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Decision 95-11-025 November 8, 1995

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Ducor Telephone Company (U.1007 C) for a Certificate of Public Convenience and Necessity (Application 94-01-00000) (Filed January 10, 1994) to Establish the "Kennedy Meadows Exchange" to provide Local Exchange Telephone Service in Portions of Tulare County, California.

ORIGINAL

Attorneys for the申请人 Ducor Telephone Company, applicant, are Mark P. Schreiber and Barbara L. Snider, Attorneys at Law, for the Respondent Kennedy Meadows Telephone Company, applicant, and Cleveland W. Lee, Attorney at Law, and

Scott Cauchois, for the Division of the Ratepayer Advocates, for the Commission Advisory Committee of Ducor, and the Plaintiff and Compliance Division of the PUC.

1. Summary

This decision grants authority to Ducor Telephone Company (Ducor) to construct a new telephone exchange to serve Kennedy Meadows, a remote community and recreation area on the eastern slope of the Sierra Nevada Mountains. An environmental negative declaration is adopted. We note that Ducor has reduced the cost of the exchange by \$425,000 by substituting one microwave tower for two towers that were originally planned, and that new surveys show the likelihood of 130 connections within the first two years of operation, nearly double the original estimate of 70 connections.

2. Summary of Application

Ducor is a California corporation providing local telephone service to 721 subscribers in the Ducor Exchange in south central California and in the Rancho Tehama Exchange in northern California.

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Central California. The company's principal place of business will be in Ducor, California, BMT 40 miles east of Ducor in an exchange called the Kennedy Meadows. The proposed service area includes 432 square miles of meadow land. The southern end of the Sierra Nevada includes two-thirds of it public land. The proposed service area includes two-thirds of it public land. The Bureau of Land Management administers the mountainous terrain, about two-thirds of which is administered by the U.S. Forest Service and the Bureau of Land Management. There is no commercial electricity in Kennedy Meadow although most residents have small generators.

The proposed service area would be provided by underground direct line and a microwave transmission system. The base equipment would be at the company's headquarters in the community of Ducor, and a central switching station would be located at Tobias Peak in July 1995. The telephone service would be provided by a single direct line and a microwave transmission system. The use of the microwave path through towers located at Breckenridge, the Sequoia National Forest, and a central switching station would reduce the cost of construction by \$425,000.00. The facility will serve about 165 homes and businesses. There are about 165 homes and businesses served by the new Kennedy Meadow Exchange. The service would reach increasing recreation areas attached to its

CORRECTION !!

*THE PREVIOUS DOCUMENT(S) MAY HAVE
BEEN FILMED INCORRECTLY.....*

RESHOOT FOLLOWS

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central California. The company's principal place of business is in Ducor, California.

Ducor proposes to construct and operate a new telephone exchange, called the Kennedy Meadows Exchange, in Tulare County. The exchange would be located 60 miles east of Ducor in an area at the southern end of the Sierra Nevada Mountains, near Walker Pass. The proposed service area includes 432 square miles of meadow and mountainous terrain, about two-thirds of it public land administered by the U.S. Forest Service and the Bureau of Land Management. There is no commercial electricity in Kennedy Meadows, although most residents have small generators.

The telephone service would be provided by underground direct line and microwave transmission facilities. The base equipment would be at the company's headquarters in the community of Ducor, and a central switching system would be installed in Kennedy Meadows. Originally, the application called for a microwave path through towers located at Tobias Peak and Sherman Peak in the Sequoia National Forest, but Ducor in July 1995 amended its application to eliminate those towers and substitute a single tower facility at Mt. Breckenridge.¹ The use of the Mt. trif Breckenridge site will reduce the cost of constructing the exchange by \$425,000.

There are about 165 homes and businesses that could be served by the new Kennedy Meadows Exchange. Additionally, phone service would, for the first time, be available to the thousands of recreation visitors who pass through Kennedy Meadows from Highway 395 to reach increasingly popular campsites in the area. Ducor has attached to its application (Exhibit E) a survey of residents requesting to be connected to the exchange.

¹No protests to the amendment have been filed. The amendment was received into evidence as an exhibit at hearing (Exhibit 18), so that Ducor's witnesses could be cross-examined on the proposed change.

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At respondent to oppose requesting a variance from established standards
BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Ducor Telephone Company (U-1007 C) for a Certificate of Public Convenience and Necessity (Application 94-01-61, filed January 10, 1994) to Establish the "Kennedy Meadows Exchange" to provide Local Exchange Telephone Service in Portions of Tulare County.

ORIGINAL

For the reasons set forth below, the Public Utilities Commission of California hereby approves the application of Ducor Telephone Company (U-1007 C) for a Certificate of Public Convenience and Necessity.

Mark P. Schreiber and Barbara L. Snider, Attorneys at Law, for Ducor Telephone Company, applicant;

Cleveland W. Lee, Attorney at Law, and

and Scott Cauchois, for the Division of the California State Ratepayer Advocates.

Joanna Bullock, for the Commission Advisory

and Settlement and Compliance Division, is the group to whom this decision is addressed.

1. Summary

This decision grants authority to Ducor Telephone Company (Ducor) to construct a new telephone exchange to serve Kennedy Meadows, a remote community and recreation area on the eastern slope of the Sierra Nevada Mountains. An environmental negative declaration is adopted. We note that Ducor has reduced the cost of the exchange by \$425,000 by substituting one microwave tower for two towers that were originally planned, and that new surveys show the likelihood of 130 connections within the first two years of operation, nearly double the original estimate of 70 connections.

2. Summary of Application

Ducor is a California corporation providing local telephone service to 721 subscribers in the Ducor Exchange in south central California and in the Rancho Tehama Exchange in northern

showing that 64 homes and six businesses are ready to subscribe to it when the exchange is completed. In a more recent survey, Ducom received responses from 43 additional persons who state that they will seek telephone service within the next one to two years, and from 14 others who state that they will subscribe within five to eight years. Several respondents state that they will want more than one line. Based on these responses, Ducom estimates that it will serve at least 130 connections in the new exchange within one to two years. (Exhibits 2(13).) The initial survey asked for remarks from telephone users. Some representative comments follow:

"We are currently a community comprised of approximately 150 residents whose average age is 50-plus years. Telephones for emergency situations would make a tremendous contribution to our lives." (Exhibit 2(13), p. 1.)

"Telephones can save lives and we need them to live here." (Exhibit 2(13), p. 1.)

"I would like to have telephone service to my parents' home. My dad is an amputee and my son's hearing is hearing impaired, so I worry about medical emergencies." (Exhibit 2(13), p. 1.)

"I would build a home on my property if I could have phone service, as I am older. I would want the lines to be buried." (Application, Exhibit E, p. 1.)

Ducom filed its application on January 10, 1994, amending it on July 3, 1995. Construction of the new exchange requires review under the California Environmental Quality Act of 1970 (CEQA), Pub Resources Code §§ 21000, et seq. Because the Commission is the lead agency in this matter (see Rule 17.1 of the Rules of Practice and Procedure), the Environmental and Energy Advisory Branch of the Commission Advisory and Compliance Division (CACD) undertook an environmental study, together with the state's Department of General Services. On September 7, 1994, CACD completed and distributed a draft negative declaration, and a final negative declaration was issued on January 18, 1995. CACD has

determined that the substitution of the Mt. Breckentridge site does not require further environmental review except at the time of construction.

