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Decision 95-12-057 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.

ORIGINAL

R.95-04-043

Order Instituting Investigation
on the Commission's Own Motion
into Competition for Local Exchange
Service.

I.95-04-044

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multiple to dated Jan 11 1995 INTRODUCTION filed on 01/11/95 in favor of
 of favor of the proposed facilities-based CLCs, and in favor of
 local exchange competitive Introduction for authority for offering local
 exchange service effective January 1, 1996. This decision is a significant
 step forward toward our ultimate goal of instituting a competitive local
 market for telecommunications services for all Californians. As
 outlined herein we approve the petitions of the competitive local
 carriers (CLCs) set forth in Appendix A for authority to offer local
 exchange services (LX) and intra-LATA services for those petitioners that requested that authority within
 prescribed service territories subject to our adopted interim
 rules.

We are encouraged by the diversity and number of carriers
 who have expressed an interest in competing in the local exchange
 market. With the approval of petitions we grant today, we look
 forward to the rapid development of a robust and competitive market
 for local exchange services.

As directed in D.95-07-054, prospective CLCs were to file
 petitions for authority by September 1, 1995, to enable us to act
 upon and approve them in time to allow local exchange competition
 for facilities-based CLCs to begin by January 1, 1996.
 As explained in D.95-07-054, we shall administer the certification
 process for CLCs using an approach similar to that of I.92-04-008
 in which we extended authority to intra-LATA toll entrants. In that
 proceeding, we opened a docket to handle certification of the more
 than 100 petitioners who sought expanded authority to offer
 intra-LATA toll services. They received authority before January 1,
 1995, but were not authorized to begin offering service until that
 date. In similar fashion, we are using the investigation docket of
 this proceeding to administer the certification of all of the
 eligible CLC petitions which were filed by September 1, 1995. As
 explained in D.95-07-054, the CLC petitions are to be processed and

approved in two consolidated batches. The first batch of eligible petitions, representing facilities-based CLCs, will be approved in this decision for authority to begin offering competitive local exchange service effective January 1, 1996. Those facilities-based CLCs who met the September 1, 1995, filing date but who have not yet met the eligibility requirements for certification will be added to the pending group of petitions seeking CLC resale authority, which are scheduled for certification by March 1, 1996 if they meet the eligibility requirements by that time. All filings for certification after the September 1, 1995 deadline will be treated as routine applications for authority and will be processed individually, rather than in batches, their decisions being issued commencing after March 1, 1996.

The California Public Utilities Commission (Commission), as the lead agency under the California Environmental Quality Act (CEQA), in this matter, finds that the proposed projects for competitive local exchange service, incorporating mitigation measures agreed to by the CLCs, have no potential to cause significant adverse effects on the environment.

Pursuant to this decision, we shall authorize 31 companies to provide facilities-based local exchange service within the service territories of Pacific Bell (Pacific) and GTE California (GTEC).

II. Summary of Petitions Filed

On September 1, 1995, petitions were filed by 66 CLCs seeking authority to enter the local exchange market. The 66 petitioners include cable television companies, cellular companies, long distance service providers, and various other telecommunications companies, including some that specialize in transporting data. Also among the petitioners are Pacific and GTEC

each seeking authority to compete in each other's service territory.

Forty of the 66 petitions seek authority to offer facilities-based service. The remaining 26 seek authority only to offer resale service using the facilities of either Pacific or GTEC, or other carriers. For those petitioners who seek authority for both facilities-based and resale service who are included in the Appendix A listing, we shall grant authority only for facilities-based service at this time. We shall act upon the remaining request for resale authority according to the adopted schedule for initiating resale competition by March 1, 1996.

Accordingly, in this decision, we address only the 40 petitions which seek facilities-based authority effective January 1, 1996, in accordance with the schedule set forth in D.95-07-054. Based upon our review, we find that 31 of the 40 petitions meet our stated criteria for certification as competitive local carriers and, accordingly, grant them CPCN authority effective January 1, 1996.

No protests to the petitions were received, but on September 18, 1995, the Division of Ratepayer Advocates (DRA) filed a response to the petitions of Pacific and GTEC. In its filing DRA supports Pacific and GTEC's requests to provide service within each other's territory. However, DRA observed that we cannot authorize Pacific and GTEC to provide Category II services in each other's territory until we modify D.94-09-065 to remove the prohibition on LEC-on-LEC competition for these services. DRA recommends that the Commission be clear as to which services the companies are able to provide under the authority granted in this decision.

Local carriers (LCCs) are poised to enter the local exchange market. Those companies will be operating in a new environment where alarming will change a customer's dial tone provider, which could mean that a customer has a lesser grade of service or perhaps no service at all. We put these competitive local carriers on notice that we will be monitoring alarming complaints filed against

III. Summary of Review Process

each seeking authority to compete in each other's service territory.

A. General Review

The CLC petitions have been reviewed for compliance with the certification and entry interim rules adopted in Appendices A and B of D.95-07-054. Consistent with our goal of promoting a competitive market as rapidly as possible, we are granting authority to all CLCs who have met the certification and entry requirements set forth in our interim rules. The purpose of the rules is to be disciplined enough to protect the public against unqualified or unscrupulous carriers, but to be liberal enough to encourage the entry of a large number of CLC providers to promote the rapid growth of competition.

We conducted a review of the past record of the petitioners who are already certificated for other services to determine their fitness to offer local exchange service. A review of the complaint histories for some of the certificated carriers revealed that a few companies had significantly higher than average ratios of complaints to revenues. Some of those companies with the higher than average complaint histories have been accused of slamming. If the allegations of slamming against these companies are proven, we will take appropriate action at that time.

This Commission is on record that it will impose severe sanctions on any company engaged in slamming activities. We want to make it very clear that we intend to prevent the emergence of the practice of slamming in California's newly competitive local exchange market. We will be vigilant and respond swiftly to any occurrences we find. As a result of this decision, 31 competitive local carriers (CLCs) are poised to enter the local exchange market. Those companies will be operating in a new environment where slamming will change a customer's dial tone provider, which could mean that a customer has a lesser grade of service or perhaps no service at all. We put these competitive local carriers on notice that we will be monitoring slamming complaints filed against

them and intend to take whatever steps are necessary to ensure compliance with applicable state law and our own rules against slamming, including revocation of a noncompliant company's operating authority.

Petitioners had to demonstrate that they possess the requisite managerial qualifications, technical competence, and financial resources to provide facilities-based local exchange service. As prescribed in Rule 4.B.(1), facilities-based CLCs must demonstrate that they possess a minimum of \$100,000 in cash or cash-equivalent resources, as defined in the rule. Petitioners were also required to submit proposed tariffs which conform to the consumer protection rules set forth in Appendix B of D.95-07-054.

CLC petitioners were also given further guidance regarding the requirements for CLC petitions through issuance of an ALJ ruling dated August 17, 1995. Petitioners were notified by letter during the week of November 13, 1995 regarding deficiencies in their filings, and were given 15 days in which to file corrections. Commonly encountered deficiencies included tariffs which were unclear or internally inconsistent, failure to provide facility location maps or to define the proposed local calling area, or inconsistency with our adopted interim rules. Corrections were submitted by petitioners during the weeks of November 27 and December 4 in response to the deficiency letters. Some companies,

which are discussed below, did not submit their corrections within the established time frame. We have reviewed the filings and the corrections which were submitted in response to the deficiency letters.

Based upon our review, we conclude that 31 of the 40 facilities-based petitioners have satisfactorily complied with our certification requirements for entry and accordingly grant these petitioners CPCN authority to offer local exchange service and, where requested, intralATA authority, effective January 1, 1996. The list of petitioners eligible to commence service January 1, 1996, is set forth in Appendix A. Unless otherwise noted, Study generally describing the facilities-based petitioners.

petitioners will be authorized to begin service upon the filing of tariffs in accordance with the terms and conditions set forth in the proposed tariffs filed with their petitions or, as applicable, with their filed corrections of deficiencies. In the case of certain CLCs as identified in Appendix F, the authority granted is conditional upon the CLC further amending its filed tariff as described in Appendix F.

B. California Environmental Quality Act (CEQA) Review

We have also reviewed the petitions for compliance with CEQA. CEQA requires the Commission to assess the potential environmental impact of a project in order that adverse effects are avoided, alternatives are investigated, and environmental quality is restored or enhanced to the fullest extent possible. To achieve this objective, Rule 17.1 of the Commission's Rules requires the proponent of any project subject to Commission approval to submit with the petition for approval of such project an environmental assessment which is referred to as a Proponent's Environmental Assessment (PEA). The PEA is used by the Commission to focus on any impacts of the project which may be of concern and to prepare the Commission's Initial Study to determine whether the project would need a Negative Declaration or an Environmental Impact Report (EIR).

Upon review of the petitioners' filed PEAs, the Commission Advisory and Compliance Division (CACD) performed an Initial Study of the expected significance of the environmental impacts of petitioners' projects. The scope of review was limited

to the 40 petitions seeking to offer facilities-based service, which means that the petitioners would use their own facilities in providing local telephone service. The remaining 26 resale petitioners would not use any facilities of their own, but would merely rely on other carriers' facilities to offer resale service.

Based on its assessment of the 40 facilities-based petitions, CACD prepared a draft Negative Declaration and Initial Study generally describing the facilities-based petitioners'

projects and their potential environmental effects. The Negative Declaration prepared by CACD is considered a mitigated Negative Declaration. This means that, although the initial study identified potentially significant impacts, provisions which mitigate the impacts to a less than significant level have been agreed to by the petitioners. (Pub. Res. Code § 21080 (c) (2) (1))

On October 18, 1995, the Negative Declaration and Initial Study was sent to various city and county planning agencies as well as public libraries throughout the state for review and comment. CACD prepared a public notice which announced the preparation of the draft negative declaration, the locations where it was available for review, and the deadline for written comments. The public notice was advertised for two successive weeks in 55 newspapers throughout the state. The draft Negative Declaration was also submitted to the Governor's Office of Planning and Research where it was circulated to affected state agencies for review and comment. Public comments were received by November 20, 1995.

All public comments were reviewed and answered. CACD then finalized the Negative Declaration covering all 40 facilities-based petitions. Comments and responses are attached as Subappendix C to the Final Negative Declaration (Appendix D).

Based upon our Initial Study and the public comments, it has been determined that with the inclusion of mitigation measures incorporated in the projects, the proposed projects will not have potentially significant environmental effects. Accordingly, we shall approve the Negative Declaration as prepared by CACD including CACD's proposed Mitigation Monitoring Plan (attached as Subappendix D to the Final Negative Declaration) which will ensure that the Mitigation Measures listed by CACD will be followed and implemented. The approved Negative Declaration, including CACD's

findings regarding potential environmental impacts and proposed mitigation measures is set forth in Appendix D.

This document is under review from the documents that I received from the Commission, the documents provided by Lincoln's PEIR.

One petitioner, Info-Tech Communications (Info-Tech), has submitted a Final Environmental Impact Report (FEIR) as an amendment to its petition for a CPCN. The FEIR, as certified by the City of Lincoln in April 1994, mitigates the environmental impacts regarding Info-Tech's proposed project in the Twelve Bridges community development in the City of Lincoln. Info-Tech submits that the FEIR sufficiently addresses the environmental concerns of its initial project for a local telephone service, and that the Commission may rely on the FEIR as a Responsible Agency pursuant to CEQA. Info-Tech has petitioned the Commission to provide competitive local telephone service throughout the territories it opened in D-95-07-054. Its intention at this time is to begin service in the City of Lincoln, but it may originate services in other parts of the state at a later date. While the FEIR may include some assessment of Info-Tech's initial project in the city of Lincoln, the FEIR does not assess the impacts of Info-Tech's intent to compete statewide. The Commission's Final Negative Declaration is an assessment of the environmental impacts of every petitioner's intent to compete statewide, and therefore is applicable to all petitioners, including Info-Tech. The Commission's Final Negative Declaration cannot be replaced by, or superseded by, the FEIR as long as Info-Tech intends to compete statewide. Therefore, while Info-Tech is required to abide by the mitigation measures contained in the FEIR, it will also be required to comply with the measures of the Final Negative Declaration adopted in this order. The approved Negative Declaration, including that the Mitigation Measures listed by CACD will be followed and implemented. The approved Negative Declaration, including Subappendix D to the Final Negative Declaration which will ensure that the Mitigation Measures listed by CACD will be followed and implemented.

1 It is unclear from the documents that Infotech provided the Commission, the degree to which Infotech's service was evaluated in Lincoln's FEIR.

IV. Special Considerations

Some of the petitions filed warrant individual comment. Included in that group are Pacific and GTEC who filed to provide service in each other's territory, as well as other companies still filing for facilities-based authority who are not being given an

A. Pacific and GTEC's Petitions

While Pacific and GTEC filed for CLC authority to compete in each other's territories, on September 1, 1995, two procedural matters had to be disposed of before their requests for CLC authority could be granted. We had to amend D.94-09-065, the Implementation Rate Design (IRD) decision, to allow for LEC-to-LEC competition for Category II services. Also, we had to act on the applications filed by Pacific and GTEC for CPCNs to provide intralATA services in each other's territory (A.95-09-004, GTEC and A.95-09-021, Pacific).

GTEC filed a Petition to Modify Conclusion of Law (COL) 18 of D.94-09-065, to eliminate the ban on LEC-to-LEC competition in California. GTEC indicates that due to the issuance of this Commission's decision authorizing facilities-based local exchange competition commencing January 1, 1996, the time has come to remove this ban. A separate decision, scheduled for our vote today would grant GTEC's request and allow the two LECs to compete. Also today in two separate decisions, we will act on Pacific and GTEC's applications for intralATA authority to provide service in each other's territory. Pacific and GTEC will be able to provide local exchange service in each other's territory as a CLC under the terms outlined in their respective petitions as amended by their filed deficiency corrections only after we have disposed of the

procedural matters described above, and after this decision becomes effective.

The complaint data was derived from complaints filed with the Commission's Consumer Affairs Branch for 1994-95 and the revenues used for the denominator were obtained from 1994 survey data compiled by the Commission Advisory and Compliance Division.

B. Communications TeleSystems International VI

Communications TeleSystems International (CTS) timely filed a petition requesting authority to operate as both a facilities-based and resale CLC. CTS currently holds a CPCN from this Commission (U-5273-C) to operate as an inter-exchange carrier. In our review of the complaint histories of petitioners currently certificated by this Commission, we found that CTS had a ratio of complaints to revenue² that was ten times greater than any facilities-based carrier being certificated in this decision. A review of the nature of the complaints disclosed that 75% of all complaints involved items not ordered and 37% of the total related to slamming complaints. As we stated clearly elsewhere in this decision, we will not tolerate slamming, and will use the force of state law and our own rules to eliminate the practice.

We have been advised that our Safety and Enforcement (S&E) staff are in the process of conducting an investigation into the business practices of CTS and are reviewing allegations of abusive marketing and business practices. S&E has stated its intention to file a protest prior to January 10, 1996, to CTS being authorized to provide local exchange service. After review of the issues raised in S&E's protest, we will determine whether CTS' complaint history is an impediment to our granting the company a CPCN to provide local exchange service. A separate report will be filed.

Four facilities-based cellular carriers registered by this Commission filed for both facilities-based and resale CLC authority. The four are Bakersfield Cellular Telephone Company, and three other carriers in each other's territory as a condition of their exchange service.

Procedural matters described above, and after this decision becomes effective, will be handled as amended petitions as outlined in their respective deficiency corrections only after we have disposed of the

² The complaint data was derived from complaints filed with the Commission's Consumer Affairs Branch for 1994-95 and the revenues used for the denominator were obtained from 1994 survey data compiled by the Commission Advisory and Compliance Division.

