APPENDIX E
5600 Harrison Drive
Suite 130
King of Prussia, PA 19406

Page 2
Telephone (215) 278-7800
Facsimile (215) 279-8632
Telex 710-670-1955 DMMCORP PHA

USTC

An International Mobile Machines Corporation Company

March 1, 1991

Mr. Preston Ewing
General Manager
Ponderosa Telephone Company
Post Office Box 21
O'Neals, California 93645

Dear Mr. Ewing:

This letter is in response to an inquiry at the January 11 Public Utilities Commission hearing regarding the environmental requirements of the Ultraphone® Radio Carrier Station.

The Ultraphone Radio Carrier Station (RCS) requires a controlled temperature environment. All of the equipment is designed to operate within the following ambient temperature limits:

Operating Temperature

Long term	+4 to +38 degrees C (+40° F to +100° F)
Short term	+2 to +49 degrees C (+36° F to + 120° F)

IMM's Engineering department has investigated the feasibility of modifying the RCS to be capable of operating in a wider temperature environment. Although it is possible to obtain components which have a militarized rating, the implementation of these components would require substantial engineering and manufacturing development time. The critical frequency components in the SUD would require a major redesign to the Ultraphone system to enable them to operate at extended temperatures. IMM will continue to explore using components that will allow the equipment to be used in even more extreme temperature situations.

IMM believes that its equipment is suitable for use in Ponderosa's Cima exchange project and further substantiates this belief through its

A.89-05-004

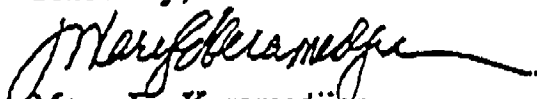
APPENDIX E

Page 3

Extended Warranty program. Without knowing the specific environmental conditions which exist at this location, it is not technically reliable for IMM to determine the quantitative requirements, if any, for added environmental controls. It may be possible that the shelters suggested by Ponderosa Telephone will be a suitable environment for the satisfactory operation of the Ultraphone system.

I hope I have answered your question satisfactorily. Please do not hesitate to contact me at 215-278-7911 if you have any further questions.

Sincerely,



Mary E. Keramedjian
Manager
Sales Support

cc: Mark Schreiber (Cooper, White & Cooper)
Ted R. Clair (IMM)

(END OF APPENDIX E)

MITIGATED
NEGATIVE DECLARATION
PURSUANT TO DIVISION 13
CALIFORNIA PUBLIC RESOURCES CODE

Project Description: The California Public Utilities Commission (CPUC) proposes to grant a Certificate of Public Convenience and Necessity (CPC&N) to the Ponderosa Telephone Company for the construction and operation of telephone service to serve the Cima Exchange in a previously unserved portion of the Eastern Mojave Desert area of San Bernardino County, California.

The proposed action consists of the construction and installation of: four antenna towers, one each at Cima, Columbia Mountain, Kokoweef Peak, and Hackberry Mountain; a Central Office Terminal, buried cable, and access route at Cima; equipment structures and cabinets at Columbia Mountain, Kokoweef Peak and Hackberry Mountain.

Findings:

	<u>Yes</u>	<u>No</u>	<u>Maybe</u>
A. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of a major period of California history or prehistory?	—	<u>X</u>	—
B. Does the project have the potential to achieve short-term, to the disadvantage of long-term environmental goals?	—	<u>X</u>	—
C. Does the project have impacts which are individually limited, but cumulatively considerable?	—	<u>X</u>	—
D. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	—	<u>X</u>	—

These findings have been made based on the requirement that the Applicant meets all of the Conditions of Approval presented herein.

