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Decision 95-12-056 December 20, 1995

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Own Motion Into Competition for Local Exchange Service.	R.95-04-043 (Filed April 26, 1995)
Order Instituting Investigation on the Commission's Own Motion into Competition for Local Exchange Service.	I.95-04-044 (Filed April 26, 1995)

ORIGINAL

I N D E X

INTERIM OPINION

Introduction and Scope

By this decision, we continue the implementation of competition in all California telecommunications markets with the adoption of further interim rules governing local exchange competition within the market territories of Pacific Bell (Pacific) and GTE California (GTEC). The interim rules adopted in this decision cover the issues designated as Phase I of this proceeding and supplement the initial rules for local exchange competition adopted in July 1995 in Decision (D.) 95-07-054.

The rules we adopt today will enable certificated competitive local carriers (CLCs) to enter into interconnection arrangements for local exchange service effective January 1, 1996. The Phase I rules addressed in this decision relate principally to interconnection and related features required by facilities-based CLCs, and to certain other entry-related issues. In a companion decision being issued today in this docket, an initial batch of CLC Petitions for authority to offer competitive local exchange service within the servide territories of Pacific and GTEC are being approved to become effective January 1, 1996. Those certificated CLCs shall be subject to the adopted rules specified in this order. We expect to issue a decision in early February 1996 adopting initial rates for interim number portability (INP).[1] We intend to adopt further rules governing local exchange competition by March 1, 1996, the date we have established for initiating resale competition.

[1] By unanimous assent among the active parties, the ALJ adjusted the scheduling of hearings on INP pricing issues consolidating them into a single phase for a decision on INP pricing scheduled for early 1996.

The rules allow for subsequent revision, if warranted, in response to changing market conditions or additional experience with their application. Accordingly, we stress that the rules we adopt are interim in nature and will serve to initiate the opening of the local exchange market to competition. We will entertain subsequent modifications if it becomes apparent that the rules are not working as intended or fail to achieve our stated goals. In this decision, we provide LECs and CLCs with guidance on the content of interconnection agreements, establish an expedited approval process, and design a streamlined dispute resolution process. These three steps address concerns of both the LECs and CLCs that interconnection agreements may be difficult to establish and that the negotiating power of the parties to the contract may not be even. Our stated goal of promoting economically efficient, timely and fairly balanced interconnection between CLCs and LECs leads us to adopt preferred outcomes that we strongly encourage parties to consider in their own negotiations. While we will entertain contracts that deviate from the preferred outcomes, parties will bear the burden of proving the deviations lead to more economic and/or efficient outcomes and are in the public interest. The expedited review process balances our need to reject contracts that are not in the public interest with our goal of not impeding competition. The review process is only available for interconnection at this time, as described below. As the Commission resolves policy and factual disputes regarding other services CLCs may need to promote local competition, we may allow those services to be submitted for review under the expedited process. Finally, the dispute resolution process we adopt today will provide all parties to a contract with an expeditious forum to address their concerns before and after a contract is signed. This process should allow the parties to receive maximum guidance from the Commission without jeopardizing their due process rights.

II. Procedural Background

In our November 1993 report entitled Enhancing California's Competitive Strength: A Strategy for Telecommunications Infrastructure (Infrastructure Report), we stated our intention of opening all telecommunications markets to competition by January 1, 1997. The California Legislature subsequently adopted Assembly Bill 3606 (Ch. 1260, Stats. 1994) similarly expressing legislative intent to open all telecommunications markets to competition by January 1, 1997.

By issuance of D.94-12-053, we formally adopted a procedural plan to implement our stated goals. As part of that procedural plan, we instituted R.95-04-043/I.95-04-044 in which proposed interim rules were issued for comment on April 26, 1995. Following receipt and review of filed comments, we issued D.95-07-054, adopting initial rules in certain limited areas sufficient to enable prospective CLCs to file petitions for authority to enter the local exchange market by January 1, 1996. These adopted rules were set forth in Appendices A and B of D.95-07-054.

Following issuance of D.95-07-054, the assigned administrative law judge (ALJ) established a procedural schedule dividing the proceeding into three phases. Phase I addresses the issues requiring resolution in order to institute facilities-based competition by January 1, 1996. This decision resolves those Phase I issues. Phase II issues which address bundled resale competition are scheduled to be resolved by March 1, 1996. Phase III will address any remaining unresolved local competition issues.

As determined in D.95-07-054, certain issues in this docket were to be resolved through evidentiary hearings while remaining issues were to be resolved through a combination of technical workshops and written comments. Since the issues

resolved in this Phase I decision are of a rulemaking nature, no evidentiary hearings were held.[2] Written comments on the Phase I issues addressed in this decision were filed by Pacific, GTEC, the California Telecommunications Coalition (Coalition),[3] the Commission's Division of Ratepayer Advocates (DRA), Citizens Utilities Company (Citizens), Public Advocates,[4] Utility Consumer Action Network (UCAN), and the Federal Executive Agencies (FEA). Technical workshops and follow-up reports were also prepared and served on the issues of interconnection, E-911, the DBAF program and GO 133-B. We have carefully reviewed filed comments and workshop findings in arriving at our opinion as outlined below.

A. Introduction

The initiation of facilities based competition requires that CLCs be able to interconnect their network facilities to those of an incumbent LEC so that customers' calls can be routed and completed between two competing carriers. In our proposed rules issued for comment on April 26, 1995, we included a section dealing

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2 As indicated in footnote 1, the hearing issue of interim number portability pricing at direct embedded cost, previously scheduled for Phase I was rescheduled to allow for a separate decision in early 1996.

3 The members of the Coalition include AT&T Communications of California; California Association of Long Distance Telephone Companies; California Cable Television Association; California Payphone Association; MCI Telecommunications Corp.; Teleport Communications Group; Time Warner AxS of California, L.P.; and Toward Utility Rate Normalization.

4 Public Advocates represents the Southern California Leadership Conference, National Council of La Raza, Korean Youth and Community Center, Filipinos for Affirmative Action, and Filipino Civil Rights Advocates.

with interconnection issues (see proposed rules, Appendix A, Section 8). The proposed interconnection rules addressed issues relating to the parties' respective rights and obligations with respect to the location and number of points of interconnection. The rules also addressed the rights and obligations to construct and maintain interconnecting facilities. Comments on the proposed interconnection rules were received May 24, 1995.

The May 24 comments revealed considerable disagreement regarding the proposed rules. While the Coalition generally favored the approach set forth in the proposed rules requiring LECs to interconnect with CLCs at any points specified by the CLCs, Pacific argued that LECs and CLCs should each be able to specify the points of interconnections (POIs) and GTEC and DRA argued that there should be mutual agreement on interconnection POIs.

Following review of parties' May 24 filed comments as well as oral arguments presented at a June 9 Full Panel Hearing, we developed a plan for further rulemaking with respect to interconnection issues in D.95-07-054. Accordingly, in D.95-07-054, we developed a timetable for facilities-based competitors to be able to enter the local exchange market and directed Pacific and GTEC to file proposed interconnection tariffs for parties' comment. Resolution of disputes over our April 26 proposed interim rules for interconnection was scheduled to be resolved by January 1, 1996, to allow opportunity for parties to comment on the LECs' proposed tariffs.

In the initial rules adopted in D.95-07-054, we mandated that local exchange networks should be interconnected so that customers of any local exchange carrier can seamlessly receive calls that originate on another local exchange carrier's network and place calls that terminate on another local carrier's network without dialing extra digits. We gave latitude to parties to enter into their own interconnection agreements subject to Commission approval. Parties were encouraged to negotiate mutual arrangements

for interconnection until more detailed interconnection rules were established under Phase I of the proceeding.

In the initial interim rules adopted in D.95-07-054, we adopted a "bill-and-keep" approach for dealing with call termination between the LECs and CLCs as an interim measure to become effective January 1, 1996. We directed that evidentiary hearings would be conducted on the issue of compensation for call termination later in the proceeding.

To provide parties an opportunity to comment on the remaining unresolved disputes regarding the terms and conditions of interconnection, the assigned ALJ solicited additional comments on these unresolved issues. We stated that any interim interconnection agreements reached between parties would not be invalidated by the adoption of subsequent rules.

Prospectively, we shall reserve the right to adopte rules for local exchange competition which may have the effect of superseding the terms of cetain interconnection contracts. We shall direct parties to include a standard clause in their interconnection contracts that its terms are subject to modification by the Commission. We anticipate that Commission rules would result in modification of contracts only in extreme cases, and only after due notice and oportunity to be heard. In any case, a carrier's failure to abide by Commission rules may result in revocation of its certificate authority.

Further comments regarding proposed rules for interconnection were filed by parties.

Pacific and GTEC also filed proposed interconnection tariffs on September 18, 1995 for comment. Informal meetings were held between CACD and various parties to discuss and clarify the proposed LEC tariffs. A technical workshop on interconnection

issues was held November 28. We have carefully reviewed parties' filed comments regarding interconnection rules and the proposed LEC interconnection tariffs and have taken them into account in the interim rules adopted in this order.

B. Technical Issues

1. Should Interconnection Arrangements be Instituted Via Contract or Tariff

a. Parties' Positions

The parties hold differing underlying beliefs regarding the proper vehicle for entering into interconnection arrangements for competitive local exchange service. Pacific and DRA believe that a tariffing process should be used as the basis for interconnection. GTEC, Citizens, and the Coalition believe that mutual negotiation through contract is a more useful vehicle.

Pacific

Pacific proposes to offer CLC interconnection under tariff. Pacific filed a partial version of its proposed interconnection tariff on September 18, 1995. On November 22, 1995, Pacific filed supplemental tariff sections to complete its September 18 filing. Pacific designates its tariff offering as Local Interconnection Serving Arrangement (LISA). Pacific claims that the LISA tariff would allow Pacific and CLCs to interconnect effective January 1, 1996 so as to allow each company to engineer its own network independently, recover their respective costs of interconnection, and cooperate with each other to minimize expenses. Under Pacific's proposal, a CLC would initiate an order for interconnection service through Pacific's mechanized ordering interface, the Carrier Enhanced System for Access Requests (CESAR). The LISA tariff offers a trunk-switched network interconnection between a CLC network POI and Pacific's access tandem or end office. LISA also provides for transmission facilities, tandem switching, end office switching, interexchange access, and end user termination functions to complete telephone calls between CLC and

Pacific customers and other common carriers connected to Pacific's tandem switching network. Operator-to-Operator connectivity for Busy Line Verify and Emergency Interrupt service is also covered under LISA.

Pacific recommends that its proposed tariff be adopted in full by the Commission. If the Commission requires significant changes to LISA, Pacific claims that the January 1, 1996 implementation date for LISA may have to be adjusted. Pacific states that it must also be able to purchase interconnection service from CLCs beginning January 1, 1996 so that its customers may complete calls to CLC customers. Pacific recommends that the CLCs serve their proposed interconnection tariffs as soon as possible so that issues associated with the CLCs' proposed services may be addressed prior to the commencement of local exchange competition on January 1, 1996.

GTEC

In compliance with the August 18, 1995 ALJ Ruling, GTEC filed its proposed interconnection tariff. GTEC believes its proposed tariffs comply with the Commission's rules, are reasonable and flexible, and should be approved by the Commission if a tariffing approach to interconnection is adopted. GTEC believes, however, that the preferred approach to developing interconnection arrangements is through mutual agreement between LECs and CLCs.

GTEC generally supports the Commission's Interim Rules for interconnection as adopted in D.95-07-054, which provide for mutual negotiation of interconnection arrangements. The Commission's adopted interconnection rules can then provide guidance in those cases where the parties are unable to reach an agreement. GTEC believes it would be impractical to set forth in a tariff all of the technical details that encompass the interconnection of networks, or to develop tariff provisions to meet all possible situations. GTEC believes that parties should be allowed to negotiate the technical details of provisioning and

constructing facilities to give the flexibility needed to deal with the wide variety of new provisioning situations that will inevitably occur as CLCs and LECs interconnect their networks.

GTEC thus disagrees with Pacific's and DRA's positions that all terms and conditions should be tariffed. GTEC believes DRA's concern regarding discriminatory treatment can be resolved by requiring all negotiated interconnection agreements to contain nondiscriminatory prices across interconnected companies, and that all such agreements should be filed and approved to ensure that the terms and conditions are not unduly discriminatory or anticompetitive.

Citizens supports the concept of mutually negotiated interconnection arrangements, with the material terms and conditions of such agreements filed with the Commission and made publicly available. Citizens finds Pacific's proposed interconnection tariff to be flawed in a number of respects. According to Citizens, Pacific's proposed tariff inappropriately merges local and toll interconnection issues, and sets a different scheme for CLC toll termination than for other toll carriers. Citizens believes that adoption of Pacific's proposed tariff would lead to network inefficiencies, discrimination, and to inconsistencies with the Commission's Interim Rules. Citizens recommends that Pacific be ordered to file the tariff it was ordered to produce -- a local interconnection tariff. With a few exceptions, Citizens generally agrees with GTEC's proposed tariff, and applauds what it calls the reasonable approach taken by GTEC.

Citizens is concerned that some of the services identified by GTEC as ancillary are actually essential interconnection services which should be provided under tariff. Among the services which Citizens proposes should be provided under tariff and not by contract are: busy line verify/emergency

interrupt, primary white pages and standard yellow pages listing inclusion of CLC customer listings in GTEC's directory assistance databases, and E911 database inclusion and selective router functions.

Citizens views seamless interconnection to require access on a nondiscriminatory basis to LEC data bases, white pages, and associated network signalling necessary for call routing and completion.

Coalition

The Coalition does not believe that interconnection arrangements need be tariffed, but prefers that parties negotiate their own interconnection arrangements subject to guiding rules and principles as adopted by the Commission. The Coalition finds that Pacific's proposed tariff, in particular, unnecessarily complicates the issues involved with LEC/CLC interconnection. The Coalition views interconnection between the LECs and CLCs to be no more technically challenging than the interconnections between LECs and IEC/LECs that have existed for decades.

The Coalition disagrees with Pacific's LISA tariff in which CLCs are relegated to "customer" status purchasing "services" from the LEC. The Coalition recommends changing the description of Pacific's CLC interconnection arrangement from "service" to "arrangement" to reflect co-carrier parity between LECs and CLCs.

The Coalition expresses concern that Pacific has not finalized its tariffs and that they might be revised in a way that affects Pacific's proposed interconnection service. The Coalition believes this makes it impossible to fully assess Pacific's proposed tariff, and the Commission should require Pacific to propose a final tariff immediately and give the Coalition an additional opportunity to address any such proposed changes. The Coalition recommends that GTEC modify its tariffs so that it is required to provide access to directories, E911 and SS7

The Coalition recommends that if interconnection arrangements must be governed by tariff, then the LECs should be ordered to refile their interconnection tariffs prior to the advent of local exchange competition on January 1, 1996 to be consistent with the Coalition's interconnection model.

The Coalition offers several criteria for reviewing the LECs' proposed interconnection tariffs. The first criteria is engineering efficiency which means that internetwork facilities should be engineered to standard and accepted industry parameters. The second criteria is economic efficiency which occurs when LECs charge no more than their costs for providing interconnection arrangements which are efficiently engineered. The third criterion is flexibility, given that many different CLCs will likely require a variety of interconnection arrangements. The Coalition believes its interconnection model meets these criteria and also is intended to prevent the LECs from engaging in anticompetitive behavior with respect to LEC-CLC interconnection. The Coalition recommends that the LECs be required to accommodate as many CLC preferences as possible, subject only to the constraint that their networks need to be capable of the configuration requested by the CLC.

DRA

DRA believes interconnection rules should ensure competitive equity between the participants and protection of consumer interests. Going forward, DRA prefers that tariffs rather than contracts govern interconnection arrangements since DRA believes contracts readily lend themselves to anticompetitive conduct. DRA believes that the interconnection tariffs filed by Pacific and GTEC, however, are not acceptable.

DRA observes that GTEC's tariff specifies that a number of services will be provided via negotiated contracts (i.e., operator services, directory assistance, directories, database access, billing and collection, SS7 interconnection, and E911). DRA believes that rates, terms and conditions for these services

should be tariffed, and not provided pursuant to contracts. DRA states that LISA does not provide interconnection to other LEC services such as 911 or operator services, which CLCs must provide to their end users.

DRA also notes that the proposed new section in the 175-T tariff contains a general statement that the regulations, rates, and charges in other portions of the tariff may be applicable, but does not specify what other regulations, rates, and charges will be applicable. DRA recommends that any interconnection services contracts in existence as of January 1, 1996, should be converted to tariffed arrangements.

FEA agrees with the Coalition that negotiation is favored as the means of developing interconnection arrangements as opposed to tariffing, particularly given the competitive environment in which such arrangements will be implemented. FEA believes the contentiousness surrounding competitive local exchange interconnection is not due to technical issues which are new to California. Rather, the contentiousness is due to the fact that each advantage given to a competitor represents a matching disadvantage on oneself. FEA believes the adoption of tariffs would prove too unwieldy and limit parties' flexibility to negotiate different terms if circumstances change. Thus, FEA believes the Commission should create an environment conducive to negotiation and that adopted rules should serve only as a fallback mechanism.

b. Discussion

In order for the adopted interconnection rules to be successful in achieving the goal of promoting a competitive marketplace, certain underlying principles must be observed. A threshold issue to be resolved is whether tariffs should be required for CLCs to enter into interconnection arrangements with a

LEC. The manner in which we develop interim rules for interconnection will be influenced by the answer to this question. Given our stated goal of fostering an environment conducive to the development of a competitive market, we conclude, on balance, that negotiated contracts offer a superior alternative to tariffing of interconnection services.

The traditional tariffing paradigm comports with a monopoly model where command and control regulation is used. Moreover, as an initial step in devising rules for local exchange network interconnection, we directed Pacific and GTEC to file proposed interconnection tariffs for comment. Nonetheless, in recognition of the inflexibility and inefficiency of Pacific's tariff, we now conclude that in the newly emerging competitive world of multiple providers, interconnection should be arranged under contract rather than tariff.

Allowing competitors to negotiate contracts will have several benefits over tariffs. A more level playing field is created when prospective competitors are able to negotiate their own terms and conditions for interconnection with co-carrier status subject to appropriate Commission rules and guidelines. Contracts will afford LECs and CLCs greater opportunity to negotiate flexible interconnection agreements to meet the needs of both parties. We expect contracts will lead to an overall increase in efficient utilization of the combined CLC and LEC interconnection facilities and, therefore, lead to more economic interconnection than would a more rigid tariff structure. Contracts will allow parties to more readily deploy new technologies as they become available.

We are aware that all parties have concerns about negotiating contracts. In an unstructured negotiation, the Coalition believes that the LECs have too much negotiating power. In contrast, the LECs find that the Coalition's proposed rules tip the negotiating power too far in the CLCs' favor. To balance these concerns, we will adopt rules which prescribe a set of "preferred

outcomes." These preferred outcomes are based on parties' comments about what technical features lead to the most efficient and economic interconnection solutions. Appendix A of this decision provides a summary display of our preferred outcomes with respect to the major interconnection disputes at issue. The rationale for these outcomes is discussed in the following sections. In approving interconnection contracts, Commission staff will consider how well a contract achieves the "preferred outcomes," but will not reject mutually agreeable contracts that do not contain preferred outcomes and which are not unduly discriminatory and anticompetitive. We are aware that parties may find alternatives to the "preferred outcomes" that are more efficient and/or economic to their particular situation. We will approve contracts that do not contain the "preferred outcomes" if the contract is mutually agreeable and passes other Commission guidelines outlined below. Parties shall submit those agreements to the Commission and explain why their terms should be adopted.

In addition to providing efficient and economic solutions, the "preferred outcomes" balance the negotiating power of LECs and CLCs which should result in both parties pursuing a solution that is least cost for the total interconnection costs of both parties. A solution that may be more economical for one carrier may not be appropriate if it results in an even greater inefficiency for its competitor.

Many parties are concerned that negotiations are a good solution only when parties can reach agreement in a reasonable time period. Negotiations are less productive when parties delay for strategic reasons, and we are aware that CLCs and LECs are potential competitors and either party could have reason to stall the process. In response to this shortcoming of negotiations, we are establishing an expedited dispute resolution procedure to handle both situations where parties cannot agree on an interconnection arrangement and situations where parties have potentially breached their interconnection contract. This process will expeditiously resolve disputes between parties to assure the

Commission's goal of competition is not obstructed. As discussed below, we shall assign an ALJ to facilitate the resolution of disputes. We shall direct the ALJ to use our preferred outcomes as guidelines in resolving disputes.

While adopting a negotiation model as the basis for interconnection, we do not abdicate our role as regulators responsible for assurance that the terms and conditions of such agreements are consistent with the public interest.

