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AUG 13 1992

Decision 92-08-047 August 11, 1992

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Amending Certain)
Clauses in General Order 133-A,)
Governing Service Standards for)
Telephone Companies.)

Application 91-07-041
(Filed July 30, 1991)

ORDER GRANTING LIMITED REHEARING OF DECISION 92-05-056

Call America Business Services Corporation (Call America), MCI Telecommunications Corporation (MCI) and Sprint Communications Company (Sprint) have filed Applications for Rehearing of D.92-05-056, amending General Order (G.O.) 133-A. G.O. 133-A established the proper and adequate measurement standard indexes for all telephone utilities providing service within the State of California. D.92-05-056, based on recommendations from the G.O. 133-A Review Committee, updates G.O. 133-A and retitles it G.O. 133-B. D.92-05-056 also directs all interexchange carriers providing operator service in California to fully comply with the amended General Order.

Call America and MCI allege in their Applications for Rehearing that their due process rights have been violated because they never received notice of the November 14, 1991 Administrative Law Judge ruling (ALJ ruling) issued in this proceeding. This ruling provided that:

"In the interest of providing broader notice of the proposed amendment of G.O. 133-A and AT&T's protest, this ruling shall be mailed to all addressees listed in the attached appendices A and B. Appendix A contains the core service list in this proceeding; however any interested party listed in Appendix B who would like to be added to the service list must send a letter requesting such to our Process Office by no later than November 21, 1991. The Process Office will then compile a list for service of the comments and

exceptions. This list will be sent to all parties under an administrative law judge ruling. Service to the listed parties will satisfy the requirement of service for these comments and exceptions." November 14, 1991 ALJ Ruling, p.4.

Both MCI and Call America were listed as interested parties on the Appendix B service list. A certificate of service signed by a Commission employee in the Administrative Law Judge Steno Pool was filed certifying that all parties on the Appendix A and Appendix B service lists had a copy of the November 14, 1991 ruling mailed to them. However, these applicants assert that their designated regulatory representatives never received the November 14, 1991 ALJ ruling.

The purpose of the November 14, 1991 ruling was to seek comment on the following four questions:

- a. Does G.O. 133-A, as amended, ignore the current competitive regulatory environment?
- b. Should G.O. 133-A, as amended, continue to apply to all telephone utilities?
- c. Should all interexchange carriers be exempted from amended G.O. 133-A?
- d. Should those provisions of the General Order which apply to interexchange carriers apply solely to AT&T?"
November 14, 1991, ALJ Ruling, p.4.

MCI and Sprint in their Applications also raise the question of whether D. 92-05-056 is inconsistent with previous orders of the Commission delineating the proper approach to regulation of non-dominant interexchange carriers (NDIECs). Specifically, Sprint asserts that D. 92-05-056 contains errors regarding the current competitive environment and the scope of operations of the NDIECs.

AT&T filed a Response to the Applications for Rehearing supporting the request for rehearing based on the possibility

that all interested parties may not have been properly notified of the ALJ's November 14, 1991 ruling.

We are confronted by a claim of two parties that their representatives never received a copy of the November 14, 1991 ALJ ruling in A.91-07-041. At the same time we have a certification from our Administrative Law Judge Division that a copy of the ruling was sent to all NDIECs listed in Appendices A and B. It is evident that the two parties who now claim not to have received the ruling were included on the service list. We are thus placed in a conflict between clear evidence that the pertinent data was mailed and a claim that it was not received. The sheer volume of business before us and our necessary reliance upon the United States Mails requires that we indulge the assumption that when something has been committed to the custody of the mails that it has been "served" within the meaning of our rules. There is a further generic problem in our inability to monitor the bona fides of claims of mail recipients that the parcel or letter somehow miscarried as opposed to having been lost or mislaid once in the custody of the addressee.

Given our concern over the regularity of our process we have determined to take the following actions. We hereby affirm the existence of a rebuttable presumption that any item committed in the regular course of our practice to the custody of the United States Mails shall be deemed received by the addressee in the absence of specific, verified evidence of misdirection or failure to affix proper postage. Since the present application was filed prior to our articulation of this standard of practice, we shall grant limited rehearing to allow all parties on the Appendix A and B service lists who have not heretofore done so to comment on the four questions raised by the Administrative Law Judge in her November 14, 1991 ruling.