(U-3017-C) Cellular 2000 (U-3037-C), Mammoth Cellular, Inc. (U-3025-C) and SLO Cellular, Inc. (U-3044-C) and in addition, United Communications, a Limited Liability Company which, according to its Petition, "is commonly controlled with Santa Cruz Cellular Telephone, Inc. (U-3019-C)" (Petition, pp. 1-2) filed for both local facilities-based and resale authority. The tariffs filed by the five companies did not describe the specific services the companies intended to provide. As determined in D.95-10-032, the issuance of a CPCN for a cellular carrier where found necessary, is now deemed to be a ministerial act. We stated in that decision that where a CPCN is required, the Executive Director of the Commission, or his delegate, would promptly issue a CPCN to any cellular provider that does not have one, and has made the initial Wireless Registration Identification filing as required by D.94-10-031. This CPCN does confirm the carrier's authority to provide those cellular services licensed by the FCC. Accordingly, the process of issuing CPCNs for cellular providers is distinctly different from the process outlined herein for issuing CPCNs for GLC authority to offer competitive local exchange service. The petitions of the above-referenced cellular providers for CPCN authority to enter the local exchange market raise questions regarding exactly what, if any, additional authority the cellular providers need or are seeking beyond that which they already possess. The cellular petitioners have failed to provide sufficient explanation in their requests for authority to permit us to discern whether they intend merely to continue to provide their existing cellular service in competition with other GLCs and LECs, whether they are seeking to construct separate facilities and to use a separate technology distinct from the cellular service they already offer, or to use some hybrid technology which relies, in part, on cellular technology.

The petitioners are directed to supplement their petition filings with additional information describing exactly what (2500-0) facilities, (if any) beyond their existing cellular facilities they intend to use for competing in the local exchange market and the specific services they intend to provide. If petitioners merely intend to continue as cellular providers and compete for customers who may consider cellular as a substitute for service from a CLC, then it is not clear to us that the cellular providers are entitled to any additional authority for that purpose. Cellular providers already are able to offer competitive service on this basis. If the cellular petitioners believe that they either need or desire to come under the jurisdictional authority applicable to CLCs within their existing role as cellular providers, we shall permit them to file briefs addressing the legal issues involved in determining the relationship between our ministerial jurisdiction over cellular CPCN authority and the jurisdiction applicable to CLCs as outlined in this rulemaking. In particular, such briefs should address the LECs' obligations to offer cellular providers interim bill and keep provisions established for CLCs and how this relates to their existing interconnection contracts. In order to provide all parties with an interest in this issue with an opportunity to file briefs, we shall serve a copy of this order on the service list in D.93-12-007, the Commission's Wireless Investigation. If the cellular petitioners, or any other parties of record to this proceeding or to D.93-12-007, intend to file such briefs, they shall do so on or before January 15, 1996. If, on the other hand, the cellular providers intend to offer a new form of service using wireline technology, then they must clarify this distinction in their supplemental filings. Upon receipt of this supplemental filing from the cellular petitioners, we are prepared to promptly review the new information and, if they otherwise meet our CLC eligibility requirements, we will reconsider

approving their petitions, extending to them the opportunity to enter into a separate interconnection agreement with the LECs and to receive bill and keep treatment for their separate services to be provided. We shall determine what further appropriate action to take with respect to the cellular petitions following receipt of the supplemental filings and/or briefs of the parties.

D. U.S. Long Distance, Inc. (U-5485-C)
In its petition, U.S. Long Distance (USLD) requested authority to provide local exchange service on a resale and facilities-based basis. However, USLD's petition included the following statement: "Applicant furthermore seeks authority to provide facilities-based local services at which time the Applicant intends to lease facilities from the aforementioned LECs or any other authorized and qualified facilities-based provider" (Petition at 4.) In discussions with staff, USLD indicated that it does not intend to use any of its own facilities to offer facilities-based local exchange service. The definition of a facilities-based CLC in Appendix A of D.95-07-054 requires that CLCs "directly own, control, operate or manage conduits, ducts, poles, wires, in connection with or to facilitate communications within the local exchange portion of the public switched network." (mimeo. Appendix A at 3.) Since USLD intends to lease facilities to provide service, and does not directly own, control or operate any of its own facilities for the provision of local exchange service, the company is appropriately classified as a CLC reseller. USLD's petition for authority will be addressed in February 1996 with those of other CLC resellers.

E. Caribbean Telephone and Telegraph (Caribbean)
and Venture Technologies Group dba Allegro Communications (Venture)
Caribbean and Venture both made timely filing of their petitions for local exchange authority. Commission staff reviewed the companies' petitions and sent a deficiency letter to each

company on November 13, 1995. In a response addressed to the Docket Office on November 27, 1995, Venture requested an extension of 30 additional calendar days until December 29, 1995, to respond. Venture went on to say that it does not intend to offer facilities based services during 1996 and expressed its intent to amend its petition to reflect that change.

Caribbean sent a letter to CACD on November 27, 1995 transmitting a motion for an extension of time to correct its filing. Caribbean asked that its petition be held for the March 1996 approval cycle.

We approve Caribbean and Venture's request for additional time to file corrections to their filings and will consider their petitions with the reseller group to be certificated in February 1996. We will require the companies to file their corrections by January 15, 1996.

F. Falcon Holding Group, L.P.

Falcon Holding Group, L.P. (Falcon) did not timely file its petition by 5:00 p.m. on September 1, 1995. Falcon's petition was served on all parties on September 1, 1995, but Falcon did not file its petition with the Docket Office until September 5, 1995.

On October 2, 1995, Falcon moved for leave to late file its petition, to have a petition number assigned, and for its petition to be treated as if it were timely filed.

Ordering Paragraph 2 of D.95-07-054 is very clear about the timetable established for filing petitions for CLC authority.

If prospective competitive local carriers wish to obtain approval of a certificate of public convenience and necessity (CPCN) prior to the January 1, 1996 and March 1, 1996 dates for implementation of facilities based and bundled resale based competition, respectively, they shall file on or before September 1, 1995, a petition in the investigation portion of this proceeding.

petitions for local exchange authority. Commission reviewed their

the companies' petitions and sent a deficiency letter to each

The schedule developed for this proceeding was set to enable us to meet our self-imposed deadline of opening the local exchange market to competitors by January 1, 1996. We recognized at the time that our schedule was an ambitious one, with no room for slippage in the schedule if we were to achieve our goal. Falcon's motion for acceptance of its late-filed submittal came no more than a month after the September 1, 1995, filing date and its staff's review of the petitions was well underway. We see no business reason to reward Falcon for its late filing. Falcon's (October 27, 1995, Motion is denied) Falcon's filing will be treated as any other application for CLEO authority filed after September 1, 1995, and will be processed as expeditiously as possible, but outside the petition process established in D.95-07-054.

Summary of Required Tariff Changes

Petitioners listed in Appendix A are ordered to file compliance tariffs, which comply with the requirements outlined in the deficiency letters issued by CACD and subsequent ALJ Rulings issued on November 16 and November 21, 1995. Petitioners may not make any changes to their tariffs, other than those listed in the deficiency letters issued by CACD or as ordered in this decision.

The following tariff changes must be incorporated into the compliance filings made by all facilities-based carriers:

- Two of the surcharges collected by telecommunications carriers will change effective January 1, 1996. The Universal Lifeline Telephone Service (ULTS) surcharge was increased from 3% to 3.2% of all intrastate services in Resolution T-15799 dated November 21, 1995. The Deaf Equipment Acquisition Fund (DEAF) Surcharge was increased from 0.34% to 0.36% effective January 1, 1996, in Resolution T-15801 on October 5, 1995. Both changes must be reflected in the compliance tariff filings.

of 288 CACD conducted a workshop on October 18-19, 1995 to discuss how the deaf and disabled equipment distribution program would operate in an environment of multiple local exchange service providers. The December 11, 1995 workshop report prepared by CACD includes the recommendation that, within the short term, CLCs can enter into a contract with one of the incumbent providers to offer equipment and services to eligible deaf and disabled customers. CLCs are to amend their tariffs to state which of the following incumbent providers they intend to use to administer the program: Pacific GTE, the California Telephone Association (CTA), or Thomson Consulting which performs program functions for CTA. Staff's review of tariff corrections filed in response to deficiency letters showed that some deficiencies have not been fully corrected. Appendix F includes a list of specific deficiencies, some generally applicable to all petitioners, and others, by company, which must be corrected as part of each petitioner's tariff compliance filing on or before December 27, 1995.

VI. Review of Limitations of Liability Provisions
The consumer protection rules in Appendix B of D.95-07-054 included Rule 13 relating to the liability of the CLC. Rule 13 reads as follows:

The CLC shall not be liable for any failure of performance due to causes beyond its control, including, without limitation to, acts of God, fires, floods, or other catastrophes, national emergencies, insurrections, riots or wars, strikes, lockouts, work stoppages or other labor difficulties, and any order, regulation or other action of any governing authority or agency thereof. (Appendix B at 12.)

This is the standard, force majeure language typically found in contracts. The consumer protection rules have no other references to limitations on the liability of the CLCs.

Our review of the limitation of liability provisions of draft tariffs submitted by petitioners revealed that many of the petitions included liability provisions that were substantially more restrictive than the language of Rule 13. All of the deficiency letters mailed out included a statement that CLC limitation of liability provisions were still being reviewed, and that CLCs would be notified at a later date regarding any changes required to be made to those tariffs.

Following is an illustrative sample of a typical liability provision which is included in Viacom Communications Inc.'s petition:

"The liability of the Company for damages arising out of the furnishing of these services, including but not limited to mistakes, omissions, interruptions, delays, or errors, or other defects, representations, or use of these services or arising out of the failure to furnish the service, whether caused by acts of commission or omission, shall be limited to the extension of allowances for interruption. The extension of such allowances for interruption shall be the sole remedy of the Customer or authorized user and the sole liability of the Company. The Company will not be liable for any special, consequential, exemplary or punitive damages a Customer may suffer, whether or not caused by the intentional acts or omissions or negligence of the Company's employees or agents (Viacom's Petition, Original Sheet No. 72-T.)

This and similar provisions found in the petitions filed by other companies raised the question as to the degree of tariff protection from liability that is appropriate in a competitive marketplace. Certainly a totally unregulated company can to the extent allowed by law draft any limits to its liability that it feels are necessary for its protection. However, the situation is

somewhat different for tariff language for regulated entities. Once the provisions are in the tariff, that tariff rule cannot be reviewed, reversed or annulled by any court except the state Supreme Court, except as provided in Rule 9 of the Commission's Rules. Therefore, unlike customers of unregulated companies, customers of regulated utilities who institute actions for damages in superior court cannot challenge the tariff provisions which limit liability.

In reviewing the limitation of liability provisions of LEC tariffs, we found the provisions to be much less restrictive than those provided in most CLC petitions. Certainly LECs have routinely included limits on liability in their tariffs, under the theory that a public utility which is strictly regulated should be allowed to limit its liability. If that were not the case, captive ratepayers could end up paying the costs of settlements in higher rates. However, in the case of CLC tariffs, we are not dealing with monopoly public utilities which are heavily regulated by this Commission. We are not disposed to approve limitation of liability provisions in CLC tariffs that are more restrictive than those of the incumbent LECs. This is one area where symmetrical provisions are desirable. Therefore, in this decision we will order CLCs to replace the current limitation of liability provisions in the draft tariffs they filed as part of the petition process with either Pacific or GTEC's limitation of liability provisions, as shown in Appendices B and C.

VII. Compliance with FCC Order Regarding Calling Party Number

Since our July Order, the FCC has issued its Caller ID Reconsideration Order ("Recon Order") requiring all SS7-capable local exchange carriers to pass calling party number (CPN) to interconnecting carriers starting December 1, 1995. The FCC extended the effective date to June 1, 1996 for California's exchange carriers. The Recon Order also provides that carriers with a last

compelling need for more time may seek and obtain a waiver from the FCC. The Reconsideration Order is consistent with state privacy laws as well as Commission policy stated in D.92-06-065 and D.92-11-062. CLCs are hereby given notice that they must comply with the FCC's Reconsideration Order regarding passing CPN. Furthermore, CLCs are reminded that they must comply with P.U.C. Code Section 2893 if they choose to offer Caller ID service to a minimum of \$100,000 to cover their start-up expenses.

VIII. Authority Granted

The petitioners listed in Appendix A shall be granted

certificate of public convenience and necessity (CPCN) authority to commence offering competitive local exchange service effective January 1, 1996, upon compliance with the following requirements. Petitioners listed in Appendix A shall file tariffs for retail exchange service on or before December 27, 1995, in accordance with the terms and conditions set forth in their proposed tariffs. Unless petitioners are notified otherwise, their filed tariffs shall become effective January 1, 1996.

All certificated CLCs shall be subject to all the rights and obligations under the Commission's adopted rules governing competitive local exchange service as set forth in D.95-07-054 and as further modified and expanded by today's companion decision in this docket. Any CLC which does not comply with our adopted rules for local exchange competition shall be subject to punitive sanctions, including but not limited to, revocation of its CLC certificate.

Findings of Fact

1. D.95-07-054 authorized CLO candidates to file petitions for authority to offer competitive local exchange service within the service territories of Pacific and GTEC.

2. Those CLCs listed in Appendix A filed petitions as required under D.95-07-054 on or before September 1, 1995, and possess the fitness and financial responsibility necessary to provide competitive local exchange service. No protests to the petitions have been filed. A hearing is not required. Petitioners in Appendix A have demonstrated that they have a minimum of \$100,000 of cash equivalent reasonably liquid and readily available to meet their start-up expenses.

6. The Safety and Enforcement Division is currently investigating Communications TeleSystems International for alleged abusive marketing and business practices.

7. U.S. Long Distance, Inc. does not fit within the definition of a facilities-based competitive local carrier because it does not intend to use its own facilities to provide local exchange service.

8. Caribbean Telephone and Telegraph, Inc. and Venture Technologies Group, Inc. requested additional time to correct the deficiencies in their original filings.

9. Falcon Holding Group, L.P.'s petition was not filed in the Docket Office until September 5, 1995.

10. CEQA requires the Commission to assess the potential environmental impact of a project. CACD has conducted an initial study of the environmental impact of the 40 facilities-based petitions received by September 1, 1995, and prepared a Mitigated Negative Declaration.

12. CACD has concluded that with the incorporation of all the mitigation measures discussed in the Mitigated Negative Declaration, certification of the CLCs will result in no significant impact on the environment.

13. The conditions outlined in the Mitigation Monitoring Plan of the Mitigated Negative Declaration require the CLCs to provide

CACD quarterly reports on compliance with the established mitigation measures... Conclusions of Law

The petitioners listed in Appendix A have the financial ability to provide the proposed service.

The petitioners listed in Appendix A have made a reasonable showing of technical expertise in telecommunications and related businesses.

3. Public convenience and necessity require the provision of competitive local exchange service to be offered by petitioners.

Petitioners listed in Appendix A are subject to:

a. The 3.2% surcharge applicable to all intrastate services as defined in D.94-09-065 as amended by D.95-02-050, effective January 1, 1996 to fund the Universal Lifeline Telephone Service (PU Code § 879; Resolution T-15799, November 21, 1995);

b. The 0.36% surcharge on all intrastate services as defined by D.94-09-065 as amended by D.95-02-050, effective January 1, 1996, to fund the California Relay Service and Communications Devices Fund (PU Code § 2881; Resolution T-15801, October 5, 1995);

c. The user fee provided in PU Code §§ 431-435, which is 0.1% of gross intrastate revenue for the 1995-96 fiscal year (Resolution M-4778); and

d. The California High Cost Fund surcharge of 0.5% of all intrastate services as defined in D.94-09-065 as amended by D.95-02-050.

ORDER

5. The petitions listed in Appendix A for a Certificate of Convenience and Necessity (CPCN) should be granted to the extent set forth in the order below.

6. Communications TeleSystems International's (CTS) request for CLC authority should be deferred until the Commission has an

opportunity to review Safety and Enforcement's protest to determine whether CTS' complaint history is an impediment to granting a CPCN.

7. The petitions of CLCs who have filed but who do not meet the approval criteria for a CPCN should be denied or deferred for further review.

8. The limitation of liability provisions in petitioners' tariffs should be replaced with the limitation of liability language from Pacific's tariff in Appendix B or GTEC's limitation of liability tariff in Appendix C.

9. All tariff corrections described in Section V above and Appendix E should be incorporated into petitioners' compliance tariff filings.

10. The petitioners listed in Appendix A have agreed to and are required to carry out the specific mitigation measures outlined in the Negative Declaration to be in compliance with CEQA.

11. With the incorporation of the specific mitigation measures outlined in the Negative Declaration, the proposed projects will not have potentially significant environmental impacts.

12. Any CLC which does not comply with our rules for local exchange competition adopted herein or in further proceedings, shall be subject to sanctions including, but not limited to, revocation of its CLC certificate.