3. Procedural Background After the Commission received the proposed decision granting Ducor conditional authority to construct the new telephone exchange, it was issued on January 30, 1995. On May 10, 1995, the Commission withdrew the proposed decision and directed that hearings be conducted with board level participation by the Division of Ratepayer Advocates (DRA), to receive further evidence on costs, effects on other state ratepayers, and alternative technologies.

Accordingly, two days of evidentiary hearing were conducted on June 29 and 30, 1995, in Ridgecrest (about an hour's drive from Kennedy Meadows), and two further days of hearing were held on July 17 and 18, 1995, in San Francisco. A public participation hearing for Kennedy Meadows residents was conducted in Ridgecrest on the evening of June 29, 1995. About 50 persons attended the evening hearing, and the Commission heard from 12 residents, all of whom spoke in support of the new telephone exchange. At the evidentiary hearings, the Commission took the testimony of nine witnesses, and it received 31 exhibits into evidence.² Concurrent briefs were to be filed on August 31, 1995, at which time the application was deemed submitted for decision. Ducor filed its brief on August 31; DRA filed on September 1.³

2. Motions by DRA and by Ducor to permit technical and other corrections to the transcripts are granted.

3. DRA sought on August 31 to postpone filing until September 8, but that request was denied. DRA filed its brief on the following day. We will accept the late filing because we have a definitive decision on the matter.

4. Financing the New Exchange

Ducor originally estimated that construction of the new Kennedy Meadows Exchange would cost \$2 million, with the bulk of the expense for microwave trunk installation and underground cable. The substitution of Mt. Breckenridge as the site for a microwave tower in place of the two tower sites initially proposed will reduce the cost to about \$1.6 million. Ducor in November 1993 had filed Application 93-11-052 seeking authority to borrow \$4.49 million through the Rural Electrification Administration (REA)⁴ and the Rural Telephone Bank in order to build the new exchange and to make improvements to Ducor's two existing exchanges. Ducor would repay the loan at 5% interest over a 35-year period.

The financing application was unopposed and was approved by the Commission in Decision (D.) 94-03-035 on March 9, 1994. The Commission commented favorably on the 5% REA loan, stating:

"Because long term borrowings from REA represent a much lower cost of capital than either equity or other forms of debt, it is to Ducor's great advantage to avail itself of such funds whenever financing is needed. Under cost of service ratemaking, the benefits of Ducor's use of a lower cost of capital will eventually flow through to its subscribers." (D.94-03-035, slip op. para 9.)

In approving the financing application, the Commission directed that Ducor draw down no more than \$2,566,614 for the work on its existing exchanges. The Commission directed that the remaining loan amount (for development of the Kennedy Meadows Exchange) could be drawn down following approval of the new exchange in this application.

⁴ The name of the agency has been changed. It is now called the Rural Utility Service.

5. Issues at Hearing

As directed by the Commission, Ducor and DRA focused on three broad issues at hearing. These are:

1. Is there a significant need for telephone service in the Kennedy Meadows area to serve residents and vacation travelers?

2. Is the proposed new telephone exchange justified financially, and will the cost of

the service be reflected in the rates paid by other California telephone customers?

3. Are less costly telephone systems feasible for this location, or are there ways to reduce the cost of Ducor's proposed landline system?

5.1 Public Benefits of the New Exchange

All parties agree that telephone service in Kennedy Meadows will serve the public interest, will enhance the safety of residents and visitors, and will contribute to the state's economy. Today, residents have to drive 35 miles to Pearsonville to use a pay phone. Two local radio phones are unreliable. A cellular phone user must drive 10 miles out of town and park near rocks marked with orange paint in order to, with luck, make a call.

Ducor at hearing introduced a new survey showing that 113 persons intend to subscribe to the new telephone service within one or two years and intend to order 13 business and 117 residential access lines, for a total of 130 connections. Another 14 respondents stated that they planned to build homes and install telephones within the next five years. Ducor's vice president, Eric Wolfe, said he expects the actual number of connections to be substantially higher than the survey indicates because of

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stimulation caused by the availability of telephone service.⁵ Wolfe noted that the new exchange not only will permit residents and visitors to call out of Kennedy Meadows, but it will enable those everyone else to call into the area. (Exhibit A-8) (Exhibit A-8)

(c)(3) Testimony by a U.S. Forest Service officer showed that since there has been an increase in recreation visitors to the area since completion of a paved road (Nine Mile Canyon Road) through Kennedy Meadows four years ago. The Forest Service's nearby Blackrock Visitors Station is open six months a year and averages 8,000 visitors annually. Three closer campgrounds attract other visitors. In 1993, there were 18,000 recreation visitor days (one visitor for a 12-hour period) logged at Fish Creek Campground, 14,000 visitor days at Kennedy Meadows Campground, and 27,000 visitor days at Troy Meadow Campground.⁶ (Exhibit A-8)

A traffic count consultant testified that he measured traffic in Kennedy Meadows for a high peak weekend (Memorial Day 1995) and one average weekend (June 9 & 11, 1995). There were 1,308 inbound vehicles on the Memorial Day weekend. On the June 9 weekend, there were 1,453 inbound vehicles. The vehicles carried an average of about two persons each. The witness stated that "on a

(c)(3) based on the high volume of traffic recorded" as services on Nine Mile Canyon Road, "telephone service is not only desirable but needed to ensure the health and safety of the large number of people" using ATR traveling on this road." (Exhibit 7, p. 6) (Exhibit A-8)

⁵ A local real estate broker testified for DuCor that he has advised potential buyers who wish to live in Kennedy Meadows and commute to work, but who cannot do so until there is telephone service available, to sell his property or remain dependent on the area.

⁶ The Commission has noted that a high volume of travelers in an area is one measure of the public necessity for telephone service. In re Ponderosa Telephone Company (1991) 40 CPUCd 399, 412 ("Telephone service to this area is necessary for the health, safety, and welfare of the residents and the traveling public"). Note

DRA agrees with Ducor's showing, commenting that its funding "telephone services will measurably improve the public health, safety, and welfare of both residents and travelers in the area." (Exhibit 9, p. 1-9.) DRA Project Manager Scott Cauchois added that the area and the region also will benefit economically, stating:

"...Ducor's investment of \$1,656,579 represents a good and steady one-time infusion of capital in the California economy and will carry multiplier effects as this investment permeates the economy through new employment. To the extent that additional economic development takes place as a result of this exchange, the Kennedy Meadows economy will generate additional jobs, economic activity, and tax revenues for the state." (Exhibit 9, p. 1-8.)

Because of its remote location, Kennedy Meadows is not a part of the service area of any telephone company. Cauchois testified that DRA had served data requests on Contel of Northern California, Pacific Bell, and GTE California Incorporated asking whether they had considered extending telephone service to Kennedy Meadows. Each responded that it was not interested in serving the area, had performed no analyses of such service, and regarded such a service as "a very expensive endeavor" (Exhibit 9, p. 1-7.) Contel added in its response, however, that Ducor's low-interest REA loan "will greatly offset the high costs of serving Kennedy Meadows." (Exhibit 30.)

5.2 Cost of Service

While DRA supports telephone service for Kennedy Meadows, it is concerned with the potential drain on universal service. A funding for high-cost rural areas like Kennedy Meadows, especially at a time when funding mechanisms are changing and local telephone competition is being encouraged. To the extent that the costs of serving Kennedy Meadows will be more than the revenue received from subscribers, DRA believes that at least part of any revenue risk should be borne by Ducor shareholders who are to bear the costs.