**CONDITIONS OF APPROVAL FOR THE PROPOSED PONDEROSA TELEPHONE
CIMA EXCHANGE**

PRIOR TO CONSTRUCTION

II Sites

1. Coordinate and comply with local, state and federal agencies having jurisdiction in the project area, including:

County of San Bernardino
Bureau of Land Management (BLM)
Federal Aviation Administration (FAA)
Federal Communications Commission (FCC)
U.S. Fish and Wildlife Service (USF&WS)
California Department of Fish and Game (CDF&G)
State Historic Preservation Office (SHPO)
2. Satisfy requirements of the above listed agencies for all sites for permitting, construction and operation. Applicant shall obtain any necessary permits/approvals from the Bureau of Land Management for the Columbia Mountain, Hackberry Mountain and Cima sites.
3. In order to comply with San Bernardino County Development Code and to receive necessary building permits, engineering plans and specifications for buildings and antennas (proposed to be built on lands under County review, e.g., Cima and Kokoweef Peak) shall be submitted to the San Bernardino County Office of Building and Safety Department for review. In order to comply with the Bureau of Land Management for structures proposed on BLM land (Columbia Mountain and Hackberry Mountain), plans shall be submitted to the BLM for review.
4. The proposed antenna towers shall be designed and constructed to withstand maximum wind conditions in the area.
5. Grading, building and landscape plans shall be approved for compliance with San Bernardino County and Bureau of Land Management requirements.
6. Comply with the California Environmental Quality Act (Appendix K) which seeks to avoid damaging effects on archaeological resources whenever feasible.
 - a) Site surveys shall be required for all previously unsurveyed construction staging, storage, and helicopter landing areas and the construction footprint at Hackberry Mountain. Changes in the site locations or access routes, from those previously submitted, would also trigger these surveys.

- b) A determination of the significance of effects to archaeological resources shall be made for access routes, if planned for use during either construction and/or maintenance activities.

Kokoweef Peak and Hackberry Mountain

- 7. In order to comply with State and federal agency administration policies (derived from both the Federal Endangered Species Act of 1973 and the California Endangered Species Act of 1984) and their recognition of the importance of the biological resources identified in the California Native Plant Society's (CNPS) Inventory of Rare and Endangered Vascular Plants of California, the applicant shall conduct spring site surveys for plants identified in Appendix A of the Initial Study; with special emphasis on the following plants (which are List 2 [rare, threatened, or endangered in California, but more common elsewhere] under the CNPS Inventory; with the exception of Stephen's beardtongue, which is List 1B [rare, threatened or endangered in California and elsewhere] in the CNPS Inventory):

- a). pungent forsellesia (*Forsellesia pungens* var. *glabra*)
- b). violet twining snapdragon (*Maurandya antirrhiniflora* ssp. *antirrhiniflora*)
- c). Wright's bedstraw (*Galmium wrightii*)
- d). Gilman's cymopterus (*Cymopterus gilmanii*)
- e). Stephen's beardtongue (*Penstemon stephensii*)

These surveys must be performed by a qualified biologist or botanist during the bloom season (late spring, from mid-May to mid-June) prior to any construction.

Cima

- 8. Coordinate the siting of the proposed Cima antenna tower and related facilities with San Bernardino County. If the tower is collocated with the existing Union Pacific communications tower, it is preferred that the proposed Central Office Terminal building be sited in close proximity to the tower in order to minimize the visual impact on the County's adjacent designated Scenic Corridor.
- 9. Locate the proposed Central Office Terminal building away from the top of the hill at the proposed site in order to comply with San Bernardino County Policy OR-4(n) which states that: "New regional and community infrastructure on hilltops shall be allowed only when no alternative sites are available." The Union Pacific tower provides one viable site in the immediate area. Preferred locations include:
 - a) collocation with the existing Union Pacific communications tower (per Condition 8, above); or, if collocation is not feasible,
 - b) move the tower to the north or northeast side of the proposed hill site, near the proposed access route and outside of the viewshed of Cima Road, the County designated Scenic Road Corridor; or,

- c) relocate the proposed antenna tower away from hilltops visible from Cima Road, to an area that is less sensitive to visual change as seen from the Scenic Corridor.
10. With either Condition 8 or 9 (above), a wildlife biologist shall conduct a visual desert tortoise survey at the Cima site. For the survey, the proposed antenna tower site, Central Office Terminal (COT) building site, access route, and buried cable path route shall be examined prior to construction for desert tortoise per the United States Fish and Wildlife Service (USF&WS) protocol (Appendix I of the Initial Study).

In addition, a visual survey shall be conducted in the area surrounding the project site for a distance of 200 meters from the proposed COT and antenna structure construction footprints for desert tortoise. If even one tortoise is observed, then the USF&WS shall be contacted and a wildlife biologist shall be required to be present to monitor construction activities. Even if no tortoises are found, construction crews shall be admonished to watch for tortoises, and shall be instructed not to disturb them.