13. Because of the public interest in competitive local exchange service, the following order should be effective immediately.

ORDER

The petitions listed in Appendix A for a Certificate of Convenience and Necessity (CCN) should be granted to the extent **IT IS ORDERED that:**

1. A certificate of public convenience and necessity is granted to each of the petitioners listed in Appendix A to operate as facilities-based competitive local carriers within the service

territories of Pacific Bell and QTE California) as described in each company's petition, subject to the conditions outlined below, the interim rules established in this proceeding, and Conclusion of Law No. 12 above.

2. Each petitioner shall file a written acceptance of the certificate granted in this proceeding on or before December 27, 1995.

3. Petitioners are authorized to file with this Commission on or before December 27, 1995, tariff schedules for the provision of local exchange and, for those companies so specified in Appendix A, intralATA service. Petitioners may not offer the service specified in Appendix A until January 1, 1996. Any petitioner who files its tariff schedules after December 27, 1995, will have its tariffs become effective five days after filing. Petitioners' tariff filings shall be made in accordance with General Order (GO) 96-A, excluding Sections IV, V, and VI and will not include any changes from its original draft tariff included with its petition, except as amended by the corrections to its deficiency letter, or as amended by this decision.

4. Petitioners are competitive local exchange carriers (CLCs). The effectiveness of their future tariffs is subject to the schedules set forth in Appendix A, Section 4.B of D.95-07-054:

- "B. CLCs shall be subject to the following tariff and contract filing, revision, and service pricing standards [contracts shall be subject to GO 96-A rules for NDIECs, except those for interconnection]:
- (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 notice 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 an increase in any rate or charge shall become effective on not less than five (5) days' notice to the Commission.

5. Petitioners may deviate from the following provisions of GO 96-A: (a) paragraph II.C.(1) which requires consecutive sheet numbering and prohibits the use of sheet numbers, and (b) paragraph II.C.(4), which requires that "a separate sheet or series of sheets should be used for each rule." Tariff filings incorporating these deviations shall be subject to the approval of the Commission Advisory and Compliance Division's (CACD) Telecommunications Branch. Tariff filings shall reflect all fees and surcharges to which applicant is subject, as reflected in Conclusion of Law 4.

6. Petitioners in Appendix A shall file a service area map as part of their initial tariff/after the effective date of this order, and consistent with Ordering Paragraph 3.

7. Petitioners in Appendix A shall notify this Commission in writing of the date local exchange service is first rendered to the public within 5 days after service begins. If a petitioner begins intralATA service on a different date from when it begins local exchange service, the petitioner shall provide separate notification within 5 days after intralATA service begins.

8. Petitioners in Appendix A shall keep their books and records in accordance with the Uniform System of Accounts specified in Title 47, Code of Federal Regulations, Part 32.

9. In the event the books and records of any petitioner are required for inspection by the Commission or its staff, petitioner shall either produce such records at the Commission's offices or reimburse the Commission for the reasonable costs incurred in having Commission staff travel to applicant's office.

10. Petitioners shall each file an annual report on compliance with GO 104-A, on a calendar year basis using the information request form developed by the CACD Auditing and Compliance Branch and contained in Appendix B.

11. Petitioners shall ensure that their employees comply with the provisions of Public Utilities Code (PU) Code § 2889 regarding solicitation of customers.

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

13. The corporate identification numbers assigned to each petitioner are included on Appendix A and shall be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

14. Within 60 days of the effective date of this order, each petitioner shown on Appendix A shall comply with IPU Code 708, an Employee Identification Cards, and notify the Chief of CACD's Telecommunications Branch in writing of its compliance.

15. If any petitioner is 90 days or more late in filing an annual report or in remitting the fees listed in Conclusion of Idea Law 4, CACD shall prepare for Commission consideration a resolution that revokes the petitioner's certificate of public convenience and necessity, unless the petitioner has received the written permission of CACD to file or remit late.

16. The limitation of liability provisions in petitioners' tariffs shall be replaced with the limitation of liability language from Pacific's tariff in Appendix B or GTEO's limitation of liability tariff in Appendix C.

17. Certificated CLCs as authorized under this decision shall be subject to the rights and obligations of interconnection with Pacific or GTEO as prescribed in the interim rules adopted in the companion decision being issued today in this docket.

18. The Final Negative Declaration including the Mitigation Monitoring Plan prepared by CACD and attached as Appendix D is hereby approved and adopted.

19. The petitioners in Appendix A shall comply with the conditions and carry out the mitigation measures outlined in the Negative Declaration contained in Appendix D to this order.

20. The petitioners in Appendix A shall provide the Director of the Commission Advisory and Compliance Division with reports on compliance with the conditions and implementation of mitigation measures under the schedule as outlined in the Negative Declaration.

21. Caribbean Telephone and Telegraph and Venture Technologies Group dba Allegro Communications shall file corrections to their petitions by January 15, 1996, if they wish to

be granted authority with the group of petitions seeking CLC resale authority effective March 1, 1996.

22. All petitioners listed in Appendix A shall file either maps or a written description of their facilities with the Commission Advisory and Compliance Division on or before December 27, 1995, pursuant to Appendix A of D.95-07-054. Such maps or descriptions must be adequate for staff to make the determination that the Competitive Local Carrier is providing service to any interested customers located within 300 feet of the company's facilities.

23. Cellular petitioners referenced in Section IV.C are directed to file supplemental information clarifying the service they propose to offer and how, if at all, it differs from their existing cellular service.

24. The petitioners or any other party of record to this proceeding or to I.93-12-007 may file briefs no later than January 15, 1996, and reply briefs no later than January 25, 1996, addressing the legal jurisdictional and other relevant issues involved in cellular and other Commercial Mobile Radio Service providers coming under this Commission's jurisdiction as CLC carriers.

25. CLCs shall comply with the Federal Communications Commission's Reconsideration Order on passing Calling Party Number.

26. The petitions are granted, under the terms and conditions as set forth above.

This order is effective today.

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

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

Appendix A

CLC Petitions Meeting Eligibility Requirements

	Company	Petition No.	Facilities-Based Authority Granted	Current User Fee No.	New User Fee No.
1	Advantage Communications Group, Inc.	15	Local	U-5317-C	
2	The Associated Group, Inc.	45	Local		U-5554-C
3	AT&T Communications of California, Inc.	38	Local	U-5002-C	
4	Brooks Fiber Communications of Bakersfield	24	Local		U-5544-C
5	Brooks Fiber Communications of Fresno	25	Local		U-5545-C
6	Brooks Fiber Communications of Sacramento	1	Local	U-5419-C	
7	Brooks Fiber Communications of San Jose	2	Local	U-5420-C	
8	Brooks Fiber Communications of Stockton	27	Local		U-5546-C
9	Cable Plus Company, L.P.	29	Local		U-5547-C
10	Century Telecommunications, Inc.	31	Local		U-5548-C
11	Continental Telecommunications of California	54	Local/IntraLATA		U-5549-C
12	Electric Lightwave, Inc.	23	Local	U-5377-C	
13	Fiber Data Systems, Inc.	46	Local	U-5166-C	
14	GST Lightwave (CA), Inc.	36	Local	U-5469-C	
15	GST Pacific Lightwave, Inc.	37	Local	U-5371-C	
16	GTE California, Inc.	50	Local	U-1002-C	
17	GTE Intelligent Network Services, Inc.	49	Local		U-5550-C
18	ICG Access Services, Inc.	20	Local	U-5406-C	
19	Info-Tech Communications	3	Local/IntraLATA		U-5551-C
20	Linkatel Pacific, L.P.	35	Local	U-5307-C	
21	MCI Metro Access Transmission Services, Inc.	32	Local	U-5253-C	
22	MFS Intelenet of California, Inc.	5	Local	U-5397-C	
23	NewTelco, L.P.	18	Local/IntraLATA		U-5552-C
24	Nextlink of California, L.L.C.	28	Local		U-5553-C
25	Pacific Bell	30	Local	U-1001-C	
26	Pac-West Telecomm, Inc.	7	Local	U-5266-C	
27	TCG Los Angeles	55	Local	U-5462-C	
28	TCG San Diego	56	Local	U-5389-C	
29	TCG San Francisco	57	Local	U-5454-C	
30	Viacom Communications, Inc.	33	Local/IntraLATA		U-5555-C
31	Winstar Wireless of California, Inc.	59	Local		U-5556-C

R.95-04-043, I.95-04-044 ALJ/TRP/tcg

APPENDIX B

PACIFIC BELL LIMITATIONS OF LIABILITY TARIFF

NETWORK AND EXCHANGE SERVICES

A2. GENERAL REGULATIONS

2.1 RULES (Cont'd)

2.1.14 RULE NO. 14 - LIMITATION OF LIABILITY

A. LIMITATIONS

1. The provisions of this rule do not apply to errors and omissions caused by willful misconduct, fraudulent conduct or violations of law.
2. In the event an error or omission is caused by the gross negligence of the Utility, the liability of the Utility shall be limited to and in no event exceed the sum of \$10,000.
3. The Utility will not provide a credit allowance for interruptions of service caused by the customer's facilities, equipment, or systems. (N)
4. Except as provided in A3. of this rule, the liability of the Utility for damages arising out of mistakes, omissions, interruptions, delays, errors or defects in any of the services or facilities furnished by the Utility up to and including its local loop demarcation point, including exchange toll, private line, supplemental equipment, alphabetical directory listings (excluding the use of bold face type) and all other services, shall in no event exceed an amount equal to the pro rata charges to the customer for the period during which the services or facilities are affected by the mistake, omission, interruption, delay, error or defect, provided, however, that where any mistake, omission, interruption, delay, error or defect in any one service or facility affects or diminishes the value of any other service said liability shall include such diminution, but in no event shall the liability exceed the total amount of the charges to the customer for all services or facilities for the period affected by the mistake, omission, interruption, delay, error or defect. (T)
5. Services Other Than Directory. (T)
The following allowances are provided for interruptions in service, as specified for particular services furnished solely by the Utility. (T)
 - a. The Utility shall allow, for interruptions in service of 24 hours or more not due to conduct of the customer, an amount equal to the pro rata charges for each 24-hour period, or major fraction thereof after the initial period or interruption in the following services:

(1) Mobile telephone service.

NOTE 1: The allowance applies only to service within the same exchange as the facilities.
NOTE 2: The allowance applies only to station equipment and/or channels.

Continued

NETWORK AND EXCHANGE SERVICES
A2. GENERAL REGULATIONS

2.1 RULES (Cont'd)

2.1.14 RULE NO. 14 - LIMITATION OF LIABILITY (Cont'd)

A. LIMITATIONS (Cont'd)

4. Services Other than Directory (Cont'd)

a. (Cont'd)

(2) Private line services and channels, as follows:

Private line telephone service.

Private line teletypewriter and Morse services.

Channels for data transmission.

Channels for remote metering, supervisory control and miscellaneous signaling purposes.

Continuous time announcement service.

Channels for one-way speech networks in connection with loudspeakers.

Channels for one-way program transmission networks in connection with loudspeakers.

Channels for farmer lines and toll service station lines.

Bells and lights system attack warning service.

(3) Wide Area Telecommunications Service (Refer to Schedule CAL P.U.C. No. A7.1, A.b.).

b. The Utility shall allow for interruptions in exchange telephone service of 24 hours or more not due to conduct of the customer an amount equal to the fixed monthly charges for exchange service multiplied by the ratio of the days of interruption to thirty days when interruptions continue beyond 24 hours, credit allowance will be given in successive 24-hour multiples.

The Utility shall allow for interruptions in services of 24 hours not due to conduct of the customer, an amount equal to the pro rata charges for each 24-hour period, or major fraction thereof after the initial period of interruption in the following services:

(1) Mobile telephone service.

NOTE 1: The allowance applies only to service within the same exchange area.
NOTE 2: The allowance applies only to station equipment and/or channel facilities.

Continued

Advice Letter No. 14889

Decision No. 1977

Issued by

Robert B. Roche

Executive Director - State Regulatory

Date Filed: MAR 4 1985

Effective: APR 18 1985

Resolution No. T10914

NETWORK AND EXCHANGE SERVICES
GENERAL REGULATIONS

2.1 RULES (Cont'd) (b'cont) 2.1.14
2.1.14 RULE NO. 14 LIMITATION OF LIABILITY (Cont'd) 2.1.14
A. LIMITATIONS (Cont'd) (b'cont) 2.1.14
4. Services Other Than Directory (Cont'd) (b'cont) 4.

c. RESERVED

(6) Channels for the remote operation of private mobile radio-telephony systems.
(7) Channels for one-way speech networks in connection with loudspeakers.
(8) Channels for one-way program transmission networks in connection with loudspeakers.
(9) Special assembly services and channels for miscellaneous exchange purposes.
The allowance on (1) preceding applies only to full period service. The allowance on items (1) through (8) preceding applies only to service between separate exchange areas. The allowance on (9) and (10) preceding applies only to interexchange and interdistrict channels.

The Utility shall allow for interruptions of 30 seconds or more not due to conduct of the customer or failure of facilities provided by the customer an amount equal to the pro rata charges in five-minute intervals for each five-minute period or major fraction thereof of interruption.

d. The Utility shall allow for interruptions of 30 minutes or more not due to conduct of the customer (including authorized users) an amount equal to the pro rata charges in half-hour multiples for each 30-minute period or major fraction thereof after the initial period of interruption in the following private line services and channels:

(1) Private telephone service.

(2) Private line teletypewriter and Morse Services.

(3) Channels for data transmission.

(4) Channels for remote metering, supervisory control and miscellaneous signaling purposes.

(5) Continuous Time Announcement Service.

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Continued

APR 18 1982
APR 18 1982
11 00 14

Effective:
Advice Letter No.
Resolution No.
Decision No.

15 1 1 1
Robert B. R...
Executive Director - State Regulator

Issued by
Executive Director
D. C. Shull

Date Filed: June 25, 19
Effective: AUG 0 8 1986
Production No. T 1 1 0

NETWORK AND EXCHANGE SERVICES
GENERAL REGULATIONS

2.1 RULES (Cont'd)
2.1.14 RULE NO. 14. LIMITATION OF LIABILITY (Cont'd)
A. LIMITATIONS (Cont'd)
4. Services Other Than Directory (Cont'd)
d. (Cont'd)

- (6) Channels for the remote operation of private mobile radio-telephone systems.
- (7) Channels for one-way speech networks in connection with loudspeakers.
- (8) Channels for one-way program transmission networks in connection with loudspeakers.
- (9) Special assembly services and channels for miscellaneous experimental purposes.

The allowance on (1) preceding applies only to full period service. The allowance on Items (1) through (6) preceding applies only to service between separate exchange areas. The allowance on (8) and (9) preceding applies only to interexchange and interdistrict channels.

e. The Utility shall allow for interruptions of 30 seconds or more not due to conduct of the customer or failure of facilities provided by the customer an amount equal to the pro rata charges in five-minute multiples for each five-minute period or major fraction thereof of interruption in the following private line services and channels.

- (1) Channels for program transmission in connection with loudspeakers, sound reproduction or sound recording.
- (2) Channels for video transmission in connection with television viewers.

f. The Utility shall allow for interruptions of short period private line telephone service which aggregate one-sixth or more of the daily contract service not due to conduct of the customer (including authorized users) an amount equal to the pro rata charges for the period of interruption (excluding lost time made up later in the same day at the customer's request).

Continued

NETWORK AND EXCHANGE SERVICES
A2. GENERAL REGULATIONS

2.1 RULES (Cont'd)

2.1.14 RULE NO. 14 - LIMITATION OF LIABILITY (Cont'd)

A. LIMITATIONS (Cont'd)

4. Services Other Than Directory (Cont'd)

g. The Utility shall allow for interruptions of two consecutive hours or more not due to conduct of the customer or failure of facilities provided by the customer an amount equal to 1/120 of the fixed monthly charge for each hour or major fraction thereof of interruption in private line channels for television transmission for use in educational television systems.

h. The Utility shall allow an amount calculated as shown in (2) below, for interruptions in Dataphone Digital Service based on the Average Station Value, as defined in (1) below, and the length of the interruption, not due to conduct of the customer or authorized user or failure of facilities provided by the customer or authorized user or due to the failure of the customer to authorize replacement of any element of special construction, as specified in Schedule Cal. P.U.C. No. B2.2.5. The period during which no credit allowance will be made shall begin on the seventh day after the customer receives the Utility's notification of the need for such replacement and shall end on the day after the Utility receives the customer's authorization for such replacement.