Initially, DRA's revenue analysis concluded that, with the addition of Kennedy Meadows, Ducor would experience a revenue shortfall of \$398,980 in 1997 (and \$505,339 in 1998) (Exhibit 9, p. 2-1.). The calculations, however, were flawed. Ducor's finance witness showed that DRA had miscalculated certain income tax, including depreciation, and deferred tax data. DRA revised its analysis accordingly and changed its estimate of the shortfall to \$132,909 for 1997 (and \$288,216 in 1998) (Exhibit 24). Regardless of the amount of the projected shortfall, DRA's witness expressed concern that Ducor would seek to recover this amount by drawing on the California High Cost Fund, which is financed by all of the state's telephone users and which provides revenue protection for small telephone companies serving high-cost rural areas.⁷

Ducor, on the other hand, presented evidence intended to show that the new Kennedy Meadows Exchange will not result in rates or revenue shortfall, and that it will cost the state's telephone ratepayers no more than they already are paying to support the concept of universal service.⁸

Undated letter to the FCC (DUC-94-0111) states that the California High Cost Fund is not designed to support universal service. It is not intended to subsidize local telephone companies that provide service to rural areas. It is not intended to subsidize telephone companies that provide service to urban areas.

7. The California High Cost Fund was established in In re Pacific Northwest Telephone and Telegraph Company (1985), 18 CPUC2d 133, as a means of subsidizing basic exchange rates for the customers of smaller local exchange carriers. It is funded by a surcharge on all California telephone customers. For a further discussion of the fund, see In re Alternative Regulatory Frameworks, D.94-09-065, slip op. at 253-260. See also Rulemaking into Universal Service, D.95-07-0507115.

8. The concept, included in the Federal Communications Act of 1934, 47 USCS §§ 151 et seq., makes it the intent of Congress that all subscribers, both urban and rural, are entitled to quality telephone service at reasonable rates. Universal service has long been supported by the State of California and by this Commission.

(For an overview, see D.95-07-050, (July 19, 1995), dealing with rulemaking for universal service at a time of technological change.) 192 (see vtuu sifj nolt 181,012 Isnotibba ne bas lood revenue

As with most small telephone exchanges, much of Ducor's income comes from revenue pooling arrangements that operate at both state and interstate levels. State toll and access revenues are fully pooled by Pacific Bell and by all other independent telephone L.S.C. companies, with the pool administered by Pacific Bell. Through a separations formula that segregates state operations and revenues from interstate operations and revenues, each exchange carrier broader participating in the state pool receives an amount deemed to bear not represent its actual cost of providing service within California, plus a rate of return on investment. (Exhibit A page 10)

Roger M.J. Barker, a managing partner for the Moss Adams certified public accounting firm, testified that, in Ducor's case, additional state toll and access revenue attributable to Kennedy-Meadows will be \$125,545 in the first year of operation (or, stated in terms of the separations formula, state toll and access costs would settle revenue in excess of customer billings in Kennedy-Meadows will be \$125,545). That additional draw from the state pooling arrangements would represent six-tenths of a cent per person annually if spread among California's 19 million telephone subscribers. Because the additional draw is relatively small, Barker testified that he considered it unlikely that Pacific Bell or any of the independent telephone companies would seek a rate increase based on the pooling payment to Ducor. (Exhibit A page 11)

Ducor also will draw increased amounts for its interstate service through an interstate access revenue pool and the Universal Service Fund. These interstate pooling arrangements set amounts that can be collected from customers for basic telephone access. These amounts are then pooled and distributed to telephone companies on a monthly basis based upon their costs and on caller demand data for interstate service. (Exhibit A page 12)

Barker estimated that, with the Kennedy-Meadows Exchange, Ducor will draw an additional \$182,426 from the Interstate access revenue pool and an additional \$70,181 from the Universal Services Fund.

Fund. (Exhibit 13, Attachment 4) Again, according to Barker, ~~but~~ these amounts are not significant in terms of the total intrastate revenue pools. In summary, Barker testified that there will be no revenue shortfall for Ducor with the addition of the Kennedy & Meadow Exchange, although the company's rate of return will not decline slightly, again on a ~~basis~~ ^{basis} for the increased revenue in the ARB DRA's witness on finance matters was Joseph Abhulimen, a senior utilities engineer who was DRA's witness on settlement impacts of the Implementation Rate Design decision (IRD decision), D.94-09-065, that opened intrastate toll markets to competition on January 1, 1995. Abhulimen testified that Ducor in its estimates has failed to apply IRD guidelines properly and in his judgment (and based upon his conversations with Pacific Bell) has in effect overestimated revenue attributable to the Kennedy & Meadow Exchange. In his view, a shortfall will result, and will have to be made up through the California High Cost Fund or otherwise means. He and DRA contend that the High Cost Fund is intended to protect small telephone companies from regulatory changes, not from investments in new high-cost exchanges. See also note 9.

Accordingly, DRA makes three financial recommendations:

First, it urges that the Commission exclude from Ducor's High Cost Fund requests any loss attributable to Kennedy Meadows operations, requiring that shareholders or Ducor ratepayers absorb this amount.⁹

Second, DRA proposes that Kennedy Meadows' subscribers pay higher monthly rates (\$25.90 for residential service rather than Ducor's proposed \$16.85), based on 150% of GTE California rates (rather than 150% of the lower Pacific Bell rates). Finally, DRA urges that Ducor be required to assess line extension charges on future non-discriminatory fiber optic fiber such as optical fiber.

⁹ Pursuant to Public Utilities Code § 1739.3, the Commission had adopted basic exchange rates for small local exchange carriers at 150% of urban rates. Generally, Pacific Bell urban rates are used for the computation. (See IRD decision, D.94-09-065.)

subscribers after the initial establishment of service in the Kennedy Meadows Exchange could not afford to do so. DRA contends that these steps will send a message to all local exchange carriers that they must recover more of their costs for rural service from sources other than the pooled revenue funds. DRA notes that in several interrelated proceedings now pending, the Commission is developing policies for full local telephone competition statewide by January 1, 1997. DRA states that there is uncertainty how these policies will impact local exchange carriers. In particular, according to DRA, there is uncertainty concerning the Commission's future universal service policies for supporting net full cost recovery associated with the provision of local telephone service in high-cost rural areas. (Exhibit 30) It is now based on:

5.2.1 Discussion of proposed rules adopted by the Federal Telecommunications Commission.

While we agree that applications like this one should be viewed in light of rapidly changing telephone regulation, we do not decline at this time to impose the restraints on the Kennedy Meadows Exchange that are recommended by DRA. The record shows that Ducor has not sought recovery from the California High Cost Fund for any expenses attributable to the Kennedy Meadows Exchange, and it would be required to file a general rate case or advice letter in order to do so later. A protest to any parts of its rate plan requested recovery can be made at that time. (DRA's projection of a revenue shortfall in Kennedy Meadows is speculative, relying on untested forecasts of revenue sharing by Pacific Bell.) DRA has failed to rebut Ducor's financial showing, which forecasts no base period revenue shortfall and only a small decline in rate of return to 7.02%. Additionally, DRA's data, as well as Ducor's, are based on an initial 70 connections (as opposed to the more recent estimate of 130 connections) and may thus underestimate subscriber revenue.