To expedite this matter all parties must file their comments with the Commission's Docket Office within 10 days from the time this order is issued. Another 10 days will be granted to the parties to respond to the comments. After this 20-day

period the record in this proceeding will be closed unless otherwise ordered by the Commission or the assigned Administrative Law Judge.

This limited rehearing will allow the parties to be heard without unduly delaying the implementation of G.O. 133-B. Since the Commission will have an opportunity to address the other issues raised by the applicants in a subsequent order, today's order will not address those issues. If any party still believes that the Commission has failed to properly address those issues in the subsequent order, an application for rehearing can be filed at that time.

IT IS ORDERED that a limited rehearing is granted to allow all those on the Appendix A and Appendix B service lists in this proceeding who have not heretofore done so to comment on the four questions raised by the Administrative Law Judge's November 14, 1991 ruling in this proceeding. All parties who wish to comment must file their comments with the Commission's Docket Office within 10 days from the time this order is issued. Another 10 days will be granted to parties to respond to these comments. After this 20-day period the record in this proceeding will be closed unless otherwise ordered by the Commission or the assigned Administrative Law Judge.

IT IS FURTHER ORDERED that except as granted herein, rehearing of D. 92-05-056 is denied.

This order is effective today.

Dated August 11, 1992, at San Francisco, California.

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

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

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


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APPENDIX A

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APPENDIX B
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METROPOLITAN FIBER SYSTEMS, INC. (5172)
DOUGLAS FRAZIER
ONE TOWER LANE
SUITE 1600
CAKEROCK TERRACE, IL 60191
(312) 218-0007

LONG DISTANCE/USA (5149)
WESLEY A. YASUDA
VICE PRESIDENT, DEVELOPMENT
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HONOLULU, HI 96817
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MIDAMERICAN COMMUNICATIONS CORP. (5225)
KAREN TORRES
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OMAHA, NE 68134
(402) 392-6848

MATRIX TELECOM (5227)
DENNIS MCG
9003 AIRPORT FREEWAY
SUITE 340
FORT WORTH, TX 76180
(817) 581-9380

MTEL DIGITAL SYSTEMS, INC. (5141)
ERNE OSWALT
VICE PRESIDENT
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JACKSON, MI 39225
(601) 944-1100

*Last known address. Reportedly changed/moved.

NAPA VALLEY TELECOM SERVICES (5044)
SAM MEDINA
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NAPA, CA 94581-1740
(707) 257-3875

NORTHWESTERN PAYPHONE SYSTEMS (5178)
REGULATORY CONTACT
5045-199 VALLEY CREST DRIVE
CONCORD, CA 94521
(415) 798-3563

NATIONAL COMMUNICATIONS NETWORK (5210)
REGULATORY CONTACT
1440 NORTH FIESTA BLVD., SUITE 100
P.O. BOX 2000
GILBERT, AZ 85234
(602) 497-3425

ON LINE COMMUNICATIONS INC. (5177)
REGULATORY CONTACT
2933 BUNKER HILL*
LN# 201
SANTA CLARA, CA 95054-1124
(408) 986-1525

NATIONAL PAY TELEPHONE CORP. OF CALIF. (5097)
ROSS SCHEER
9633 IRONDALE AVE.
CHATTSWORTH, CA 91311-5009
(213) 274-0127

ONE-2-ONE COMMUNICATIONS (PHOTO-COL) (5209)
REGULATORY CONTACT
3500 N. CENTRAL AVENUE
SUITE 300
PHOENIX, AZ 85012

NATIONAL TELEPHONE & COMMS. INC. (5173)
REGULATORY CONTACT
1000 EAST WILLIAMS ST.*
SUITE 100
CARSON CITY, NV 89071
(714) 640-7749

OPERATOR SERVICES WEST (TA INVESTMENT) (5201)
REGULATORY CONTACT
1500 EAST TROPICANA AVE.
SUITE 230
LAS VEGAS, NV 89115

NETWORK TELEPHONE SERVICES (5189)
DANIEL W. BAKER
6233 VARIEL AVENUE
WOODLAND HILLS, CA 91367
(818) 992-4300

OPTICOM (ONE CALL COMMUNICATIONS) (5225)
DEBORAH BARRETT
ASSISTANT VICE PRESIDENT
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SUITE 100
CARMEL, IN 46032-9994
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WESTMARC COMMS., INC.
CHARLES R. ROBINSON
P.O. BOX 4545
REDDING, CA 96099-4548
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PACIFIC MIDWEST INVESTMENT (5111)
REGULATORY CONTACT
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PALM DESERT, CA 92260
(714) 968-0115