(1) Average Station Value

The average station value is calculated by dividing the total monthly charge for a service by the total number of stations on the service. The total monthly charge shall be comprised of all charges associated with the service, including charges for all equipment assigned to all Digital Station Terminals on the service.

Continued

NETWORK AND EXCHANGE SERVICES
A2. GENERAL REGULATIONS

2.1 RULES (Cont'd)

2.1.14 RULE NO. 14 - LIMITATION OF LIABILITY (Cont'd)

A. LIMITATIONS (Cont'd)

4. Services Other Than Directory (Cont'd)
h. (Cont'd)

(2) Credit Allowances for Interruptions
For the purpose of determining the amount of allowance, every month is considered to have 30 days and only those stations on the interrupted portions of a service shall be considered in determining the number of stations affected.

An interruption credit allowance is determined by (i) calculating the Average Station Value for one full day (Average Station Value divided by 30 (days)) (ii) multiplying the result of (i) by the "credit" as specified following then (iii) multiplying the result of (ii) by the number of stations affected.

Interruptions of 24 Hours or Less

Length of Interruption	Credit
Less than 30 minutes	None
30 minutes up to but not including 3 hours	1/10 day
3 hours up to but not including 6 hours	1/5 day
6 hours up to but not including 9 hours	2/5 day
9 hours up to but not including 12 hours	3/5 day
12 hours up to but not including 15 hours	4/5 day
15 hours up to 24 hours inclusive	One day

Two or more interruptions of 30 minutes or more during any period up to but not including 3 hours, shall be considered as an interruption.

-Interruptions Over 24 Hours

Credit will be allowed in 1/5 day multiples for each 3 hour period of interruption or fraction thereof. No more than one full day's credit will be allowed for any period of 24 hours.

Continued

NETWORK AND EXCHANGE SERVICES
GENERAL REGULATIONS

2.1 RULES (Cont'd)

2.1.14 RULE NO. 14 LIMITATION OF LIABILITY (Cont'd)

A. LIMITATIONS (Cont'd)

4. Services Other Than Directory (Cont'd)

1. The Utility shall allow for interruptions in the Gemini 100 offering of 24 hours or more not due to conduct of the customer, an amount equal to the proportionate part of the fixed monthly charges in multiples of one day for each 24 hours or major fraction thereof, for the Gemini 100 component service items rendered inoperative by the interruption. Allowance for interruptions of exchange service or private line service with which the Gemini 100 system is associated are subject to the provisions set forth in a, b, and c preceding.

For purposes of these regulations, an interruption is deemed to exist from the time it is reported to or detected by the Utility.

5. Subject to Section 3 of this rule the Utility shall allow for errors or omissions in alphabetical telephone directories (excluding the use of bold face type) an amount within the following limits:

a. For listings in alphabetical telephone directories furnished without additional charge, an amount not in excess of the minimum monthly charge to the customer for exchange service during the effective life of the directory in which the error or omission occurred.

b. For listings and lines of information in alphabetical telephone directories furnished at additional charge set forth in Schedule Cal. P.U.C. No. A5, an amount not in excess of the charge for that listing or line of information during the effective life of the directory in which the error or omission occurred.

c. For listings in information records furnished without additional charge, an amount not in excess of the minimum monthly charge to the customer for exchange service during the period the error or omission continued.

d. For listings in information records furnished at additional charge, an amount not in excess of the charge for the listing during the period the error or omission continued.

e. For listings in telephone directories furnished in connection with mobile telephone service, an amount not in excess of the guarantee and fixed charges for the service during the effective life of the directory in which the error or omission occurred.

Continued

DELIVERED NETWORK AND EXCHANGE SERVICES
ARTICLE 22, GENERAL REGULATIONS

2.1 RULES (Cont'd)

2.1.14 RULE NO. 14 LIMITATION OF LIABILITY (Cont'd)

A. LIMITATIONS (Cont'd)

6. Temporary Suspension for Repairs

The Utility shall have the right to make necessary repairs or changes in its facilities at any time and will have the right to suspend or interrupt service temporarily for the purpose of making the necessary repairs or changes in its system. When such suspension or interruption of service for any appreciable period is necessary, the Utility will give the customers who may be affected as reasonable notice thereof as circumstances will permit and will prosecute the work with reasonable diligence, and if practicable at times that will cause the least inconvenience.

When the Utility is repairing or changing its facilities, it shall take appropriate precautions to avoid unnecessary interruptions of conversations or customer's service.

7. Errors in Transmitting, Receiving or Delivering Oral Messages by Telephone

The Utility shall not be liable for errors in transmitting, receiving or delivering oral messages by telephone over the lines of the Utility and connecting utilities.

8. Loss Arising From Non-Delivery of Written Messages

The Utility shall be liable for loss or damage that may occur in the course of the employment of any messenger not to exceed twenty times the charge for such messenger service, and shall be liable for loss or damage that may occur in the transmission of any message over its lines not to exceed the amount received for sending same.

9. Errors in Information Furnished by Directory Assistance Operators

Subject to provisions of Section 3706 of this rule, the Utility shall allow a credit for errors in telephone numbers or other information furnished by the Utility's Directory Assistance Operators in accordance with Schedule Cal.P.U.C. No. A5.7.4 an amount not in excess of the charge for a call to Directory Assistance, dialed direct or placed through another utility operator (i.e. "O" operator) as appropriate to the call on which the error occurred. For direct dialed calls, the credit will only apply if the customer has exceeded their allowance and incurred a charge.

baunidi: 00

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R.95-04-043, I.95-04-044 ALJ/TRP/tcg

APPENDIX C

GTE OF CALIFORNIA LIMITATIONS OF LIABILITY TARIFF

RULE NO. 26 - LIMITATION OF LIABILITY

LIMITATION OF LIABILITY

B. I. - Continued

A. Liability

1. The provisions of this rule do not apply to errors and omissions caused by willful misconduct, fraudulent conduct or violations of laws.
2. In the event an error or omission is caused by the gross negligence of the Utility, the liability of the Utility shall be limited to and in no event exceed the sum of \$10,000.
3. Except as provided in Sections 1 and 2 of this rule, the liability of the Utility for damages arising out of mistakes, omissions, interruptions, delays, errors or defects in any of the services or facilities furnished by the Utility including exchange, toll, private line, alphabetical directory listings (excluding the use of bold face type), and all other services shall in no event exceed an amount equal to the pro rata charges to the customer for the periods during which the services or facilities area affected by the mistake, omission, interruption, dealy, error or defect, provided, however, that where any mistake, omission, interruption, delay, error or defect an any one service or facility affects or diminishes the value of any other service said liability shall include such diminution, but in no event shall exceed the total amount of the charges to the customer for all services or facilities for the period affected by the mistake, omission, interruption, delay, error or defect.

(T)

B. Credit Allowance - Services other than Directory

The following allowances are provided for interruptions in service, as specified for particular services furnished by the Utility:

1. The Utility shall allow, for interruptions in service of 24 hours or more not due to conduct of the customer, an amount equal to the pro rata charges for each 24-hour period, or major fraction thereof after the initial period of interruption in the following services:

NOTE: The allowance on Items a. and b. applies to services within the same or different exchanges.

- a. Mobile Telephone Service
- b. Air Raid Warning Systems

Continued

Continued

Advice Letter No. 5075
Decision No. 880897
Date Filed DEC 19 1987

Issued By
Keith M. Kramer
Vice President

Advice Letter No. 5075
Date Filed SEP 04 1987
Effective JAN 01 1988
Decision No. 880897

RULE NO. 26

LIMITATION OF LIABILITY - Continued

B. 1. - Continued

c. Special Access Services and Channels, as follows:

NOTE: The allowance on Items (1) through (13) applies only to service within the same exchange area.

(1) Special Access Telephone Service.

(2) Speaker-Microphone Service.

(3) Special Access Teletypewriter Service.

(4) Channels for Data Transmission.

(5) Channels for Program Transmission in connection with Loudspeakers, Sound Reproduction or Sound Recording.

(6) Channels for One-Way Speech Networks in connection with Loudspeakers.

(7) Wideband Services.

(8) Digital Data Service.

(9) Channels for Remote Metering, Supervisory Control and Miscellaneous Signaling Purposes.

(10) Alarm Transport Service.

(11) Loudspeaker Paging System Service.

(12) High Capacity Digital Service.

(13) Optimized Switched Digital Service.

(14) Channels for the Transmission of Closed Circuit Television Signals.

(15) Channels for the Remote Operation of Private Mobile Radiotelephone Systems.

(16) Channels for the Remote Operation of Private Mobile Radiotelephone Systems.

Continued

Continued

RULE NO. 26

LIMITATION OF LIABILITY - Continued

B. 1. - Continued

d. Wide Area Telephone Service

Where credit is allowed against initial charges, the initial period shall be reduced in the same proportion, and additional hourly rates shall apply to each hour or major fraction thereof for Wide Area Telephone Service furnished in excess of the initial period as so reduced.

e. Special Service Arrangements

2. The Utility shall allow, for interruptions in exchange telephone service of 24 hours or more not due to conduct of the customer, an amount equal to the fixed monthly charges for exchange service multiplied by the ratio of the days of interruption to thirty days. When interruptions continued beyond 24 hours, credit allowance will be given in successive 24-hour multiples.

3. The Utility shall allow, for interruptions of 30 minutes or more not due to conduct of the customer (including authorized users), an amount equal to the pro rata charges in half-hour multiples for each 30-minute period, or major fraction thereof after the initial period, of interruption in the following private line services and channels:

NOTE: The allowance on items a. through h, below applies only to services between separate exchange areas.

a. Special Access Line Telephone Service.

b. Special Access Line Teletypewriter Service.

c. Channels for Data Transmission.

d. Channels for Remote Metering, Supervisory Control and Miscellaneous Signaling Purposes.

e. Speaker-Microphone Service.

f. Wideband Services.

X Correction

Continued

RULE NO. 26

RULE NO. 26

LIMITATION OF LIABILITY - Continued

LIMITATION OF LIABILITY - Continued

Continued - 1. 8

B. 3. - Continued

Wide Area Telephone Service

- g. Channels for One-Way Speech Network in Connection with Loudspeakers.
- h. Channels for the remote operation of private mobile radiotelephone systems.

- 4. The Utility shall allow, for interruptions of 30 seconds or more not due to conduct of the customer (including failure of facilities provided by the customer), an amount equal to the pro rata charges in five-minute multiples for each five minute period or major fraction thereof of interruption in private line channels for program transmission in connection with loudspeakers, sound reproduction or sound recording.
- 5. The Utility shall allow, for interruptions of two consecutive hours or more not due to conduct of the customer (including failure of facilities provided by the customer), an amount equal to 1/20 of the fixed monthly charge for each hour or major fraction thereof of interruption in private line channels for television transmission for use in closed circuit educational television service.

For purposes of these regulations, an interruption is deemed to exist from the time it is reported to or detected by the Utility.

C. Credit Allowances - Directory

Subject to the provisions of Section A.3 of this rule the Utility shall allow, for errors or omissions in alphabetical telephone directories (excluding the use of bold face type), an amount within the following limits:

- 1. For listings in alphabetical telephone directories furnished without additional charge, an amount not in excess of the minimum monthly charge to the customer for exchange service during the effective life of the directory in which the error or omission occurred.

X
X
X

X Correction

Continued

Continued

(To be inserted by utility)
 Effective Date
 Advice Letter No. 4612

Issued by
RICHARD L. OHLSON
 Vice President, Revenue Requirements

(To be inserted by Cal. P.U.C.)
 Date Filed
 Advice Letter No. 2882

Decision No.
 Resolution No.

Effective
JAN 23 1981
 Decision No. 28-09-082

RULE NO. 26

LIMITATION OF LIABILITY - Continued

C. - Continued

2. For listings and lines of information in alphabetical telephone directories furnished at additional charge, as set forth in Schedule Cal. P.U.C. No. D-1 an amount not in excess of the charge for that listing during the effective life of the directory in which the error or omission occurred. x
3. For listings in information records furnished without additional charge, an amount not in excess of the minimum monthly charge to the customer for exchange service during the period the error or omission continued. x (T)
4. For listings in information records furnished at additional charge, an amount not in excess of the charge for the listing during the period the error or omission continued. (T)
5. For listings in telephone directories furnished in connection with mobile telephone service, an amount not in excess of the guarantee and fixed charges for the service during the effective life of the directory in which the error or omission occurred. (T)

x Correction

Continued

(To be inserted by utility)

Advice Letter No. 4841

Decision No.

Issued by

SPENCER C. HERZBERGER
Vice President - Revenue Requirements

(To be inserted by Cal. P.U.C.)

Date Filed NOV 30 1983

Effective DEC 31 1983

Resolution No.

R.95-04-043, 1.95-04-044 ALJ/TRP/lcg

APPENDIX D

FINAL NEGATIVE DECLARATION AND INITIAL STUDY

PUBLIC UTILITIES COMMISSION

205 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3228

NEGATIVE DECLARATION



Competitive Local Carriers' (CLCs)

Projects for Local Exchange Telecommunication Service throughout California

PROJECT DESCRIPTION:

The California Public Utilities Commission's Decision 95-07-054 enables various telecommunication companies to compete with local telephone companies in providing local exchange service. Previous to this decision, local telephone service was monopolized by a single utility per service territory. The Commission has received 66 petitions from companies to provide competitive local telephone service throughout areas presently served by Pacific Bell and GTE California.

The 66 petitioners include cable television companies, cellular (wireless) companies, long-distance service providers, local telephone service providers, and various other telecommunication companies that specialize in transporting data.

40 of the 66 petitions are for approval of facilities-based services, which means that the petitioners propose to use their own facilities in providing local telephone service. The remaining 26 petitions are strictly for approval of resale-based services, meaning that telephone service will be resold using another competitor's facilities. (Most of the facilities-based petitioners offer resale-based services as well.) The 40 facilities-based petitions indicate that physical modifications to existing facilities may be required, and construction of new facilities is a possibility in the long-term. (See Appendix B for a list of the facilities-based petitioners.) The 26 resale-based petitions are strictly financial and billing arrangements that involve no construction and are therefore considered to be exempt from the California Environmental Quality Act (CEQA) (Public Resources Code Sections 21000 et seq.).

Since many of the petitioners are initially targeting local telephone service for areas where their telecommunication infrastructures are already established, very little construction is envisioned. In fact, approximately one-third of the 40 facilities-based petitioners indicate that no modifications or extensions are necessary since their facilities are already equipped to begin competition for local telephone services. For service areas that are beyond their current infrastructure, the petitioners generally plan to resell services, rather than build additional facilities.

The remaining facilities-based petitioners will need to make modifications to their facilities. Some of these modifications are minor in nature, the most common being the installation of a switch that connects potential customers to outside systems. Switch installation is necessary because customers receiving a particular type of service may not have access to local telephone networks. For example, customers receiving cable television service are presently unable to connect to local telephone networks because of the differences in modes of service. A switch installation by a cable television provider is one step that makes the connection possible. Switch installation is

considered a minor modification because it typically involves a single installation within an existing central communication facility or building.

Besides the minor modifications, a minority of companies are planning to install their own fiber optic cables to provide adequate service. Cables will be installed within existing utility underground conduits or ducts, or attached to utility poles with existing overhead lines whenever possible. Fiber optic cables are extremely thin, and existing conduits will likely be able to hold multiple cables. However, if existing conduits or poles are unable to accommodate additional cables, then new conduits or poles will need to be constructed by the petitioner. In this case, the petitioners will construct within existing utility rights-of-way. There is also the possibility that the petitioners may attempt to access other rights-of-way (such as roads) to construct additional conduits. Extension of existing rights-of-way into undisturbed areas is not likely, but a possibility.

The installation of fiber optic cables into underground conduits will vary in complexity depending upon the conditions of the surrounding area. For example, in urban, commercial areas, utility conduits can be accessible with minimal groundbreaking and installation simply requires stringing the cable through one end of the conduit and connecting it to the desired end. In this case, major excavation of the right-of-way is unnecessary. However, there may also be conditions where access to the conduit will require trenching and excavation.