Finally, it would be inappropriate to adopt High Cost Funds restrictions on Ducor in this proceeding at a time when we are adopting rules to implement the Universal Service Fund. (See IRD decision, D.94-00-028.)

considering new rules for all local exchange carriers inasmuch as
comprehensive proceedings¹⁰ are now under way before various state
and local governments. We shall, however, adopt DRA's other two financial recommendations, but not necessarily for the reasons cited by DRA. We found earlier that having the Kennedy Meadows customers connected to the greater telephone network would be in the public interest. We will not explore whether a greater benefit would be accrued to Kennedy Meadows residents and visitors than to the broader general body of ratepayers, a factual issue raised by DRA in its final briefs. Although we have in the past engaged in the analysis of calling pattern studies, consumer surveys and other factors prior to implementing an extended local calling area, we find those steps unnecessary here. The value of the telephone network will increase for all users with the addition of the ratepayers of Kennedy Meadows.

However, we find some merit in DRA's argument that the ratepayers of Kennedy Meadows should assume a greater financial burden than the one applicable to the general body of Ducor's ratepayers. This is reasonable because, even if construction does not go over Ducor's reduced budget and Ducor's optimistic demand is met, the cost to the taxpayers of bringing telephone service to the Kennedy Meadows will be over \$12,000 per line. Further, the entire territory of the Kennedy Meadows exchange is surrounded almost entirely by the service territory of Contel of California, a mid-size local exchange company currently being acquired by GTEC. Therefore, although the residential rates of Pacific Bell have been used in the past generally as a basis to determine the rates of smaller local exchanges in California, we see no reason why

D.95-07-050 (Rulemaking 95-01-020; Investigation 95-01-021), a root cause analysis was conducted by the Service and to comply with the mandates of Assembly Bill 3643, D.95-07-050 (Rulemaking 95-01-020; Investigation 95-01-021).

not to use GTE-California's rates as a basis here. We find it has GTEC serves large urban areas in Southern California. We conclude that GTEC's rates are more appropriate than Pacific Bell's rates to use in the computation of the rate that will be paid by the subscribers in Kennedy Meadows. Although this will result in more Ducor's rate payers in different exchanges paying different rates, we note that this outcome is not inconsistent with the rates adopted for several small local exchange companies in the course of the Implementation Rate Design phase of the New Regulatory Framework proceeding. Investigation 87-11-033, D.94-09-0657, mimeo dated April 26, 1984, Appendix B, page 9, para 10. In our view, however, consumers are better off if rates are modified to reflect the financial recommendations of DRAs correctly points out that in Appeal of Ducor Telephone Co v and P.T.T., (1977) 182 FCPUC 708, the court applications of these two local exchange companies to extend telephone service to the Rancho Tehama subdivision, we adopted the recommendation of the Commission staff that Ducor not be allowed to waive line extension charges after the initial establishment of the Rancho Tehama exchange. In that case, Ducor was similarly using any REA loans to extend service to Rancho Tehama (Id. e716). We have got nothing on the record before us to indicate that the terms of REA loan loans have changed between 1977 and today so that the company would be prohibited from imposing line extensions charges after the initial installation of service at Kennedy Meadows. Therefore, we believe that our findings in Appeal of Ducor Telephone apply here as well (Id. e718). It does do add that in addition to the original amount of \$1.6 million, in accordance with the service area and the cost of extending service to Kennedy Meadows, we will modify DRAs recommendation; however, in recognition of Ducor's efforts to trim the initial cost of extending service to Kennedy Meadows. We will order Ducor to employ the funds provided by the REA to bring telephone service to the first 130 lines in the Kennedy Meadows exchange. This effort should consume approximately \$1.6 million, in accordance with the service area and the cost of extending service to Kennedy Meadows.

10 We will modify DRAs recommendation; however, in recognition of Ducor's efforts to trim the initial cost of extending service to Kennedy Meadows. We will order Ducor to employ the funds provided by the REA to bring telephone service to the first 130 lines in the Kennedy Meadows exchange. This effort should consume approximately \$1.6 million, in accordance with the service area and the cost of extending service to Kennedy Meadows.

targeted for the Kennedy Meadows exchange in D-94-03-035 shall be deposited in a memorandum account. Ducor shall install telephone service for ratepayers outside the initial Kennedy Meadows exchange on a first-come-first-served basis, using the REA funds in the above memorandum account to completely defray line extension charges when those are applicable. It is anticipated that a rate will be set by the DRA.

5.3 Alternative Telephone Systems

MUCH OF THE impetus for reexamining this application came because a snapshot calculation dividing the cost of the new and old exchanges (\$2 million) by initial connections (70) showed that the average cost per customer of the new service would be more than twice \$28,000, far higher than the cost per customer of comparable telephone systems like Citizens' Ravendale Exchange (\$6,000 per customer) or the Ponderosa's Cima Exchange (\$12,000 per customer).¹¹ However, when Ducor reduced its cost of construction to \$1.6 million (and showed this at hearing that its initial connections will be about 130 lines), the cost per connection dropped dramatically, to about \$12,000. The DRA concedes that these developments have eased its concerns about the cost of the new exchange, although it has continued to explore other ways to reduce the cost even further.

Mr. Senior Engineer Ramesh Joshi visited the Kennedy Meadow region and studied alternative means of supplying the area with reliable telephone service. He testified that one of DRA's key goals objectives was to eliminate one of the transmission towers for the new system, and that this was accomplished when Ducor found that it could not easily meet Forest Service requirements for Tobias and the Sherman Peaks and substituted instead a single tower at Mt. Pleasant Breckenridge. In addition to other instances of cost reduction to date, no second, dual facilities were built. This also helps to save costs.

Other savings include buying equipment in quantity from foreign suppliers, using off-the-shelf components, and so on. As far as design aspects go, the design is very simple.

¹¹ See Re CN Communications (1990) 35 CPUC2d 630; Re Ponderosa Telephone Company (1991) 40 CPUC2d 399.

Mr. [redacted] Joshi agreed with Ducor's technical consultant that a proposed satellite transmission telephones cannot economically serve Kennedy Meadows. Subscriber units for satellite systems cost about \$2,000 each, with estimated usage costs of about \$2 per minute. With an average rural subscriber usage of 350 minutes per month, the cost of using such a system could be as much as \$8,000 annually, not including terrestrial long distance charges. By the same token, DRA concluded that battery-powered radio telephones (called BETRS, for Basic Exchange Telecommunications Radio Service) are not especially suitable for Kennedy Meadows because of the absence of commercial power. Batteries powering these telephones would deteriorate if 10% of customers' electric generators are shut off for extended periods of time. (Hearing Reg. 000, 32)

DRA does recommend that Ducor be required to give further study to using wireline service for most of Kennedy Meadows but Ducor supplementing it with a solar-powered BETRS system to serve up to 36-40 subscribers located within radio line of sight of the exchange's central office. The combination of solar-powered BETRS for about 40 customers and buried copper cable for all other subscribers could save as much as \$160,000, according to DRA. DRA also proposed that Ducor consider purchasing a used digital central office switch (DCO), available from Pacific Bell, for \$26,000, in place of a new DCO costing \$175,000.

Ducor's witness, Bruce N. Lovejoy, vice president of Mid-States Consultants, a Utah engineering firm, disputed DRA's savings estimate of savings for a BETRS system, noting additional costs of installing and linking antenna poles for each radio telephone and the costs of clearing foliage to maintain radio line of sight and to assure adequate solar power. He also testified that, based on his topographical study, a BETRS system would require three radio base stations, rather than one. As to the digital central office switch, he testified that Pacific Bell's used DCO consumes more power than the Siemens Stromberg-Carlson unit (that) Ducor proposes. (Hearing Reg. 000, 32)

Moreover, he said, the manufacturer of the used equipment is no longer developing the product to accommodate developing new and features for telephone networks. Lovejoy testified that Ducor's REA loan does not permit purchase of used equipment where new equipment is available, and special permission would have to be sought to purchase the Pacific Bell unit. (Exhibit 11 to record sheet 00 5.3.1.)