DURING CONSTRUCTION

All Sites

- 11. Comply with Policy OR-4 (o) of the San Bernardino County General Plan Open Space, Recreation and Scenic Resources Element which calls for site planning to blend in with the surrounding landscape. The proposed facilities shall be painted with desert colors indigenous to the area to camouflage proposed towers, structures and cabinets; acceptable color ranges include muted brown-grey, and/or brown-green tones. The use of reflective surfaces shall be prohibited.
- 12. Avoid or minimize disturbance to the natural landscape. Applicant shall repair disturbed areas immediately following construction.
- 13. All major equipment and materials shall be delivered to the project sites using helicopters.
- 14. Prohibit the construction of temporary or permanent helicopter pads at the cell sites unless required for emergency landings, as determined by FAA and other regulatory requirements.
- 15. Workers shall avoid frightening or otherwise harassing Nelson's bighorn sheep, and the banded gila monster, which are known to inhabit the project areas.

Hackberry Mountain and Columbia Mountain

16. Identified archaeological resources shall be protected and preserved.
 - a) Vehicles shall be restricted to existing travel corridors only. No upgrading or alteration of the access routes shall be allowed unless CEQA determinations have been made such that alteration would not result in a significant effect on the environment.
 - b) Vehicle access shall be limited to pick-up trucks, or all-terrain vehicles, similar to those used for mining operations near the project sites.

Kokoweef and Hackberry

17. Plant species of concern found during spring surveys required under Condition 7 (above) shall be avoided during project construction.

Cima

18. In the event that one or more desert tortoises are seen in the area during construction, the project sponsor shall notify United States Fish and Wildlife Service (USF&WS) and cease construction until the monitor/wildlife biologist is present on site. Should removal of the animals become necessary, project construction will cease until such time that a Section 7 consultation between USF&WS and the Bureau of Land Management takes place (of the federal Endangered Species Act).

DURING OPERATION**All Sites**

19. Site access for maintenance will meet the same conditions described during construction (Conditions 12, 13, 14, 15, 16, 17 and 18 above).
20. Noise muffling equipment shall be used on generators and air conditioning units installed at any of the sites. Planned noise levels shall be verified for each site. If noise levels are in excess of local requirements, appropriate steps shall be taken by the applicant to rectify the exceedance(s).

MONITORING PROGRAM

All Sites

21. In order to comply with the Mitigation Monitoring and Reporting requirements of Public Resources Code Section 21081.6 of the California Environmental Quality Act, the Applicant must provide written documentation of compliance with the Conditions of Approval. This documentation shall be submitted to the Commission's Environmental and Resource Advisory Section promptly following compliance with the respective terms of the Conditions of Approval as stated above.
22. Applicant shall also complete the following monitoring program:
 - a) Applicant shall submit the names and qualifications of proposed firms (or individuals) to perform biological and archaeological studies to CACD for CACD's approval prior to each study (per Conditions 6a, 6B, 7, 10, 16, 17 and 18).
 - b) Applicant shall submit the results of all studies above to the CACD. Such written submittals shall be made within 15 days of completion of each condition (per Conditions 6a, 6b, 7, 10, 16, 17 and 18).

Copies of this Mitigated Negative Declaration and Initial Study may be obtained by addressing a request to the preparer:

California Public Utilities Commission
505 Van Ness Avenue, Room 3102
San Francisco, CA 94102

Attention: Wade McCartney
(415) 557-3184

Neal J. Shulman / WF

NEAL J. SHULMAN
Executive Director
California Public Utilities Commission

(END OF APPENDIX F)

THE PONDEROSA TELEPHONE CO.
(U 1014C)
PROPOSED RATES AND CHARGES
CIMA EXCHANGE

I. Local Service:

A. Multi-Element Service Charges

Nonrecurring
Charge

Service Order	\$12.00
Central Office Work	12.75
Premises Visit	35.00

B. Flat Rate Exchange Service, Per Line,
Per MonthRecurring
Rate

Business, Individual Access Line	\$33.90
Business, Key Access Line	33.90
Business, C.O. Trunk Access Line	45.30
Residence, Individual Access Line	17.85

II. Toll Service:

The Ponderosa Telephone Co. plans to concur with the filed tariffs of Pacific Bell for IntralATA toll calls and the filed tariffs of interexchange carriers, as agreed, for interLATA toll calls.