Many of the petitioners have no plans to construct service boxes or cabinets which contain batteries for the provision of power or emergency power. The dimensions of the boxes vary, but basically range from three to five feet in height. Depending upon the type of technology and facilities operated by the petitioner, smaller service boxes (approximately 3 inches in height) would be used for power supply and backup power. Those petitioners who have no plans to use such boxes already have capable power and backup power within their existing facilities. The few petitioners who will need such boxes, have committed to placing the boxes in existing buildings, or in underground vaults. If conditions do not permit building or underground installation, the petitioners would use small low-profile boxes that are landscaped and fenced.

Cellular companies that wish to compete in providing local service are already required to comply with Commission regulations for the construction of new facilities or modification of existing facilities. The Commission's General Order (G.O.) 159 requires the cellular utilities to obtain all necessary local approvals and permits for a new or modified cell site before it receives approval from the Commission. This may involve an environmental review under CEQA.

All the petitioners state their intention to compete in the territories presently served by Pacific Bell and GTB California. These territories encompass many of California's 58 counties, and therefore include almost all types of zoning designations. However it is unclear at this time if all zoned areas will be affected by the projects since the petitioners are not specific where they intend to compete in the long-run.

It is expected that most of the petitioners will initially compete for customers in urban, dense

commercial areas and residential zones where their telecommunication infrastructures already exist. In general, the petitioners' projects will be in places where people live or work. Cellular companies are somewhat of an exception in that they are not limited to urban or residential zones. Cellular technology is wireless and therefore enables them to provide communication services in areas that could be less populated but contain major transportation thoroughfares. Thus in some limited instances, the targeted areas for cellular projects could potentially be in agricultural, industrial, or uninhabited forested zones, depending upon the proximity of roads, streets or highways. However, this is not anticipated in the near-term.

The California Public Utilities Commission is the lead agency in approving these petitioners' intent to compete in the local exchange market. Additional approvals by other agencies may be required depending upon the scope and type of construction proposed by the petitioner (e.g. federal, other state agencies, and ministerial permits by local agencies).

ENVIRONMENTAL DETERMINATION

An Initial Study was prepared to assess the projects' potential effects on the environment and the respective significance of those effects. Based on the Initial Study, the CLCs' projects for competitive local exchange service have the potential to cause significant adverse effects on the environment in the area of Land Use and Planning, Geological Resources, Water, Air Quality, Transportation and Circulation, Hazards, Noise, *Public Services*, Aesthetic and Cultural Resources. The projects will have less than a significant effect in other resource areas of the checklist. It should be noted that Findings 2 through 10 are for those projects which require work within existing utility rights-of-way for the purpose of modifying existing facilities or installing new facilities. Finding 1 is applicable for work outside of the existing utility rights-of-way.

In response to the Initial Study, the following specific measures should be incorporated into the projects to assure that they will not have any significant adverse effects on the environment. (See *Public Resources Code Section 21064.5*.)

As a general matter, many of the mitigation measures rely on compliance with local standards and the local ministerial permit process. Although local safety and aesthetic input is essential in minimizing the impact of the petitioner's construction, local jurisdictions cannot impose standards or permit requirements which would prevent petitioners from developing their service territories, or otherwise interfere with the statewide interest in competitive telecommunication service. Therefore, the petitioners' required compliance with local permit requirements is subject to this limitation.

The findings of the draft Negative Declaration were modified in response to comments filed during the public comment period. (See Appendix C for responses to comments.) Changes are marked by italics.

1. The proposed projects could have potentially significant environmental effects for all environmental factors if a proposed project extends beyond the utility right-of-way into undisturbed areas or into other rights-of-way. ("Utility right-of-way" means any utility right-of-way, not limited to only telecommunication utility right-of-way). For the most part, the petitioners do not plan to conduct projects that are beyond the utility right-of-way. However, should this occur, the petitioner shall file a Petition to Modify its Certificate for Public Convenience and Necessity (CPCN). An appropriate environmental analysis of the impacts of these site specific activities shall be done.

2. The proposed projects will not have any significant effects on Population and Housing, Biological Resources, Energy and Mineral Resources, and Recreation if the proposed projects remain within existing utility right-of-way. There are no potential environmental effects in these areas, or adequate measures are incorporated into the projects to assure that significant effects will not occur.

3. The proposed projects could have potentially significant environmental effects on Geological Resources because possible upgrades or installations to underground conduits may induce erosion due to excavation, grading and fill. It is unclear as to how many times underground conduits may be accessed by the petitioners; but it is reasonable to assume that constant excavation by various providers could result in erosion in areas where soil containment is particularly unstable. In order to mitigate any potential effects on geological resources, the petitioners shall comply with all local design, construction and safety standards by obtaining all applicable ministerial permits from the appropriate local agencies. In particular, erosion control plans shall be developed and implemented for areas identified as particularly unstable or susceptible to erosion. If more than one petitioner plans to excavate geologically sensitive areas, coordination of their plans shall be necessary to minimize the number and duration of disturbances.

4. The proposed projects could have potentially significant environmental effects on Water Resources because possible upgrades or installation to underground conduits may be in close proximity to underground or surface water sources. While the anticipated construction will generally occur within existing utility rights-of-way, the projects have the potential to impact nearby water sources if heavy excavation is required as the method of access to the conduits. In order to mitigate any potential effects on water resources, the petitioners shall comply with all local design, construction and safety standards. This will include consultation with all appropriate local and state water resource agencies for projects that are in close proximity to water resources, underground or surface. The petitioners shall comply with all applicable local and state water resource regulations. Appropriate site specific mitigation plans shall be developed by the petitioners if the projects impact water quality.

drainage, direction, flow, or quantity. If there is more than one petitioner for a particular area that requires excavation, coordination plans shall be required to minimize the number and duration of disturbances.

5. The proposed projects could have potentially significant environmental effects on Air Quality because possible excavation efforts for underground conduits may result in vehicle emissions and airborne dust for the immediate areas of impact. This is especially foreseeable if more than one petitioner should attempt such work in the same locale. While the impact will be temporary, the emissions and dust could exceed air quality standards for the area.

The petitioners shall develop and implement appropriate dust control measures during excavation as recommended by the applicable air quality management district. The petitioners shall comply with all applicable air quality standards as established by the affected air quality management districts. If there is more than one petitioner for a particular area that requires excavation, coordination plans shall be required to minimize the number and duration of disturbances.

6. The proposed projects could have potentially significant environmental impacts on Transportation and Circulation and Public Services because uncoordinated efforts by the petitioners to install fiber optic cable could result in a cumulative impact of traffic congestion, insufficient parking and hazards or barriers for pedestrians. This is foreseeable if the competitors choose to compete in the same locality and desire to install their own cables. If the selected area is particularly dense with heavy vehicular or pedestrian traffic, the impacts could be enormous without sufficient control and coordination. Uncoordinated efforts may also adversely impact the quality and longevity of public street maintenance because numerous excavation activity depreciates the life of the surface pavement.

The petitioners shall coordinate their efforts to install fiber optic cables or additional conduits so that the number of encroachments to the utility rights-of-way are minimized. These coordination efforts shall also include affected transportation and planning agencies to coordinate other projects unrelated to the petitioners' projects. Besides coordinating their efforts, the petitioners shall abide by all local construction, maintenance, and safety standards by acquiring the necessary ministerial permits from the appropriate local agency. Examples of these permits are excavation, encroachment and building permits. Appropriate construction start and end times, and dates if appropriate, shall be employed to avoid peak traffic periods and to minimize disruption, especially if the petitioners' work encroaches upon transportation rights-of-way.

7. The proposed projects could have potentially significant hazard-related effects because uncoordinated construction efforts described above could potentially interfere with emergency response or evacuation plans. There is also potential for an increase in

overhead lines and poles which carry hazard-related impacts.

The same mitigation plan as described in the previous section is applicable here as well, and shall be augmented by notice to and consultation with emergency response or evacuation agencies if the proposed project interferes with routes used for emergencies or evacuations. The coordination efforts shall include provisions so that emergency or evacuation plans are not hindered. If the projects result in an increase in overhead communication lines, the petitioner shall obtain the necessary ministerial permits to erect the necessary poles to support the lines. The Commission's Safety and Enforcement Division shall include these facilities as part of its overhead line regular inspections so that the requirements of G.O. 95 are met.

8. The proposed projects could have potentially significant environmental effects on Noise because it is possible some projects may require excavation or trenching. Although the effect is likely to be short-term, existing levels of noise could be exceeded.

If the petitioner requires excavation, trenching or other heavy construction activities which would produce significant noise impacts, the petitioner shall abide by all applicable local noise standards and shall inform surrounding property owners and occupants (particularly school districts, hospitals and the residential neighborhoods) of the day(s) when most construction noise would occur. Notice shall be given at least two weeks in advance of the construction.

9. The proposed projects could have potentially significant environmental effects on aesthetics because it is possible that additional lines on poles in utility rights-of-way could become excessive for a particular area. Moreover, there is potential for an increase in above grade utility service boxes or cabinets which also carry aesthetic impacts.

Local aesthetic concerns shall be addressed by the petitioners for all facilities that are above-ground, in particular all types of service boxes or cabinets. The local land use or planning agency shall be consulted by the petitioner so that any site-specific aesthetic impacts are assessed and properly mitigated.

10. The proposed projects could have potentially significant environmental effects on cultural resources because situations involving additional trenching may result in uncovering unanticipated archaeological or historical resources.

Should cultural resources be encountered during construction, all earthmoving activity which would adversely impact such resources shall be halted or altered so as to avoid such impacts, until the petitioner retains the service of a qualified archaeologist who will do the appropriate examination and analysis. The archaeologist shall provide proposals for any procedures to mitigate the impact upon those resources encountered.

In summary, the Mitigation Measures recommended in this environmental determination are:

A) All Environmental Factors: If a proposed project extends beyond the utility right-of-way into undisturbed areas or other right-of-way, the petitioner shall file a Petition to Modify its Certificate for Public Convenience and Necessity (CPCN). (*"Utility right-of-way" means any utility right-of-way, not limited to only telecommunications utility right-of-way.*) An appropriate environmental analysis of the impacts of these site specific activities shall be done.

If the projects remain within the utility right-of-way, the following Mitigation Measures are recommended:

B) General Cumulative Impacts: In the event that more than one petitioner seeks modifications or additions to a particular locality, the petitioners shall coordinate their plans with each other, and consult with affected local agencies so that any cumulative effects on the environment are minimized. These coordination efforts shall reduce the number and duration of disturbance to existing utility right-of-way. *Regardless of the number of petitioners for a particular locality, the petitioner shall consult with and abide by the standards established by all applicable local agencies. Each petitioner shall file a quarterly report, one month prior to the beginning of each quarter, that summarizes the construction projects that are anticipated for the coming quarter. The summary will contain a description of the type of construction and the location for each project so that the local planning agencies can adequately coordinate multiple projects if necessary. The reports will also contain a summary of the petitioner's compliance with all Mitigation Measures for the projects listed. The quarterly reports will be filed with the local planning agencies where the projects are expected to take place and the Telecommunications Branch of the Commission Advisory and Compliance Division (CACD). The CACD filing will be in the form of an informational advice letter. Subsequent quarterly reports shall also summarize the status of the projects listed in previous quarterly report, until they are completed.*

C) Geological Resources: the petitioners shall comply with all local design construction and safety standards by *obtaining all applicable ministerial permits from the appropriate local agencies including the development and approval of erosion control plans. These shall be developed and implemented for areas identified as particularly unstable or susceptible to erosion. If more than one petitioner plans to excavate sensitive areas, coordination of their plans shall be necessary to minimize the number of disturbances. The petitioner's compliance with this Mitigation Measure shall be included in its quarterly report.*

D) Water Resources: the petitioners shall consult with all appropriate local and state water resource agencies for projects that are in close proximity to water resources, underground or surface. *The petitioners shall comply with all applicable local and state*

water resource regulations including the development of site-specific mitigation plans should the projects impact water quality, drainage, direction, flow or quantity. If there is more than one petitioner for a particular area that requires excavation, coordination plans shall be required to minimize the number of disturbances. The petitioner's compliance with this Mitigation Measure shall be included in its quarterly report.

E) Air Quality: the petitioners shall develop and implement appropriate dust control measures during excavation as recommended by the applicable air quality management district. The petitioners shall comply with all applicable air quality standards as established by the affected air quality management districts. If there is more than one petitioner for a particular area that requires excavation, coordination plans shall be required to minimize the number of disturbances. The petitioner's compliance with this Mitigation Measure shall be included in its quarterly report.

F) Transportation and Circulation and Public Services: the petitioners shall coordinate their efforts to install fiber optic cables or additional conduits so that the number of disturbances to the utility rights-of-way are minimized. These coordination efforts shall include affected transportation and planning agencies to coordinate other projects unrelated to the petitioners' projects. Besides coordinating their efforts, the petitioners shall abide by all local construction, maintenance and safety standards by acquiring the necessary ministerial permits from the appropriate local agency. Examples of these permits are excavation, encroachment and building permits. Appropriate construction start and end times, and dates if appropriate, shall be employed to avoid peak traffic periods, especially if the petitioners' work encroaches upon transportation rights-of-way. Notice to the affected area (surrounding property owners and occupants) shall be given at least two weeks in advance of the construction. The notice will provide the time and dates of the proposed construction and discussion of potential impacts on traffic and circulation. The notice required for Mitigation Measures F and H shall be consolidated. The petitioner's compliance with this Mitigation Measure shall be included in its quarterly report.

G) Hazards: the petitioners shall use the Transportation and Circulation mitigation measure and augment it by informing and consulting with emergency response or evacuation agencies if the proposed project interferes with routes used for emergencies or evacuations. The coordination effort shall include provisions so that emergency or evacuation plans are not hindered. If the projects result in an increase in overhead communication lines, the petitioner shall obtain the necessary ministerial permits to erect the necessary poles to support the lines. The Commission's Safety and Enforcement Division shall include these facilities as part of its overhead line regular inspections so that the requirements of G.O. 95 are met. The petitioner's compliance with this Mitigation Measure shall be included in its quarterly report.

H) Noise: the petitioner shall abide by all applicable local noise standards and shall

inform surrounding property owners and occupants, particularly school districts, hospitals and the residential neighborhoods, of the day(s) when most construction noise would occur if the petitioner plans excavation, trenching or other heavy construction activities which would cause any significant noise. Notice shall be given at least two weeks in advance of the construction. The notice required for Mitigation Measures F and H shall be consolidated. The petitioner's compliance with this Mitigation Measure shall be included in its quarterly report.

I) Aesthetics: All applicable local aesthetic standards will be addressed by the petitioners for all facilities that are above-ground, in particular all types of service boxes or cabinets. The local land use agency shall be consulted by the petitioner so that any site-specific aesthetic impacts are assessed and properly mitigated. The petitioner's compliance with this Mitigation Measure shall be included in its quarterly report.

J) Cultural Resources: Should cultural resources be encountered during construction, all earthmoving activity which would adversely impact such resources shall be halted or altered until the petitioner retains the service of a qualified archaeologist who will do the appropriate examination and analysis. The archaeologist will provide proposals for any procedures to mitigate the impact upon those resources encountered. The petitioner's compliance with this Mitigation Measure shall be included in its quarterly report.

General Statement for all Mitigation Measures:

Although local safety and aesthetic input is essential in minimizing the impact of the petitioner's construction, local jurisdictions cannot impose standards or permit requirements which would prevent petitioners from developing their service territories, or otherwise interfere with the statewide interest in competitive telecommunication service. Therefore, the petitioners' required compliance with local permit requirements is subject to this limitation.

With the implementation of the mitigation measures listed in A) & D) above, the Commission should conclude that the proposed projects will not have one or more potentially significant environmental effects. The Commission should also adopt a Mitigation Monitoring Plan which will ensure that the Mitigation Measures listed above will be followed and implemented. The Mitigation Monitoring Plan will be included as an appendix in the Commission decision which adopts this final Negative Declaration.

Arthur A. Murphy Jr.
Douglas Long, Manager
Environmental and Energy Advisory Branch
Commission Advisory and Compliance Division

12/7/95
Date

General Statement for all Mitigation Measures:

Although local, state and federal agencies are essential in minimizing the impact of the petitioner's construction, local jurisdictions cannot impose standards or permit requirements which would prevent petitioners from developing their services territories or otherwise interfere with the petitioner's interest in competitive telecommunications services. Therefore, the petitioner's request for compliance with local permit requirements is subject to this limitation.