Discussion on this needed example illustrates why we believe that the work of DRA's technical witness confirms that Ducor's system design is a reliable one and, for the most part, is the most economical now available for the remote, mountainous area it is intended to serve. The exploration of strengths and weaknesses of the various BETRS systems is useful, in that the Commission in the past has authorized BETRS systems for more suitable terrain (see Re Ponderosa Telephone Company (1991) 40 CPUC2d 339, 3413), and the question naturally arose as to whether such a system might be no suitable for Kennedy Meadows where it is obvious of

We are persuaded on this record, however, that any potential savings of a hybrid BETRS and wireline system are far outweighed by the maintenance and reliability problems of solar-powered radio service in this terrain, not to mention the environmental impact of installing antenna poles as tall as 50 feet at each of the homes served by a radio phone. Accordingly, we will not adopt DRA's recommendation to require Ducor to conduct further studies of the BETRS concept. We also will not seek to manage Ducor's purchasing decision with respect to new or used DCO or other equipment. We are not persuaded that long-term savings are sufficient to justify purchase of equipment that no longer is keeping pace with technological developments in telephone systems.

6. Results of Environmental Review

A Proponent's Environmental Assessment is attached to the application as Exhibit H. The CACD environmental section, working with the environmental planning staff in the Department of General Services, has therefore been able to file a memorandum

Services,¹² reviewed the proponent's assessment and other company data, visited the site of the proposed new exchange, and leveraged interviewed company employees and residents on one plot to determine

that CACD states that the proposed new service will reuse an existing central telephone office in the community of Ducor. A new 60-foot tower will be constructed there to provide a base for a microwave system to transmit signals between the central office and the main switch in Kennedy Meadows. The main switch, or central switching facility, will be installed in a small building near the center of the Kennedy Meadows community. The building will house a small back-up electrical generator and a solar power backup system. Underground cabling will be installed between the exchange building and subscribers. While that will require trenching, CACD states that the majority of the underground cable will be placed in or adjacent to existing roads and driveways.

To provide a path for microwave communication between the Ducor central office and the Kennedy Meadows switch, the system as amended will require two microwave/repeater facilities. The first, a 30-foot tower, would be located on a small hill a half mile upstream northeast of the switch. At the second site, at Mt. Breckenridge, a 40-foot tower would be added to an existing transmitter site operated by a television station (KBAK-TV). No easements will be required to place the equipment.

To provide service to outlying areas of Kennedy Meadows, Ducor also would install a buried digital loop carrier cable system along the right-of-way of County Road J41 between the central office in Kennedy Meadows and a site near the fire station at the Chimney Peak. Underground cabling would connect customers in this part of the community. Commenting on the proposed new exchange, CACD in its report states:

A portion of the environmental assessment is attached to the application for a Building a Highway permit. The CACD environmental section is Exhibit H. With the environmental planning staff is attached to the department's Office of Project Development and Management.

"The proposed project will provide conventional service via telephone service to the rural community of (see) Kennedy Meadows..., a remote residential community of single-family homes on large lots (one half to multiple acres), ranches, and a few commercial buildings. Kennedy Meadows is also a recreational area for camping, hiking, mountain bike riding and other outdoor activities.

The proposed system will allow extension of a telephone system into each property that may elect to request this service. The system is expected to substantially improve public safety by providing increased access to emergency services." (Initial Study, pp. 2-3.)

The environmental review concludes that the project will have no effect on geological conditions, erosion or soil disruption. There would be no problems of air emissions or degradation of water quality. Only minor removal of vegetation would be required, and there would be no effect on wildlife. None of the planned towers is expected to affect scenic views, since most will be at sites with similar equipment. CACD concludes that the new telephone exchange will have no significant effect on the environment, and it recommends that the Commission adopt the negative declaration.

Similarly, CACD has concluded that no change in its negative declaration is required by Ducor's re-routing the microwave path from Kennedy Meadows via Mt. Breckenridge rather than via Sherman and Tobias Peaks, as originally designed. CACD notes that Mt. Breckenridge has been designated a commercial communications site by the United States Forest Service, and that the modified design will be environmentally sensitive in eliminating the need for one entire microwave tower and related equipment. CACD concludes, and we agree, that recirculation of its environmental report is not required because the substitution of Mt. Breckenridge does not constitute "significant new information".

as defined by CEQA rev. (See Laurel Heights Improvement Ass'n v. Regents (1993) 6 Cal.4th 1112, 1129.)

DRA initially objected to the proposed negative declaration and asked that the Commission require a more extensive environmental impact report for the project. DRA alleged that the new telephone exchange could have a significant effect on archaeological sites; could affect some plant and animal species, and did not have proper paperwork on water quality. CACD and its consultant responded that the DRA objections had little merit. Archaeological sites are not likely to be disturbed because most of the underground cabling will be done in existing utility and street right-of-ways. The U.S. Fish and Wildlife Service confirmed that no endangered wildlife species are likely to be affected by the work. CACD and its consultant state that a water quality certificate (issued by the California Regional Water Quality Control Board) is ministerial in nature and may not be necessary for this work. At the evidentiary hearings conducted in Ridgecrest in June and in San Francisco in July, DRA raised no further environmental objection to the Duxor proposal.

6.1 Adoption of Negative Declaration

As lead agency, the Commission may adopt a proposed negative declaration if there is no substantial evidence that the project may have a significant effect on the environment. (Pub. Resources Code § 21080(c)(1); CEQA Guidelines § 15070(a).) We conclude on this record that the Kennedy Meadows Exchange will not have a significant negative effect on the environment and we adopt the negative declaration as prepared by CACD and its consultant. A copy of the negative declaration is attached to this decision as Appendix A.

¹³ *Attachments to an accompanying letter are not included but may be found in the Commission's formal file.*

7. Comments on Alternate Draft Decision

The alternate draft decision was filed with the Docket Office and mailed to all parties in conformance with the Public Utilities Code § 31115 and Rule 77.6 of the Rules of Practice and Procedure.

Ducor in its comments seeks to address what it sees as potentially negative impacts from the adoption in this decision of rates for the Kennedy Meadows exchange equal to 150% of GTEC's residential rates. However, Ducor seeks these changes based on no evidence that the company wishes had been on the record, including evidence regarding the elasticity of demand for basic service in and the Kennedy Meadows area and the additional costs to the company of changing its billing system to accommodate the rates for Kennedy Meadows. We note that Ducor could have introduced this evidence to address DRA's recommendation for the rate that should be adopted hereinafter for the Kennedy Meadows ratepayers, a recommendation that we adopted herein, but Ducor chose not to do so. We will therefore not change our decision on this matter, in accordance with Rule 77.37(b)(2)(E). However, we do find merit in Ducor's suggested change to Ordering and Paragraphs 1 and 3, and will adopt those changes accordingly.