We remain concerned about the potential for unfair discrimination. With the proper safeguards in place to review and approve LEC/CLC interconnection contracts, however, we believe that concerns regarding discriminatory practices can be reasonably addressed. We place parties on notice that we will review proposed interconnection contracts for unfair discriminatory terms and will deny approval or direct parties to renegotiate any unfairly discriminatory or otherwise unreasonable terms where necessary. Upon reaching agreement on the terms of interconnection, parties to the agreement shall file the agreement via advice letter with the Commission for expedited review and approval.

We appreciate that much work has gone into the interconnection provisioning proposed in the LECs' tariffs, and believe that much of the technical interconnection features discussed in the tariffs will readily lend themselves to implementation under contract as well as tariff. Accordingly, we direct all parties to negotiate in good faith. Moreover, we agree that certain essential services as noted by Citizens must be provided in conjunction with interconnection and may still be appropriately offered under tariff rather than contract. These services include busy line verify/emergency interrupt, and LECs' inclusion of CLC customer listings in directory assistance data bases. We shall direct the LECs to provide these services to CLCs under mutually agreeable terms and conditions. We shall permit the LECs to offer these services either under tariff or by contract on

an interim basis, pending further determination in our Phase II rules.

2. Points of Interconnection

Parties' Positions

Parties disagree over the respective rights and obligations of the LECs and CLCs regarding the determination of the location of and number of points of interconnection (POI) by each party.

Pacific

Pacific believes each interconnecting party should be allowed to select its POI for terminating its own traffic on the other's network. Pacific generally agrees that CLCs may pick their POIs for terminating their traffic on Pacific's network. Pacific, however, asks that it be granted the same right. Pacific anticipates that CLCs and LECs could mutually agree on a single POI. If not, then each company should have the ability to select a POI on the other's network for the termination of traffic since CLCs will know what is efficient for them and Pacific will know what is efficient for itself. Pacific proposes that costs for the interconnection up to the facility meet point should be compensated through the payment of tariffed access service prices, that is, Pacific will pay the CLCs their tariffed rates for the interconnection, and vice versa.

GTEC

GTEC supports the Commission's Interim Rule that authorizes the LECs and CLCs to enter into mutually agreeable terms and conditions to establish both the POI and the provisioning of interconnection facilities. GTEC strongly recommends that no party be given the authority to unilaterally designate the POI since the party possessed with this power would have no incentive to ever reach a mutually agreed upon POI. GTEC is concerned that if CLCs are allowed to dictate to GTEC to construct and pay for half of the interconnection facilities, GTEC would incur huge outlays of

capital on facilities that might be unnecessary or uneconomic. GTEC believes that the cost of building CLC's networks, whether necessary or not, will ultimately be borne in large part by LEC ratepayers.

GTEC suggests two solutions when mutual agreement on the POI is not possible. First, the POI should be established at the CLC's physical facility nearest to the LEC's serving wire center or tandem. In those instances where the CLC does not have a physical facility within the area served by the LEC wire center or tandem, GTEC agrees to build out to the boundary of the serving area of the wire center or tandem and interconnect with the CLC at that point. GTEC's second solution would occur when the CLC wished to challenge as unreasonable the POI being established either at its own physical facility or the LEC's serving wire center or tandem boundary. In such circumstances, GTEC proposes a process such as the forum opened in I.90-02-047 (Forum OII) be established to resolve such interconnection impasses. GTEC recommends that interconnection disputes first be brought to CACD staff, and in those cases where CACD could not effect a resolution of the dispute, the matter would be referred to the Forum OII for resolution. GTEC is opposed to the POI solution in which LECs and CLCs would each be able to specify the POI for the traffic sent by the other company. GTEC views this approach to require two sets of facilities and result in an inefficient network.

GTEC advocates that interconnection facilities should be established and paid for in accordance with the concept of an originating responsibility plan (ORP). Under ORP, the carrier serving the customer who originated the call is responsible for ensuring that the necessary means for terminating the call are in place. As set forth in GTEC's interconnection tariff, there are four options for the CLC to establish the facilities needed for interconnection under the ORP concept: (1) The CLC builds at its own expense the facility to GTEC's end office or tandem, and

virtually collocates at GTEC's central office. Under this option, the CLC would own the facilities, although GTEC would install and maintain collocated facilities; (2) The CLC obtains special access facilities under GTEC's existing tariffs, thereby allowing the CLC to connect with GTEC at the desired first point of presence; (3) CLC interconnects with GTEC through an agreement with a third party already connected to GTEC; and (4) GTEC and the CLC agree to jointly construct, pay for, and own new plant.

Citizens

Citizens argues that each carrier should be required to provide any necessary facilities up to the requested meet point. Further, any carrier which controls facilities or functions which are necessary to a competitor should be required to respond to a competitor's bona fide request for interconnection in a timely, nondiscriminatory manner.

Citizens notes that Pacific's tariff appears to allow CLCs to interconnect only at access tandems or end offices, and indicates that CLCs will require interconnection to Pacific's local tandem, not its access tandem. While an access tandem provides connection to the world, a local tandem provides connection to the LEC end office. Pacific also expects CLCs to be responsible for providing sufficient information and signalling to permit routing, delivery, and proper billing of local switched traffic over the LEC's network. Citizens argues that this proposed requirement will mean that the CLC would have to provide data in the signalling message that does not now typically accompany a local or EAS call, and might require software changes.

Coalition

The Coalition recommends modification of Pacific's proposed tariff to remove the arrangement whereby Pacific and a CLC establish the location of the POI by mutual negotiation and replace it with the CLC right to specify the POIs. The Coalition states that GTEC's tariff limits the POI to a GTEC switch location.

Coalition recommends that the CLC have a right to specify the point(s) of interconnection and supply some or all of the interconnecting facilities. The Coalition believes the LEC should have the obligation to build or supply the remaining portion of the interconnection facilities. The Coalition proposes that the CLC and the LEC each be responsible for paying half of the total costs of construction or use of existing facilities. In order for the CLC to make the "build or buy" decision, the LEC will need to provide the CLC with what effectively will be a bid, consisting of either the cost for which the LEC is willing to construct the interconnecting facilities, the price for the use of existing facilities, or some combination of the two. The CLC will compare this bid with its cost to build or supply some or all of the interconnecting facilities, and will choose the lower-cost option.

The Coalition states that Pacific should be required to offer three options for Meet Point Billing, not just the single option being offered by Pacific, i.e., multiple bill, multiple tariff. The other two options the Coalition suggests the Commission require of Pacific are (1) single bill, single tariff; and (2) single bill, multiple tariff Meet Point arrangement.

The Coalition also states that GTEC would restrict the joint provisioning of interconnection facilities to situations where GTEC and a CLC reach mutual agreement. The Coalition would require GTEC to abide by the Coalition's interconnection model concerning the provisioning of interconnection facilities.

DRA

DRA recommends that there be at least two POIs per carrier in order to enhance network reliability. DRA believes that CLC customers must be assured that their telephone service will be as reliable as that of LEC customers, particularly in view of the critical public safety access provided by the public switched telephone network. DRA states that Pacific's tariff specified that the POI must be located within certain parameters and must be

mutually negotiated. DRA is concerned that if Pacific and the CLC cannot reach agreement, the Commission would be foreclosed from adjudicating any resulting complaint since Pacific would be violating its own tariffs if it accedes to a POI determined by any means other than negotiation between Pacific and the CLC.

DRA notes that interconnection between adjacent LECs has historically been accomplished via "meet-point arrangements." Under such an arrangement, each company constructed facilities on its side of the boundary and shared responsibility for the joint facilities. Although contractual meet-point arrangements worked well in the past, DRA is concerned that with the advent of competition, LECs and CLCs may not perceive themselves as having a common interest in providing access and interconnection to one another.

Discussion

Our overriding concern in addressing the issue of POI determination is that any governing rules create a level playing field for both CLCs and incumbent LECs and provide the incentive for the most efficient and economical outcome on an aggregate basis. The rules should not give an undue advantage to one party over another in terms of unilaterally dictating the number and location of POIs. The environment most conducive to a level playing field is one in which parties have the flexibility to negotiate terms and conditions for interconnection which are best suited to their specific needs. Accordingly, we will not require any fixed number of POIs that a CLC or LEC must have or dictate where the POIs must be located. We will instead adopt general criteria which shall apply to negotiations for POIs.

A competitor's decision on the number of POIs and their location will be influenced by how the cost involved in constructing and maintaining new facilities or installing new software and how the funding of such cost will be assigned between the parties. Regarding the determination of who is responsible for

paying for the construction and maintenance of new facilities required to accommodate the switching and transmission of traffic between the selected POIs, we consider the preferred method to be mutual negotiation of the parties involved. Each negotiating party has an economic incentive to seek the most efficient and economical POI configuration. The Commission adopted a bill and keep structure in D.95-07-054 because we agreed with parties' theoretical argument that calling patterns would result, on average, in customers placing and receiving the same number of calls from or to a CLC's network. If reciprocal call termination rates were established between CLCs and LECs, for any CLC and LEC that interconnect, the two companies would charge each other the same total amount to complete all calls between the two carriers. The net flow of revenue between two companies would be zero. On or before December 31, 1996, the Commission will reexamine the validity of the parties' assertion that call traffic will be in balance between a LEC and a CLC.

The Commission did not intend bill and keep to imply that carriers should not fairly compensate each other for the interconnecting facilities between themselves and another carrier. If a carrier uses another carrier's facilities when interconnecting, the carrier should compensate the other for the portion of the facilities they use. Any contract between a CLC and LEC should clearly address this issue and demonstrate that parties are compensated appropriately. We expect each party to negotiate in good faith and recognize that the POI arrangement that optimizes overall efficiency for both sides has the best chances of being approved by the Commission.

In the November 28 technical workshop, parties discussed three general arrangements for interconnection: collocation, special access facilities and jointly constructed facilities. Each of these arrangements represent the facilities that connect the switches of both the CLC and the LEC. Under any of these

arrangements, parties should develop compensation provisions that appropriately reflect the usage of facilities. As an illustrative example, when the CLC and LEC agree to use an existing special access facility that has been provisioned by the LEC, the CLC would compensate the LEC, at a mutually agreeable rate, for the portion of the facility the CLC uses to transport the local calls it intends the LEC to terminate. In the event parties are unable to reach agreement on POIs, both the CLC and LEC should use the dispute resolution process discussed in this decision. Until the dispute is resolved by the Commission, parties may designate their own separate POIs for terminating local traffic on each other's networks, if mutually agreeable. All parties agreed that at a particular traffic volume, it is more efficient to directly interconnect with the end office rather than route traffic through a tandem. We encourage parties to agree upon a cut-over traffic volume beyond which CLCs should directly interconnect with LEC end offices.

3. One-Way versus Two-Way Trunking

Parties' Position

Pacific

Pacific proposes one-way trunking arrangements for interconnection. According to Pacific, one-way trunking is preferable to two-way because it allows each party to deploy its intra-network trunking in the most efficient and economic way. Pacific also believes that one-way groups will help eliminate intercompany disputes regarding usage of any trunk group.

Pacific states that one-way trunking has the advantage of allowing accurate billing and bill validation. With two-way trunking, Pacific has no way to determine whether the CLC traffic being terminated is local or toll, an important consideration given the bill and keep for local traffic and access charges for toll

Pacific states that one-way trunking is the norm in states where local interconnection is working efficiently.

Pacific is concerned that use of two-way trunks could be problematic if such trunks were built in proportion to demand forecasted by the CLC. According to Pacific, the CLC could use the added capacity of two-way trunks to meet any unforecasted demand, leaving Pacific in the unfair position of having to either build up capacity again or being unable to meet the needs of its own customers. With one-way trunking, each party is responsible for managing its own planning and capacity, alleviating this risk.

Pacific believes that one-way trunking will help it better adjust to shifts in customer calling and traffic patterns as Pacific's customers move to competitors. Pacific states it must have the ability to rebalance routes at the lowest cost. Pacific believes that a shared approach to engineering, as required by two-way trunks, will serve neither party well. One-way trunks, on the other hand, require each carrier to be responsible for the design and engineering of its own trunks and is appropriate in a competitive environment.

Pacific is also concerned about unresolved administrative problems associated with two-way trunking. For instance, with two-way trunking it is unclear which carrier handles coordination and turn up of new trunks, and coordination of repair for trunks. Coordination and administrative problems are much simpler with one-way trunking, according to Pacific.

Pacific disputes that two-way trunking is significantly more efficient than one-way trunking. Pacific states that it has determined that 1.2 one-way trunks would be required for every two-way trunk, substantially less than the two-to-one ratio alleged by the Coalition. As more trunks are added, the 1.2:1 ratio becomes even smaller. Pacific believes that the marginal saving afforded by two-way trunks is more than offset by the many other

efficiencies of one-way trunks, such as engineering efficiencies, ordering and provisioning efficiencies, and billing accuracy.

GTEC

GTEC states it has reached agreement with the Coalition regarding the use of one-way and two-way trunks to provide interconnection. GTEC states that this agreement provides that local and intraLATA toll may be combined on one trunk group, but that Feature Group D (FGD) common transport and trunking and FGD access trunking between GTE and CLCs carrying interexchange traffic must be on separate trunk groups. The agreement also covers certain tandem switching conditions, trunk forecasting requirements, the grade of service that must be maintained, and trunk servicing procedures.

Citizens

Citizens is opposed to Pacific's requirement that interconnection be limited to one-way trunks. Citizens believes that Pacific's proposal is inconsistent with the Commission's policy that interconnection should be accomplished in a technically and economically efficient manner. Since interconnection must be reciprocal, Citizens states that in most cases the most efficient interconnection facility is likely to be a two-way trunk group. Citizens believes Pacific's tariffs should require that two-way trunking be used unless it is infeasible or inefficient in a given instance. Regarding GTEC, Citizens recommends that GTEC's tariff be modified to require two-way trunking unless it is determined to be infeasible or inefficient on an individual case basis.

Citizens indicates that Pacific's proposal to block intraLATA toll traffic delivered by a CLC to a Pacific access tandem if the call is destined to an NXX served out of a different access tandem is arbitrary and perhaps discriminatory since tandem-to-tandem routing of intraLATA toll traffic is not unusual. Citizens believes this provision should be eliminated since it is inconsistent with the Commission's stated efficiency principle.

Coalition

The Coalition is opposed to Pacific's requirement that CLCs use only one-way trunks. The Coalition views one-way trunks as uneconomical at the low volumes of traffic which will likely be present as local competition begins. The Coalition states that GTEC proposes to establish trunk directionality by mutual negotiation. The Coalition is currently negotiating with GTEC to allow CLCs to utilize two-way trunks by right rather than by mutual agreement, and will report to the CPUC the results of these negotiations.

DRA

DRA finds that Pacific's proposed tariff appears to restrict CLCs to one-way trunking but not IECs; and states that some potential CLCs have indicated a preference for two-way trunking arrangements.

Discussion

Based on parties' comments and the November 28 technical workshop, we conclude that two-way trunking will be more conducive to efficient utilization of the total network within a competitive environment. Two-way trunks will generally be more efficient for the CLCs, particularly in the start-up period. Two-way trunking also provides for more flexibility in accommodating changes in the volume and direction of traffic flow than does one-way trunking in many circumstances. The increased efficiencies from using two-way trunks will be more pronounced in the start-up period when CLCs are building up a customer base from zero and will likely have lower traffic volumes. Consequently, we support the use of two-way trunks in the interests of removing impediments to the development of a competitive market.

While we expect our preferred outcome to lead parties generally to the use of two-way trunks, we do not intend to foreclose parties from mutually agreeing to alternative arrangements. However, if both parties to an interconnection

contract should voluntarily agree to use one-way trunks under a particular arrangement, we will approve it assuming no protests are filed.

In their comments and at the November 28 technical workshop, Pacific asserted that one-way trunks were necessary for them to differentiate and measure local and toll traffic for rating calls. At the same workshop, the Coalition and GTEC presented an alternative method of measuring and differentiating between local and toll traffic that relied on carriers exchanging information about the nature of their calls. Based on parties' discussion at the workshop, we understand that measurement of local and toll traffic when using a two-way trunk will require an exchange of information between the LECs and the CLCs. Those discussions also highlighted the need to verify the information LECs and CLCs exchange with each other and we address this issue below.

In both the workshop and their comments Pacific and GTEC discuss measurement of traffic over two-way trunks. Pacific assumes that the LEC would require complete control over the measurement of local traffic. Pacific explains that with a two-way trunk, its existing software would not accommodate measurement of incoming local traffic. GTEC explains that its system could measure total incoming traffic volume with two-way trunks, but it would be unable to measure the percentage attributable to local usage.

We appreciate Pacific's concern that a bill and keep rate structure for local calls and access charges for toll calls creates a strong incentive for parties to declare toll calls as local calls. We are not convinced, however, that alternative measurement systems to one-way trunks cannot be as effective. As GTEC suggested in the workshop, LECs could require CLCs to submit on a regular basis percentages that represent the amount of local traffic a CLC is terminating on the LEC's network. To address Pacific's concern that CLCs will avail themselves of the arbitrage

opportunity, we expect interconnection contracts to require percentage local usage (PLU) from both CLCs and LECs on a quarterly basis. The contract should include provisions to allow a party to dispute the other's PLU or to request an audit.

Although we have adopted bill and keep as an interim approach for mutual traffic termination for a one-year period, we have left open the option of subsequently considering the adoption of call termination charges following evidentiary hearings later in this proceeding. We need factual measurements of local traffic volumes to help us make that decision. In order to preserve the option of subsequently instituting billings for call termination, there must be some means of measuring local traffic under any adopted trunking arrangement. We shall direct each LEC and CLC to separately measure its own traffic and exchange results with any carrier with whom they interconnect as well as to CACD for monitoring purposes. We shall also provide for an independent consultant to review and verify the reported traffic statistics. The funding for the independent review shall be provided jointly by all certificated local exchange competitors. We will establish the details of the monitoring and verification program in a subsequent order.

The problems Pacific raises concerning the risks of misforecasting of demand can be accommodated through appropriate joint planning and forecasting measures with possible sanctions imposed for failure to provide reasonable forecasts. We shall direct the parties to work towards the development of joint forecasting responsibilities for traffic utilization over trunk groups.

Another measurement limitation with using two-way trunks relates to calls routed through more than one tandem. As GTEC identified in the November 28 workshop, calls that are routed through more than one tandem lose the identity of the originating network of the call. Thus, the volumes associated with these calls

cannot be measured or attributed correctly to the carrier on whose network these calls originated. To solve this problem, parties identified several solutions all of which had the common requirement that the interconnecting party must connect to each access tandem within a LATA from which calls originate. Therefore, tandem to tandem routing of local traffic is not required.

4. Signalling Protocol

Parties' Position

Citizens states that Pacific's tariff will have the practical result of requiring CLCs to provide data in the signaling message that does not now typically accompany a local or EAS call (such as a carrier CIC code), and which might require software changes to accomplish. Citizens also states that Pacific's tariff defines its local interconnection service in a manner which requires that SS7 signalling be available. Citizens believes this provision limits the practical possibility of local competition only to areas served by Pacific offices equipped with SS7, which Citizens finds inconsistent with D.95-07-054 which opened all of Pacific's and GTEC's service territories to competition.

The Coalition opposes Pacific's requirement that CLCs use SS7 signalling only. This restriction precludes the use of multi-frequency (MF) signalling by CLCs who want to use it, and also prevents Pacific from implementing interconnection at more than 70 switches that are not SS7 capable.

Discussion

Although certain parties object in principle to Pacific's exclusive offering of interconnection only through SS7, the disagreement is essentially only one of theory at this point. As a practical matter, there is no indication that any prospective CLC is presently seeking to deploy a new network using MF signalling. MF signaling has become anachronistic and no party attending the November 28 workshop actually expressed an intention to use MF signalling for interconnection purposes. (Workshop Tr. 114.)

Pacific indicated in the November 28 workshop that it would entertain connecting a CLC via MF signalling to its end offices that are not SS7 capable on an individual case basis if such a request was made. Likewise, GTEC indicated it could handle an MF arrangement though that is not its preference. Accordingly, in the unlikely event a CLC may desire an interconnection via MF signalling to a LEC end office that is not SS7 capable, the LECs are directed to accommodate such requests.

5. Applicability of Bill and Keep to Different Traffic Types

Parties' Positions

Citizens

Citizens reads Pacific's tariff as treating EAS and ZUM Zone 3 traffic as non-local traffic and not subject to the Commission's interim rules requiring bill and keep for terminating traffic. Citizens believes that these services should be treated as local traffic subject to the Commission's rules concerning bill-and-keep. Citizens also states that Pacific proposes to treat directory assistance, busy line verification, and emergency interrupt calls as non-local calls when originated by a CLC customer. Citizens states that such calls are handled on a bill and keep basis when originated by another LEC customer (e.g., when within an EAS area). Citizens recommends that CLCs and LECs be treated the same by Pacific.