INITIAL STUDY CHECKLIST

BACKGROUND INFORMATION

- A. Project Title: Competitive Local Carriers' (CLCs) Petitions for Local Exchange Telecommunication Service throughout California.**
- B. Lead Agency and Contact Person: the Lead Agency for this project is the California Public Utilities Commission. The Commission contact person for this project is:**
Bruce Kaneshiro
California Public Utilities Commission
Environmental and Energy Advisory Branch
Commission Advisory and Compliance Division
505 Van Ness Avenue
San Francisco, CA 94102-3298
(415) 703-1187
- C. Project Location: throughout various counties in California where local telephone service is currently provided by Pacific Bell and GTE California. See Appendix A for map.**
- D. Project Sponsors' Names and Addresses: See Appendix B for list of all project sponsors.**
- E. Project Description: The California Public Utilities Commission's Decision 95-07-054 enables various telecommunication companies to compete with the two largest local telephone companies in providing local exchange service. Previous to this decision, local telephone service was monopolized by a single utility per service territory. The Commission has received petitions from 66 companies to provide competitive local telephone service throughout the areas presently served by Pacific Bell and GTE California.**
- The 66 petitioners include cable television companies, cellular (wireless) companies, long-distance service providers, local telephone service providers, and various other telecommunication companies that specialize in transporting data.**
- 40 of the 66 petitions are proposed facilities-based services, which means that the petitioners propose to use their own facilities in providing local telephone service. (Most of the facilities-based petitioners offer resale-based services as well.) The remaining 26 petitions are strictly resale-based services, meaning that telephone service will be resold using another competitor's facilities. The 40 facilities-based petitions indicate that physical modifications to existing facilities may be required, and construction of new facilities is a**

possibility in the long-term. The 26 resale-based petitions are strictly financial and billing arrangements that involve no construction and are considered to be exempt from the California Environmental Quality Act's (CEQA) regulations. (Public Resources Code Sections 21000 et seq.)

Since many of the petitioners are initially targeting local telephone service for areas where their telecommunication infrastructures are already established, very little new construction is envisioned. In fact, approximately one-third of the 40 facilities-based petitioners indicate that no modifications or extensions are necessary since their facilities are already equipped to begin competition for local telephone services. For service areas that are beyond their current infrastructure, the petitioners generally plan to use resell services, rather than build additional facilities.

The remaining facilities-based petitioners will need to make modifications to their facilities. Some of these modifications are minor in nature, the most common being the installation of a switch that connects potential customers to outside systems. Switch installation is necessary because customers receiving a particular type of service may not have access to local telephone networks. For example, customers receiving cable television service are presently unable to connect to local telephone networks because of the differences in modes of service. A switch installation by a cable television provider is one step that makes the connection possible. Switch installation is considered a minor modification because it typically involves a single installation within an existing central communication facility or building.

Besides the minor modifications, a minority of companies are planning to install their own fiber optic cables to provide adequate service. Cables (fiber or conventional) will be installed within existing utility underground conduits or ducts, or attached to utility poles with existing overhead lines whenever possible. Fiber optic cables are extremely thin, and existing conduits will likely be able to hold multiple cables. However, if existing conduits or poles are unable to accommodate additional cables, then new conduits and poles will need to be constructed by the petitioner. In this case, the petitioners will attempt to construct within existing utility rights-of-way. There is also the possibility that the petitioners may attempt to access other rights-of-way (such as roads) to construct additional conduits. Extension of existing rights-of-way is not likely, but a possibility.

The installation of fiber optic cables in underground conduits will vary in complexity depending upon the conditions of the surrounding area. For example, in urban, commercial areas, utility conduits can be accessed with minimal groundbreaking, installation simply requires stringing the cable through one end of the conduit and connecting it to the desired end. In this case major excavation of the right-of-way is unnecessary. However, there may also be instances where the lack of access to the conduit will require heavy trenching that involves large machinery and excavation.

Many of the petitioners have no plans to construct service boxes or cabinets which contain batteries for the provision of power or emergency power. The dimensions of the boxes vary, but basically range from three to five feet in height. Depending upon the type of technology and facilities operated by the petitioner, smaller service boxes (approximately 3 inches in height) would be used for power supply and backup power. Those petitioners who have no plans to use such boxes already have capable power and backup power within their existing facilities. The few petitioners who will need such boxes have committed to placing the boxes in existing buildings, or in underground vaults. If conditions do not permit building or underground installation, the petitioners would use small low-profile boxes that are landscaped and fenced.

Cellular companies that wish to compete in providing local service have no plans at this time to expand or modify their existing facilities. However, should they need to do so, they are required to comply with Commission regulations for the construction of new facilities or modification of existing facilities. The Commission's General Order (G.O.) 159 requires the cellular utilities to obtain all necessary local approvals and permits for a new or modified cell site before it receives approval from the Commission. This may involve an environmental review under CEQA.

F. Zoning: All the petitioners state that their intention is to compete in the territories presently served by Pacific Bell and GTE California. These territories encompass many of California's 58 counties, and therefore include almost all types of zoning designations. However it is unclear at this time if all zoned areas will be affected by the projects since the petitioners are not specific where they intend to compete in the long-run.

It is expected that most of the petitioners will initially compete for customers in urban, dense commercial areas and residential zones where their telecommunication infrastructures already exist. In general, the petitioners' projects will be in places where people live or work. Cellular companies are somewhat of an exception in that they are not limited to urban or residential zones. Cellular technology is wireless and therefore enables them to provide communication service in areas that could be less populated but contain major transportation thoroughfares. Thus in some limited instances, the targeted areas for cellular projects could potentially be in agricultural, industrial, or uninhabited forested zones, depending upon the proximity of roads, streets or highways. However, this is not anticipated in the near-term.

G. Surrounding Land Use and Setting: All the petitioners state that their intention is to compete in the territories served by either Pacific Bell or GTE California which encompasses a variety of areas and settings. It is unclear at this time what specific surrounding land use areas will be affected by the projects. It is clear that in the short-term, the petitioners will focus their efforts where their infrastructure already exists. This is generally in commercial centers or residential communities.

A NEGATIVE DECLARATION will be prepared because the mitigation measures described on an attached sheet have been added to the projects.

II. Public Agency Approval and Permits: the California Public Utilities Commission is the lead agency in approving these petitioners' requests to compete in the local exchange market. Permits from local planning agencies may be required, depending on the scope and type of construction proposed by the petitioner.

Environmental Factors Potentially Affected:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- Land Use and Planning
- Transportation/Circulation
- Public Services
- Population and Housing
- Biological Resources
- Utilities and Service Systems
- Geological Problems
- Energy and Mineral Resources
- Aesthetics
- Water
- Hazards
- Cultural Resources
- Air Quality
- Noise
- Recreation
- Mandatory Findings of Significance

Note: For construction outside of the utility rights-of-way, potential environmental impacts are too variable and uncertain to be specifically evaluated in this Initial Study, but are addressed in Environmental Determination 1 and Mitigation Measure (A) in the Negative Declaration.

Determination:

On the basis of this initial evaluation:

I find that the proposed projects **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.

I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described on an attached sheet have been added to the projects. A **NEGATIVE DECLARATION** will be prepared.

I find that the proposed projects MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

I find that the proposed projects MAY have a significant effect(s) on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on an earlier analysis as described on attached sheets, if the effect is a "potentially significant impact" or "potentially significant unless mitigated." An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

I find that although the proposed project could have a significant effect on the environment, there WILL NOT be a significant effect in this case because all potentially significant effects (a) have been analyzed adequately in an earlier EIR pursuant to applicable standards and (b) have been avoided or mitigated pursuant to that earlier EIR, including revisions or mitigation measures that are imposed upon the proposed project.

Arthur C. Mangler
Signature

12/6/95
Date

Douglas Long
Printed Name

For

II. POPULATION AND HOUSING. Would the proposed

- (a) Cumulatively exceed official regional or local population projections?
- (b) Induce substantial growth in any other directly or indirectly (e.g. through projects in infrastructure) as undeveloped sites or extension of major infrastructure?
- (c) Displace existing housing, especially affordable housing?

Potentially Significant Impact
 Unless Mitigation Incorporated
 Less Than Significant Impact
 No Impact

I. LAND USE AND PLANNING. Would the proposal:

- a) Conflict with general plan designation or zoning? Potentially Significant Impact Unless Mitigation Incorporated Less Than Significant Impact No Impact
- b) Conflict with applicable environmental plans or policies adopted by agencies with jurisdiction over the project? Potentially Significant Impact Unless Mitigation Incorporated Less Than Significant Impact No Impact
- c) Be incompatible with existing land use in the vicinity? Potentially Significant Impact Unless Mitigation Incorporated Less Than Significant Impact No Impact
- d) Affect agricultural resources or operations (e.g. impacts to soils or farmlands, or impacts from incompatible land uses)? Potentially Significant Impact Unless Mitigation Incorporated Less Than Significant Impact No Impact
- e) Disrupt or divide the physical arrangement of an established community (including a low-income or minority community)? Potentially Significant Impact Unless Mitigation Incorporated Less Than Significant Impact No Impact

The proposed projects are not anticipated to have any significant impacts on general or environmental plans, zoning, existing land usage, or agricultural resources. The projects are essentially modifications to existing facilities within established utility rights-of-way. Since these rights-of-way are already designed to be in compliance with zoning and land use plans, disruption of such plans are not foreseeable. In the event that the petitioners need to construct facilities that extend beyond the rights-of-way, see Mitigation Measure A in the Negative Declaration.

II. POPULATION AND HOUSING. Would the proposal:

- a) Cumulatively exceed official regional or local population projections? Potentially Significant Impact Unless Mitigation Incorporated Less Than Significant Impact No Impact
- b) Induce substantial growth in an area either directly or indirectly (e.g. through projects in an undeveloped area or extension of major infrastructure)? Potentially Significant Impact Unless Mitigation Incorporated Less Than Significant Impact No Impact
- c) Displace existing housing, especially affordable housing? Potentially Significant Impact Unless Mitigation Incorporated Less Than Significant Impact No Impact

The proposed projects will not have impacts upon population or housing. The purpose of the projects is to introduce competition into the local telephone service market. Since competition will be generally statewide and not centered in one locale, it is not anticipated that the projects will have an effect on population projections or housing availability of any particular area. The areas that will not initially receive the competition are rural, less populated areas; it cannot be seen that the initial lack of competitive services in these areas will result in significant movements of people to areas where competition will be heavy.

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Potentially Significant	(d)
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Potentially Significant Impact	(c)

III. GEOLOGIC PROBLEMS. Would the proposal result in or expose people to potential impacts involving:

- a) Fault rupture?
- b) Seismic ground shaking?
- c) Seismic ground failure, including liquefaction?
- d) Seiche, tsunami, or volcanic hazard?
- e) Landslides or mudflows?
- f) Erosion, changes in topography or unstable soil conditions from excavation, grading, or fill?
- g) Subsidence of land?
- h) Expansive soils?

- (b)
- (c)
- (d)
- (e)
- (f)
- (g)
- (h)
- (i)

i) Unique geologic or physical features? The projects will be constructed within existing utility facilities or established utility rights-of-way and will therefore not expose people to new risks for any of these impacts, except possibly erosion. Should additional cable facilities require the installation of new or upgraded conduits, trenching, excavation, grading and fill could be required. For appropriate mitigation, see Mitigation Measures (B) and (C) for details in the Negative Declaration.

IV. WATER. Would the proposal result in:

- a) Changes in absorption rates, drainage patterns, or the rate and amount of surface runoff?

- (a)
- (d)

	Potentially Significant Impact	Potentially Significant Impact	Potentially Significant Impact	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
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c) Alter air movement, moisture, or temperature, or cause any change in climate?

d) Create objectionable odors?

If the projects do not require excavation or trenching of underground conduits, they will not have an effect upon air quality, movement, temperature or climate. However, should the projects require such work and, if more than one petitioner decide to work in the same locale, there is potential for an increase in dust in the immediate area. See Mitigation Measures (B) and (E) in the Negative Declaration for details.

VI. TRANSPORTATION/CIRCULATION.

Would the proposal result in:

a) Increased vehicle trips or traffic congestion?

b) Hazards to safety from design features (e.g. sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?

c) Inadequate emergency access or access to nearby uses?

d) Insufficient parking capacity on-site or off-site?

e) Hazards or barriers for pedestrians or bicyclists?

f) Conflicts with adopted policies supporting alternative transportation (e.g. bus turnouts, bicycle racks)?

g) Rail, waterborne or air traffic impacts?

The petitioners plan to modify existing utility conduits or poles within existing utility rights-of-way initially in urban, commercial zones and residential areas. Modification of these facilities by a single party does not present significant impacts upon traffic or circulation since the installation process is not expected to be lengthy. However, if more than one of the petitioners decide to compete in the same locality, their efforts to install their own cables will have a more significant cumulative effect on circulation, especially in dense, urban commercial areas. As a result, increases in traffic congestion, insufficient parking, and hazards or barriers for pedestrian are possible.

See Mitigation Measures (B) and (F) in the Negative Declaration for details.

Potentially Significant Impact	Potentially Significant Impact	Potentially Significant Impact	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
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VII. BIOLOGICAL RESOURCES.

Would the proposal result in impacts to:

- a) Endangered, threatened, or rare species or their habitats (including but not limited to plants, fish, insects, animals, and birds)?
- b) Locally designated species (e.g. heritage trees)?
- c) Locally designated natural communities (e.g. oak forest, coastal habitat, etc.)?
- d) Wetland habitat (e.g. marsh, riparian and vernal pool)?
- e) Wildlife dispersal or migration corridors?

The projects will not affect any biological resources since all anticipated work will occur within existing utility facilities or established utility rights-of-way. Established utility rights-of-way are assumed to be outside of locally designated natural communities, habitats or migration corridors.

VIII. ENERGY AND MINERAL RESOURCES.

Would the proposal result in:

- a) Conflict with adopted energy conservation plans?
- b) Use non-renewable resources in a wasteful and inefficient manner?
- c) Result in the loss of availability of a known mineral resource that would be of future value to the region and the residents of the State?

The projects will no impact upon mineral resources or the use of energy. The projects provide competitive telecommunication services that have no direct relationship to efficient energy use or mineral resources. The installation of additional fiber optic cables are within existing facilities or rights-of-way that are assumed to have adequate mitigation designs to avoid impacts on any mineral resources within proximity.

	Potentially Significant Impact	Potentially Significant Impact	Potentially Significant Impact	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
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IX. HAZARDS. Would the proposal involve:

- a) A risk of accidental explosion or release of hazardous substances (including, but not limited to: oil, pesticides, chemicals or radiation)?
- b) Possible interference with an emergency response plan or emergency evacuation plan?
- c) The creation of any health hazard or potential health hazard?
- d) Exposure of people to existing sources of potential health hazards?
- e) Increased fire hazard in areas with flammable brush, grass, or trees?

The installation of fiber optic cables can be a quick, clean and simple procedure with little use of heavy machinery. However there may be situations where excavation and trenching of underground conduits is necessary if the conduits are not easily accessible. Should this occur, uncoordinated efforts by the petitioners in one concentrated area could potentially affect emergency response or evacuation plans for that locale. See Mitigation Measures (B) and (G) in the Negative Declaration for details. Once the project is completed, the additional cables do not represent any additional hazards to people nor do they increase the possibility of fires.

X. NOISE. Would the proposal result in:

- a) Increases in existing noise levels?
- b) Exposure of people to severe noise levels?

The anticipated projects can be a quick and simple procedure, but in some cases could require heavy machinery or construction activity such as excavation, trenching, grading and refill. There is also the possibility that uncoordinated efforts by the petitioners in one locale could increase existing noise levels; if their activities involve the construction described. See Mitigation Measures (B) and (H) in the Negative Declaration for details.

XI. PUBLIC SERVICES. Would the proposal have an effect upon, or result in a need for new or altered government services in any of the following areas:

- a) Fire protection?

	Potentially Significant Impact	Potentially Significant Impact	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Maintenance of public facilities, including roads?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Other government services?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The proposed projects will increase competition in the local telephone service. The construction associated with the projects have potential impacts on the maintenance of public streets and roads. Numerous disturbances to the street surfaces depreciates the quality and longevity of the pavement. Mitigation Measure F addresses this impact.