Note: The above rates and charges are consistent with The Ponderosa Telephone Co.'s current California P.U.C. tariff.

(END OF APPENDIX G)

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



April 3, 1991

ALJ George A. Amaroli
California Public Utilities Commission
505 Van Ness Avenue, Room 5010
San Francisco, California 94102

Dear ALJ Amaroli:

Re: Environmental Review of Application of Ponderosa Telephone
Company for a Certificate of Public Convenience and Necessity
(A.89-05-004)

As stated in my February 27, 1991 letter to you, an additional 30-day comment period was necessary for the Draft Mitigated Negative Declaration and Initial Study (Mitigated Negative Declaration), dated January 18, 1991, for the Ponderosa Telephone Company Cima exchange telephone system because certain public agencies were inadvertently not served copies of the Mitigated Negative Declaration.

The 30-day comment period ended on March 30, 1991. Comments have been submitted by the Land Management Department of the County of San Bernardino, the California Office of Historic Preservation, and the Division of Aeronautics of the California Department of Transportation. In addition, several agencies submitted letters of no-comment. All letters that were received are being submitted to you at this time.

CACD has considered the comments and has clarified the Mitigated Negative Declaration as set forth in Attachment No. 1 to this letter. The following documents may be marked as late-filed Exhibit 8-A: (1) the Mitigated Negative Declaration dated January 18, 1991 (Exhibit 5-A), (2) the comments now being submitted from the above listed agencies, and (3) Attachment No. 1, CACD Response to Agency Comments. This late-filed Exhibit 8-A constitutes the final Mitigated Negative Declaration for this project.

Since you and the parties already have a copy of the Mitigated Negative Declaration (Exhibit 5-A), I have only enclosed the agency comments and Attachment No. 1, CACD Response to Agency Comments with this letter.

Sincerely,

A handwritten signature in cursive script that reads 'Judith Allen'.

Judith Allen
Public Utilities Counsel
Commission Advisory and Compliance Division

Enclosures

cc: All Parties to A.89-05-004

ATTACHMENT NO. 1. CACD RESPONSE TO AGENCY COMMENTSCounty of San Bernardino Comments

The County recommended the amendment of three Conditions of Approval in the Mitigated Negative Declaration (MND), and also recommended six new mitigation measures and conditions. These recommended changes will be addressed in order of their appearance in the County's letter of comment.

- A. Recommended Amendments by the County of San Bernardino to the Conditions of Approval associated with the Mitigated Negative Declaration for the proposed project.

1. Require Applicant to obtain a Conditional Use Permit from the County.

CACD Response:

This requirement is implied in Condition #2 of the Conditions of Approval in the MND.

2. Require Applicant to co-locate the necessary transmission and receiving equipment for the Cima site on the existing Union Pacific Railroad communications tower, thereby eliminating the need for the construction of a new 100 foot tower in Cima as proposed.

CACD Response:

The Applicant has not shown that co-location is (1) unreasonably more costly, (2) unreasonably and significantly more time-consuming, or (3) entirely infeasible. The possibility of co-location represents an opportunity to reduce the impact of this project on the environment, and will avoid possible (and perhaps unnecessary) duplication of communications facilities in the State. Therefore, the Applicant shall co-locate the Cima site with the Union Pacific Railroad communications tower. If the Applicant maintains that co-location is (1) unreasonably more costly, (2) unreasonably and significantly more time-consuming, or (3) entirely infeasible, the Applicant shall make a documented showing by a petition for modification to the Commission to such effect. If such a showing is not made, the Applicant must co-locate the Cima site with the Union Pacific Railroad communications tower.

3. Require Applicant to paint proposed facilities so as to be consistent with the predominant viewing background to those facilities. Specifically, for sky backgrounds, white would be an appropriate tower color.

CACD Response:

Compliance with San Bernardino County Policy OR-4 (c) as referred to in Condition #11 of the Conditions of Approval for the MND represents a reasonable opportunity to reduce the impact of this project on the environment. If the Applicant maintains that compliance with Policy OR-4 (c) is (1) unreasonably more costly, (2) unreasonably and significantly more time-consuming, or (3) entirely infeasible, the Applicant shall make a documented showing by a petition for modification to the Commission to such effect. If such a showing is not made, the Applicant must paint proposed facilities so as to be consistent with the predominant viewing background to those facilities.