Citizens recommends that all provisions relating to toll traffic termination should be eliminated from Pacific's tariff. Citizens believes that whether a call is terminated by a CLC, an intraLATA toll competitor, or an interLATA toll competitor, Pacific's switched access tariff provisions should apply to CLCs as well as other carriers. Incorporating special provisions for CLC call termination provides an opportunity for discrimination and should be disallowed.

DRA

DRA states that Pacific's LISA terms exclude interLATA traffic originating on a CLC network. This restriction could require such calls to be charged at switched access rates.

potentially contravening the ALJ ruling mandating bill and keep for mutual traffic exchange during the interim. DRA also states that Pacific's tariff appears to contemplate local switching and access charges in violation of the interim bill and keep mandated in D.95-07-054. DRA reads Pacific's proposed tariff to define directory assistance and 800 calls as non-local. DRA sees this as resulting in calls being charged to the CLC and thus contravene the bill and keep mandate. Regarding GTEC, DRA states that GTEC's tariff appears to contemplate local switching and transport charges, which would appear to violate the mandate of D.95-07-054 which required interim bill and keep arrangements for exchange of local traffic between LECs and CLCs.

Discussion

In our August decision establishing bill and keep for local calls we defined local calls by reference to the LECs' current definition. As parties' comments have highlighted, this definition needs to be clarified. We intend that bill and keep will apply to all local calls including those within the 12-mile radius, EAS and ZUM Zone 3. Bill and keep will not be applied to directory assistance calls, 800 number calls, and busy line verification and emergency interrupt calls. We authorize LECs and CLCs to establish rates that recover their costs for these calls as appropriate.

In its tariffs and at the November 28 workshop, GTEC stated its intention of charging a tandem switch charge for local calls that pass through a GTEC tandem. Because the tandem switch was not designed to provide local switching to end offices, GTEC has defined any calls routed through the tandem switch to be subject to a tandem transiting charge. By contrast, Pacific interprets the bill and keep rule to apply to all local calls between a CLC network and its end office, even if routed through an access tandem.

We conclude that Pacific's interpretation is correct, and that GTEC is incorrect in seeking to avoid the bill and keep rule merely because an otherwise local call is routed through its tandem

switch. GTEC's approach would create a perverse incentive for CLCs to choose a less efficient connection merely to avoid the tandem switch charge.

If a CLC wants to use a LEC's tandem to route a call to another CLC, however, the LEC may impose a charge to compensate for the service. Parties who are unable to reach agreement on the amount of such charges may have the matter resolved through our Dispute Resolution Procedure.

We agree with Citizens that the LEC's switched access rates should apply to CLCs on the same basis as for other carriers. Since we are not adopting the LISA tariff for intraLATA toll calls, CLCs will pay terminating access charges based on the LEC's existing switched access tariffs.

C. Non-Technical Terms and Conditions

1. Confidential Information

Parties' Positions

Pacific proposes that all information that it supplies to a CLC must be treated as confidential while information furnished by the CLC to Pacific shall not be considered confidential unless conspicuously marked, in which case limited care will be exercised. Citizens disagrees and recommends that to the extent either carrier reasonably designates information as confidential, the other carrier should treat it as such. Citizens views Pacific's proposal as going far beyond any reasonable confidentiality provision, especially for information exchanged in association with a tariffed service.

The Coalition also recommends modification of Pacific's proposed tariff so as to require a symmetrical obligation that Pacific and CLCs treat each other's confidential information in a like manner.

Discussion

We agree that symmetrical rights and obligations must apply to LECs as well as CLCs in the exchange of information claimed to be confidential. Pacific's proposal that all information which it furnishes to CLCs be treated as confidential

is overly broad and burdensome. Each party shall be responsible for designating which information it claims to be confidential to other parties receiving the information. Reciprocal arrangements shall apply. If parties are unable to reach agreement over what information should be treated confidentially after reasonable efforts, they may seek resolution under the Commission's law and motion procedure.

2. Liability

Parties' Position

Citizens states that GTEC's tariff allows GTEC to assess damages from the CLC as deemed reasonable and necessary by GTEC. Citizens recommends that any damages or penalties beyond adjusted billings (and any associated late payment charges) should be subject to review by the Commission or a court of competent jurisdiction. Citizens also states that GTEC proposes that CLCs indemnify GTEC from any and all claims due to any action/inaction of the CLC. Citizens recommends that this be clarified to state that the CLC's liability should be no greater than GTEC's liability would have been had the claim arisen from GTEC's action/inaction.

The Coalition recommends that Pacific's tariffs be modified to require a symmetrical liability provision so that Pacific and the CLC will each be held responsible for the damage, injury, or outage to the other's network, employees, or customers resulting from the actions of the other company or company's customers.

Discussion

We agree with the comments of Citizens and the Coalition. Competitors should be subject to symmetrical risks and protections from legal liability vis-a-vis each other. Accordingly, CLCs' liability shall be no greater than the LECs' liability for any action or inaction resulting in a claim against a LEC. We do not establish liability limits at this time and leave the parties to establish the actual limits which must be symmetrical.

3. Termination of Interconnection

Parties' Positions

Citizens

Pacific's tariff allows Pacific to terminate service to the CLC if the CLC fails to timely pay for any rate or charge. Citizens objects to this provision and recommends that no termination should be allowed if the payment is in dispute, and the CLC should be given an opportunity to seek expedited Commission review or relief from a court of competent jurisdiction prior to any termination. Citizens also states that Pacific's tariff allows it to terminate service to the CLC if Pacific determines the CLC service is in conflict with any law, judicial ruling, or regulatory determination. Citizens recommends that Pacific should not have the right to make such a unilateral determination, and that adequate notice should be given to the CLC to afford an opportunity to seek expedited relief from the CPUC or court of competent jurisdiction. In addition, Citizens is concerned about Pacific's proposed tariff which allows Pacific to terminate its obligation to provide interconnection in the event of a disaster or if Pacific deems the central office unsuitable for use as a central office. Citizens recommends that this be modified to add that Pacific shall be obligated to make the same efforts to restore or reconfigure service to the CLC as it does for its own customers in such an event.

GTEC

GTEC's tariff allows it to terminate interconnection service if the CLC does not resolve any dispute or discrepancy to the satisfaction of GTEC. Citizens recommends that no termination should occur without sufficient notice being given to the CLC in order to allow the CLC to seek expedited Commission review or judicial relief.

Coalition

The Coalition recommends deleting from Pacific's proposed tariffs the provision that Pacific may unilaterally terminate CLC service immediately, without liability, at any time if, in Pacific's sole opinion, the service is in conflict with any law, judicial ruling, or regulatory determination. The Coalition believes Pacific should not be allowed to substitute its judgment for that of judicial and regulatory authorities.

DRA

DRA states that Pacific's proposed tariffs allow it to terminate service to a CLC if Pacific chooses to close the central office to which the CLC is connected. Additionally, Pacific would not be liable for reimbursement of any expenditures the CLC had made to provide service from that central office. DRA worries that unilateral termination rights without reimbursement of sunk costs presents a high potential for abuse.

DRA also states that Pacific's tariff allows it to terminate service to the CLC at any time if Pacific believes the CLC is violating any law, judicial ruling, regulatory ruling, or tariff provisions. DRA believes unilateral termination by a competitor poses too many risks, and termination should require authorization from the Commission.

Discussion

We conclude that Pacific's and GTEC's proposed termination provisions are unreasonable and should be rejected. No competitor should have the unilateral power to terminate another carrier's service without prior notice or opportunity for proper recourse. If any LEC or CLC believes another CLC is in violation of the law, it shall provide adequate notice to the CLC first to afford it the opportunity to seek expedited relief. We shall provide for disputes of this nature to be handled through our expedited dispute procedures as discussed below.

D. Dispute Resolution

Parties' Positions

DRA believes that disputes between and among LECs and CLCs will inevitably arise, and recommends that the Commission create an expedited dispute resolution process to deal with complaints between competing providers of telephone service. DRA states that the existing complaint process is too slow and contentious to be suitable for these situations. DRA therefore supports a workshop/comment process to develop appropriate dispute resolution and complaint mechanisms.

Pursuant to the ALJ Ruling of November 16, 1995, a workshop was held on November 28 during which the topic of dispute resolution was addressed. Parties at the workshop identified a four-step dispute resolution process. The first step is good faith negotiations between parties to resolve the dispute, including escalation of the issue to the executive level of the companies involved in the dispute. If negotiations are unsuccessful, the second step is a meeting between parties to the dispute mediated by an ALJ and CPUC technical staff. If mediation is unsuccessful, the third step is for each party to file a short pleading with the ALJ who would then issue a written ruling. The final step is for a party dissatisfied with the ALJ ruling to file a formal expedited complaint. Workshop participants generally agreed that parties to a dispute should not be able to avail themselves of the expedited complaint process unless they had followed the preceeding informal steps. There was general consensus that the dispute resolution process should be relatively swift and encourage resolution of the dispute at the lowest and most informal level possible.

Discussion

In the interests of the rapid implementation of interconnection arrangements for competitive local exchange service, we agree that a streamlined process is needed to resolve disputes between parties who cannot reach agreement on the terms of interconnection. Likewise, once parties reach agreement on interconnection, there may be subsequent disputes over breach of

contract or interpretation of parties' rights and obligations. We shall adopt an expedited dispute resolution process which addresses both of these situations. We conclude that the four-step dispute resolution process identified by the workshop participants provides a useful framework for adopting a procedure for parties to follow.

Step 1: Informal Resolution Without Commission Intervention

We will require LECs and CLCs to negotiate in good faith in establishing interconnection contracts and to escalate any disputes to the executive level within each company before bringing disputes before the Commission for resolution. Parties to interconnection contracts shall continue to have a requirement to negotiate in good faith to resolve contractual disputes arising after the signing of the interconnection agreements. We shall require that any interconnection contract submitted to the Commission for approval contain a provision for dispute resolution in accordance with the procedures adopted herein.

Step 2: Dispute Resolution with ALJ Mediation

If parties are unable to informally resolve their interconnection dispute, one or more of the parties may file a motion to have the dispute mediated by an ALJ who in turn may be assisted by CACD staff. We will establish an expedited Dispute Resolution Procedure (DRP), within this docket, in which parties can file motions seeking mediation and an ALJ ruling on the merits of their case. All local carriers, including small and mid-sized LECs, will be parties to the DRP, and any local carrier with a valid CPCN may file a motion asking for an ALJ ruling to establish the time and place for mediation to occur.

Discussion

As a condition of having an ALJ assigned to mediate, the parties must show that they have first attempted to resolve the dispute within their own companies through escalation to the executive level within each company.

Step 3: ALJ Ruling

If mediation fails, the ALJ will direct parties to submit short pleadings and issue a written ruling to resolve the dispute. The ALJ shall use our adopted preferred outcomes as guidelines under which disputes will be reviewed and resolved. If a party objects to the ALJ's ruling, it may then file a formal complaint under the Commission's expedited process described below.

Step 4: Expedited Complaint

Parties who wish to avail themselves of the expedited complaint process, must include in their complaint a showing that they have pursued each step of the dispute resolution process described earlier. Parties who choose to challenge an unfavorable ALJ ruling in the DRP will bear a heavy burden of proof in the expedited complaint proceeding. The expedited complaint process we establish today shall adhere to the same rules established for expedited complaints in Rule 13.2 of our Rules of Practice and Procedure, except that a court reporter may be present at the hearing, any Commission decision rendered may include separately stated findings of fact and conclusions of law, and if it does, the decision may be considered as precedent. Any written documents submitted by the parties as part of the dispute resolution process may be discoverable by parties to the expedited complaint proceeding. We generally intend for the expedited complaint docket to resolve only the narrow issues specific to the parties to the dispute. There may be instances, however, where the same parties have more than one expedited complaint proceeding before the Commission. In such instances, we may find it useful to establish a precedent.

General Guidelines

We will leave it to the discretion of the ALJ presiding over the DRP to schedule and conduct the dispute resolution process, to establish new service lists, and to determine the need for any written submittals in the proceeding. The motion requesting mediation need only be served on parties to the dispute,

the ALJ assigned to the DRP, and the Director of CACD. The motion should also be served on the Docket Office which will publish a notice of the motion in the Daily Calendar.

To facilitate the speedy resolution of disputes, we will generally discourage parties who are not part of the dispute from participating in the mediation process.[5] Any resolution that results from the informal dispute resolution process will generally be nonprecedential. However, if a dispute raises generic issues or affects others, the presiding ALJ may solicit comments and testimony from all parties to the dispute, and the Commission may issue decisions. Our normal rules of practice and procedures should be followed at all times during the DRP.

We believe the dispute resolution process we adopt today provides a mechanism that resolves interconnection disputes in a timely manner, encourages parties to resolve their disputes at the lowest possible level, minimizes formal Commission intervention, and protects parties' due process rights. To improve and refine our dispute resolution model, we will allow parties to file motions in the DRP suggesting methods for further improving and streamlining the dispute resolution model. These motions should be served on all parties in the docket.

B. Expedited Contract Approval Process

Historically, interconnection between LECs with adjacent service territories has been through contracts. These contracts were not required to pass GO 96-A review standards which were designed to reject contracts that are anticompetitive or unduly discriminatory. In large part, the exclusive franchise territories

[5] To avoid a party's need to become part of the service list of a specific dispute in order to obtain an ALJ ruling on the merits of the dispute, we shall make copies of the ALJ ruling available through our Formal Files

of the LECs reduced any anticompetitive behavior LECs may have exhibited toward each other. The contracts became effective when signed by the parties. In both their written comments and at the November 28 workshop, the Coalition and several CLCs expressed a strong desire to quickly enter into and receive approval of any interconnection contracts. However, parties expressed concerns that those contracts may be unduly discriminatory or anticompetitive.

The Commission must balance the desire of parties for expedited approval of contracts with concerns that require Commission staff to review contracts for outcomes that are not in the public's best interest. The expedited review process we establish here balances the obvious need that Commission review processes not impede competition with the equally important requirement of protecting the public interest by ensuring that contracts are not unduly discriminatory or anticompetitive. By limiting the content of the contracts to issues that we resolve in this decision and by establishing outcomes that should be in the public interest for individual technical issues, the review process can be expedited without jeopardizing the Commission's dual roles.

After parties have reached agreement on a contract, parties should file the contract and request expedited review under the following process. This process will only apply to issues relating to interconnection on each other's network. We will limit the scope of the expedited review process to these high priority features. Expedited review is appropriate to guard against the risk that the implementation process could otherwise by delayed. If contracts are submitted that address issues beyond the scope of interconnection, those contracts will be treated as GO 96-A contracts with the normal protest and response period.

At the time of filing, parties should include all the information normally required for contracts filed under GO 96-A.

Additionally, if the contract contains terms and conditions that are substantially different from the preferred outcomes outlined above, the filing shall substantiate why these terms and conditions lead to a more economic and/or efficient outcome.

The expedited process will allow interested parties to file protests within seven calendar days. Parties to the contract may reply to the protests within five calendar days. Protests and responses should only address any anticompetitive or unduly discriminatory provisions of the contract. CACD will review the protests and determine the need for a Commission resolution. Contracts that are protested may be approved without a resolution if the protests are determined by CACD to be not material or raise issues unrelated to discrimination.

Copies of the advice letter, including the contract, should be filed upon the normal advice letter service list and upon all LECs and certificated CLCs.

Similar to the Express Contract procedure we established in D.94-09-065, the compressed schedule for review under the expedited procedure does not allow time for us to reject a proposed contract by resolution. We therefore authorize CACD to review filed contracts for compliance with our stated requirements and policy objectives, and, if appropriate, to reject a contract by letter, which may be transmitted by facsimile. Parties should be mindful that prior contracts that have been either approved or rejected are non-precedential and should not affect CACD's review of any currently pending contract. CACD's role in this review is a ministerial one of ensuring that the contract conforms to our requirements and policies. CACD's letter rejecting a contract must clearly state the reason for the rejection. After receiving a rejection letter, the parties may address the points raised in the letter and refile an amended contract.

For contracts that present novel issues or that would require CACD to exercise a degree of judgment beyond a ministerial

role, CACD may also provisionally reject a contract to prevent the contract from becoming effective in 14 calendar days, to allow time for CACD to prepare a resolution with its recommendation for our consideration and decision.

The key to the expedited procedure is that filed contracts automatically become effective 14 calendar days after filing, unless CACD acts to reject the contract. This modifies the customary treatment of contracts under GO 96-A, which requires the Commission's explicit approval before a contract may take effect.

IV. Other Service Features Related to Physical Interconnection

In order for facilities-based CLCs to be able to offer local service, they must not only have a physical interconnection with the network of an incumbent LEC, but also have access to other essential services. In this section, we address these essential service features and the rules governing them to be effective January 1, 1996.

A. Enhanced 911 Service

1. Background

Our Interim Rules in D.95-07-054 required CLCs to provide Enhanced (E)-911 service.[6] A workshop was held on September 18 and 19 to address issues related to the continuation of E-911 service upon entry of CLCs into the local exchange market. On October 23, 1995, the Department of General Services (DGS) filed a report compiling the opinions of members of a working group that formed out of the September workshop. That subgroup of parties who attended the September E-911 workshop reached general agreement on a method to display a remote call forwarded (RCFed) phone number at

6 D.95-07-054, Appendix A, Rule 4.F.(9).

the Public Safety Answering Point (PSAP).[7] On November 6, 1995, an ALJ Ruling asked for further comments on certain 911 issues, identified below, which were not resolved by the workshop, but which need to be resolved prior to the initiation of local exchange competition in January 1996:

- Whether parties agreed with the proposed solution regarding the remote call forwarding display issue discussed in the DGS report and the feasibility of its implementation.
- Whether the requirement per Appendix B, Rule 10.C of D.95-07-054 that the CLC must continue to provide access to 911 service to residence customers who have been disconnected for nonpayment should pertain equally to facilities-based and resale CLCs.
- Whether it is appropriate for GTEC to arrange 911 interconnections through mutually negotiated agreements rather than through a tariff as proposed by Pacific Bell.
- The appropriateness of Pacific and GTEC potentially offering different arrangements for the following;
  - (1) length of time allowed for the LEC to provision 911 trunks to a CLC requesting interconnection.
  - (2) length of time allowed for the CLC to provide 911 database information regarding its customers to the LEC

7 A PSAP is the primary location where a public safety agency answers incoming 911 calls.

(3) provisions for obtaining Master Street Address Guide (MSAG) data.

- Whether the maps provided by the LECs of 911 tandem locations were adequate for CLCs to establish 911 tandem links by January 1, 1996.

On November 13, 1995, an ALJ Ruling was issued soliciting comments on the merits of requiring CLCs to obtain an 800 number which the PSAPs can call 24 hours a day for subscriber information, with the requirement monitored and enforced by an industry-led task force.[8]

We discuss below the parties' positions on each of the above topics and our resolution of 911-related issues.

2. Display of RCFed Number at the PSAP

One of the requirements for E-911 service is that it be available to customers of a CLC who retain their phone number via interim number portability (INP). In their discussions, parties assumed INP would be provisioned using remote call forwarding (RCF).

Under the DGS proposal, the Automatic Location Identification (ALI) record, which is displayed at the PSAP, would contain two new data fields to assist in the processing of E-911 calls from RCF phone lines. The first new data field is the "RCF Field" which would contain the RCFed 10-digit number (i.e., the number listed in the telephone directory). The "originating" service telephone number would appear in the Automatic Number Identification field of the ALI record, where the listed telephone number normally appears. Under the proposal, as an additional safeguard, a new, five-character Telephone Company Identification (TCI) field will be added to identify the telephone company that provides service to the calling line. The TCI field will be associated with a toll-free number staffed 24-hours per day in the event the PSAP operator needs additional subscriber information to help respond to an emergency.

All parties who commented agree with the proposed method to display an RCFed phone number at the PSAP. The Coalition believes that the proposal can and should be implemented by January 1, 1996. Pacific states that those PSAPs that it serves have been notified of the alteration to the ALI screen. DGS's comments emphasized that the method of display only addresses the situation where the subscriber remains at the same service location, and does not address the situation where a subscriber moves to a new location outside the present 911 Selective Router serving area while retaining their present telephone number.

The Smaller Independent LECs[8] joint comments noted that the primary PSAP for some areas served by Pacific and GTEC is located in territories served by smaller LECs. The Smaller Independent LECs believe that it is critical to educate the PSAPs in the smaller LECs' territory about impacts on E-911 service from changes related to RCF. Otherwise, PSAPs in the smaller LEC territories that receive calls originating in the territories of Pacific and GTEC may not be properly informed about changes in the information forwarded to them, which impacts how they handle calls to be forwarded on to secondary PSAPs. According to the Smaller Independent LECs, this could have tragic consequences. To ensure that education efforts are effective, the Smaller Independent LECs recommend a consistent method of implementing the RCF data field.