DRA has submitted comments that, for the most part, reflect differences of opinion rather than allegations of factual or legal or technical error. DRA engages inantics with semantics when it states that the proposed alternate decision errs as a matter of law by placing the burden of proof on DRA to justify DRA's recommendations. The decision makes no such judgment. The self decision places upon DRA the duty of going forward with evidence to support its recommendations, and it finds that DRA's evidence in this respect was unpersuasive. In other comments, DRA generally repeats arguments set forth in earlier filings. In accordance with Rule 77.37, such comments are accorded no weight.

Combining recorded 20,000 miles (one visitor for a 15-hour period) in each

Findings of Fact

1. This application was filed on January 10, 1994 if No protests were received.

2. Ducor seeks authority to construct and operate a new telephone exchange, the Kennedy Meadows Exchange, in a remote mountain community and recreation area on the eastern slope of the Sierra Nevada Mountains.

3. There are about 165 homes and businesses that could be served by the new exchange.

4. Surveys show that 113 residents of the area intend to have subscribe to 130 connections within one to two years of the opening of the new exchange.

5. A proposed decision in this matter was withdrawn on May 10, 1995, by the Commission which directed that hearings be conducted on specific issues and that the DRA take part in the public hearings. The proposed decision was withdrawn on May 10, 1995.

6. Hearings were conducted in Ridgecrest on June 29 and 30, 1995, and in San Francisco on July 17 and 18, 1995. Concurrently, briefs were to be filed on August 31, 1995, when the case would be submitted for decision.

7. The Commission authorized Ducor to enter into a telephone loan contract with the REA in D-94-03-035 to finance the construction of the Kennedy Meadows Exchange upon approval of this application.

8. All parties agree that telephone service in Kennedy Meadows will serve the public interest, will enhance the safety of residents and visitors, and will contribute to the state's economy.

9. The Forest Service's Blackrock Visitors Station near Kennedy Meadows averages 8,000 visitors annually. Three campgrounds--the Fish Creek Campground, the Kennedy Meadows Campground, and the Troy Meadow Campground--recorded 59,000 visitor days (one visitor for a 12-hour period) in 1993.

11. There were 1,308 vehicles inbound to Kennedy Meadows on the Memorial Day weekend in 1995, and 453 vehicles inbound on the weekend of June 9, 1995.

12. GTE California, Contel, and Pacific Bell state that they have no interest in extending telephone service to Kennedy Meadows.

13. Revised calculations by DRA estimate that Ducor will have a revenue shortfall of \$132,909 in 1997 and \$288,216 in 1998 because of the Kennedy Meadows Exchange.

14. Ducor's calculations allege that there will be no revenue shortfall after addition of the Kennedy Meadows Exchange because the facilities will permit Ducor to increase its draw from anticipated intrastate toll and access pools and from the interstate access revenue pool and the Universal Service Fund.

15. Ducor alleges that its increased draw from the intrastate pooling arrangements, if spread among all California telephone subscribers, would represent six-tenths of a cent per year per subscriber.

16. Pacific Bell's rates have been used in the past as a basis for determining the residential rates of small local exchange companies' ratepayers.

17. GTE-California serves urban areas in Southern California.

18. The parties agree that a satellite transmission telephone system cannot economically serve Kennedy Meadows, and that a battery-powered radio telephone system is not suitable because of the lack of commercial power in Kennedy Meadows.

19. The Environmental and Energy Branch of CACD has filed a final environmental review recommending that the Commission adopt a negative declaration under CEQA for the construction of the Kennedy Meadows Exchange.

Conclusions of Law

1. Telephone service in Kennedy Meadows will serve the public interest, will enhance the safety of residents and visitors, and will contribute to the state's economy.

2. DRA has not shown by a preponderance of evidence that financial restrictions should be placed on Ducor because of item and construction of the Kennedy Meadows Exchange, see, e and to business.

3. DRA has shown by a preponderance of evidence that the ratepayers of Kennedy Meadows should assume a greater financial burden than the general body of Ducor's ratepayers, however, et

4. The Commission has in the past required Ducor to charge a line extension charges to customers in another exchange where caused telephone service was installed using a loan from the REAXI . M

5. DRA has not shown by a preponderance of evidence that a telephone system combining wireline and PETRS technology is less desirable for the Kennedy Meadows Exchange. see and 110-10-46.A

6. The application should be granted, except as modified below, except off and more work between off and off Ducor . 21

7. The negative declaration and conditions of approval attached hereto as Appendix A should be adopted by the Commission due

8. Because of the immediate need for this telephone service, this order should become effective immediately. off will be . 21

spend time until May 30 under conditions off maintained not stated

O R D E R

IT IS ORDERED that: see and off off GTE-CALIFORNIA

1. The application of Ducor Telephone Company (Ducor) for authority to construct and operate a new telephone exchange, the Kennedy Meadows Exchange, in Tulare County, is granted. Ducor may off waive line extension charges for the first 130 telephone lines, within the initial Kennedy Meadows exchange, with the authority granted herein, off and not for GTE California's rates, based upon evidence

2. Ducor shall file tariff sheets for the new Kennedy Meadows Exchange, employing the urban rates of GTE-California, as on the basis, to determine the corresponding rates to be paid by Kennedy Meadows' ratepayers. Ducor shall file rates equal to 150% of GTE-California's rates. The tariff sheets shall be designated bus

effective on the date that service to the Kennedy Meadows Exchange commences, and shall be filed no later than 40 days prior to their effective date.

3. Ducor shall track that portion of the loan from the Rural Utilities Service (RUS) that was targeted for the Kennedy Meadows exchange. After service is implemented for the first 130 subscribers, Ducor shall use the remaining RUS funds allocated for construction of the Kennedy Meadows exchange to completely defray line extension charges for additional subscribers on a ~~first come~~
~~first served~~ basis.

4. The negative declaration with conditions of approval recommended by the Environmental and Energy Advisory Branch of the Commission Advisory and Compliance Division, and attached hereto as Appendix A, is adopted. A copy of the Commission's Negative Declaration with Conditions of Approval is attached hereto as Exhibit A. At the direction of the Commission, a negative declaration with conditions of approval will be filed with the Office of Planning and Research, Notice of Determination.

6. This proceeding is closed.

This order is effective today.

Dated November 8, 1995, at San Francisco, California.

CONVENTIONAL TELEVISIONS SYSTEMS, INC. EXERCISING POWER OF PURCHASE
COMMUNICATIONS SYSTEMS, INC. EXERCISING POWER OF PURCHASE
DANIEL W. FESSLER, President
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners

I. Ducor Customer Office. The new telephone system will utilize the existing telephone office located in the community of Ducor. Ducor is responsible to Ducor for the easiest route to the San Joaquin Valley. At the customer office the system will reduce installation of a new 60-foot cell subscriber power to provide a pass for a microwave system to transmits signals between the central office and main switch in Kennedy Meadows. No other exchanges would be made at the central office of Kennedy Meadows. Accountable for this new service.

PUBLIC UTILITIES COMMISSION
503 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



January 18, 1995

The purpose of this document is to provide notice of the filing of a Negative Declaration by the Ducor Telephone Company (DTC) for the proposed construction and operation of a new telephone system in the community of Kennedy Meadows.

The proposed system will serve approximately 165 existing homes and businesses in the community of Kennedy Meadows. The proposed system will consist of a central office located in the town of Ducor, approximately 10 miles east of the community of Kennedy Meadows. The proposed system will utilize existing microwave transmission facilities to connect the central office to the community of Kennedy Meadows.

All Interested Parties

The proposed system will serve approximately 165 existing homes and businesses in the community of Kennedy Meadows. The proposed system will consist of a central office located in the town of Ducor, approximately 10 miles east of the community of Kennedy Meadows.