- B. Recommended New (Additional) Mitigation Measures and Conditions by the County of San Bernardino to the Conditions of Approval associated with the Mitigated Negative Declaration for the proposed project.

4. Require Applicant to agree to future requests for joint use of towers constructed by applicant, subject to the receipt of reasonable fees and conditions.
(Recommendation "A")

CACD Response:

Such a mitigation measure is aimed at future third parties not represented in this proceeding. The measure attempts to reduce the future impact of the construction and operation of communications towers in the East Mojave National Scenic Area, and other parts of the County. This requirement would undoubtedly reduce the impact of future communications towers in the County through their reduction in number via co-location. If the Applicant maintains that compliance with this requirement is (1) unreasonably more costly, (2) unreasonably and significantly more time-consuming, or (3) entirely infeasible, the Applicant shall make a documented showing by a petition for modification to the Commission to such effect. If such a showing is not made, the Applicant shall comply accordingly.

5. Require Applicant to minimize the visual impact and level of development of access roads as defined by the proposed project. (Recommendation "B")

CACD Response:

This requirement is implied in Conditions #2, #5, #9, and #12 of the Conditions of Approval in the MND. If the Applicant maintains that compliance with this requirement is (1) unreasonably more costly, (2) unreasonably and significantly more time-consuming, or (3) entirely infeasible, the Applicant shall make a documented showing by a petition for modification to the Commission to such effect. If such a showing is not made, the Applicant shall comply accordingly.

6. Require Applicant to utilize landscaping to minimize the impact of manmade structures. (Recommendation "C")

CACD Response:

This requirement is implied in Conditions #2, #5, #9, and #12 of the Conditions of Approval in the MND. If the Applicant maintains that compliance with this requirement is (1) unreasonably more costly, (2) unreasonably and significantly more time-consuming, or (3) entirely infeasible, the Applicant shall make a documented showing by a petition for modification to the Commission to such effect. If such a showing is not made, the Applicant shall comply accordingly.

7. Require Applicant to place all proposed utility lines underground in existing right-of-ways or in existing disturbed areas, and revegetate line corridors to reduce visibility impacts. (Recommendation "D")

CACD Response:

This requirement is implied in Conditions #2, #5 and #12 of the Conditions of Approval in the MND. If the Applicant maintains that compliance with this requirement is (1) unreasonably more costly, (2) unreasonably and significantly more time-consuming, or (3) entirely infeasible, the Applicant shall make a documented showing by a petition for modification to the Commission to such effect. If such a showing is not made, the Applicant shall comply accordingly.

8. Require Applicant to limit tower heights to a maximum of 25 feet. (Recommendation "E")

CACD Response:

This is a moot point. This proposed condition by the County is satisfied by the project as proposed. See pages 15-19 of the MND, Project Characteristics.

9. Require Applicant to locate cabinets, solar cells and other accessory structures in such a way so as to screen them from view of roadways. (Recommendation "F")

CACD Response:

This requirement is implied in Conditions #2, #5, and #12 of the Conditions of Approval in the MND.

Office of Historic Preservation

The Office of Historic Preservation (OHP) commented on requirements of the National Historic Preservation Act, specifically, Section 106 and 36 CFR 800.2. OHP commented that the Area of Potential Effects (APE) associated with the proposed project was not clearly defined in the MND. OHP stated that knowledge of the type of equipment and off-road activities which would be utilized during the installation of the towers is necessary to properly define the APE (36 CFR 800.2). The APE refers to, among other things, the scope of the archaeological survey. Further, OHP stated the BLM must act as the lead agency in Section 106 compliance.

CACD Response:

For purposes of the initial study, the APE was defined as thoroughly as possible, given the limited project description and characteristics available to at that time. The Applicant is fully aware that BLM must review and permit the project prior to construction, and is prepared to proceed through that process once Commission review is complete.

Division of Aeronautics, California Department of Transportation

The Division of Aeronautics stated in their letter of comment that in the event that any of the helicopter landing sites will be used on a permanent basis, a State Heliport Permit would be required by the Division of Aeronautics.