Discussion

Access to E-911 service is essential for each Californian. We will therefore require that every CLC be able to provide each of its customers with access to 911 services. To accomplish this mandate, Pacific and GTEC are ordered to take the

[8] The Smaller Independent LECs who filed joint comments are: Calaveras; California-Oregon; Ducor; Foresthill; Happy Valley; Hornitos; Ponderosa; Sierra; and Winterhaven.

actions necessary to provide the CLCs with 911 interconnection services by the commencement of local exchange competition on January 1, 1996. Thereafter, Pacific and GTEC are to provide CLCs with 911-interconnection services in an efficient and timely manner.

We will adopt the proposed method of displaying RCFed phone numbers at the PSAP as agreed to by all the parties, to be implemented by January 1, 1996. We will require Pacific and GTEC to inform PSAPs both in their own territories and PSAPs located within the smaller LECs' territories that serve Pacific's and GTEC's customers about the changes to the ALI screen due to RCF before January 15, 1996. Since we are currently scheduled to issue a decision regarding rates for INP using RCF or other means by early February 1996, this timetable should provide an adequate opportunity for all PSAPs to be informed regarding the changes. We will also adopt the recommendation of the Smaller Independent LECs that Pacific and GTEC coordinate a method of consistently implementing education efforts.

3. Requirement for CLCs to Provide 911 Service to Residential Customers Disconnected for Nonpayment

All parties support requiring both facilities-based and resale CLCs to be responsible for providing their residential customers access to 911 service following disconnection of service due to nonpayment (i.e., warm line). PU Code § 2883 prohibits local telephone corporations from terminating 911 service to residential customers for nonpayment, and this requirement clearly applies to CLCs. Several parties recommended that the resale CLC should maintain warm line service for the duration of its lease for the unbundled loop, and that the resale CLC's responsibility for warm line service would revert back to the underlying facilities-based CLC or LEC upon termination of the lease. To enable resale CLCs to carry out their responsibility for warm line service, DRA recommends that facilities-based CLCs and LECs should offer

tariffed warm line service to CLC resellers. DRA recommends that no carrier, LEC or CLC, should be allowed to serve a residential customer without the ability to provide warm line service following disconnection for nonpayment. In the event a facilities-based carrier completely withdraws from a market area, the Coalition and DRA recommend that the carrier of last resort should provide the warm line service.

In the case of a ported number using INP and an unbundled loop, the Coalition recommends that the CLC should maintain warm line service but should not be required to maintain INP service on the telephone number which was originally ported to that line. The Coalition notes that the LEC/CLC responsibility ends at the demarcation point at the customer's premise; and warm line service should be provided to that point, beyond that point, it is the customer's responsibility to maintain premise wiring.

Discussion

We will require that all CLCs provide warm line service to their residential customers. No CLC shall be allowed to provide service to a residential customer without an ability to provide warm line service to the customer. To ensure reseller CLCs' ability to provide warm line service, we shall require facilities-based CLCs and LECs to offer warm line service to resale CLCs in their 911 tariffs. A resale CLC's obligation to provide warm line service to a customer shall continue as long as the CLC has an arrangement for resale service to the end user's premises. Following termination of the resale arrangement, the obligation to provide warm line service shall revert to the underlying facilities-based CLC or LEC. Finally, we will not require the CLC who is responsible for maintaining warm line service to a number disconnected for nonpayment to maintain any INP service on the telephone number which was originally ported to that line. It will be the CLC's responsibility, however, to make sure

that the 911 data base administrator is provided with any necessary information when INP is discontinued in order to ensure a proper and timely response to a 911 call.

4. Providing 911 Interconnection Through Negotiated Agreements Versus Tariffs

DGS sees no need to specify either contracts or tariffs for 911 interconnections since both have worked well in the past, provided that neither is used to delay the availability of needed service or cause an unjust profit.

Pacific states that it will tariff 911 interconnections, but supports allowing GTEC to contract for these arrangements. GTEC favors providing E-911 interconnections through negotiated agreements rather than tariffs since agreements will allow flexibility to accommodate the individual needs of the many different CLCs. As support for its position, GTEC cites the Commission's preference for mutual agreements expressed in D.95-07-054. As further support, GTEC notes that interconnection arrangements between LECs, including 411, E-911, and local intercept, have traditionally been accomplished through contracts, and that tariffing E-911 interconnection for CLCs would thus result in CLCs and LECs being treated differently.

Citizens, the Coalition, and DRA recommend that LECs provide E-911 interconnections under tariff. DRA believes that tariffs are more appropriate than contractual arrangements for a service as essential as E-911 interconnections. Both the Coalition and DRA believe that tariffs are less prone to abuse by LECs than contracts. The Coalition states that some CLCs have had a great deal of difficulty in negotiating E-911 service with GTEC. DRA believes that contracts could not be implemented by January 1, 1996, since there is insufficient time for the Commission to review and approve each contract by January 1, 1996. DRA thus views tariffing E-911 as the only feasible option for achieving the provisioning of 911 service to CLC customers by January 1, 1996. DRA notes that Pacific has already filed an advice letter to tariff its E-911 service, and both the Coalition and DRA recommend that GTEC be ordered to file its own E-911 tariff by December 15, 1995,

to offer E-911 service by January 1, 1996. If GTEC is unable to file its tariff by December 15, both the Coalition and DRA recommend that GTEC be required to concur in Pacific's tariff until GTEC's own E-911 tariff is approved by the Commission.

Discussion

To assure that E-911 service is available to the CLCs at the start of local exchange competition on January 1, 1996, we will require Pacific and GTEC to offer E-911 interconnections through tariff. We do this based on our belief that the local exchange companies will retain monopoly market power over the provisioning of E-911 service. The CLCs will be dependent on the incumbent LECs for the foreseeable future to obtain the necessary means to provide E-911 to their own customers. We therefore will classify E-911 services offered by Pacific and GTEC to the CLCs as a Category I service.

GTEC is hereby ordered to file a tariff for E-911 not later than January 31, 1996. We shall require GTEC to concur with Pacific's tariff during the interim and authorize GTEC to seek Z-factor recovery for the difference between the rates charged under Pacific's tariff and GTEC's actual cost of providing the service. We note that D.95-12-016 directs Pacific and GTEC to perform cost studies and submit this information in early 1996. Once cost studies have been approved, GTEC may file a Z-factor request in its next 1997 price cap filing to recover the difference between the adopted rates and those charged by GTEC under Pacific's tariff.

5. Length of Time to Provision 911 Trunks to a CLC Requesting Interconnection

DGS does not comment on standardizing the length of time for each LEC to provision 911 service, but is concerned about Pacific offering 911 arrangements that are less reliable and more costly than GTEC's. DGS suggests that the Commission initiate a formal inquiry into the cost and time required to make Pacific's 911 network more like GTEC's by providing 911 tandem features at all end offices with the intent to offer a statewide standard 911 trunk access configuration.

Pacific and GTEC are opposed to a uniform time limit for provisioning E-911 interconnections since each LEC has a different internal means for processing of 911 service orders. Therefore, the length of time for a LEC to provision 911 trunks to a CLC is based upon the unique internal business processes and structure of each LEC. Pacific states that it will offer a standard interval of 30 business days for 911 trunk provisioning.

The Coalition supports a requirement for Pacific and GTEC to offer uniform terms and conditions for 911 interconnection, and recommends that a 13-day provisioning interval be the standard for all LECs and all CLCs.

Citizens believes that there should be no difference in the time required by a LEC to provide a CLC with 911 arrangements than the LEC requires to provide the same arrangements to other LECs. According to Citizens, LECs should be required to provide E-911 arrangements on substantially the same terms and conditions to CLCs as to other carriers absent some justifiable extenuating circumstance beyond the control of the LEC.

DRA recommends that LECs fill requests for 911 trunk service within 60 calendar days from the date the service is requested by a CLC. DRA believes that the length of time allowed for the LEC to provision 911 trunks to a CLC should be the same as for any other trunks connecting a LEC to a CLC and vice versa.

Discussion

As stated previously, we intend to allow comparable access to E-911 by all CLCs which will require that both LECs offer 911 interconnections by tariff under the same terms and conditions. We are convinced that the availability to CLCs of a service as essential as E-911 should be as uniform as practical in order to enhance the protection of the health and safety of California residents, and to facilitate competition by CLCs who are mandated to provide 911 service. In keeping with this goal, we shall require both Pacific and GTEC to provision E-911 trunks within 30 business days from when ordered. Pacific and GTEC should include this provisioning interval in their tariffs.

We decline at this time to adopt DGS's proposal for us to initiate an inquiry into making Pacific's 911 network more like GTEC's in order that there be a statewide standard 911 trunk access configuration. Now is not the optimal time to standardize the 911 network configuration since the provisioning of E-911 will undoubtedly evolve as LEC/CLC 911 interconnection experience grows, and E-911 may someday not be provided by the LECs at all but on a competitive basis.

6. Length of Time for the CLC to Provide 911 Database Information to the LEC and for the LEC to Update Its Database Following Receipt of the Information

DGS recommends a maximum period of 24 hours for LECs/CLCs to update the 911 databases following completion of the service order. DGS believes the 24-hour period could be subdivided into two 12-hour periods. The first period would start when a service order is completed, and would end when the CLC or LEC transfers the 911 subscriber data to the 911 Data Manager (presently Pacific and GTEC). The second period would start when the 911 Data Manager receives the 911 subscriber data, applies the MSAG transaction, and updates the associated 911 Selective Router and ALI database

records. Each of these 12-hour periods could include a requirement that 100% of changes be completed within the 12-hour period and that 95% of changes are completed within a six-hour period. The DGS also recommends standard format statistical reporting requirements for each CLC, LEC and the 911 Data Manager to provide information on an individual and global basis.

Pacific states each LEC is different, and that a CLC can have activated Data Management Services from Pacific upon 911 trunk activation if the CLC has the appropriate electronic file transfer capabilities. Pacific states that it can transfer information on the CLC's end user to the ALI retrieval system and the Selective Routers within 24-48 hours.

GTEC suggests a uniform 48-hour time limit for processing 911 database information once it is received from the CLC, assuming that accurate information is provided by the CLC in agreed-upon formats.

The Coalition recommends that the time allowed for Pacific and GTEC to update their 911 record information with customer information submitted by CLCs be tariffed at 48 hours. The Coalition notes GTEC's statement that if it detects an error when the CLC submitted data is compared to the MSAG, GTEC will return the data within two business days to the CLC for correction. The Coalition asks that this two-day time period be tariffed as well.

DRA views customer location data as crucial for providing ALI to the local PSAP, and recommends that the Commission require the CLC to electronically provide the LEC with customer location data no later than 24 hours after service order completion.

Discussion

Since access to 911 service is essential to the health and safety of each Californian, we intend that the time allowed to process transactions associated with 911 end user information be as short as possible and uniform across LECs. CLCs should provide

information on new customers to the LEC within 24 hours of the order completion. LECs should update their databases within 48 hours of receiving the data from the CLC, a time frame both Pacific and GTEC state they can meet. If the LEC detects an error in the CLC-provided data, the data should be returned to the CLC within 48 hours from when it was first provided to them. Pacific and GTEC should include these terms in their E-911 tariffs.

7. Provisions for Obtaining Master Street Address Guide (MSAG) Data

The MSAG is used in creating the Telephone Number to Emergency Service Number (TN-ESN) record in the 911 Selective Routers and to create the ALI record in the ALI data base. Each county owns its MSAG data, but Pacific and GTEC store and update the data in their 911 Management Systems.

DGS states that under the proposed serving arrangement, only Pacific and GTEC will continue to provision 911 Selective Routers and ALI data bases. DGS thus does not see a clear need for for CLCs to access the MSAG data.

Pacific states that a CLC may purchase MSAG from Pacific, and that Pacific can internally process the CLC's request for MSAG within 48-72 business hours. Pacific notes that delivery time will be dependent on the requested means of postage and delivery.

GTEC states that it is willing to provide MSAG information to a CLC if GTEC has received authorization from the counties who GTEC says own the MSAG data. Once authorized, GTEC is willing to provide the MSAG information on paper, diskette, or magnetic tape, at a cost that will depend on how much of the MSAG is needed, the number of copies, and the frequencies of updates required. GTEC is willing to provide time and material rates for this service, or is willing to develop separate contractual rates depending on the level of support requested by each CLC.

Citizens believes that LECs should provide MSAG to the CLCs on the same terms and conditions that MSAG is provided to other carriers.

The Coalition recommends that Pacific and GTEC be required to provide MSAG data on tape at tariffed rates and in a standard format suitable for use with desktop computers. The Coalition doubts GTEC's contention that ownership rights to MSAG are retained by the counties and that the CLC must obtain authorization to access the LECs' MSAG data from the appropriate county. To the extent that GTEC's contention is true, the Coalition recommends that the Commission seek to absolve the LECs of any liability for use or distribution of the MSAG data for 911 services.

DRA states that LECs are the designated service providers of last resort, and as such, the LECs have to coordinate with the county address data administrators to update their customer address records. DRA believes that the CLCs should be able to obtain MSAG data from the LECs, and recommends that the LECs be required to offer the MSAG data to the CLCs at tariffed rates. DRA recommends that the LECs be required to file their tariffs by December 15, 1995, and should GTEC fail to do so, then GTEC should be required to concur in Pacific's tariff.

Discussion

We shall require Pacific and GTEC to ship MSAG data within 72 business hours from the time requested. This is the maximum amount of time Pacific stated it would need, and GTEC did not indicate a longer time was necessary. We are unpersuaded by GTEC that CLCs must first obtain the county's authorization before GTEC may supply the MSAG data since Pacific views county authorization as unnecessary.

The LECs should provide the MSAG data on paper, diskette, magnetic tape, or in a format suitable for use with desktop computers. Each LEC may charge, on a nondiscriminatory basis, its

cost for offering MSAG data. The requirements we set forth today for the provision of MSAG data should be incorporated into Pacific's and GTEC's tariffs.

8. Adequacy of 911 Tandem Location Maps for Establishing 911 Tandem Links by January 1, 1996

DGS, the Coalition, and DRA have not yet seen the LECs' maps and thus could not comment on their adequacy. The Coalition recommends that Pacific and GTEC provide the maps at a set price. Following receipt of the maps by interested parties, the Coalition recommends that the Commission order a workshop, moderated by an ALJ and completed by mid-December, to resolve issues of exactly what information the maps should contain and any other database issues. Following the workshop, the Coalition asks for a ruling to be issued promptly to ensure that 911 service can be guaranteed by CLCs by January 1, 1996.

Pacific states that its router maps will be available by December 15, 1995, at a cost of $50 to $75. Pacific says its maps will reflect the selective router tandem locations as the end office codes that terminate at the specific selective router tandems.

GTEC believes that information currently available to the CLCs is sufficient for the CLCs to establish tandem links by January 1, 1996. GTEC states that it intends to recover the cost of providing information to the CLCs through contracts. The information GTEC states is currently available to the CLCs is as follows: (1) A listing by GTEC's E-911 tandems of all of the central offices and NXXs served by that tandem cross referenced with the district in which the central office is located; (2) A map of GTEC's E-911 network reflecting the applicable LATAs, the central office districts, and the E-911 tandems; and (3) An exchange map reflecting the general coverage of the GTEC's E-911

tandem, but requiring the detailed street information and the Emergency Services Number to be obtained from the MSAG.

Citizens believes that Pacific's provision of 911 route locations would be timely enough to allow service by January 1, 1996. Citizens recommends that Pacific should provide the vital information to other local carriers at no charge and recover the costs as part of the 911 service offering, as is done today. Citizens provided no comments regarding GTEC.

DRA notes that Pacific has filed an advice letter to establish rates and charges for its E-911 and related service, but states that the tariff includes no rate for providing 911 router maps. DRA thus recommends that Pacific include in its tariff a rate for providing 911 router maps. GTEC has not filed tariffs for E-911 service, and DRA recommends that GTEC be required to do so, including tariffs for providing 911 router maps, by December 15, in order to allow CLCs to provide 911 service by January 1, 1996.

Discussion

We agree that Pacific and GTEC should offer the maps on a nondiscriminatory basis at a set price. Accordingly, Pacific and GTEC shall charge their cost for provisioning the maps, and the specific charge should be set forth in their tariffs. We reiterate that Pacific and GTEC are to provide the information necessary for CLCs to provide 911 service to their customers on January 1, 1996. Any failure by an LEC to supply the requisite information should be brought to our attention in the dispute resolution process described elsewhere in this decision.

9. Requiring CLCs to Obtain an 800 Number for PSAPs to Access Subscriber Information

Currently, incoming 911 calls are routed to a PSAP. The PSAP accesses the ALI database which displays the address/location of the originating 911 call. If the PSAP attendant finds that the address/location information is wrong, the PSAP attendant calls the

LEC to verify the address/location information to properly guide the emergency service providers. DGS proposes expanding this arrangement to include CLCs as well as LECs.

The parties either support or do not oppose a requirement that CLCs provide a 24-hour contact point where PSAPs can obtain subscriber information in support of an active 911 call where the subscriber's proper address was not automatically forwarded with the call and the calling party is unable to provide their address. Citizens would oppose, however, any type of automated direct access to carrier's subscriber records.

Most parties' comments either supported or did not oppose the formation of an industry-led task force to monitor, enforce, and distribute the subscriber record access telephone numbers and 5-digit company codes. DRA recommends that enforcement of the requirement for CLCs to provide a 24-hour 800 number for inquiries from PSAP attendants should be the responsibility of the E-911 service administrator, which is DGS.

Discussion

Before CLCs provide service to customers, they must establish a 24-hour toll-free number as a contact point where PSAPs can obtain subscriber information. We are not prepared at this time, however, to allow any type of automated direct access to CLC's subscriber records since there is insufficient information on the record concerning privacy issues associated with accessing subscriber records. We will therefore require that the 24-hour point of contact must always be staffed by competent and trained personnel.

We will also require that an industry-led task force be formed to monitor, enforce, and distribute the subscriber record access telephone numbers and five-digit company codes. CACD shall report back to us within 90 days on parties' progress in forming the industry-led task force.

B. Intercompany Interconnection Service Order Reporting Standards Under GO 133-B

Ordering Paragraph 3(OP)7 of R.95-04-043, issued April 26, 1995, directed the General Order (GO) 133-B Review Committee to develop standards for interconnection service orders.[9] The Committee was to report its draft GO 133-B revisions to the Commission Advisory and Compliance Division (CACD) by December 31, 1995. Subsequently, in Decision (D.)95-07-054, OP 8, the Commission ordered the following modification:

> "DRA shall notify the Commission by October 1, 1995 as to whether the Committee has reached consensus on recommendations for additional standards for interconnection service orders. If no consensus recommendations have been reached, the ALJ will thereafter issue a ruling establishing a date for parties to serve testimony on this issue. If a consensus has been reached by that date, the ALJ will establish a due date for a consensus report to be filed."

On October 2, 1995, DRA reported to the assigned ALJ on the progress of the GO 133-B Review Committee in developing interconnection standards. DRA reported that the participants were able to agree on only the following issues:

1. The service quality standards for Intercompany Interconnection Held Service Orders (IIHSOs) should be included in a separate section of GO 133-B.

2. Participants reaffirm that all LECs and CLCs shall be subject to GO 133-B reporting standards.

[9] GO 133-B sets forth uniform standards of service to be observed in the operation of telephone utilities as well as quality of service reporting requirements. The charter for the GO 133-B Committee is set forth in Part 5 of GO 133-B.

The assigned ALJ issued a ruling on November 13, 1995, which directed parties to file written comments by November 27, 1995, addressing additional standards for interconnection service orders.

Parties' Positions

Pacific

Pacific recommends that IIHSO service reporting be instituted concurrently with the introduction of facilities-based competition. For clarity, Pacific proposes that "Intercompany Interconnection Service Order" (IISO) be defined as "a request for interconnection of trunks and/or facilities between LECs and/or CLCs." Also for clarity, Pacific proposes that an IIHSO be counted as held when service is not provided within 15 days of the mutually agreed-upon due date for the completion of the request for the IISO.

Pacific recommends that IIHSOs be compiled and reported on a monthly basis in a format as appended to its comments. In its proposed report, Pacific would require each LEC and CLC to report for each IIHSO the following: (1) the service order number; (2) the due date; (3) the company requesting interconnection; (4) whether the IIHSO is overdue by 15-20, 21-25, 26-30, 31-35, 36-40, or over 40 days; (5) the reporting unit (wire center or plant installation center); (6) whether the IIHSO is pending or complete; and (7) an explanation for the IIHSO.