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RAYLINE SYSTEMS INC. (5170)
FRANK A. BOERS
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SUITE 250
PORTLAND OREGON, OR 97205
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SACRAMENTO LONG DISTANCE (5160)
REGULATORY CONTACT
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SACRAMENTO, CA 95825
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PHOENIX NETWORK, INC. (5223)
JEFFREY BAILEY
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SUITE 200
SAUSALITO, CA 94965

SATELLITE BUSINESS SYSTEMS (5013)
PATRICK CHOW
TARIFF ADMINISTRATOR
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SAN FRANCISCO, CA 94105
(415) 978-1140

PHONE CLUB USA (5139)
REGULATORY CONTACT
46 LA LOMA DRIVE
MENLO PARK, CA 94025

SPARD TECHNOLOGIES, INC. (5200)
REGULATORY CONTACT
100 GREAT MEADOW ROAD
SUITE 104
WETHERSFIELD, CT 06109

PTT TELECOMMUNICATIONS (5108)
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SPECTRUM COMMUNICATIONS COMPANY (5218)
NANCY ADLER
4633 WEST POLK STREET
PHOENIX, AZ 85043
(407) 740-8575

RANKER CALIFORNIA (5094)
VAN C.V. FRANCISCO
TWO EMBARCADERO CENTER, SUITE 2320
SAN FRANCISCO, CA 94111
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SOUTH BAY COMMUNICATIONS, INC. (5110)
WILLIAM VAN VLIET
PRESIDENT
1299 E. ARTESIA BLVD #190
CARSON, CA 90746-1603
(213) 632-4333

RESURGENS COMMUNICATIONS GROUP, INC. (5136)
RONALD L. BROOKS
VICE PRESIDENT - SALES
945 EAST PACES FERRY ROAD
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SPECTRUM II, INC. (5224)
RONALD GRIDER
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8001 INDIAN SPRINGS
ORANGEVALE, CA 95662
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SPRINT SERVICES (US TELECOM) (5231)
RICHARD PURKEY
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TELEMARKETING COMM. OF SAN LUIS OBISPO (5085)
JULIE McFADDEN
NETWORK ADMINISTRATION MANAGER
2829 TOWNSGATE ROAD
SUITE 200
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SENECARD INFORMATION SERVICES, INC. (5039)
ANDREW R HORWITZ
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TELEMARKETING COMMUNICATIONS OF VENTURA (508)
JULIE McFADDEN
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TEL COM INTERNATIONAL (5205)
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TELEMARKETING COMMUNICATIONS, INC. (5015)
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TEL TEL EXCHANGE OF SACRAMENTO (5128)
TOM B. MARKELEY
P.O. BOX 276257
SACRAMENTO, CA 95827-6257
(916) 965-5800

TELCO SYSTEMS INT., INC. (5194)
REGULATORY CONTACT
1700 DAVIS BLVD
RENO, NV 89511-7543
(702) 328-1102

TEL-TOLL, INC. (5033)
JOHN MOLAER
156 NORTH MAIN STREET
BISHOP, CA 93514
(619) 873-8076

TELECOM PLUS TRAVEL SERVICES INC. (5120)
HERBERT J. EBERGER
TELECOM BLDG. 48-40 - 34TH STREET*
LONG ISLAND CITY, NY 11101
(800) 211-5095

TELEMARKETING COMM. OF BAKERSFIELD (5084)
JULIE McFADDEN
NETWORK ADMINISTRATION MANAGER
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TELECOMMUNICATIONS INT'L. (ZCZC LA) (5164)
AARON AMID
PRESIDENT
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*Last known address. Reportedly changed/moved.