**APPROVAL OF DUCOR TELEPHONE COMPANY FINAL NEGATIVE DECLARATION,
APPLICATION 94-01-011.**

The purpose of this document is to provide notice of the filing of a Negative Declaration by the Ducor Telephone Company (DTC) for the proposed construction and operation of a new telephone system in the community of Kennedy Meadows. The proposed system will serve approximately 165 existing homes and businesses in the community of Kennedy Meadows. At the direction of the Commission, a Negative Declaration and Initial Study on the proposed project were prepared and circulated for public review in compliance with the provisions of the California Environmental Quality Act. The following information constitutes the Final Negative Declaration, which includes a response to comments on Draft Negative Declaration and the Conditions of Approval.

Project Description: The Ducor Telephone Company has submitted an application (A.94-01-011) to the California Public Utilities Commission (CPUC) for a Certificate of Public Convenience and Necessity that would authorize the construction and operation of a new telephone system that will serve the community of Kennedy Meadows. This area is presently not served by a conventional telephone system. There are approximately 165 existing homes or businesses in the area that may could be served by this service. The system would also improve communication for travelers and public service agencies in this otherwise remote area of the southern Sierra.

To provide telephone service the Kennedy Meadows area requires the installation and/or construction of various new communications facilities. Due to the remote, mountainous location of Kennedy Meadows, telephone service will be provided by a combination of direct line and microwave transmission facilities. The proposed system has been designed to make use of existing microwave communication sites and minimize new facilities in the Kennedy Meadows area. The following is a list of the improvements needed to provide service to this area:

1. **Ducor Central Office.** The new telephone system will utilize an existing central telephone office located in the community of Ducor. Ducor is northeast of Delano at the eastern edge of the San Joaquin Valley. At the central office the system will require installation of a new 60-foot self supporting tower to provide a base for a microwave system to transmit signals between the central office and main switch in Kennedy Meadows. No other external changes would be made at the central office to accommodate this new service.

new 2,800 ft Kennedy Meadows Exchange. The central switching facility will be installed in an existing small house near the center of the community. This house is on County Road J41 across from the Grumpy Bears restaurant and the BLM firestation. The building served as a residence in the past, but it has been unused for the last few years. The house is on an approximately one acre parcel with no other improvements.

o Installation of the switching equipment will require minor modification of this small building; installation of an approximately 6' x 12' prefabricated building that will hold telephone equipment; and installation of a new 20' self supporting tower with microwave antenna. The existing building will also be renovated for office use. The project will also involve the installation of a small back-up electrical generator and solar power system to support the system.

3. Cabling to Customers. Underground cabling will be installed between the exchange building and homes/businesses in the Kennedy Meadows area. Installation of the cabling will require trenching along all alignments where telephone lines will be needed. The majority of the underground cable will be placed in or directly adjacent to existing roads and driveways.

4. Long Canyon Repeater/Microwave. To provide a path for microwave communication between the Duror Central Office and the Kennedy Meadows Exchange, the system will require three proposed microwave/repeater facilities. The first will be in the Kennedy Meadows area on a small hill approximately a half mile northeast of the exchange in the Long Canyon area. The planned facility will be a 30-foot self supporting tower and supporting radio equipment. An alternative facility to the tower may be a small repeater, which would consist of a flat-surfaced rectangle (like a small bill-board) mounted on three or four vertical posts.

X Installation of the microwave antenna or repeater will require minor clearing of an approximately 100-200 square foot area at one of two adjacent sites on a ridgeline on one side of Long Canyon. The site is accessible by an existing road/trail that crosses the landowners property. Access to this property is from existing public roadways.

5. Sherman Peak Microwave. The second site for the microwave system will utilize an existing US Forest Service radio facility on Sherman Peak. This peak is directly east of Kennedy Meadows above Sherman Pass Road. A 20-foot self supporting tower and prefabricated equipment building would be installed within the boundaries of this multiple agency radio communication site. Access to the site is over existing roads. Only minor land modification would be required. The facility will be solar powered with a small back-up generator.

6. Tobias Peak Microwave. The third site for the microwave system will utilize an existing US Forest Service radio facility on Tobias Peak. Tobias Peak is also in the mountains near the community of Pine Flat in the Sequoia National Forest. Tobias Peak will require the addition of a 60-foot self supporting tower. The tower would be directly adjacent to other public radio communication equipment. Access to the site is over existing roads. Only minor land modification would be required. The facility would be solar powered with a small back-up generator.

7. Chimney Creek Service. To provide service to all of the Kennedy Meadows area, the applicant will also install a buried digital loop carrier cable system along the right-of-way of County Road J41 between the central office in Kennedy Meadows and a site near the firestation near Chimney Peak. This area is about ten miles southeast of Kennedy Meadows. Underground cabling will be used to connect customers in this outlying part of the Kennedy Meadows area to this system. The facility will require minor land modification, mainly trenching along roadways. It will be solar powered.

Environmental Findings: No Yes Maybe No

- A. Does the project have the potential to degrade the quality of the environment substantially? No Yes No
- B. Does the project have the potential to substantially reduce the habitat of a fish or wildlife species, cause a fish or wild life 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? No Yes No
- C. Does the project have impacts which are individually limited, but cumulatively considerable? No Yes No
- D. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? No Yes No

Based on the Initial Study in the draft Negative Declaration, the proposed project will not have any significant effects on the environment. No comments were received on the document indicating the project would have any significant effects on the environment.

Conditions of Approval: The following is a list of conditions required for this project prior to construction, during construction, and during operations.

- Prior to Construction:**
- 1. Coordinate and comply with local, state, and federal agencies having jurisdiction in the project area, including county, city, town, and tribal governments.
 - 2. Over powerline losses. Only minor line modification will be required. The facility must be solar powered with a small back-up generator.
- County of Tulare**

Responsible for Compliance: County of Fresno. Responsible for Mitigation: U.S. Forest Service, U.S. Bureau of Land Management.

2. Satisfy the requirements of the above listed agencies for all respective sites for permitting, construction, and operation. In particular, obtain applicable building and grading permits from the County of Tulare.

During Construction

3. Towers and all other associated structures will be painted to blend in with the surrounding setting; site disturbance will be minimized during installation of equipment; and disturbed areas and roadways will be restored to an appropriate condition immediately following construction.

4. Avoid and/or minimize disturbance to the natural landscape.

5. Reduce or minimize damage due to delivery of equipment and construction staging.

6. If any artifacts are discovered during the trenching for subsurface cabling, work will be stopped and a qualified cultural resource specialist will be called in to assess the discovery and determine the appropriate measures to avoid further disturbance. All final cabling routes will be reviewed by a qualified cultural resource specialist to determine their respective proximity to known sites, and to offer measures to avoid unnecessary disturbance of such resources.

During Operation

7. Site access for maintenance and repairs will meet the same conditions as described in Conditions 1-6.

Mitigation Monitoring: The project did not require the imposition of any mitigation measures, so no monitoring plan is required.

Availability of Document: Copies of the Negative Declaration and Initial Study may be obtained by addressing a request to the Commission as follows:

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

Attention: Jo Anna Bullock

Telephone: (415) 703-1777
FAX: (415) 703-1777
E-mail: joanna.bullock@cpuc.ca.gov

Response to Comments: Comment letters were received from four parties on the draft negative declaration and initial study for the Ducor project. This includes the County of Tulare, the County of Kern, the US Forest Service and the Division of Ratepayer Advocates within the Commission. The following are responses to these comments.