XII. UTILITIES AND SERVICE SYSTEMS. Would the proposal result in a need for new systems or supplies, or substantial alterations to the following utilities:

a) Power or natural gas?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Communication systems?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Local or regional water treatment or distribution facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Sewer or septic tanks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Storm water drainage?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Solid waste disposal?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Local or regional water supplies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The proposed projects could substantially alter communication systems in the event that existing facilities are unable to accommodate all of the participants in the market. If this should occur, additional conduits or poles for telecommunication equipment will need to be inserted in existing utility rights-of-way or the petitioners may seek entry to other rights-of-way. If the petitioners are forced to construct outside of the existing utility rights-of-way, Mitigation Measure A is applicable. For work within the rights-of-way, see Mitigation Measure B in the Negative Declaration.

XIII. AESTHETICS. Would the proposal:

a) Affect a scenic vista or scenic highway?

XI. PUBLIC SERVICES. Would the proposal have an effect upon, or result in a need for new or altered government services in any of the following areas:

a) Fire protection?

- b) Have a demonstrated negative aesthetic effect?
- c) Create light or glare?

The proposed projects will occur within utility rights of way that will be either be undergrounded or on existing poles. Undergrounded facilities will have no demonstrated negative aesthetic effects. Additional lines on the poles may be a concern, but the proposed cables are not easily discernable and will unlikely have a negative impact. The only scenario where an aesthetic effect can occur is if the number of competitors for a particular area become so heavy that the cables on the poles become excessive. There is potential for an increase in service boxes if the boxes cannot be installed within buildings or underground. Should this occur, the petitioners should follow Mitigation Measures (B) and (I) as described in the Negative Declaration.

Potentially Significant
 Unless Mitigation Incorporated
 Less Than Significant
 No Impact

XIV. CULTURAL RESOURCES. Would the proposal:

- a) Disturb paleontological resources?
- b) Disturb archaeological resources?
- c) Affect historical resources?
- d) Have potential to cause a physical change which would affect unique ethnic cultural values?
- e) Restrict existing religious or sacred uses within the potential impact area?

The projects will involve existing utility facilities or established rights-of-way that are assumed to be clear from any paleontological, historical or archaeological resources. However, some projects may require excavation or trenching of utility rights-of-way, or outside the rights-of-way. If unanticipated cultural resources are encountered during such work, then the Mitigation Measures (B) and (J) should be followed. See Negative Declaration for details.

XV. RECREATION. Would the proposal:

- a) Increase the demand for neighborhood or regional parks or other recreational facilities?
- b) Affect existing recreational opportunities?

The projects will have no impact on recreational facilities or opportunities since these resources have no direction relationship to increased competition in local telephone services.

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Have a demonstrated potential to create light or glare?	(b)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Potentially Significant Impact	(c)
				Potentially Significant Impact	
				Potentially Significant Impact	
				Potentially Significant Impact	

XVI. MANDATORY FINDINGS OF SIGNIFICANCE

- a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?
- b) Does the project have the potential to achieve short-term, to the disadvantage of long-term, environmental goals?
- c) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probably future projects.)
- d) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	XIV. CULTURAL RESOURCES: Would the project...
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	(a) Disturb paleontological resources?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	(b) Disturb archaeological resources?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(c) Affect historical resources?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(d) Have the potential to cause a physical change which would affect multiple cultural values?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	(e) Result in existing or potential adverse effects on the potential impacts?

XV. RECREATION: Would the project...

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(a) Increase the demand for neighborhood or regional parks or other recreational facilities?
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(b) Affect existing recreational opportunities?

The project will have no impact on recreational facilities or opportunities since these resources have no discernible relationship to increased competition in local telephone services.

Appendix A

TELEPHONE EXCHANGE AREAS

CALIFORNIA PUBLIC UTILITIES COMMISSION

LEGEND

	PACIFIC BELL (PB)
	GTE CALIFORNIA (GT)
	CONTEL OF CALIFORNIA (CT)
	OTHER TELEPHONE COMPANIES
	UNFILED TERRITORY
	NUMBER PLAN AREA BOUNDARIES (NPA) "AREA CODES"
	LATA BOUNDARIES
	PALM SPRINGS MARKET AREA
	COUNTY LINES
	COUNTY NAMES
	MAJORITY-H COORDINATE INTERSECTIONS

REV. 2-74

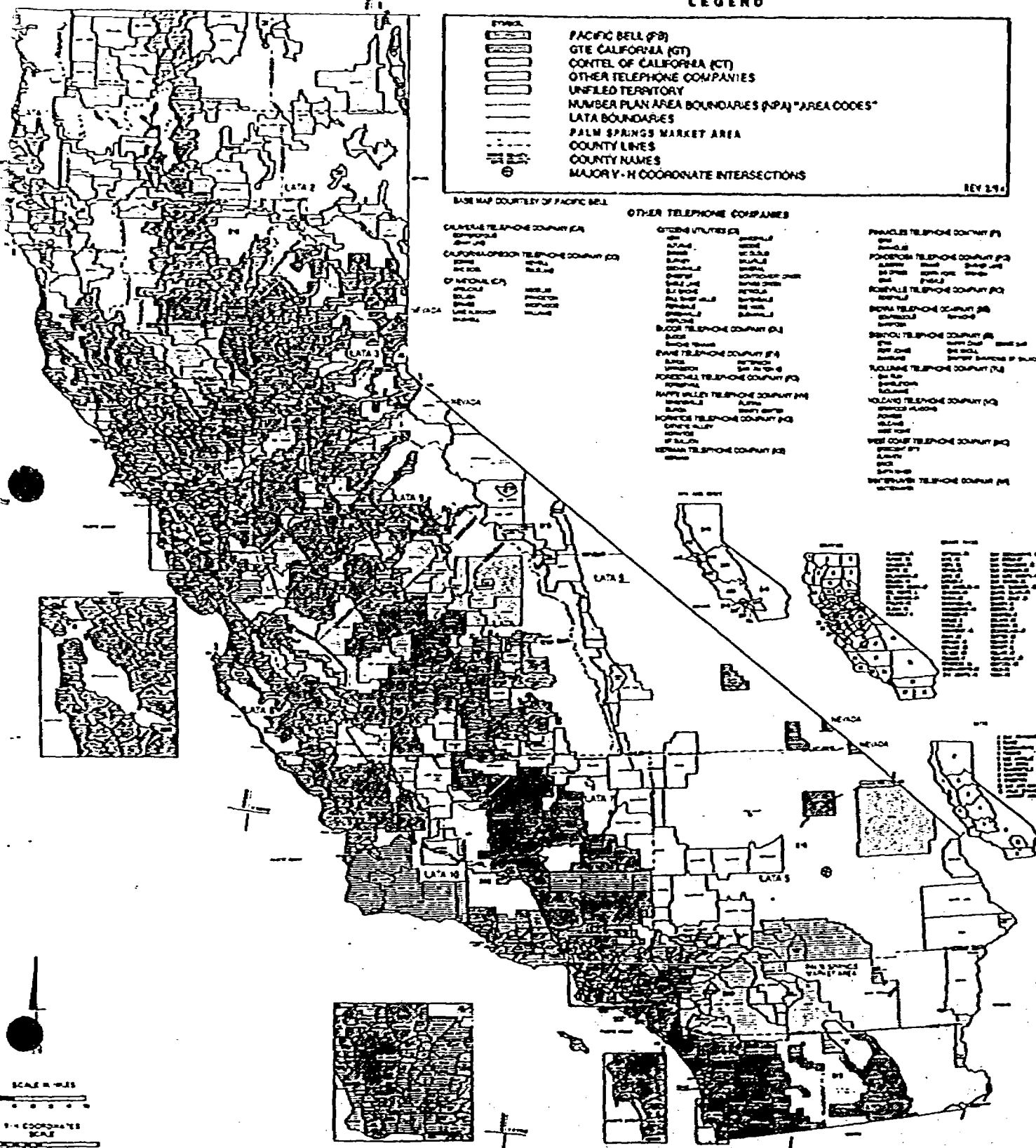
BASE MAP COURTESY OF PACIFIC BELL

- CALIFORNIA TELEPHONE COMPANY (CA)**
 SAN JOSE
 SACRAMENTO
 STOCKTON
 YUBA
 BUTTE
 COLUSA
 SUTTER
 YUBA
 BUTTE
 COLUSA
- CALIFORNIA TELEPHONE COMPANY (CA)**
 SACRAMENTO
 STOCKTON
 YUBA
 BUTTE
 COLUSA
- OF MICHIGAN (CA)**
 SACRAMENTO
 STOCKTON
 YUBA
 BUTTE
 COLUSA

OTHER TELEPHONE COMPANIES

- GOVERNMENT UTILITIES (GU)**
 SACRAMENTO
 STOCKTON
 YUBA
 BUTTE
 COLUSA
- HOOPER TELEPHONE COMPANY (HU)**
 SACRAMENTO
 STOCKTON
 YUBA
 BUTTE
 COLUSA
- HOOPER TELEPHONE COMPANY (HU)**
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 COLUSA
- HOOPER TELEPHONE COMPANY (HU)**
 SACRAMENTO
 STOCKTON
 YUBA
 BUTTE
 COLUSA



SCALE IN MILES
 0 10 20 30 40 50
 1:4 COORDINATE SCALE
 1000000
 1000000
 1000000

APPENDIX B

Project Sponsors and Addresses

- | | | | |
|-----|---|---|----|
| 1. | Advantage Communications Group
8100 N.E. 15th Street, Suite 120
Vancouver, WA 98685 | 100 Swan Way, Suite 200
Oakland, CA 94621 | 11 |
| 2. | AT&T Communications of California
111 West Washington Boulevard
Suite 2
San Francisco, CA 94107 | 795 Folsom Street
San Francisco, CA 94107 | 10 |
| 3. | Bakersfield Cellular Telephone Co.
280 Executive Center
Bakersfield, CA 90035 | 4200 Truxton Avenue
Bakersfield, CA 90035 | 17 |
| 4. | Brooks Fiber Communication of Bakersfield
1101 15th Street, Suite 200
Bakersfield, CA 93302 | 525 Almanor Avenue
Sunnyvale, CA 94086 | 15 |
| 5. | Brooks Fiber Communication of Fresno
1401 Tenth Street, Suite 210
Fresno, CA 93701 | 525 Almanor Avenue
Sunnyvale, CA 94086 | 18 |
| 6. | Brooks Fiber Communication of Sacramento
1100 Ozer, CA 95827
Sacramento, CA 95827 | 10316 Placer Lane
Sacramento, CA 95827 | 19 |
| 7. | Brooks Fiber Communication of San Jose
1700 X
San Jose, CA 95128 | 525 Almanor Avenue
Sunnyvale, CA 94086 | 20 |
| 8. | Brooks Fiber Communication of Stockton
1000 15th Street, Suite 200
Stockton, CA 95202 | 525 Almanor Avenue
Sunnyvale, CA 94086 | 21 |
| 9. | Cable Plus Company
1515 Lincoln Way
Vancouver, WA 98685
dba Telephone Plus | 11400 S.E. Sixth Street, Suite 120
Bellevue, WA 98004 | 22 |
| 10. | Caribbean Telephone and Telegraph
2000 15th Street, Suite 200
San Jose, CA 95128 | 1249 Washington Blvd., Suite 2015
Detroit, MI 48226 | 23 |
| 11. | Cellular 2000
330 150th Avenue, Suite 200
Bellevue, WA 98002 | 3250 G Street
Merced, CA 95340 | 24 |
| 12. | Century Telecommunications
2000 15th Street, Suite 200
Richardson, TX 75082 | 50 Locust Avenue
New Canaan, Connecticut 06840 | 25 |
| 13. | Communication TeleSystems International
2000 15th Street, Suite 200
San Francisco, CA 94107 | 4350 La Jolla Village Dr., Suite 100
San Diego, CA 92122 | 26 |

APPENDIX B
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| 14. | Continental Telecommunications of California | 550 N. Continental Blvd., Suite 250
El Segundo, CA 90245 |
| 15. | Electric Lightwave | 8100 N.B. Parkway Drive, Suite 150
Vancouver, CA 98662 |
| 16. | Fiber Data Systems | 111 West Washington Boulevard
Suite G
Montebello, CA 90640 |
| 17. | GST Lightwave | 580 Executive Center
11501 Dublin Boulevard, Suite 200
Dublin, CA 94568 |
| 18. | GST Pacific Lightwave | 3403 Tenth Street, Suite 630
Riverside, CA 92501 |
| 19. | GTE California | One GTE Place
Thousand Oaks, CA 91362-3811 |
| 20. | GTE Intelligent Network Services | 5525 MacArthur Blvd., Suite 445
Irving, TX 75038 |
| 21. | ICG Access Services | 1050 17th Street, Suite 1610
Denver, CO 80265 |
| 22. | Info-Tech Communications | 1515 Lincoln Way
Auburn, CA 95603 |
| 23. | Linkatel Pacific | 1924 Deere Avenue, Suite 110
Santa Ana, CA 92706 |
| 24. | Mammoth Cellular | 330 120th Avenue N.E., #200
Bellevue, WA 98005 |
| 25. | MCI Metro Access Transmission Services | 2250 Lakeside Boulevard
Richardson, TX 75082 |
| 26. | MFS Intelnet of California | 185 Berry Street, Building One
Suite 5100
San Francisco, CA 94107 |

APPENDIX B

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|-----|--|--|------------|
| 27. | NewTelco,
dba Sprint Telecommunications Venture | 9221 Ward Parkway
Kansas City, Missouri | 64114 |
| 28. | NextLink of California | 2433 Carillon Point
Kirkland, WA | 98033 |
| 29. | Pacific Bell | 140 New Montgomery Street
San Francisco, CA | 94105 |
| 30. | Pac-West Telecomm | 4202 Coronado Avenue
Stockton, CA | 95204 |
| 31. | SLO Cellular | 733 Marsh Street
San Luis Obispo, CA | 93401 |
| 32. | TCG Los Angeles | 700 Flower Street
Los Angeles, CA | 90017 |
| 33. | TCG San Diego | 1370 India Street
San Diego, CA | 92101 |
| 34. | TCG San Francisco | One Bush Street
San Francisco, CA | 94104 |
| 35. | The Associated Group
dba Associated Communications of Los Angeles | 200 Gateway Towers
Pittsburgh, PA | 15222 |
| 36. | Unitel Communications | 3949 Research Park Court, Suite 100
Santa Cruz, CA | 95073 |
| 37. | U.S. Long Distance | 9311 San Pedro, Suite 300
San Antonio, TX | 78216 |
| 38. | Venture Technologies Group
dba Allegro Communications | 6611 Santa Monica Blvd.
Los Angeles, CA | 90038-1311 |
| 39. | Viacom Communications | 5924 Stoneridge Drive
Pleasanton, CA | 94588 |
| 40. | Winstar Wireless of California | 7779 Leesburg Pl., Suite 401 South
Tyson's Corner, VA | 22043 |

APPENDIX C

Response to Comments:

Comment letters were received from several local agencies on the draft Negative Declaration and Initial Study. The following are responses to these comments:

1. **Antero Rivasplata, Chief, State Clearinghouse, dated 11/17/95.**

No comments from state agencies sent through the Clearinghouse.

2. **Kellie Morgantini, Community Services Director, City of Greenfield, dated 10/20/95.**

No comments on the projects.

3. **Richard Hoffstadt, Development/Subdivision Engineer, City of Newport Beach, dated 10/25/95.**

Comment #1: The Negative Declaration does not address the potential impacts of the projects on the City's streets. The installation of additional lines, manholes and service cabinets in the right-of-way will overwhelm the existing right-of-way, and interfere with the maintenance of other utility services. Recommends that a maximum of four (4) petitioners be permitted in any one street right-of-way. All other petitioners will be forced to lease facilities from those already in the right-of-way.

Response: The impact of the projects on streets is noted and the petitioners would be required to work in cooperation with each other and the local agencies so that the number of disturbances to the right-of-way are minimized as discussed in Mitigation Measures B and F. One suggestion is for the local agencies to establish one or more construction time periods or "windows" for the petitioners to install their facilities in the public right-of-way. The windows could be determined by street construction projects already planned. Applications received after a predetermined date could have to wait for the next construction "window" established by the local agency. We cannot accept the recommendation to limit the petitioners to four (4) per street because the Commission has already determined in D.95-07-054 that competition for local telephone service is open to all petitioners who filed their intent to provide that service.