Pacific recommends that there be no automatic penalty mechanism built into the IIHSO reporting standard since a variety of circumstances beyond the LEC's control may cause IIHSOs, such as natural disasters, labor disputes, and civil disturbances. Pacific recommends that any LEC or CLC that feels it is being treated unfairly can bring the matter to the Forum OII or the Commission's formal and informal complaint process.

GTEC

GTEC states that IIHSOs reporting standards should be the same as that for end user held service orders which are reported quarterly to the CPUC. The report lists service orders that are held for specific reasons, and which are held for varying intervals. GTEC supports using the report form proposed by Pacific, with some minor modifications. GTEC recommends that no additional IIHSO reporting requirements be mandated. GTEC recommends that all facilities-based carriers begin submitting the reports 30 days after the first quarter of 1996, and resellers 30 days after the end of the second quarter of 1996.

GTEC sets forth interval provisioning standards in its proposed interconnection tariff, which are consistent with the intervals GTEC presently provides to its end users. GTEC recommends that all other provisioning standards be determined by contract. According to GTEC, contracts permit the flexibility necessary to accommodate the unique network arrangements, and other specific needs of each individual CLC. GTEC also states that contracts have traditionally been used for LEC-LEC interconnections and for the provision of 411, local intercept, and E-911 routing. Allowing contracts with CLCs, according to GTEC, would thus result in equal treatment of LECs and CLCs. In the event GTEC and a CLC cannot reach a contract, GTEC recommends use of the Forum OII to resolve the dispute.

Once the parties agree on a due date for the provisioning of a particular service from a LEC or CLC, the Held Order report would only be required if the service order is 30 days past due which GTEC states is consistent with the present Held Order reporting requirements of GO 133-B. GTEC proposes that the 30-day requirement could transition downward to 20 days after six months, and 15 days after nine months as all parties become familiar with LEC-CLC interconnection process. Ultimately, the new section of GO 133-B could contain a sunset clause which will require the

Commission and the parties to determine if the Held Service Order reporting process is still necessary.

Coalition

The Coalition recommends that a service order which misses its commitment date by five days should be counted as a held order and reported to the Commission in intervals so that an order held for five days can be distinguished from one that is held for 30 days. To protect against abuses by LECs, the Coalition recommends a penalty mechanism for held orders in which a LEC would have to refund the installation charges associated with each held order. To implement the penalty mechanism, the Coalition recommends the following language be included in GO 133-B:

a. Description. An intercompany interconnection service order will count as a held service order when service is not provided within five (5) days of the mutually agreed upon service date.

b. Measurements. Count once a month the total intercompany interconnection service orders not completed by the service due date for the previous 30 days for each interconnecting company. Separate the results into four categories as follows: 0-4 days; 5-15 days; 16-30 days; and over 30 days.

c. Reporting frequency. Compiled monthly and reported monthly on the last day of the following month.

d. Penalty mechanism. Installation charges will be credited to the company requesting interconnection when the interconnection service is not provided by its service due date.

The Coalition endorses Pacific's report format for held orders. The Coalition does not support a sunset date for the OSHII report until few, if any, held orders are reported.

The Coalition recommends that end user GO 133-B standards and the proposed intercompany interconnection hold order standards apply to all telecommunications companies. Finally, the Coalition recommends that the GO 133-B intercompany interconnection standard be revisited once the Commission has adopted physical interconnection standards.

DRA believes that standards for carrier to carrier interconnection should be established and incorporated into GO 133-B, and that the standards be in place by December 29, 1995 in order for competitors to effectively enter the market on January 1, 1996. DRA strongly opposes any new standards or allowing standards to be negotiated on a case by case basis between carriers.

DRA recommends that the new service standards encompass held orders and service provisioning intervals. DRA believes that all carriers should report monthly on the new service standards which should be separately reported from end-user service standards. DRA recommends that the LECs' service standard reports be broken down by individual CLCs in order to assess if a particular CLC is being treated in a discriminatory manner by a LEC. DRA believes that the Commission's current service quality auditing measures are sufficient for verifying the accuracy of carrier-to-carrier service standard reports. DRA recommends that additional GO 133-B Committee meet-and-confer sessions should be held to establish the specific standards and reporting units. Finally, DRA suggests that negative incentives such as a penalty be established for serious violations of GO 133-B interconnection standards.

Discussion

In our order of April 1995, we expressed concern about intercompany interconnection service quality.[10] Interconnection among local carriers is a prerequisite for the development of local exchange competition and the deployment of an ubiquitous public communications network connecting all Californians to one another and beyond. Our concern over the availability and quality of intercompany interconnection service standards led us to direct the GO 133-B Committee to develop standards applicable to interconnection service orders.[11] The GO 133-B Committee was able to provide only two relatively minor recommendations that (1) interconnection standards should be a separate part of GO 133-B, and (2) any interconnection standards should apply to all LECs and CLCs. We find these two recommendations to be reasonable and will adopt them.

We intend to rely on contracts rather than tariffs to govern intercompany interconnection arrangements. We agree with GTEC that contracts provide the flexibility necessary to accommodate the many different network interconnection arrangements necessary for the LECs and CLCs to interconnect. We disagree with GTEC, however, that we should not specify certain uniform intercompany interconnection standards. For effective local competition to exist, interconnection must take place in an efficient and timely manner. We will address here the standards required to achieve this goal. We specify elsewhere in this decision those parameters necessary to ensure that interconnection occurs in an efficient manner.

10 R.95-04-043/I.95-04-044, mimeo. p. 7.

11 (Ibid.)

No party recommended that we establish standards governing the amount of time required to provision any specific interconnection arrangement. Instead, the parties focused on a local carrier's failure to provide any interconnection arrangement in the time frame agreed to by the carrier. We agree with the parties' focus since we could not realistically specify a standard provisioning time for each of the innumerable intercompany interconnection arrangements that are possible.

All the parties agreed that the Commission should monitor each carrier's IIHSOs, but could not agree on what IIHSOs should be reported to the Commission. We will adopt Pacific's proposal that a IIHSO be reported when the service is not provided within 15 days of the mutually agreed-upon due date. We find the Coalition's proposal for a five-day reporting standard to be too short for several reasons. First, we do not want to provide an incentive for a local carrier to incorporate extra slack when negotiating service due dates in order to avoid the possibility of reporting a held service order. Second, local carriers may occasionally misjudge service due dates, and we do not want to penalize honest errors in judgment by requiring local carriers to report the service orders held for only a few days. Finally, we want to balance the need for local carriers to report held service orders with tracking and reporting costs that increase as reporting intervals decrease. Conversely, GTEC's proposed 30-day standard for reporting held service orders is too long. Orders held longer than 15 days will negatively impact competitors who relied upon the promised due date in making their own service commitment dates to their customers. In addition, service orders held for fifteen days may indicate a service quality problem that should be investigated by the CPUC.

Most parties supported a requirement that IIHSO be compiled and reported on a monthly basis. We find the monthly reporting requirement to be reasonable, and direct the local carriers to file their IIHSOs on the last day of the following

month as recommended by the Coalition. All the parties were generally supportive of Pacific's proposed IIHSO report format. Since Pacific's proposed report contains most of the information necessary for reporting on IIHSOs, and we will adopt it with the one minor modification of adding an additional interval. Therefore, the IIHSO report we adopt today should contain the following information: (1) the service order number; (2) the due date; (3) the company requesting interconnection; (4) whether the IIHSO is overdue by 15, 20, 21-25, 26-30, 31-35, 36-40, 40-45, and over 45 days; (5) the reporting unit (wire center or plant installation center); (6) whether the IIHSO is pending or complete; and (7) an explanation for the IIHSO. We will add to this list DRA's suggestion that the LEC's reports be broken down by individual CLCs in order to help us assess if a particular CLC is being treated in a discriminatory manner by a LEC. We agree with DRA that the Commission's current service quality auditing measures are sufficient for verifying the accuracy of carrier-to-carrier service standard reports. Since we do not know how long the IIHSO reporting requirement will remain necessary, we will not establish a sunset clause at this time for IIHSO reporting requirements.

We will require that IIHSO service reporting be instituted beginning January 1, 1996, so that we may monitor interconnection service quality from the start of local exchange competition. To reduce the potential number of disputes over held service orders, we will adopt Pacific's proposal to define an "Intercompany Interconnection Service Order" as "a request for interconnection of trunks and/or facilities between CLCs and/or LECs." Since we have established service standards and reporting units, DRA's recommendation for additional GO 133-B Committee meet-and-confer sessions is unnecessary.

We recognize that an IIHSO reporting requirement is not the same as a requirement that local carriers provision interconnection arrangements in a timely manner. We understand

that held service orders may have significant negative impacts on the quality of service provided to the customers of the entity requesting interconnection. Therefore, as an incentive to provide timely service order completion, we will require all local carriers to refund nonrecurring interconnection charges for service orders held 45 days beyond the mutually agreed upon service date. The refund provision we establish today will not apply if service order completion was delayed due to natural disasters, severe weather, labor disputes, or civil disturbances. If a company feels a particular refund is unfair, it may bring its case to us via the dispute resolution process described elsewhere in this decision.

C. 611 Repair Service

The adopted interim rules set forth in Appendix A of D.95-07-054 included a provision that: "LECs and CLCs shall develop a program to address the issues regarding access to repair service, i.e., 611, to ensure its integration in the environment of local exchange competition." (Rule 4.F.(11).)

The assigned ALJ directed by ruling dated August 18 that a report be filed by the LECs and CLCs regarding the development of a program for access to 611 repair service to ensure its integration into the competitive local exchange environment.

Pacific

On October 2, 1995, Pacific filed a report describing its 611 repair service access, as follows: "An end user who calls "611" and reaches Pacific's Repair Service will be connected to the Customer Contact Services Node (CCSN) which is an Automated Voice Response Unit (AVRU). The end user is prompted to type in his or her telephone number. The CCSN then identifies whether the end user's local exchange carrier is Pacific or a CLC based on the NPA NXX of the telephone number the end user types in. If the customer is not Pacific's customer, the CCSN will access a CLC referral number table to locate the CLC who serves the end user. The CCSN will then inform the end user that "This is not a Pacific Bell

telephone number. And announce the name of the CLC and the CLC's Repair Service Number, stating that the number was provided to Pacific by the CLC. Pacific will employ this referral process for CLC end users who have retained their former telephone number through their CLC's use of Pacific's interim number portability service.

If the end user's telephone number is not found, the CCSN will transfer the end user to a Pacific Bell Customer Service Representative, who will attempt to find the end user's telephone number through other means. If found, then the service representative gives the end user the CLC Repair Service number found in the CLC referral table. If the number is still not found, the service representative will tell the end user to contact his or her CLC directly by referring the end user to his or her CLC bill or to use Directory Assistance. Pacific will not perform screening, testing or trouble isolation service to determine the source or location of a problem (e.g., trouble reports on inside wire) for end users who are not its customers. In order for Pacific to provide this referral service for any calls to its repair bureau (611 calls) or calls to its business office, to consumers without charge, Pacific proposes that it not be liable to end users, or to other providers, if it inadvertently directs a customer to an incorrect referral number.

For calls to Pacific's business offices from CLC customers, an AVRU will answer the call asking the end user to type in his or her telephone number. The CCSN will perform the same process as it does for calls coming in to the repair bureau on a "611" basis. For example, if the end user is not its customer of record, the CCSN will access a CLC referral number table, and, if found, announce the name and service repair number of the CLC. The CCSN will identify whether the end user is a Pacific Bell customer or not. If the customer is not a Pacific Bell customer, and the end user's CLC is not found, the service representative will direct

the customer to refer to his or her CLC bill or to directory assistance for a referral number.

GTEC

GTEC believes the responsibility for providing repair service and handling customer inquiries regarding repair is that of the service provider, and that the CLCs should bear the cost of addressing and satisfying their customer repair service needs. While GTEC expresses a willingness to work cooperatively with the CLCs and the Commission to minimize consumer confusion in the initial phases of local competition, it objects to the imposition of additional operational costs associated with addressing repair service needs of non-GTEC customers.

GTEC intends to handle repair calls placed to its 611 repair service from a CLC customer as follows. Upon receipt of a CLC customer call to a GTEC repair number, GTEC will verify through existing GTEC database systems that the calling party is not a GTEC customer. GTEC's database system does not provide for the identification of the service provider responsible for the calling party's local exchange service. However, GTEC will refer the calling party to the appropriate CLC, so long as all certificated CLCs provide appropriate reference numbers for this purpose. If the calling party does not know the identity of his or her local service provider, GTEC will refer the calling party to their telephone bill or to the Commission for further assistance. GTEC suggests that the Commission establish a telephone contact number for the purpose of allowing consumers to contact their service provider if they do not know who their service provider is. Accordingly, the Commission could order each CLC to provide it with sufficient information to allow the Commission to make a referral to the appropriate CLC. GTEC will not perform any repair service function for non-GTEC customers. Unlike Pacific, GTEC does not have the associated CCSN and associated databases. In summary, GTEC objects to providing

any repair service function for a competitor without appropriate compensation. In GTEC's view, a referral to either the CLC itself or the Commission for further assistance is a reasonable resolution to any repair service problems.

DRA

DRA recommends that each carrier utilize its own service technicians beginning January 1, 1996. If they are not ready to provide their own technicians on this date, CLCs should be required to provide an implementation timeline to the Commission stating when they intend to begin servicing their own customers.

DRA further believes that ample customer notice must be given as to how the 611 system will work once competition is in place. Questions as to who the customer should notify and how their service will be provided and by whom need to be addressed in a notice to the customer. Customers should be notified on their bill as well as when they initiate service if they choose a carrier other than the one they currently utilize. This is one reason DRA supports a "universal" 611 system such as described above. The customer could continue to dial 611 for their repair needs as they currently do, instead of having to learn other numbers.

DRA is also concerned about who will handle major outages. It seems that the carrier who provides the service would also take care of any outages. However, DRA is uncertain as to how this arrangement would work in the resale environment.

DRA believes that the 611 system should be universal such that a customer of any carrier who dials 611 and enters their phone number will, through an automated system, be connected to their appropriate carrier. Another possibility that would cut down on customer frustration would be to have the customer automatically forwarded to their carrier after dialing 611. A live operator would replace the automated system and that operator upon receipt of the customers' phone number would then forward the customer to the appropriate carrier's repair service.

DRA believes that a one-day workshop should be convened to provide the CLCs and LECs an opportunity to address the issues identified by DRA.

The Coalition did not address 611 Repair Service and Reporting requirements for facilities-based competition although it did address the issue in reference to resale-based competition in its Phase II reply comments. Information was provided in Pacific's comments regarding how two CLCs, Teleport Communications Group (TCG) and Metropolitan Fiber Systems (MFS) intend to provide 611 service.

If a customer of another LEC or CLC contacts MFS in error, MFS will refer the caller to an 800 number that is associated with Pacific's 611 repair bureau. (MFS will provide its own customers with a toll free repair service referral number.) Once the end user reaches the Pacific repair bureau, his or her call will be handled as specified in the Pacific procedures outlined above.

TCG intends to provide its customers with a toll-free number to call to report TCG service problems. Calls to 611 on TCG lines would be answered by an intercept message such as one of the following:

"If you are a TCG customer who wishes to report a service problem, please call 1-800-NXX-XXXX. [TCG's toll-free repair number.] If you are the customer of another company, you will need to call that company's repair number, which you should be able to find on your monthly bill."

or

"If you are a TCG customer who wishes to report a service problem, please call 1-800-NXX-XXXX. [TCG's toll-free repair number.] If you are the customer of another company, please call 1-800-NXX-XXXX."

This second 800 number would be Pacific's 800 repair service number. Pacific's AVRU process would then begin as outlined above in the description of our procedures.

Discussion

It is essential that all local exchange customers have ready access to repair services whether they are the customer of a LEC or a CLC. As a prerequisite to initiating service, we shall require each certificated CLC to be equipped to respond promptly to their customers' 611 repair service calls. The CLC can either utilize their own service technicians or enter into contractual arrangements to have repair orders serviced promptly.

We shall adopt DRA's proposal that ample customer notice be given as to how the 611 system is to work with the introduction of multiple local exchange service providers. Accordingly, each CLC shall be required to disclose the procedure for contacting repair service at the time the customer initiates service as well as on the monthly customer bill. In the Consumer Protection Rules we adopted in this proceeding on April 26, 1995, we required each CLC to provide a phone number that the CLC's customers could call for billing or other service inquiries. We shall require at a minimum that CLCs use this number as a contact for customers to call for repair service.

We are satisfied that Pacific's proposed 611 referral system provides a workable interim solution for directing CLC customers who dial "611" and reach Pacific's Repair Service. Although GTEC does not have the CCSN and associated data bases to allow it to provide a service similar to that of Pacific, we expect it to institute a referral system to direct CLC customers to the appropriate CLC or to their phone bill for the number of the appropriate CLC for service. Alternatively, if the CLC's identity is unknown, GTEC shall direct the caller to the phone number of the Commission's Consumer Affair's Branch for further assistance. Likewise, we expect each CLC to show the same cooperation in

directing calls of other competitors' customers who may call seeking repair service.

Our adopted rules with respect to 611 service addressed in this decision apply only to facilities-based CLCs. We recognize that additional concerns may need to be addressed with respect to the provision of 611 service by resale-based CLCs. We shall review parties' Phase II comments regarding rules for resale competition and assess the need for a workshop or other input before adopting any additional 611 repair service rules applicable to CLC resellers in our Phase II decision scheduled for early 1996.

D. Deaf and Disabled Telecommunications Program (DDTP) Program

On October 18 and 19, 1995, a workshop was conducted as directed by ALJ ruling to address how the Deaf and Disabled Telecommunications Program (DDTP) is to be administered to assure adequate service access by the deaf and disabled population with the advent of competitive local exchange service. A workshop report was produced on December 11, 1995. The workshop participants reached the following consensus:

- For a short, interim period, CLCs should contract with one of the incumbent providers to offer equipment and services to eligible deaf and disabled customers as part of the DDTP.
- CLCs can choose from the following incumbent providers: Pacific, GTEC, California Telephone Association (CTA) or Thomson Consulting which performs DDTP functions for CTA.
- Each CLC shall include in its tariffs provisions specifying how it will provide DDTP services.
- The DDTP should be authorized to submit a request to modify its 1996 Budget, if necessary, to estimate any changes in costs associated with accommodating interim participation by CLCs.

- Future workshops should be held early in 1996 to determine how CLCs should participate in the DDTP over the long term.
- The Commission will inform all CLCs of their responsibility to collect and remit surcharge revenues.

We have reviewed the consensus findings and adopt them without change.

V. Additional Rules Governing CLC Entry and Regulation

A. CLC Financial Responsibility Requirements

The Commission's Interim Rules for local exchange competition set forth in D.95-07-054 require CLCs to meet certain financial standards in order to obtain a CPCN. In particular, facilities-based CLCs are required to possess a minimum $100,000 of cash or cash equivalent, while resale CLCs must have a minimum of $25,000 of cash or cash equivalent. In addition, all CLCs must demonstrate they have the resources needed to cover any deposits required by LECs and IECs. In D.95-07-054, we permitted parties to file additional comments on Pacific's and GTEC's proposed additional financial requirements for CLCs that are more stringent than those adopted in our Interim Rules.

Parties' Positions

Pacific

Pacific seeks authority to charge CLCs a deposit in order to protect Pacific and its customers from losses should a CLC business fail. The amount of the deposit would not exceed the actual or estimated rates and charges for a two-month period. Pacific would require no deposits from customers who have

12 D.95-07-054, Appendix A, Section 4.B.(1) & (2).

previously established credit with Pacific and have no history of late payments to Pacific. As justification for its proposed deposits from CLCs, Pacific states it currently has identical deposit requirements for those using its intrastate access tariffs.

GTEC

GTEC recommends that CLCs should be required to post a bond of $1 million in order to receive a CPCN to provide local exchange services. GTEC believes a substantial bond is necessary in order to protect consumers, LECs, and other carriers in the event the CLC becomes insolvent.

As evidence of the need for a substantial bond requirement, GTEC points to the recent example of Sonic Communications (Sonic). According to GTEC, Sonic switched long distance service from other carriers to Sonic without the customers' consent, a practice known as slamming. The rates charged by Sonic were generally two to three times those of the customer's former long distance carrier. Sonic's slamming eventually caused the Commission to open I.95-02-004. During the course of its investigation, the Commission asked GTEC to compile a list of Sonic's customers and to estimate the cost necessary to rerate the calls of Sonic's customers. GTEC eventually determined its cost for rerating to be over $1 million. Sonic ultimately filed for bankruptcy, leaving no funds to cover GTEC's costs for rerating or for refunds to Sonic's customers. According to GTEC, even if Sonic had posted a $1 million bond, this would have been insufficient to cover the cost of identifying the customers, rerating their calls, and reimbursing the customers. The lesson of Sonic, according to GTEC, is that the damage done by an unscrupulous carrier can mount quickly, and that a $1 million bond requirement is therefore reasonable.