County of Tulare Planning and Development Division. The County Identified four issues:

1. Comment. The Kennedy Meadows area is within the Madera Deer herd range. Fencing around structures must be limited to assure passage of wildlife.

Response. The project does not require fencing except directly around equipment such as the transmitter at the Long Canyon site. The fencing required to provide security and public safety will not obstruct wildlife passage.

2. Comment. Electric generators will require appropriate muffling devices or enclosures to minimize noise problems.

Response. All emergency generators used for the new telephone system will be equipped with mufflers and/or other appropriate noise attenuation devices.

3. Comment. The planning guidelines for the Kennedy Meadows area prohibit construction of driveways and access roads on steep slopes unless appropriate measures are incorporated to avoid erosion and other related soil problems.

Response. Except for development of access to the Long Canyon site, the project does not require development on slopes exceeding 30 percent. While an existing access road serves the Long Canyon area, a limited reach of new access across a moderately steep slope will be required to serve the antenna site. This access would be constructed in conformance with Tulare County grading standards.

4. Comment. A Special Use Permit is required for the construction of facilities associated with the Kennedy Meadows Exchange.

Response. Comment noted.

US Forest Service, Sequoia National Forest, Porterville, California. The US Forest Service submitted one comment:

1. Comment. The telecommunication sites on Sherman and Tobias Peaks are not for commercial use. These sites are reserved for administrative purposes. The Application should first consider other commercial communication sites.

Response. Comment noted concerning the reserved status of the sites on Sherman and Tobias Peaks. Because of the need to provide a microwave path between Kennedy Meadows and Ducor, the two subject telecommunication sites are considered the most favorable locations for transmitters. The

PUBLIC UTILITIES COMMISSION

Application will work with the U.S. Forest Service to determine if these sites are available for this project.

County of Kern, Planning Department: The County of Kern submitted a letter indicating that they had no comments on this project.

Division of Ratepayer Advocates, CPUC: The DRA staff submitted comments concerning the need to prepare an environmental impact report (EIR) because the project could have potentially significant environmental effects on cultural resources, plant and animal species, water quality, and visual resources in the Kennedy Meadows area. They also requested that alternatives to the proposed project be considered in subject EIR. In summary, the concerns for potentially significant effects was not substantiated after a detailed review of the DRA comments, nor was there evidence of the need to prepare an EIR and evaluate alternatives. The concerns expressed about environmental resources were based on generalized responses from consultation with trustee and permit public agencies. In all cases, the respective agencies had simply indicated that if such resources were present, then there could be a concern for the effects of the project. Such resources are not present on the project sites.

The threshold for the need to prepare an EIR was also not exceeded since, as stated in the Negative Declaration and Initial Study, the proposed Ducor Telephone Company project will not have any significant effects on the environment.

A full, detailed response to the DRA letter of October 7, 1994, is provided as an attachment to this document, and is incorporated by reference into this section of the approval action of this memorandum.

Summary of Comments: No other comments were received on the Kennedy Meadows Telephone Service Project. The comments received did not identify any substantive issue that required new or revised mitigation measures.

Approval of Final Negative Declaration: Based on the foregoing information, the Negative Declaration for the Ducor Telephone Company Kennedy Meadows Telephone Project is approved.

Neal J. Shurian, Executive Director
California Public Utilities Commission

ENVIRONMENTAL DETERMINATION

Attachments: 1. Draft Negative Declaration

2. Comment Letters
3. Response to DRAs
4. October 14, 1994
5. Study for the Kennedy Meadows Telephone Project, the proposed project will not have a significant effect on the environment. This conclusion is supported by the following findings:



STATE OF CALIFORNIA

PUBLIC UTILITIES COMMISSION505 YAH NESS AVENUE
SAN FRANCISCO, CA 94102-3209**NEGATIVE DECLARATION**

Approved by the California Public Utilities Commission

**DUCOR TELEPHONE COMPANY
KENNEDY MEADOWS TELEPHONE SERVICE PROJECT****PROJECT DESCRIPTION**

The California Public Utilities Commission proposes to approve a Certificate of Public Convenience and Necessity for the Ducor Telephone Company Kennedy Meadows Exchange Project, Application # U 1007 C. The project consists of the installation and operation of a telephone exchange to serve the Kennedy Meadows area in Tulare County. This remote community situated in the Southern Sierra Nevada is not currently served by a conventional telephone system.

The Kennedy Meadows exchange will require a combination of fixed facilities and an microwave network. The project includes the following components:

1. **Ducor Central Office.** Install 60-foot tower and other needed equipment at the existing office in Ducor. Existing office will serve as central telephone switching station for the Kennedy Meadows system.
2. **Kennedy Meadows Exchange.** Install switching equipment in existing house in Kennedy Meadows that will serve as business office; install 20-foot self supporting tower and 6' x 12' foot prefabricated building; and install back-up generator and solar power system. Install underground cabling from exchange to customers. All cabling to be placed in existing road shoulders and driveways.
3. **Long Canyon Microwave Station.** Install microwave station on low ridge in Kennedy Meadows. Facility will consist of 30-foot self supporting tower and associated radio equipment.
4. **Sherman and Tobias Peaks Microwave Stations.** Install 20-foot microwave tower, prefabricated building, and back-up generator at existing US Forest Service communication facility on Sherman Peak. Install 60-foot microwave tower, prefabricated building, and back-up generator at existing US Forest Service communication facility on Tobias Peak.
5. **Chimney Creek Service.** Install a buried digital loop carrier cable system between the Kennedy Meadows Exchange and the Chimney Peak area to serve southeastern portion of the Kennedy Meadows area. The cable will be buried along the right-of-way of County Road J41.

ENVIRONMENTAL DETERMINATION

An Initial Study (attached) was prepared to assess the project's potential effects on the environment and the significance of those effects on the environment. Based on the Initial Study for the Kennedy Meadows Telephone Exchange Project, the proposed project will not have a significant effect on the environment. This conclusion is supported by the following findings:

.2.

1. There will be no significant effect on water quality, wetlands, floodplains, wildlife, vegetation, or agricultural use. The project will have a de minimis effect on wildlife and plant resources because on minor surface disturbance of natural habitat is required to install the new equipment.
2. There will be no significant increase in noise exposure, or environmental hazards as a result of the project. The project will not increase geohazards or require significant terrain modification.
3. There will be no significant effect on transportation, air quality, or scenic resources. While the project will require the installation of 20- to 60-foot self supporting towers to provide microwave service, all tower sites are either at existing remote communication sites or are on local terrain features that are not in scenic overlooks. The new towers will be a very minor change to the setting of this area and its scenic resources.
4. There will be no effect on archaeological, cultural, or historical resources.
5. There will be no significant effect on local land uses in the Kennedy Meadows area, nor will the project increase the demand for public services that are not already provided in this area.
6. There will be no significant adverse effects on human population, business, residences, public facilities, or the economy of the area. The new telephone system will have the positive effect of improving communications with emergency services.
7. There will be no effect on parks, recreational uses, or community values.

Based on these findings, the construction and operation of the Kennedy Meadows Telephone Exchange Project is not expected to have any significant effects on the environment. No mitigation measures are required.

Robert C. Meyer Jr.

Jo Anna Bullock, Project Manager
California Public Utilities Commission

Sept 6, 1984
Date

(END OF APPENDIX A)