CACD Response:

Applicant shall investigate through the Division of Aeronautics what constitutes a permanent helicopter landing site, and obtain any necessary permits. The Applicant shall comply with this requirement.

LAND MANAGEMENT DEPARTMENT**COUNTY OF SAN BERNARDINO
ENVIRONMENTAL
PUBLIC WORKS AGENCY**

05 Civic Drive • Victorville, CA 92392 • (619) 241-7891

**JOHN N. JAQUSS**
Land Management DirectorOFFICE OF PLANNING
Sharon W. Hightower
County Planning OfficerOFFICE OF BUILDING AND SAFETY
Larry L. Schoelkopf, P. E., C.B.O.
County Building Official
OFFICE OF SURVEYOR

March 6, 1991

Mr. Wade McCartney
California Public Utilities Commission
505 Van Ness Avenue Room 3102
San Francisco CA 94102-3298

Re: 89-05-004

Dear Mr. McCartney:

After a review of the proposed mitigated Negative Declaration for the proposed Ponderosa Telephone System, the San Bernardino County Planning Department North Desert Team, would recommend modification of the mitigation measures to include the attached comments.

This project is located within the East Mojave Scenic Area, an area of great concern to the County. Every possible effort needs to be taken to insure that the scenic quality of the area is not degraded. As a result of the short review time available on this project, the applicant will be required to apply for a Conditional Use Permit from San Bernardino County.

I'm certain that comments will be received from the Bureau of Land Management regarding sites within their jurisdiction.

If you have any questions please contact this office at (619) 243-8245.

Sincerely,

ENVIRONMENTAL MANAGEMENT GROUP
PLANNING DEPARTMENT
RAY JOHNSON, SENIOR ASSOCIATE PLANNER
NORTH DESERT REGIONAL PLANNING TEAM

RJ:ls

cc: File
Senior Planner, North Desert Team
Bureau of Land Management

RECOMMENDED CHANGES IN MITIGATION MEASURES AND CONDITIONS

Condition #3 should be amended to include application to San Bernardino County for a Conditional Use Permit (CUP) on the proposed site.

Condition #8 - A joint use agreement with the Union Pacific Railroad shall be executed to allow the installation of antenna on the existing tower at the Cima site.

Condition #11 should be revised to indicate that color selection should be consistent with predominant viewing background. For sky backgrounds, white would be an appropriate tower color.

NEW MITIGATION MEASURES AND CONDITIONS

- A. Applicant shall as a continuing condition of approval agree to future requests for joint use of towers constructed by applicant, subject to receipt of reasonable fees for use of the tower and any required cost to adapt the tower for joint use and subject to technical compatibility.
 - 1. Any proposed fee for joint use will be considered unreasonable if the fee exceeds the original cost of construction of the tower.
 - 2. The approval authority may consider expert testimony in determining if proposed fees are reasonable.
- B. Any proposed access roads shall be constructed so as to not be visible from roadways. Any access road constructed shall be of the minimum development possible to meet access requirements.
- C. Where appropriate, landscaping shall be utilized to minimize the impact of manmade structures.
- D. All proposed utility lines shall be placed underground. Underground lines shall be placed in existing right-of-way or disturbed areas. Should destruction of plant materials occur during construction to the extent that the course of underground lines are visible, landscaping shall be required to reduce the visibility of the course of the lines.
- E. Other than the Cima site, tower heights shall be limited to a maximum of 25'.
- F. Cabinets, solar cells and other accessory structures should be located in areas screened from view from roadways.

OFFICE OF HISTORIC PRESERVATION

DEPARTMENT OF PARKS AND RECREATION

P.O. BOX 942898
SACRAMENTO 94298-0001
(916) 445-6006
FAX: (916) 322-6377



March 19, 1991

REPLY TO: BLM910228A

Wade McCartney
California Public Utilities Commission
505 Van Ness Avenue, Room 3102
SAN FRANCISCO CA 94102

Re: Proposed Ponderosa Telephone Company Cima Exchange Telephone System, San Bernardino County, California

Dear Mr. McCartney:

The State Office of Historic Preservation (OHP) has reviewed and would like to comment on the above-referenced documented submitted to the California Public Utilities Commission (Application # 89-05-004) in accordance with 36 CFR 800, regulations of the Advisory Council on Historic Preservation.