Citizens

Citizens supports the Commission's financial standards for determining the financial competence of CLC applicants,

Citizens recommends that CLC applicants who meet Commission criteria should not be subject to additional LEC imposed requirements.

Coalition

The Coalition is opposed to the CLC bonding requirements proposed by Pacific and GTEC. The Coalition believes the large bond amounts proposed by the two LECs are meant to be anticompetitive by raising a barrier to CLC market entry and burdening CLCs with additional costs once they enter the market.

In arguing against the LEC's proposed bonding requirement, the Coalition states that the Commission has never adopted a bonding requirement to protect LECs from the risk of insolvency by either facilities based or reseller IECs, and there is no need to adopt such a requirement for CLCs either. The Coalition recognizes that a bond could help protect customer deposits in situations where a CLC required customer deposits before providing service. However, the Coalition believes such situations will be rare since a competitive environment will make it difficult if not impossible to require customer deposits. The Coalition believes that the safety of customer deposits can be properly addressed in the Commission's Rulemaking on customer deposits, R.85-08-042.

UCAN

UCAN recommends modification of the Commission's Interim Rules to include a requirement for CLCs to post a bond sufficient to protect customer deposits. The amount of the bond can be initially set by looking at the area to be served and the deposits the new entrant will be charging. Once service begins, UCAN states the bond amount can be adjusted based on actual data and the amounts held by the new entrant.

To protect LECs, UCAN suggests that new CLCs be required to obtain a performance bond. The amount of such a bond would be based on estimated three months of flat or usage related

interconnection charges. The posting of a bond would remove the necessity of LECs charging a deposit for interconnection costs and fees.

UCAN is sympathetic to the concerns expressed by Pacific and GTEC regarding CLC bonding requirements, but finds each LEC's bonding proposal to be too extreme. UCAN opposes GTEC's $1 million bond requirement because UCAN finds it too arbitrary. UCAN supports Pacific's proposal that the bond be based on estimated interconnection costs, but opposes Pacific's recommendation that the bond be required of CLCs in addition to deposits made to the LECs. UCAN views a requirement of both bonds and deposits to be unnecessary and a possible barrier to entry.

Toward Utility Rate Normalization (TURN)

TURN, a member of the Coalition, offered its own separate recommendation regarding the safety of customer deposits. TURN proposes a requirement that any customer deposits collected by the CLC be placed in a protected, segregated interest-bearing escrow account subject to Commission oversight. If this approach fails to protect customers adequately, TURN recommends that other means should be explored to ensure the safety of customer deposits. TURN shares the Coalition's concern that the LECs have proposed a bonding requirement for anticompetitive reasons.

Discussion

In considering parties' proposals for imposing additional financial requirements on CLCs, we must balance countervailing factors. On the one hand, we seek to adopt rules which will enhance the incentive for the competitive entry of a large number of service providers. Imposing unduly large financial restrictions on CLC entrants may tend to inhibit market entry and impede the growth of a competitive market. On the other hand, our adopted rules must ensure that the public is protected against degradation of service quality as a result of the lack of technical or financial integrity of a certificated CLC. On balance, while we

believe some additional protections are warranted, we conclude that the proposals of GTEC and Pacific are overly restrictive and would unnecessarily inhibit the growth of promoting local exchange competition.

We decline to adopt GTEC's proposal for a $1 million bond requirement. GTEC fails to provide evidence that a $1 million bond is required from every certificated CLC. GTEC's example of Sonic Communications, while real, is one case of an apparently unscrupulous IEC causing serious financial harm in California. GTEC provides no analysis of the expected magnitude or likelihood of similar costs it might incur in the future as a result of CLC entry. Imposition of GTEC's proposed $1 million bonding requirement on every CLC would therefore result in arbitrary and excessive restrictions on CLC entry and impede our goal promoting of local exchange competition.

While we find GTEC's proposed $1 million bonding requirement unacceptable, we conclude that some additional level of financial protection is appropriate. We conclude that Pacific's proposal to require CLCs ordering interconnection service to pay a deposit under terms patterned after Pacific's intrastate access tariff provides a more reasonable approach to protecting against the risks of insolvent CLCs. Under Pacific's proposal, CLCs ordering interconnection service would pay a deposit equal to an estimated two months of recurring flat-rated or usage-based interconnection charges based on the number and type of interconnection facilities ordered from the LEC. Unlike the proposal of GTEC, Pacific's proposal is not arbitrary. Pacific's proposal would tailor the amount of the deposit to the actual rates and charges incurred by the CLC. It would also only apply where no prior credit record had been established by the CLC. Pacific's proposal is consistent with our July 1995 Interim Rules which require CLCs to document that they possess the resources necessary to cover the deposit requirements of LECs and IECs. Pacific may not, however, require a bond in addition to deposits.

We shall also adopt the proposal of TURN to require that any customer deposits collected by a CLC be deposited in a protected, segregated interest-bearing escrow account subject to Commission oversight. This requirement will protect customers and provide assurance that customer deposits are not commingled with other company funds or otherwise available for unauthorized uses. We shall direct CACD to establish reporting procedures to monitor compliance with this order.

B. Bilingual Policies

In prehearing statements filed August 9, 1995, and in remarks at the prehearing conference of August 11, 1995, Public Advocates proposed that the Local Competition docket resolve certain universal service issues concurrently with the initiation of local competition in January 1996. In the ALJ Ruling of August 18, 1995, parties were allowed to submit comments regarding Public Advocates' proposal to require CLCs to prevent redlining, and provide bilingual customer information notices to non-English-speaking customers, particularly as to basic and lifeline service. We have reviewed parties' comments and address them as outlined below.

Parties' Positions

Public Advocates recommends that the Commission specify bilingual service requirements for LECs and CLCs from the outset of competition in order to achieve the Commission's 95% universal service goal for the non-English speaking population. The specific bilingual service requirements recommended by Public Advocates are as follows:

(1) Every CLC should inform each new customer and regularly inform existing customers, of the availability, terms, and statewide rates of lifeline telephone service and basic service. Public Advocates recommends that this information (and other information such as bills and notices) be provided to non-English-speaking customers in the common languages spoken within the exchange or larger territory, including Spanish,

Cantonese, Mandarin, Tagalog, Vietnamese, and Korean.

(2) Each carrier must have bilingual customer service representatives available in the common languages of the exchange.

(3) Each carrier must conduct targeted marketing and outreach to non-English speaking populations.

Pacific

Pacific recommends that the Commission forego a mandate for the provision of bilingual services. In Pacific's view, the demands of the California market and not a Commission order should dictate whether bilingual customer services are offered. Pacific states that it currently provides and will continue to offer bilingual services to its customers.

GTEC

GTEC believes that standardized bilingual customer outreach and information would likely be ineffective in the new competitive market in which CLCs may be serving areas that are widely divergent in population make-up. According to GTEC, the bilingual customer market is rapidly growing and will be eagerly sought by many carriers. GTEC recommends that competitors not be hamstrung by standardized bilingual outreach requirements. Instead, competitors should be able to distinguish themselves in the bilingual market through innovative marketing efforts and services targeted to bilingual customers. GTEC believes that the annual reports required of the CLCs and LECs should allow the Commission to adequately monitor the sufficiency of the industry's bilingual customer outreach and information efforts.

Citizens

Citizens recommends that the Commission impose no multilingual customer information requirements on the CLCs. Citizens states that since CLCs have no captive customers, they will have an incentive to market effectively and provide good

quality customer service to all potential customers. According to Citizens, production of multilingual customer outreach information will be incented by a marketplace driven by California's changing demographics.

Coalition

The Coalition supports the Commission's approach to bilingual customer outreach and education, and believes that it is premature to impose a more stringent requirement on CLCs.

Discussion

Our current Interim Rules for local exchange competition as adopted in D.95-07-054, require that CLCs making a sale in a language other than English provide the customer with a letter written in the language in which the sale was made describing the services ordered and itemizing all charges which will appear on the customer's bill. No other bilingual information or outreach rules were imposed. We will expand this to include a requirement for local carriers to inform each new customer, in writing and in the language in which the sale was made, of the availability, terms, and statewide rates of Universal Lifeline Telephone Service and basic service. On an ongoing basis, each local carrier shall also provide bills, notices, and access to bilingual customer service representatives in the languages in which prior sales were made. We adopt these additional requirements as appropriate steps in achieving our goal of improving the penetration rate of basic service to non-English speaking households. We do not believe, however, that the new requirements will impede the development of local competition. Indeed, our new requirements may facilitate competition by enabling carriers to better address the needs of underserved markets, thereby expanding the total number of residential customers, which in turn should attract additional providers of local telephone service.

We will not address here Public Advocates' proposals concerning bilingual service requirements for customers to whom

13 See Public Advocates' Comments on p.33-01-050 and proposed

14 D.95-07-050, Appendix A, Section 3.B.

service was sold in English only, nor proposed across-the-board requirements for bilingual marketing and outreach. We believe these matters merit further consideration, but are better addressed in our Universal Service proceeding, R.95-01-020/I.95-01-021, where Public Advocates has presented the same recommendations as in this proceeding.[13] In our Universal Service proceeding, we proposed rules that would require all local carriers to be responsible for achieving our goal of 95% penetration rate among non-English speaking households, and that each carrier's efforts to communicate in the native languages of non-English speaking customers would be considered by the Commission in assessing each carrier's contribution to meeting our Universal Service targets.[14] We anticipate issuing final rules for Universal Service by approximately June 1996. In the meantime, we are optimistic that California's diverse population presents rich opportunities that will attract multiple providers offering bilingual services tailored to each market segment. Also, since the facilities-based CLCs are only beginning the process of obtaining customers, waiting until a decision in the Universal Service docket is issued is unlikely to have any serious impact.

C. Redlining Prohibitions

Positions of Parties

Public Advocates

Redlining occurs when there is an absence of competition in a given community because of a failure to provide marketing and outreach efforts to minorities, non-English speaking, and low-income populations. Public Advocates believes that redlining practices are being extended to enhanced and broadband services. To overcome redlining, Public Advocates recommends the following:

13 See Public Advocates' Comments on D.95-07-050 and Proposed Rules, pp. 8, 23, and Appendix A to their comments.

14 D.95-07-050, Appendix A, Section 3.B.

- Each carrier must be responsible for the Commission's goal of at least 95% telephone penetration in poor, non-white, and non-English-speaking households.
- Each carrier must actively market its telephone services to the above-identified households and small businesses throughout each exchange or larger territory in which it operates.
- Each carrier must develop and submit one-year, two-year, and five-year business plans with detailed targets towards obtaining the Commission's goal among poor, non-white, and non-English-speaking households, and meeting the minimum specified criteria in D.94-09-065.
- The Commission should annually assess the degree to which carriers have or have not met their universal-service goals in California's poor, non-white, and non-English-speaking communities, and should exercise their authority to ensure that their universal service goals are actively and effectively pursued.
- The Commission should analyze the service territory maps of all carriers to determine if there are areas suffering from an absence of competition. If such areas exist, the Commission should require carriers who serve territories bordering these redlined communities to expand their territories to encompass these undeserved communities to increase competitive choice.
- Enhanced telecommunications services such as digital broadband and fiber or fiber-coax services must become part of basic service when such service is available to (even if not yet purchased by) 51% of the customers in the exchange, neighborhood, city, council, county, metropolitan area) or larger territory such as a LATA.
- Each carrier that is developing or building out new telecommunications technologies or services (hardware or software) must do so

- without discrimination in access on the basis of income, race or ethnicity, or geography.
- Enhanced telecommunications services must be available to qualified lifeline customers at lifeline rates, i.e., no more than 50% of the regular price.

Pacific

Pacific recommends that the Commission review several factors if the allegation of redlining arises. For example, Pacific suggests that the Commission investigate whether adjacent communities are receiving the same technology and consider how many providers can economically provide a certain service to a community. The key, for Pacific, is to differentiate between intentional discriminatory conduct and the demands of a competitive market.

GTEC

GTEC believes that the detection and prevention of redlining can be achieved in a competitive local market. GTEC cautions, however, that the new competitive environment requires careful application of the Commission's redlining policy. The Commission has allowed CLCs to narrowly designate their serving areas, thus the Commission must be careful not to consider as redlining those situations where it may not be economically feasible or advantageous for the CLCs to deploy advanced service beyond their designated service territories.

Citizens

To safeguard against redlining in the provision of basic residential service, Citizens recommends that every provider of basic residential services be required to provide these services on a nondiscriminatory basis within the areas being served by that carrier. Citizens believes that universal access to optional services and more advanced technology is a matter of social policy

beyond the scope of normal regulation and should be entrusted to the Legislature.

Coalition

The Coalition states that the unreasonable discrimination inherent in the practice of redlining should not be tolerated. The Coalition also stresses that companies should not be penalized for any failure to serve that is not due to an intent to redline, but is the result of technical or economic barriers to immediately extending service to an entire service area.

The Coalition believes that the review of service territory maps as proposed by Public Advocates would be an ineffective means of addressing the issue of redlining. In the Coalition's view, it is too early to contemplate a review of service territory maps for the purpose of detecting redlining. The Coalition notes local competition has yet to start, and competition will require time to take hold. In addition, critical technical and pricing issues need to be ironed out before anyone will be able to tell whether the interim rules create the conditions necessary to allow CLCs to serve the areas they want to service. The Coalition states that the Commission has better means of detecting and addressing redlining than service area maps, and these are being thoroughly addressed in the universal service proceeding.

2. Discussion

The Commission's Interim Rules for local exchange competition set forth in D.95-07-054 required CLCs to provide service to all customers requesting service within their designated service territory on a non-discriminatory basis.[15] However, the Interim Rules adopted in D.95-07-054 contained no specific provisions regarding the detection and prevention of redlining.

15 D.95-07-054, Appendix A, Section 4.F.(1).

We are unalterably opposed to redlining and shall prohibit it. We are optimistic, however, that competitive carriers will act in their own best interests and pursue the growing opportunities found in serving California's diverse population in a nondiscriminatory manner. But pursuing these opportunities will take time, effort, and investment. Many critical issues still need to be worked out, such as a permanent INP solution, that may hinder carriers from expanding as fast or serving as many as they might otherwise. Carriers first need to be given a fair chance to serve California before we can meaningfully examine whether carriers are intentionally engaging in redlining.

We therefore decline to implement Public Advocates' proposal to investigate at the outset of local competition all CLCs' service territory maps for redlining. Public Advocates' other proposals concerning redlining[16] are better addressed in our Universal Service proceeding. We emphasize that our directing Public Advocates to pursue its proposals in the Universal Service proceeding should not be viewed by CLCs or others as a signal of any slackening in our commitment to oppose redlining. We have referred certain proposals to the Universal Service proceeding because they are closely related to the issues of universal availability and affordability of service. We reiterate our intent to take strong action against any carrier we find engaged in redlining.

Findings of Fact

1. D.94-12-053 formally adopted a procedural plan to implement the Commission's stated goal of opening all telecommunications markets to competition by January 1, 1997.

4 Public Advocates presented the same proposals regarding redlining in the Universal Service docket. See Public Advocates' Comments on Decision 95-07-050 and Proposed Rules, Appendix A.

2. R.95-04-043/I.95-04-044 was instituted to develop and adopt rules for competitive local exchange service.

3. D.95-07-054 adopted initial rules in certain limited areas sufficient to enable prospective CLCs to file petitions for authority by January 1, 1996 to enter the local exchange market.

4. Additional interim rules and guidelines are needed regarding interconnection and related service features to facilitate the entry of CLCs into the local market January 1, 1996.

5. Local exchange networks should be interconnected so that customers of any local exchange carrier can seamlessly receive calls that originate on another local exchange carrier's network and place calls that terminate on another local carrier's network in an efficient manner without dialing extra digits.

6. Pacific and GTEC filed proposed interconnection tariffs on September 18, 1995 for comment.

7. A technical workshop on interconnection issues was held November 28, 1995.

8. Adopted interconnection rules which promote a competitive marketplace should be fair, balanced, and flexible enough to accommodate different carriers' needs and constraints.

9. In order for facilities-based CLCs to be able to offer competitive local service, they must not only have a physical interconnection with the network of an incumbent LEC, but also have access to other related services including E-911, 611 repair service, and directory access.

10. Allowing competitors to negotiate interconnection contracts subject to appropriate Commission rules and guidelines will create a more level playing field.

11. Contracts will lead to more flexible and economic interconnection arrangements than a more rigid tariff structure.

12. Negotiated agreements run the risk of triggering delay for strategic reasons.

13. The environment most conducive to a level playing field is one in which parties have the flexibility to negotiate terms and conditions for interconnection which are best suited to their specific needs.

14. The bargaining power of CLCs relative to LECs in negotiating interconnection can be impacted by the manner in which the interim rules are structured.

15. Each negotiating party has an economic incentive to seek the most efficient and economical POI configuration.

16. Three general arrangements for interconnection are collocation, special access facilities and jointly constructed facilities.

17. At certain traffic volumes, it is more efficient to directly interconnect with an end office than to route traffic through a tandem.

18. Parties should seek to agree upon a cut-over traffic volume beyond which CLCs would be required to directly interconnect with LEC end offices.

19. Two-way trunks will generally be more efficient and flexible for purposes of implementing interconnection arrangements for local exchange competition.

20. The measurement of local traffic is technically feasible on two-way trunks.

21. With a two-way trunk, Pacific's existing software would not accommodate the differentiation between local and toll traffic.

22. GTEC could measure total incoming traffic volumes with two-way trunks, but would be unable to measure the percentage attributable to local usage.

23. In order to preserve the option of subsequently instituting call termination charges in the future, there must be some means of measuring local traffic under any adopted trunking arrangement.

24. The measurement of local versus toll traffic when using a two-way trunk will require an exchange of information between LECs and CLCs as to total traffic volumes and percentage of local usage (PLU).

25. The exchange of data on total traffic volumes and percentage of local usage between CLCs and LECs which terminate traffic on other's network is appropriate.

26. A party may dispute another carrier's reported PLU or volume data and request an independent audit.

27. The implementation details of a monitoring and verification program for the reevaluation of the bill and keep policy will be addressed in a subsequent order.

28. The risks of misforecasting demand with two-way trunks can be accommodated through appropriate joint planning and forecasting measures with possible sanctions imposed for failure to provide reasonable forecasts.

29. There is no indication that any prospective CLC is presently seeking to deploy a new network using Multifrequency (MF) signalling as its preferred interconnection.

30. MF signalling is not commonly used in modern telecommunications networks.

31. In D.95-07-054, for purposes of establishing bill and keep, local calls were defined by reference to the definitions currently used by LECs.

32. Extended Area Service (EAS) and ZUM Zone 3 service, properly constitute local calls subject to bill and keep provisions. Directory assistance, 800 number calls, busy verification and emergency interrupt, are not subject to bill and keep.

33. GTEC cannot avoid the bill and keep rule merely because an otherwise local call is routed through its tandem switch.

34. It is essential that all local exchange customers have ready access to E-911 service and to repair services, whether they are the customer of a LEC or a CLC.

35. Pacific's proposed 611 referral system provides a workable interim solution for directing CLC customers who dial "611" and reach Pacific's Repair Service.

36. D.95-07-054, OP 8, the Commission directed that:

> "DRA shall notify the Commission by October 1, 1995 as to whether the [G.O. 133-B] Committee has reached consensus on recommendations for additional standards for interconnection service orders."

37. On October 2, 1995, DRA reported on the progress of the GO 133-B Review Committee in developing interconnection standards, indicating that the participants agreed on only two limited matters, namely:

a. The service quality standards for Intercompany Interconnection Held Service Orders should be included in a separate section of GO 133-B.

b. Participants reaffirm that all LECs and CLCs shall be subject to GO 133-B Intercompany Interconnection Held Service Order reporting standards.

38. The assigned ALJ issued a ruling on November 13, 1995, directing parties to file written comments addressing additional standards for interconnection service orders.

39. Interconnection among local carriers is a prerequisite for the development of local exchange competition, and is fundamental to the deployment of a ubiquitous public communications network connecting all Californians to one another and beyond.

40. Contracts provide the flexibility necessary to accommodate the many different network interconnections

arrangements necessary for the LECs and CLCs to interconnect between and among each other.

41. For effective local competition to exist, interconnection must take place in an efficient and timely manner.

42. It would be unrealistic to specify a standard provisioning time for each of the innumerable intercompany interconnection arrangements that are possible.