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TELESTAR 900 CORPORATION (5127)
DON MERRIAM
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RANCHO CORDOVA, CA 95742
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TELECONNECT LONG DISTANCE SVCS & SYSTE (5152)
REGULATORY CONTACT
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CEDAR RAPIDS, IA 52401
(319) 366-6600

TELTRUST, INC. (5230)
REGULATORY CONTACT
2150 SOUTH 300 WEST
SALT LAKE CITY, UT 84115

TELEVISIONAL COMMUNICATIONS LTD PERSP (5179)
REGULATORY CONTACT
7300 WOODBURN
OMAHA, NE 68124
(402) 392-1110

TELEUS COMM. INC. (U.S. INTL) (5129)
STEVEN G. REYNOLDS
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(916) 369-6666

TELEPORT COMMS. - LA INC. (5171)
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(719) 983-2150

TRINITY TELEPHONE (5083)
WILLIAM KETTEL, SR.
300 FLORA ALICANTE #380
GARDEN GROVE, CA 92540
(714) 740-2860

TELEPORT COMMS. OF SF (5157)
BONNEY SCOTT
TELEPORT 1, ONE TELEPORT DRIVE
SUITE 301
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TIC COMMUNICATIONS (5147)
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NETWORK ADMINISTRATION MANAGER
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TELESPHERE LIMITED, INC. (5156)
HEATHER B. GOLD
DIRECTOR, REGULATORY AFFAIRS
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TIC COMMUNICATIONS L.P. (5193)
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TIME OF FRESNO (5121)
 JULIE McFADDEN
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TIME COMMUNICATIONS INC. (5219)
 CHARLES JOHNSON
 PRESIDENT
 580 GRAND AVENUE
 OAKLAND, CA 94610

TIME OF SAN DIEGO (TIME LONG DISTANCE) (5088)
 WENDY PRESTON
 TRAFFIC ADMINISTRATOR
 UNION BANK BLDG., SUITE 435
 525 B STREET
 SAN DIEGO, CA 92101
 (619) 237-5050

UNITED COMMUNICATIONS, INC. (5122)
 CRAIG NELSON
 P.O. BOX 846
 1934 McPHERSON
 NORTH BEND, OR 97459
 (503) 756-4103

TIME OF STOCKTON (TIME OF STOCKTON LTD.) (5125)
 JULIE McFADDEN
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 (605) 371-3500

UNITED STATES TRANSMISSION SYSTEMS INC (5041)
 DONALD P. CASEY
 100 PLAZA DRIVE
 SECONOUS, NJ 07095
 (201) 330-5741

TOLL COMMUNICATIONS, INC. (5035)
 MR. L. CRAIG GIBBERO
 307 S. MAIN ST.
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US FIBERCOM NETWORK (5181)
 ROBERT R. VANCE JR.
 PRESIDENT
 TRUMP TOWER
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U. S. AMER-CALL INC. (5017)
 GARY DEBUISSER
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US FIBERLINE COMMUNICATIONS INC. (5138)
 KELLY THOMPSON
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 SAN DIEGO, CA 92111

U.S. SPRINT (5112)
 RICHARD FURKEY
 1850 GATEWAY DRIVE
 7TH FLOOR
 SAN MATEO, CA 94404-2467
 (415) 513-2737

US OPERATORS INC. (5174)
 DIANE M. BALDWIN, ESQ.
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 SUITE 2400
 DALLAS, TX 75202
 (214) 761-1820

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APPENDIX B
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WESTERN EXPRESS COMMUNICATIONS (5101)
REGULATORY CONTACT
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SUITE E
THOUSAND OAKS, CA 91362

VORTEL COMMUNICATIONS (5134)
JOHN LERCH
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WESTERN UNION CORPORATION (5019)
RICHARD JORDANGER
DIRECTOR-REGULATORY AFFAIRS
ONE LAKE STREET
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WEST COAST TELECOMMUNICATIONS INC. (5195)
REGULATORY CONTACT
114 E. HALEY ST., SUITE N
SANTA BARBARA, CA 93101

WETEL OF CA. (WELCAL) (5124)
BOBBI FERGUSON
ONE WILLIAMS CENTER
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(918) 588-5334

WESTCOX LONG DISTANCE INC. (5163)
MICHAEL SUNEZ
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WORKING ASSETS FUNDING SERVICE (5033)
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WESTEL COMMUNICATIONS (5052)
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WTG WEST INC. (5192)
BOBBI FERGUSON
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