The Area of Potential Effects (APE) was not clearly defined in this project so that it is difficult to assess the adequacy of the archaeological survey that was conducted by Greenwood and Associates (1990). What type of equipment and off-road activities will be associated with the installation of the towers? Will new roads have to be constructed? These considerations are part of defining the APE (see definitions: 36 CFR 800.2).

Two archaeological sites were identified adjacent to the APE of project sites. Both of these sites are on B.L.M. property within designated Wilderness Study Areas. For an undertaking to be considered in a Section 106 evaluation, the appropriate federal agency involved (in this case the B.L.M.) must act as the lead agency in Section 106 compliance.

We hope the comments regarding the draft Mitigated Negative Declaration for the Ponderosa Telephone Company are of some help in your review. We look forward to receiving further information on this project. If you have any questions, please contact Ms. Leslie Hartzell of my staff at (916) 322-9602.

Sincerely,

Kathryn Gualtieri
State Historic Preservation Officer

cc: Richard E. Fagan, Area Manager, Needles B.L.M.

DEPARTMENT OF TRANSPORTATION

DIVISION OF AERONAUTICS

130 K STREET - 4th FLOOR

MAIL: P.O. BOX 942873

SACRAMENTO, CA 94273-0001

(916) 322-3090

TDD (916) 445-5945



March 11, 1991

Mr. Wade McCartney
Public Utilities Commission
505 Van Ness Avenue, Room 3102
San Francisco, CA 94274

Dear Mr. McCartney:

Draft Negative Declaration for the Ponderosa Telephone
Company Cima Exchange Telephone System; App No. 89-05-004

The California Department of Transportation, Division of Aeronautics, has reviewed the above-referenced document with respect to the Division's area of expertise as required by CEQA. At your request, we submit the following comments.

The proposal is for a telephone system within the Eastern Mojave Desert Scenic Area. The project consists of four facility sites that will include towers. According to the Negative Declaration, the towers at Kokoweef Peak, Columbia Mountain and the Hackberry Mountain sites will be 25 feet in height. The tower at the Cima site will be 100 feet in height. As stated in the Neg Dec, none of the sites are "located within 20,000 feet of a public or military airport or FAA facility" and are "not expected to obstruct air navigation in the area..." It also does not appear that any personal use airports are in the vicinity of the proposed tower sites.

Based upon our review of the information provided in the Neg Dec, it does not appear that the proposal will have a negative impact on any airports in the vicinity of the facility sites. However, the Neg Dec does discuss the temporary use of helicopters during construction. If any of the helicopter landing sites will be used on a permanent basis, a State Heliport Permit would be required by Division of Aeronautics.

Thank you for the opportunity to review and comment on this proposal.

Sincerely,

Sandy Hesnard
SANDY HESNARD
Environmental Planner

DEPARTMENT OF TRANSPORTATION

DISTRICT 8, P.O. BOX 231
SAN BERNARDINO, CALIFORNIA 92402
TDD (714) 383-4609



January 30, 1991

08-SBd-Var
SCH # 91012067

Mr. Wade McCartney
California Public Utilities Commission
505 Van Ness Avenue, Room 3102
San Francisco, CA 94102-3298

Dear Mr. McCartney:

Proposed Negative Declaration for the
Ponderosa Telephone Company
Cima Exchange Telephone System

We have reviewed the above-referenced document and have no comments at this time.

If you have any questions, please contact Tom Meyers at (714) 383-6908 or FAX (714) 383-4936.

Very truly yours,

HARVEY J. SAWYER
Chief, Transportation Planning
Branch B

AIR RESOURCES BOARD

1102 O STREET
P.O. BOX 2815
SACRAMENTO, CA 95812



March 15, 1991

Mr. Wade S. McCartney
Project Manager
Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102-3298

Dear Mr. McCartney:

Proposed Ponderosa Telephone Company
Cima Exchange Telephone System

We have reviewed the Draft Mitigated Negative Declaration for the Ponderosa Telephone Company Cima Exchange Telephone System, and have no comments.

If you have any questions, please contact Susan Wyman of the Industrial Projects Section, at (916) 327-5603.

Sincerely,

A handwritten signature in cursive script, appearing to read "Raymond E. Menebroker".

Raymond E. Menebroker, Chief
Project Assessment Branch

(END OF APPENDIX H)