43. Service orders held for 15 days may indicate a service quality problem that should be investigated by the CPUC.

44. Held service orders may have significant negative impacts on the quality of service provided to the customers of the entity requesting interconnection.

45. A monthly IIHSO reporting requirement is reasonable.

46. IIHSOs held longer than 15 days will negatively impact competitors who relied upon the promised due date in making their own service commitment dates to their customers.

47. The Commission's current service quality auditing measures are sufficient for verifying the accuracy of carrier-to-carrier service standard reports.

48. Since this decision establishes service standards and reporting units, DRA's recommendation for additional GO 133-B Committee meet and confer sessions is unnecessary.

49. The Commission's Interim Rules require facilities-based CLCs to possess a minimum $100,000 of cash or cash equivalent while resale CLCs must have a minimum of $25,000 of cash or cash equivalent.

50. In addition, all CLCs must demonstrate they have the resources needed to cover any deposits required by LECs and IECs.

51. Imposing unduly large financial restrictions on CLC entrants may inhibit market entry and impede the growth of a competitive market.

52. The Commission's adopted rules must ensure that the public is protected against degradation of service quality as a result of the lack of technical or financial integrity of a certificated CLC.

53. GTEC's proposal for a $1 million bond requirement for CLC entry is unduly arbitrary, restrictive and could inhibit the entry of CLCs.

54. While GTEC's bonding proposal is unsupportable, some additional level of financial protection beyond the existing rules is appropriate.

55. Interim Rules adopted in D.95-07-054 require that CLCs making a sale in a language other than English provide the customer with a letter written in the language in which the sale was made describing the services ordered and itemizing all charges which will appear on the customer's bill.

56. In the interests of promoting competitive local exchange service among prospective customers whose native language is other than English, it is appropriate to expand the existing rule to require CLCs to inform each new customer in writing in the language in which the sale was made of the availability, terms and statewide rates of lifeline telephone service and basic service.

57. Redlining refers to the discriminatory provision of telecommunications services whereby areas characterized by minority customers might not be afforded access to the same types or quality of telecommunications services offered to customers in non-minority areas.

58. The Commission's Interim Rules for local exchange competition set forth in D.95-07-054 required CLCs to provide service to all customers requesting service within their designated service territory on a non-discriminatory basis.

59. The Interim Rules adopted in July 1995 contain no specific provisions regarding the detection and prevention of redlining.

Conclusions of Law

1. To balance parties' relative bargaining power in negotiating mutually satisfactory interconnection arrangements it is appropriate to adopt a set of "preferred outcomes" as set forth in Appendix A which produce the most efficient and economic solutions overall and which are in the public interest.

2. In reviewing and approving interconnection contracts the Commission should consider how well a contract achieves the "preferred outcomes" established herein. Contracts that reflect terms which are different from the "preferred outcomes" will still be approved, however, if it is mutually agreeable to both parties and passes other Commission tests as outlined in this decision.

3. The CLC and LEC should have the discretion to mutually determine the number of POIs and where they should be located.

4. Expedited dispute resolution procedures should be adopted to deal with those instances where parties are unable to mutually agree upon the technical terms of interconnection or where a party may have breached its contract for interconnection services.

5. Under any interconnection arrangement, parties should develop compensation provisions that appropriately reflect the usage of facilities.

6. While a dispute is pending before the Commission, each party may designate its own separate POI for terminating local traffic on another's network, if mutually agreeable.

7. The POI arrangement that optimizes efficiency for both sides has the best chance of being approved by the Commission.

8. The adopted rules should provide an incentive for each party to seek the least cost solution in determining the need for and cost of new facilities for interconnection.

9. If a CLC wants to use a LEC's tandem to route a call to another CLC, the LEC may impose a charge to compensate for the service.

10. Pacific and GTEC will accommodate MF signalling at their offices that are not SS7 capable.

11. An expedited contract review process should be established which balances incentives for flexible, competitive negotiations with the protection of the public interest.

12. Commission review is necessary to assure that contracts are not unduly discriminatory or anticompetitive.

13. Contracts that have been either approved or rejected are nonprecedential and should not affect the review of any currently pending contract.

14. After receiving a rejection letter, the parties may address the points raised in the letter and refile the amended contract.

15. For contracts that present novel issues or issues that would require CACD to exercise a degree of judgment beyond that of a ministerial role, CACD may also provisionally reject a contract to prevent the contract from becoming effective in 14 calendar days, to allow time for CACD to prepare a resolution with its recommendation for Commission consideration and decision.

16. Under the expedited review procedure, filed contracts automatically become effective 14 calendar days after filing, unless CACD acts to reject the contract.

17. Symmetrical rights and obligations should apply to LECs as well as CLCs in the exchange of information related to interconnection which is claimed to be confidential.

18. Interconnection contracts should contain symmetrical provisions for the treatment of confidential material.

19. Each party shall be responsible for designating which information it claims to be confidential to other parties receiving the information.

20. If parties are unable to agree as to what information should be treated confidentially, they may seek resolution under the Commission's law and motion procedure.

21. Competitors should be subject to symmetrical risks, and protections from legal liability.

22. CLCs liability shall be no greater than the LECs liability for any action or inaction resulting in a claim against a LEC or CLC.

23. No competitor should have the unilateral power to terminate another carrier's service without prior notice or opportunity for proper recourse.

24. If any LEC or CLC believes another CLC is in violation of the law, it shall provide adequate notice to the CLC to afford it the opportunity to seek expedited relief before terminating service.

25. Interconnection contracts entered into under these rules are subject to Commission authority to modify or supersede certain contract terms subject to due notice and opportunity to be heard.

26. E-911 service that the CLCs will have to purchase from the incumbent LECs should remain classified as Category I service. As such, the LECs should not have any contracting ability over those services.

27. Access to E-911 service is essential for each Californian, and every CLC shall be required to provide each of its customers with access to E-911 services.

28. It is appropriate to adopt rules for interconnection contract dispute resolution and approval of E-911 service, GO 133-B

interconnection service order standards, and 611 repair service, as set forth in the order below.

29. Since it is unclear as to how long the Intercompany Interconnection Held Service Order (IIHSO) reporting requirement set forth in the ordering paragraphs below will remain necessary, no sunset clause shall be established at this time for IIHSO reporting requirements.

30. Public Advocates' proposals concerning bilingual service requirements for customers to whom service was sold in English only and for bilingual marketing and outreach should be considered in our Universal Service proceeding, R.95-01-020/I.95-01-021.

31. Since the facilities-based CLCs are only beginning the process of obtaining customers, waiting for a decision in the Universal Service docket to address Public Advocates' bilingual service proposals is unlikely to have any adverse impact.

32. The practice of redlining is contrary to the public interest goals of this Commission and should be prohibited.

33. Carriers first need to be given a fair chance to develop a customer base which draws from all of California's diverse population before we can meaningfully examine whether any carriers are intentionally engaging in redlining.

34. Public Advocates' proposal to investigate at the outset of local competition all CLCs' service territory maps for redlining is premature at this time. Public Advocates' other proposals concerning redlining should be addressed in the Universal Service proceeding.

27. Access to E-911 essential for each

INTERIM ORDER

IT IS ORDERED that:

1. The following rules contained in Appendix C and elsewhere in this decision for interconnection and related arrangements are

adopted herein and are applicable to all competitive local carriers (CLCs) and Pacific Bell (Pacific) and GTE California (GTEC).

2. Competing carriers for local exchange service shall use negotiated contracts to establish the terms and conditions of interconnection of their respective networks.

3. Parties' proposed interconnection agreements shall be evaluated by the Commission in terms of how well they achieve the Commission's preferred outcomes as set forth in Appendix A.

4. The Commission will approve contracts that do not contain the "preferred outcomes" as long as the contract is mutually agreeable to the contracting parties and passes other Commission tests outlined in this decision.

5. Each CLC and LEC shall separately measure its total volumes and percentage of local usage sent to each carrier it interconnects with and then exchange its measurements with that carrier as well as with CACD for monitoring purposes. Such data shall be subject to independent verification.

6. Each party to an interconnection agreement shall negotiate in good faith.

7. Parties shall work towards the development of joint forecasting responsibilities for traffic utilization over trunk groups.

8. In the event a CLC requests an interconnection via MF signalling to an end-office that is not SS7 capable, the LECs shall accommodate such requests.

9. After parties have reached agreement on an interconnection contract, parties shall file the contract by advice letter for expedited review under the procedure adopted in this decision.

10. The expedited contract review process established by this order will only apply to interconnection issues addressed in this decision.

11. The Commission shall establish a Dispute Resolution Procedure (DRP) within this docket, in which parties shall adhere to the following:

a. Parties shall seek to resolve any disputes informally in good faith, including escalation to the executive level within each company before bringing the matter before the Commission.

b. If informal resolution fails, parties may file motions seeking mediation with an assigned ALJ, assisted by CACD staff. Motions shall be served on parties to the dispute, the assigned ALJ, the Director of CACD, and the Docket Office. The ALJ shall be guided by the preferred outcomes as criteria in reviewing and ruling on the dispute. The Docket office will notice the motion in the Daily Calendar.

c. If mediation fails, the ALJ shall direct parties to submit short pleadings and then issue a written ruling to resolve the dispute.

d. Parties may file objections to the written ruling as formal complaints under the expedited complaint process described in this decision.

e. In an expedited complaint, parties challenging an unfavorable ALJ ruling will bear a heavy burden of proof. In addition, parties must show they have pursued each step of the process described above.

f. The ALJ may solicit comments and testimony from all parties to the dispute if a dispute raises generic issues or affects others.

g. Any party may file a motion suggesting improvement to the dispute resolution procedure which shall be served on all parties in the docket.

h. The Commission's rules of practice and procedure should be followed at all times during the DRP.

12. Contract provisions that include additional features beyond interconnection, such as directory assistance, unbundled loops, white and yellow pages shall be filed as General Order (GO) 96-A contracts and will be processed in accordance with those rules subject to the normal protest and response period.

13. At the time of filing proposed contracts, parties shall include all the information normally required for contracts filed under GO 96-A.

14. Contract filings which contain terms and conditions substantially different from the preferred outcomes outlined in Appendix A shall substantiate why these terms and conditions lead to a more economic and/or efficient outcome and are in the public interest.

15. Under the expedited contract approval process adopted in this order, interested parties shall file any protests within 7 calendar days, with responses due within 5 calendar days.

16. Protests and responses to proposed interconnection contracts shall address only anticompetitive or unduly discriminatory provisions of the contract.

17. CACD will review the protests and determine the need for the Commission to adopt a formal resolution.

18. Copies of the advice letter including the contract shall be served upon the normal advice letter service list and upon all LECs and certificated CLCs.

19. CACD shall review filed contracts for compliance with our stated requirements and policy objectives and, if appropriate, reject a contract by letter within 14 calendar days from the date filed.

20. E-911 service and access to customer listing databases must be offered by Pacific Bell (Pacific) and GTE California (GTEC) to any certificated CLC under reasonable terms and conditions.

21. GTEC and Pacific shall tariff E-911 offerings,

22. GTEC shall concur in Pacific's tariff for these services, until such time it has an approved tariff on file.

23. GTEC is authorized to request a factor recovery for the difference between rates charged under Pacific's tariff and GTEC's actual cost of providing this service.

24. Pacific and GTEC shall undertake the activities set forth in this decision to provide the CLCs with E-911 interconnection services by the commencement of local exchange competition on January 1, 1996.

25. Each CLC shall provide information to allow the Automatic Location Identification (ALI) record displayed at the Public Safety Answering Point (PSAP) to contain two new data fields to assist in the processing of E-911 calls from remote call forwarded (RCF) phone lines: (1) the Remote Call Forwarded Field to contain the RCFed ten-digit number, and (2) the "originating" service telephone number which would appear in the Automatic Number Identification field of the ALI record.

26. Pacific and GTEC shall cooperate with the CLCs to ensure that a new, five-character Telephone Company Identification (TCI) field will be added to the ALI screen identify the telephone company that provides service to the calling line.

27. Before January 15, 1996, Pacific and GTEC shall inform PSAPs in their own territories and those within the territories of the smaller LECs that serve Pacific's and GTEC's customers about the changes to the ALI screen due to RCF.

28. Pacific and GTEC shall coordinate on a consistent PSAP education effort.

29. Both facilities-based and resale CLCs shall provide their residential customers access to E-911 service following disconnection of service due to nonpayment (i.e., warm line).

30. Facilities-based CLCs and LECs shall offer warm line service to resale CLCs.

31. A resale CLC's obligation to provide warm line service to a customer shall continue as long as the CLC maintains an arrangement for resale service to the end user's premises.

32. Following termination of the resale arrangement, the obligation to provide warm line service shall revert to the underlying facilities-based CLC or LEC.

33. The CLC responsible for maintaining warm line service to a number disconnected for nonpayment shall not be required to maintain any interim number portability service on the telephone number which was originally ported to that line.

34. When interim number portability is discontinued, the CLC shall provide the 911 data base administrator with any information necessary to ensure a proper and timely response to a 911 call.

35. To assure comparable access to E-911 by all CLCs, both Pacific and GTEC are required to offer E-911 interconnections under nondiscriminatory terms and conditions by tariff.

36. Pacific and GTEC shall provision E-911 trunks within 30 business days from when ordered.

37. LECs shall update their databases within 48 hours of receiving the data from the CLC.

38. If the LEC detects an error in the CLC-provided data, the data shall be returned to the CLC within 48 hours after receiving the data.

39. Pacific and GTEC shall ship Master Street Address Guide (MSAG) data within 72 business hours from the time requested.

40. The LECs shall provide the MSAG data on paper, diskette, magnetic tape, or in a format suitable for use with desktop computers. Each LEC may charge, on a nondiscriminatory basis, its cost for providing MSAG data.

41. Pacific and GTEC shall provide maps of E-911 selective router tandem locations on a nondiscriminatory basis.

42. Pacific and GTEC shall charge their cost for provisioning the E-911 tandem maps as set forth in Pacific tariffs and each of GTEC's contracts.

43. CLCs shall provide a (24)-hour toll free contact number to a live operator where PSAPs can obtain subscriber information on or after January 1, 1996, but before offering service to customers.

44. Pacific shall file an E-911 tariff by Advice Letter which will become effective on 5 days' notice consistent with the rules in this decision.

45. GTEC shall file an E-911 tariff not later than January 31, 1996 by advice letter consistent with GO 96-A. GTEC shall concur in Pacific's tariff until such time that it has an approved tariff. GTEC may request Z-factor recovery for the difference between the rates charged under Pacific's tariff and GTEC's actual cost of providing the service.

46. An industry-led task force shall be formed to monitor, enforce, and distribute the subscriber record access telephone numbers and 5-digit company codes, to be coordinated by CACD. CACD shall report back to us within 90 days on the progress in forming the industry-led task force.

47. As a prerequisite to initiating service, each certificated CLC shall be equipped to respond promptly to its customers' 611 repair service calls either through its own service technicians or through contractual arrangements.

48. Each CLC shall be required to disclose the procedure for ordering repair service at the time the customer initiates service as well as on each monthly customer bill.

49. LECs and CLCs shall institute a referral system to direct customers who dial 611 to the appropriate carrier for service.

50. The service quality standards for intercompany interconnection held orders shall be included within a separate subsection of GO 133-B, designated as subsection 6.

51. Both CLCs and LECs shall be subject to the service quality standards for Interconnection Service Orders prescribed under GO 133-B.

52. An Intercompany Interconnection Held Service Order (IIHSO) shall be reported when the service is not provided within 15 days of the mutually agreed upon due date.

53. Local carriers shall file their IIHSOs on the last day of the following month.

54. Pacific's proposed form for reporting on IIHSOs shall be adopted with the one minor modification of adding an additional reporting interval.

55. The IIHSO report shall contain the following information: (1) the service order number; (2) the due date; (3) the company requesting interconnection; (4) whether the IIHSO is overdue by 15-20, 21-25, 26-30, 31-35, 36-40, 40-45, and over 45 days; (5) the reporting unit (wire center or plant installation center); (6) whether the IIHSO is pending or complete; and (7) an explanation for the IIHSO.

56. The LEC's reports shall be broken down by individual CLCs in order to help assess if a particular CLC is being treated in a discriminatory manner by a LEC.

57. IIHSO service reporting shall be instituted beginning January 1, 1996, so that the Commission may monitor interconnection service quality from the start of local exchange competition.

58. To reduce the potential number of disputes over held service orders, an "Intercompany Interconnection Service Order" shall be defined as "a request for interconnection of trunks and/or facilities between LECs and/or CLCs."

59. As an incentive to provide timely service order completion, all local carriers shall refund nonrecurring interconnection charges for service orders held 45 days beyond the mutually agreed upon service date.

60. The refund provision shall not apply if service order completion was delayed due to natural disasters, severe weather, labor disputes, or civil disturbances.

61. CLCs ordering interconnection service with no prior credit record shall pay a deposit equal to an estimated two months of recurring flat-rated or usage-based interconnection charges based on the number and type of interconnection facilities ordered from the LEC.

62. Customer deposits collected by a CLC shall be deposited in a protected, segregated interest bearing escrow account, subject to Commission oversight.

63. Local carriers shall inform each new customer in writing and in the language in which the sale was made, of the availability, terms, and statewide rates of lifeline telephone service and basic service.

64. On an ongoing basis, each local carrier shall provide bills, notices, and access to bilingual customer service representatives in the languages in which prior sales were made.

This order is effective today.

Dated December 20, 1995, at San Francisco, California.

DANIEL Wm. FESSLER
President
GREGORY CONLON
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners

Appendix A

Preferred Outcomes for Interconnection Contracts

Category	Issue	Preferred Outcomes
Technical Provisions	Point of Interconnection	Parties should compensate each other for use of each others networks*
		Single, mutually agreed upon POI
		Maintenance plans with clear responsibilities and cost sharing
	One-Way versus Two-Way Trunks	Two-way trunks
		Carriers should exchange percentage local usage (PLUs) quarterly. Carriers may request audits of PLUs
		Interconnect at each access tandem in a LATA
	Signalling Protocol	SS7 is the standard. MF signalling allowed for end-offices without SS7 capability
	Bill and Keep Applicability	Bill and keep includes EAS and Zum Zone 3. 800 number, busy line verification, busy line interrupt and directory assistance are not subject to bill and keep*
Non-Technical Provisions	Confidential Information	Symmetrical rights and obligations
	Liability	Symmetrical liability for LECs and CLCs
	Termination	No unilateral power. Must provide notice and opportunity to dispute

*Note: The Commission has established an interim policy of bill and keep for call termination rates.

(End of Appendix A)

APPENDIX B.
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List of Acronyms

ALI	- Automatic Location Identification
ALJ	- Administrative Law Judge
AVRU	- Automated Voice Response Unit
CACD	- Commission Advisory and Compliance Division
CCSN	- Customer Contact Services Node
CESAR	- Carrier Enhanced System for Access Requests
CLCs	- Competitive Local Carriers
Coalition	- The California Telecommunications Coalition
CPUC	- California Public Utilities Commission
D.	- Decision
DGS	- Department of General Services
DRA	- Division of Ratepayer Advocates
DRP	- Dispute Resolution Procedure
EAS	- Extended Area Service
FEA	- Federal Executive Agencies
FGD	- Feature Group D
GTEC	- GTE of California
GO	- General Order
IIHSOs	- Intercompany Interconnection Held Service Orders
IISO	- Intercompany Interconnection Service Order
INP	- Interim Number Portability
LATA	- Local Access and Transport Area
LECs	- Local Exchange Carriers

APPENDIX B

List of Acronyms

LISA	- Local Interconnection Serving Arrangement
MFS	- Metropolitan Fiber Systems
MSAG	- Master Street Address Guide
OP	- Ordering Paragraph
ORP	- Originating Responsibility Plan
Pacific	- Pacific Bell
PLU	- Percentage Local Usage
POIs	- Points of Interconnections
PSAP	- Public Safety Answering Point
PU	- Public Utilities
RCF	- Remote Call Forwarding
RCFed	- Remote Call Forwarded
TCI	- Telephone Company Identification
TN-ESN	- Telephone Number to Emergency Service Number
TURN	- Toward Utility Rate Normalization
UCAN	- Utility Consumers Action Network

(END OF APPENDIX B)

Initial Rules for Local Exchange Service Competition in California

[Note: Items in Boldface type are amendments to the rules issued in D.95-07-054, Appendix A.]

1. PUBLIC POLICY PRINCIPLES AND OBJECTIVES

A. It is the policy of the California Public Utilities Commission (Commission) that competition in the provision of local exchange telecommunications services is in the public interest.

B. It is the policy of the Commission that, in an environment of competition for local exchange telecommunications services, telecommunications users shall receive ongoing disclosure of the rates, terms and conditions of service from telecommunications providers and shall benefit from a clear and comprehensive set of consumer protection rules.

C. It is the policy of the Commission that interconnection of the networks of Competitive Local Carriers (CLCs) and Local Exchange Carriers (LECs) should be accomplished in a technically and economically efficient manner.

D. It is the policy of the Commission that all telecommunications providers shall be subject to appropriate regulation designed to safeguard against anticompetitive conduct.

E. It is the policy of the Commission that service provider local number portability should be accomplished.

F. It is the policy of the Commission that networks of dominant providers of local exchange telecommunications services should be unbundled in such a manner that a carrier is provided access to essential facilities on a nondiscriminatory standalone basis.

G. It is the policy of the Commission that customer privacy rights and concerns be protected in an environment of local exchange competition.

H. It is the policy of the Commission to ensure that local exchange competition does not degrade the reliability of the telecommunications network.

I. It is the policy of the Commission to encourage intercarrier coordination and cooperation in local exchange telecommunications services in the public interest.

J. It is the policy of the Commission to monitor, on a periodic basis, the market conditions of the local exchange telecommunications market and reevaluate its policies on local exchange competition accordingly.

K. It is the policy of this Commission that Commission-approved tariffs for call termination should reflect costs.

2. SCOPE OF RULES

These interim rules apply to the provision of local exchange telecommunications services by CLCs, and where applicable, LECs. LEC as used in these rules refers to only Pacific Bell and GTE California, until further action by the Commission.

3. DEFINITIONS

A. CLC means a common carrier that is issued a Certificate of Public Convenience and Necessity effective on or after January 1, 1996, to provide local exchange telecommunications service for a geographic area specified by such carrier.

B. LEC means any incumbent carrier listed in Appendix C attached hereto.

C. Minor rate increases are those which are both less than 1% of the CLC's total California intrastate revenues and less than 5% of the affected service's rates. Increases shall be cumulative, such that if the sum of the proposed rate increase and rate increases that took effect during the preceding 12-month period for any service exceeds either parameter above, then the filing shall be treated as a major increase.

D. Major rate increases are increases which are greater than the increases described above.

E. Network component means a functional capability of a network, disaggregated from other network capabilities and made available to other carriers and end users separately from all other network capabilities.

F. Nondominant interexchange carrier (NDIEC) means an interexchange carrier that is considered nondominant under the Commission's decisions.

G. NXX Rating Point means the end office/wire center location designated in the Local Exchange Routing Guide as the assignment point for an NPA-NXX code.

H. NXX Service Area means the geographically-bounded area designated as the area within which a LEC or CLC may provide local exchange telecommunication services bearing a particular NPA-NXX designation.

I. Local telephone number portability means the ability of end users to retain their existing telephone numbers when

remaining at a location, or changing their location within the geographic area served by the initial carrier's serving central office, regardless of the LEC or CLC selected.

J. Local exchange loop facility (also known as a basic level network access channel) means a transmission path capable of delivering analog voice grade signals or digital signals at less than 1.544 Mbps between the network interface at a customer's premises and the main distribution frame or any other point of interconnection to the LEC network.

K. A port (also known as a basic level network access channel connection) is the interface between the loop and the appropriate LEC Central Office switching equipment.

L. Nonfacilities-based CLCs are those which do not directly own, control, operate, or manage conduits, ducts, poles, wires, cables, instruments, switches, appurtenances, or appliances in connection with or to facilitate communications within the local exchange portion of the public switched network.

M. Facilities-based CLCs are those which directly own, control, operate, or manage conduits, ducts, poles, wires, cables, instruments, switches, appurtenances, or appliances in connection with or to facilitate communications within the local exchange portion of the public switched network.

N. Service territory means the area in which a CLC is authorized to provide service.

O. An intercompany interconnection service order is a request for interconnection of trunks and/or facilities between CLCs and/or LECs.

P. Warm-line refers to residential customer access to E-911 service after disconnection for nonpayment and for newly installed lines.

4. ENTRY, CERTIFICATION, AND REGULATION OF CLCs

A. The Commission shall grant a Certificate of Public Convenience and Necessity (CPCN) to any applicant that possesses

the requisite managerial qualifications, financial resources, and technical competence to provide local exchange telecommunications services.

B. The Commission shall apply the following financial standards to the certification of CLCs:

(1) All new applicants seeking CPCNs for authority to become facilities-based CLCs, as defined in this decision, shall demonstrate in their applications that they possess a minimum of $100,000 of cash or cash equivalent, as defined below, reasonably liquid and readily available to meet the firm's start-up expenses. Such applicants shall also document any deposits required by local exchange companies or interexchange carriers (IECs) and demonstrate that they have additional resources to cover all such deposits.

(2) All new applicants seeking CPCNs for authority to become nonfacilities-based CLCs, as defined in these rules, shall demonstrate in their applications that they possess a minimum of $25,000 of cash or cash equivalent as defined below, reasonably liquid and readily available to meet the new firm's expenses. Such applicants shall also document any deposits required by LECs or IECs and demonstrate that they have additional resources to cover all such deposits.

(3) Applicants for CPCNs as CLCs who have profitable interstate operations may meet the minimum financial requirement by submitting an audited balance sheet and income statement demonstrating sufficient cash flow, as authorized in Decision 91-10-041 for NDIECs.

(4) New applicants for CPCNs as CLCs shall be permitted to use any of the following financial instruments to satisfy the applicable unencumbered cash requirements established by this order.

(a) Cash or cash equivalent, including cashier's check, sight draft, performance bond proceeds, or traveler's checks;

(b) Certificate of deposit or other liquid deposit, with a reputable bank or other financial institution;

(c) Preferred stock proceeds or other corporate shareholder equity, provided that use is restricted to maintenance of working capital for a period of at least twelve (12) months beyond certification of the applicant by the Commission;

(d) Letter of credit, issued by a reputable bank or other financial institution, irrevocable for a period of at least twelve (12) months beyond certification of the applicant by the Commission;

(e) Line of credit or other loan, issued by a reputable bank or other financial institution, irrevocable for a period of at least twelve (12) months beyond certification of the applicant by the Commission, and payable on an interest only basis for the same period;

(f) Loan, issued by a qualified subsidiary, affiliate of applicant, or a qualified corporation holding controlling interest in the applicant, irrevocable for a period of at least twelve (12) months beyond certification of the applicant by the Commission, and payable on an interest only basis for the same period;

(g) Guarantee, issued by a corporation, copartnership, or other person or association, irrevocable for a period of at least twelve (12) months beyond certification of the applicant by the Commission;

(h) Guarantee issued by a qualified subsidiary, affiliate of applicant, or a qualified corporation holding controlling interest in the applicant, irrevocable for a period of at least twelve (12) months beyond the certification of the applicant by the Commission.

(5) The definitions of certain of the financial instruments listed in 4.a. through 4.h. above and our intent on nondiscriminatory application of these definitions are clarified as follows:

(a) All unencumbered instruments listed in 4.a. through 4.h. above will be subject to verification and review by the Commission prior to and for a period of twelve (12) months beyond certification of the applicant by the Commission. Failure to comply with this requirement will void applicant's certification or result in such other action as the Commission deems in the public interest, including assessment of reasonable penalties. (See PU Code §§ 581 and 2112.)

(b) Applicants for CPCNs as nonfacilities-based CLCs shall assure that every issuer of a letter of credit, line of credit, or guarantee to applicant will remain prepared to furnish such reports to applicant for tendering to the Commission at such time and in such form as the Commission may reasonably require to verify or confirm the financial responsibility of applicant for a period of at least twelve (12) months after certification of the applicant by the Commission. List at the exchange companies and IXCs and will be available for public inspection or made public, except in cases where a showing is made of a compelling need

to protect it as private or proprietary information.

C. The Commission shall apply the following other standards to its regulation of CLCs:

(1) Applicants which currently hold CPCNs as telecommunications providers should apply as prescribed herein to have their current authority expanded to include operating as a CLC.

(2) Applicants will be required to comply with CEQA as specified in Rule 17.1 of the Commission's Rules of Practice and Procedure.

(3) If a CLC is 90 or more days late in filing the annual report required by General Order (GO) 104-A or in remitting any current or future Commission-mandated surcharge, including but not limited to Universal Lifeline Telephone Service Fund (Public Utilities (PU) Code § 879), DRAF Trust Fund (PU Code § 2881(d)), the California High Cost Fund (PU Code § 739.3), or the user fee on intrastate revenues (PU Code §§ 431-435), the Commission Advisory and Compliance Division (CACD) shall prepare a resolution for the Commission's consideration revoking the CLC's CPCN, unless the CLC has received written permission from the CACD to file or remit late.

D. The CACD shall on or before January 1, 1997, and at least one time each year thereafter, prepare a list of all current CLCs in good standing operating in California, including addresses, phone numbers, and the name of the responsible contact person at each such utility, and then disseminate that list to all other telecommunications utilities including the local exchange companies and IECs and will provide the list at the Commission's standard per page charge to any other interested party having requested such list.

E. CLCs shall be subject to the following tariff and contract filing, revision and service pricing standards:

(1) Uniform rate reductions for existing tariff services shall become effective on five (5) working days' notice to the Commission. Customer notification is not required for rate decreases.

(2) Uniform major rate increases for existing tariff services shall become effective on thirty (30) days' notice to the Commission, and shall require bill inserts, or a message on the bill itself, or first class mail notices to customers at least 30 days in advance of the pending rate increase.

(3) Uniform minor rate increases shall become effective on not less than five (5) working days' notice to the Commission. Customer notification is not required for such minor rate increases.

(4) Advice letter filings for new services and for all other types of tariff revisions, except changes in text not affecting rates or relocations of text in the tariff schedules, shall become effective on forty (40) days' notice to the Commission.

(5) Advice letter filings revising the text or location of text material which do not result in any increase in any rate or charge shall become effective on not less than five (5) days' notice to the Commission.

(6) Contracts shall be subject to GO 96-A rules for NDIECs, except interconnection contracts.

(7) CLCs shall file tariffs in accordance with PU Code Section 876.

F. The following regulations shall apply to CLCs:

(1) CLCs shall be required to serve customers requesting service within their designated service territory on a nondiscriminatory basis, but shall not be required to have the same service territory as LEC service territories;

(2) Facilities based CLCs shall at a minimum serve all customers who request service and whose premises are within 300 feet of the CLC's transmission facilities used to provide service so long as the CLC can reasonably obtain access to the point of demarcation on the customer's premises, (but the CLC shall not be required to build out facilities beyond such 300 feet.)

(3) CLCs shall file service territory maps with the Commission that detail the area in which the CLC is authorized to provide service.

(4) CLCs shall file quarterly a written description or a map that describes its existing physical facilities.

(5) For any interexchange carrier which subscribes to a CLC's switched access services, the CLC is required to provide 1+ presubscription or 10XXX equal access consistent with the equal access rules of this Commission and of the Federal Communications Commission.

(6) Facilities based CLCs are required to make all telecommunications service offerings available for resale only within the same class of service, on a nondiscriminatory basis.

(7) CLCs shall be subject to the obligations of public utilities under the PU Code including but not limited to, §§ 451 and 453, dealing with the provision of just and reasonable rates and charges;

(8) CLCs must obtain Commission approval before discontinuing service in any part of their service area.

(9) CLCs shall provide E-911 service.

(10) To ensure that qualified customers are provided with telecommunication devices for the deaf (TDDs) or other telecommunication equipment under the Deaf and Disabled Telecommunications Program (DDTP) program:

(a) CLCs should contract with Pacific Bell, GTE of California, the California Telephone Association or Thomson Consulting to offer equipment and services to eligible deaf and disabled customers. These contracts should be interim pending the outcome of continued workshops to determine how CLCs should participate in the DDTP over the long term.

(b) CLCs shall specify in their tariffs how they will offer DDTP services.

(11) CLCs shall respond promptly to their customer's 611 repair calls by either using their own service technicians for through contractual arrangements. The CLC shall disclose the procedure for ordering repair service at the time the customer initiates service as well as on the monthly customer bill.

(a) LECs shall institute a referral system to direct CLC customers who dial "611" to the appropriate CLC for service or to the Commission's Consumer Affairs Branch if the CLC's identity is unknown.

(b) CLCs shall institute a similar referral system to direct calls for other competitor's customers seeking repair service.

(12) CLCs shall be subject to the consumer protection rules contained in Appendix B of D.95-07-054.

(13) CLCs shall provide the following reports to the

(a) On a quarterly basis, a copy of all written notices provided to customers in accordance with Rules 1, 2 and 6 of the consumer protection rules set forth in Appendix B;

(b) By April 1 of each year a copy of the CLC's annual report;

(c) On a monthly basis, reports regarding major service outages;

(d) Reports required in GO 133-B and GO 152-A;

(e) Such other reports required by the Commission.

(14) CLCs shall submit all mandated bill insert notices, including notices of basic universal service rate increases, to the Commission's Public Advisor's Office for review and approval, and shall allow the Public Advisor's Office at least five working days to review and approve the proposed bill inserts prior to their issuance to customers.

(15) CLCs shall deposit customer deposits in a protected, segregated, interest-bearing escrow account subject to Commission oversight.

(16) CLCs shall inform each new customer, in writing and in the language in which the sale was made, of the availability, terms, and statewide rates of Universal Lifeline Telephone Service and basic service. CLCs shall also provide bills, notices, and access to bilingual customer service representatives in the languages in which prior sales were made.

(17) Redlining is prohibited and the Commission shall take strong action against any carrier engaging in redlining.

5. REGULATION OF LECs

A. Incumbent LECs shall have provider of last resort responsibilities in their service areas until the Commission makes a decision on the issue in its Universal Service docket.

6. INTERIM NUMBER PORTABILITY

(The rules on Interim Number Portability (INP) will be issued concurrently with the Commission's decision adopting INP rates.)

7. INTERCONNECTION OF LEC AND CLC NETWORKS FOR TERMINATION OF LOCAL TRAFFIC

A. The interconnection of LEC and CLC networks for the termination of local traffic involves not only the construction and maintenance of the interconnecting facilities, but also the throughput of local terminating traffic across those interconnecting facilities. Local exchange networks shall be interconnected so that customers of any local exchange carrier can seamlessly receive calls that originate on another local exchange carrier's network and place calls that terminate on another local exchange carrier's network without dialing extra digits.

B. In the interim, local traffic shall be terminated by the LEC for the CLC and by the CLC for the LEC over the interconnecting facilities described in this Section on the basis of mutual traffic exchange. Mutual traffic exchange, also known as "bill and keep," means the exchange of terminating local traffic between or among CLCs and LECs, whereby LECs and CLCs terminate local exchange traffic originating from end users served by the networks of other LECs or CLCs without explicit charging among or between said carriers for such traffic exchange.

C) Bill and keep rules apply to all local calls (including calls within a 12 mile radius and EAS and ZUM Zone 3) between a

CLC network and a LEC end office, even if the call is routed through an access tandem. Toll free, directory assistance, busy line verification, and emergency interrupt calls are not subject to bill and keep provisions.

D. For intraLATA toll calls, CLCs shall pay terminating access charges based on the LECs' existing switched access tariffs.

E. If a CLC uses a LEC tandem to route a call to another CLC, the LEC may impose a charge for the service.

F. Before December 31, 1996, the Commission will review the appropriateness of a bill and keep system, and modify if necessary.

G. CLCs and LECs shall negotiate interconnection arrangements which shall contain mutually agreeable points of interconnection. Upon reaching agreement on the terms of interconnection, parties to the agreement shall file the agreement via advice letter with the Commission for expedited review and approval. Parties shall develop compensation provisions that appropriately reflect the usage of facilities. In the event parties are unable to reach agreement, parties may designate their own separate points of interconnection for terminating local traffic on each other's networks, if mutually agreeable, until the dispute is resolved by the Commission.

H. Virtual or physical collocation interconnection arrangements are not precluded, and may be implemented by mutual agreement, but shall not be a mandatory form of LEC-CLC interconnection.

I. Two-way trunking will be more conducive to efficient network utilization in a competitive environment. If two way trunks are used, CLCs shall submit percentages on a quarterly basis to LECs that represent the amount of local traffic a CLC is terminating on the LEC's network. Each CLC and LEC shall separately measure its total volumes and percentage of local usage sent to each carrier with which it interconnects and then exchange its measurements with that carrier as well as with CACD for monitoring purposes. Any independent verification of the

traffic reported to CACD shall be funded jointly by all certificated local exchange competitors.

J. In every LATA where a carrier originates traffic and interconnects with another carrier, it must interconnect with all of the other carriers' access tandems.

K. If a CLC wishes to interconnect to an end office that is not SS7 capable, the LECs must accommodate the request via MF signaling.

L. Symmetrical rights and obligations shall apply to LECs as well as CLCs in the exchange of confidential information. Each party shall be responsible for designating which information it claims to be confidential.

M. CLCs' liability shall be no greater than the LECs' liability for any action or inaction resulting in a claim against a LEC. Parties may establish the actual limits which must be symmetrical.

N. No competitor shall have the ability to terminate another carrier's service without prior notice or opportunity for proper recourse.

O. LECs may require CLCs with no established credit record who order interconnection service to pay a deposit equal to an estimated two months of recurring flat-rated or usage-based interconnection charges based on the number and type of interconnection facilities ordered from the LEC. Bonds may not be required in addition to deposits.

P. Interconnection standards set forth in subsection B-9 of GO 133-B shall apply to both LECs and CLCs.

(1) An Intercompany Interconnection Held Service Order (IIHSO) shall be reported when service is not provided within 15 days of the mutually agreed-upon due date. Local carriers shall file their IIHSOs on the last day of the following month.

(2) An IIHSO report, broken down by individual CLC, shall contain the following information:

a. the service order number
b. the due date
c. the company requesting interconnection
d. whether the IIHSO is overdue to 15, 20, 21-25, 26-30, 31-35, 36-40, 40-45, and over 45 days
e. the reporting unit (wire center or plant installation center)
f. whether the IIHSO is pending or complete.

(3) All local carriers shall refund nonrecurring interconnection charges for service orders held 45 days beyond the mutually agreed upon service date. Refunds do not apply if service order completion was delayed due to natural disasters, severe weather, labor disputes, or civil disturbances.

8. ADDITIONAL INTERCOMPANY ARRANGEMENTS

A. LECs shall provide certain essential services under reasonable and nondiscriminatory terms and conditions, either under tariff or by contract on an interim basis pending further determination in Phase II. These essential services include busy line verify/emergency interrupt, and inclusion of CLC customer listings in LECs' directory assistance databases.

B. CLCs shall have access to E-911 provided by the LEC under the same terms and conditions enjoyed by the LEC. LECs shall allow CLCs to connect to the LEC 911 tandems, routers, and other switching points serving the areas in which CLCs provide local exchange telecommunications services, for the provision of E-911 services and for access to all sustaining Public Safety Answering Points (PSAPs). CLCs shall compensate the LECs at a rate that covers the cost of providing access to E-911 and for any other related maintenance costs of E-911 databases.

(1) Both facilities-based and resale CLCs shall provide residential customers access to E-911 service following disconnection due to nonpayment (i.e., "warm line service"). Facilities-based CLCs and LECs must offer warm line service to resale CLCs. Resale CLCs shall offer warm line service to a customer as long as the

CLC maintains an arrangement for resale service to the end user's premises. Following termination of the resale arrangement, the obligation to provide warm line service shall revert to the underlying facilities based CLC or LEC.

(2) LECs shall provision E-911 trunks within 30 business days from when ordered.

(3) LECs shall charge CLC the LECs cost for provisioning maps of 911 tandem locations.

(4) To ensure the timely update of 911 databases, CLCs shall provide information on new customers to the LEC within 24 hours of order completion. LECs shall update their databases within 48 hours of receiving data from the CLC. If the LEC detects an error in the CLC data, the data should be returned to the CLC within 48 hours from when it was first provided to the LEC.

(5) LEC's shall ship Master Street Address Guide (MSAG) data to the CLC within 72 business hours from the time requested, either on paper, diskette, magnetic tape, or in a format suitable for use with desktop computers.

(6) CLCs shall provide the 911 database administrator with any necessary information when interim number portability is discontinued to ensure proper and timely response to a 911 call.

(7) CLCs are required to obtain a toll free number to serve as a contact point where PSAPs can obtain subscriber information from competent and trained personnel 24 hours a day, seven days a week. An industry-led task force shall monitor and enforce this requirement and distribute the toll free numbers to PSAPs.

9. **UNIVERSAL LIFELINE SERVICE PROVISIONING**

Universal Lifeline Telephone Service shall be provided by both LECs and CLCs at the statewide rates established in D.94-09-065. Rules for Universal Lifeline service will be finalized in the Universal Service Rulemaking, R.95-01-020.

(END OF APPENDIX C)