Comment #2: The Negative Declaration does not address the reduction of service life of streets as a result of trenching and patching. Studies indicate that pavement life is reduced from 20% to 30% once it has been trenched. Recommends that a variety of specific construction standards for street patching and the assessment of a Street Deterioration Fee

to offset the reduction of street life. 0 Z10Z419A

Response: Question XI (d) of the Initial Study has been amended to discuss impacts to maintenance of public roads. Mitigation Measure F has been amended to specifically state that the petitioners are required to abide by all local standards by obtaining various ministerial permits such as encroachment or building permits. Specific construction standards as recommended in the comment can be incorporated into the local permit process. The same can be said for the Street Deterioration Fee. However, ministerial permits and local standards cannot be used by a local agency as a discretionary tool to prevent or limit a state-wide interest in competition for local telephone service.

Comment #3: The Negative Declaration does not address the visual impacts of the above service grade cabinets needed to provide service. Besides visual impacts, the City is concerned about potential liability for the cabinets in sidewalks, and that the petitioners may be required to obtain easements from property owners in areas where space for the cabinets are not available. Recommends that the cabinets be spaced at least 500 feet apart.

Response: The proposed facilities as described in 4. Schuller's Comment below are part of a utility's intended project to upgrade its existing infrastructure and is not related to the proposed projects as discussed in the Negative Declaration (projects to extend facilities to new territories for service). However it is anticipated that some petitioners may require smaller, less obtrusive service cabinets to provide competing service in new territories. In many cases, the boxes can be placed within existing buildings or underground. In the event that the boxes are placed above ground, the petitioners will be required to consult with local agencies regarding aesthetic concerns about their construction. Finding #9 and Mitigation Measure I will be modified to clarify this point. The Negative Declaration will not prescribe a specific method for the petitioners and the local agencies to follow in addressing this issue since each locality has the means to determine the approach most appropriate for it.

4. Ray Schuller, Building Department Director, City of Newport Beach, dated 11/20/95

Comment: The service cabinets proposed by the petitioners carry equipment that have the potential for explosion if impacted by a vehicle. The cabinets contain 110 volts, backup batteries and gas generators.

Response: The above grade service cabinets as described in the comment are part of a petitioner's construction project within its existing service territory. These service cabinets are designed for providing broadband capability to existing telecommunication infrastructure, and are not directly related to the proposed projects addressed in the Negative Declaration. Pursuant to Public Utilities Code Section 1001, the Commission does not review modifications made by utilities to their existing facilities in territories they

already serve. The other petitioners either do not plan to use the type of service cabinets as described in the comment, or will install them in existing buildings or underground.
This clarification has been added to the Project Description in the Negative Declaration.

5. Keri Parrish, Assistant Planner, City of Wasco, dated 11/1/95

Comment #11: The Negative Declaration does not address the potential increase of non exposure of people to health hazards from the construction of new poles and overhead lines. In particular, will there be an increase of radiation or electric-magnetic fields

(EMFs) from the poles or overhead lines?

Response: To date, we are not aware of any evidence that suggests that the EMF levels, if any, from fiber optic cables or overhead communication lines present a health hazard to the public. The Commission established an EMP research and education program in 1993 (D.93-11-013) that is currently being managed by the California Department of Health Services (DHS). Commission staff consult with the DHS regularly on the most up-to-date information concerning EMF.

The Commission's responsibility for ensuring safety of utility overhead poles or lines is carried out by the Commission's Safety and Enforcement Division (SED). Under the regulations established under the Commission's General Order 95, the SED makes periodic inspections of overhead lines to ensure that they meet existing Commission standards for safety. Finding #7 and Mitigation Measure G have been modified to state that the SED will incorporate inspections of any new lines into its procedures.

Comment #2: Will the Commission permit new facilities to be built in residential neighborhoods, near schools, parks, etc.?

Response: The petitioners may place new facilities in a variety of areas as discussed in Sections E and F of the Initial Study. Mitigation Measure A in the Negative Declaration will be triggered if a petitioner proposes to construct a project which goes beyond the existing utility right-of-way. This measure will require a complete environmental review before it is approved.

Mitigation Measure H has been modified to require petitioners to comply with all applicable local noise standards.

6. Todd Galarneau, Associate Planner, City of Santee, dated 11/2/95

Comment #1: The Negative Declaration does not specifically require the petitioners to comply with local agency requirements or ordinances. Recommends that the document should specifically state that the petitioners comply with local standards and that they address all substantive concerns prior to commencement.

Response: For the purpose of clarity, the Negative Declaration has been revised to state that local standards must be adhered to and all applicable local ministerial permits must be

obtained. However, as stated in response to earlier comments, the ministerial permit process cannot be used by local agencies to interfere with or prevent a state-wide interest in local telephone competition.

Comment #2: The Negative Declaration does not cover the 26 resale petitioners by declaring them exempt from CEQA review. These petitioners are not necessarily exempt from CEQA if the facilities-based carrier is required to modify or expand its facilities to provide service for the resale petitioners.

Response: We do not agree with the comment. The resale petitioners are exempt from CEQA because of the fact that they have no facilities to construct. If a facilities-based carrier chooses to modify or expand its facilities as described in the comment, then that carrier will be subject to the appropriate review and permit process as outlined in the Negative Declaration.

Comment #3: The Negative Declaration is missing the words, "control plans shall be developed and implemented for areas identified as particularly" at the bottom of page 3.

Response: The wording as described has been inserted.

Comment #4: The Negative Declaration's Finding #6, should be modified so that the language specifically requires the petitioners to work with the local agencies in developing traffic control plans, obtaining all required permits, and complying with all applicable local ordinances.

Response: Mitigation Measure F has been modified to specify that the petitioners must comply with all local standards and ministerial permits regarding traffic and circulation concerns. Finding #6 has also been modified to reflect that requirement.

Comment #5: Mitigation Measure H should be modified so that the petitioners are required to comply with all local noise ordinances in addition to conducting public outreach.

Response: Mitigation Measure H has been modified to require petitioners to comply with all applicable local noise standards.

7. Mo. Khatami, Senior Planner, City of Atwater, dated 11/7/95

Comment #1: The Negative Declaration does not require each petitioner to go through the Conditional Use Permit process for any exterior modifications to existing facilities or new facilities.

Response: In locating its projects, the petitioners will need to cooperate with, and obtain that local standards must be adhered to and all applicable local ministerial permits must be

the input of, local authorities regarding land use matters and obtain any ministerial local permits or approvals required for construction and operation of the projects to ensure safety and compliance with local standards. The language of the Mitigation Measures has been revised to clarify this. The fact that petitioners must obtain local ministerial permits does not indicate that the Commission has relinquished its authority. General land use and zoning authority does not permit local agencies to thwart any legitimate construction project necessary to provide utility service. The Mitigation Monitoring Plan (Appendix D) designates the Commission as the final arbiter for disputes between local agencies and the petitioner(s).

8. **Kerry McCants, Development Services Manager, County of Fresno, date 11/9/95**

Comment: The project is not site specific and land use permits may be required for some work.

Response: The Negative Declaration acknowledges that the specific projects which could result from the Commission's action are necessarily speculative, but their descriptions contain enough information for the purposes of the document. In locating its projects, the petitioners will need to cooperate with, and obtain the input of, local authorities regarding land use matters and obtain any ministerial local permits or approvals required for construction and operation of the projects to ensure safety and compliance with local standards. The language of the Mitigation Measures has been revised to clarify this. The fact that petitioners must obtain local ministerial permits does not indicate that the Commission has relinquished its authority. General land use and zoning authority does not permit local agencies to thwart any legitimate construction project necessary to provide utility service. The Mitigation Monitoring Plan (Appendix D) designates the Commission as the final arbiter for disputes between local agencies and the petitioner(s).

9. **Linda B. Guillis, Community and Economic Development Director, City of Moreno Valley, dated 11/13/95**

Comment: Mitigation Measures 4, 6 and 9 should be modified by replacing the "should" with the word "shall" to ensure that the petitioners are required to comply with local standards, ordinances and coordination efforts.

Response: The Mitigation Measures already contained the word "shall", and have been modified further in response to the comments described earlier. All findings listed in the Negative Declaration have also been modified by replacing the word "should" with "shall".

10. Richard L. Schneider, Senior Planner, City of Vallejo, date 11/14/95
Comment #1: The analysis in the Negative Declaration is too general and should be revised by identifying each applicant, the local government jurisdiction they will be operating in, whether they will be using facilities-based services or resale services, and a brief description of the anticipated modifications to existing facilities or construction of new facilities.

Response: Appendix B, attached to the Initial Study, identifies each applicant. All of the applicants listed on Appendix B are facilities-based carriers (most of them will be resale-based as well). The companies which are strictly resale-based are exempt from CEQA because they have no facilities to construct, and are therefore not addressed in the Negative Declaration. For purposes of clarity, the text in the Project Description of the Negative Declaration has been modified to identify Appendix B more easily.

A brief description of the anticipated modifications to existing facilities and/or the construction of new facilities is provided in both the Project Description sections of the Initial Study and the Negative Declaration.

At this time, the facilities-based carriers are requesting state-wide authority to offer service anywhere within the territories presently served by Pacific Bell and GTB in California. Mitigation Measure B has been modified by requiring all petitioners to file quarterly reports with the local agencies. These reports will summarize all anticipated projects for the upcoming quarter. Local governments will know at that time which companies are planning to compete in their particular jurisdiction, and will have the information to begin appropriate coordination.

Comment #2: The Mitigation Measures should be modified by replacing the word "should", with the word "shall" so that the petitioners are required to comply with local standards/measures.

Response: As noted in earlier comments, the Mitigation Measures have been modified so that it is clear that compliance with local standards/measures are a requirement.

11. David J. Stagnaro, Environmental Planner, San Joaquin Valley Unified Air Pollution Control District, dated 11/15/95.

Comment: The Negative Declaration is appropriate from an air quality perspective. The air quality impacts that will be associated with the construction phase of the projects will be subject to the District's regulations and air quality standards. Besides regulations for construction, additional rules regarding handling, shipping, paving and storing may also apply. (The District provides the specific regulations.)

Response: Finding #5 and Mitigation Measure B addresses air quality and requires the petitioners to implement appropriate dust control measures as recommended by air quality management districts. The Finding and Mitigation Measure have been modified to include compliance with any other air quality standards as established by the affected air quality management districts.

12. Rita Westfield, Assistant Director Community Development, City of Tustin, dated 11/15/95.

Comment: The Negative Declaration addresses the City's concerns about compliance with local construction standards, permit issuance and traffic control. No other comments offered.

Response: Comment noted. The Negative Declaration have been modified in response to other comments about local standards and permits.

13. Terry L. Farmer, resident, Tehama County, dated 11/16/95.

Comment: The address provided in the Public Notice for the Planning Department of the County of Tehama is incorrect. The correct address is provided.

Response: The mailing list for the final Negative Declaration will be revised with the correct address for the Tehama County Planning Department.

14. John Ernest, Senior Planner, City of Irvine, dated 11/16/95.

Comment #1: There is no limit on the number of petitioners that will be allowed on a particular street to construct facilities. Multiple trenching will shorten street life and impact traffic and circulation as well maintenance of public roads. In fact, some telecommunication companies have already applied for permits to install fiber optic cables in streets.

Response: See response to 3. Hoffstadt (Comment #1).

Comment #2: Finding #2 of the Negative Declaration indicates that the proposed projects will not have significant effects on public services. The projects will significant effects on the City's ability to provide traffic service, as described in Comment #1.

Response: Finding #2 will be modified to exclude the words, "Public Services" since the impacts on the maintenance of public roads may be potentially significant. The Initial Study has also been modified to address impacts on public roads (Question XI d).

Mitigation Measure F, has been modified as discussed in the response to 31 Hoffstadt
(Comment #2).

Comment #3: Finding #3 of the Negative Declaration indicates that the petitioners should
comply with all local design, construction and safety standards. The City would like the
Negative Declaration to state that the petitioners are required to adhere to all reasonable
local policies designed to protect streets and public safety.

Response: Finding #3 addresses impacts and mitigation for Geological Resources. Finding
#6 and Mitigation Measure F, which address streets and public safety, have been modified
to clarify that the petitioners must comply with local design, construction and safety
standards. The petitioners are also required to cooperate with local planning agencies to
reduce any cumulative impacts to the greatest extent possible. The Commission will be
the final arbiter for disputes that cannot be resolved at the local level (see the Mitigation
Monitoring Plan for details in Appendix D.)

Comment #4: Finding #6 of the Negative Declaration indicates that the petitioners should
coordinate their efforts so that the number of encroachments to the utility rights-of-way
are minimized. The experience of the City has been that utility companies are unwilling to
coordinate or cooperate so that encroachments are minimized. Recommends that the
Commission become more involved in the process by enforcing coordination through strict
penalties or other means.

Response: Coordination among the petitioners and the local agencies will be more
specifically addressed in the Mitigation Monitoring Plan (Appendix D). In brief, the
Commission believes coordination is best handled at the local level but the Commission
will be the final arbiter for all unresolved issues of compliance with the Negative
Declaration. The local agencies have the ministerial authority to use reasonable means to
organize and coordinate the projects so that public safety and services are protected but
cannot use that authority to prevent or limit utility service.

Comment #5: The Negative Declaration's discussion of traffic, rights-of-way and
infrastructure should indicate continuance and even strengthening of local authority
whenever they are referenced.

Response: As discussed in response to other comments, the language in the Mitigation
Measures will be modified to clarify the authority of local agencies. However it should
also be noted that Commission's intent in clarifying local authority is not meant to
relinquish Commission jurisdiction over utility facilities. Moreover, it must also be noted
that local agencies cannot use its ministerial permit process to prevent or interfere with a
state-wide interest in utility service.

15. Ann Grant-McLaughlin, Associate Planner, City of Buenaventura, dated 11/17/95

Comment #1: The scale of the map provided in the Negative Declaration is too large for a complete evaluation to be done. More locational detail is necessary.

Response: In July 1995, the Commission opened the territories presently served by Pacific Bell and GTB California to competition (D.95-07-054). The purpose of the Negative Declaration is to discuss the petitioners' applications for state-wide authorization to compete. Mitigation Measure B has been modified by requiring all petitioners to file quarterly reports with the local agencies. These reports will summarize all anticipated projects for the upcoming quarter. Local governments will know at that time which companies are planning to compete in their particular jurisdiction, and will have the information to begin appropriate coordination.

Comment #2: The Negative Declaration states that in the event that more than one petitioner seeks modifications or additions to a particular locality, the petitioners shall coordinate their plans and consult with affected local agencies. Recommends that the petitioners consult with local agencies for all proposed construction activities regardless of the number of petitioners. Construction even in the utility rights-of-way may be subject to local permits and consequent environmental review.

Response: The reason for the language regarding coordination and consultation with local agencies is to ensure that multiple construction efforts in a single locality are done efficiently and with minimal disturbance to the affected area. However, the language was not meant to exclude a single petitioner from local coordination and consultation. For every construction project, the local ministerial permitting process must be followed by the petitioner regardless of the number of petitioners. Mitigation Measure B has been revised to clarify the points made here.

16. Natalie Meeks, Development Services Manager, City of Anaheim, dated 11/18/95

Comment #1: The mitigation measures should be rewritten to clearly require the petitioners to consult and coordinate to the satisfaction of the local agency. The mitigation measures must be written to ensure that construction activities and facilities are adequately mitigated. Moreover, the local agencies should have opportunity to review the Mitigation Monitoring Plan prior to adoption by the Commission.

Response: As discussed in response to other comments, the Mitigation Measures have been modified to clearly require petitioner compliance with local standards through the local ministerial permitting process. The Mitigation Monitoring Plan (Appendix D in the Final Negative Declaration) contains details on how the measures will be implemented and monitored, including suggestions made in comments on the proposed Negative

Comment #2: A method should be established by which the local agency reviews and approves the location and number of facilities. For aboveground facilities, traffic, safety, and aesthetic impacts should be mitigated. Collocation, alternate locations and screening should also be considered.

Response: Comment #2 requests that the Negative Declaration prescribe a set procedure for the local agencies to follow for review and approval of the location and number of facilities. Each local agency will have the freedom to follow its own method of ministerial review and approval for the facilities. However, as noted in the response to 7, Khatami, the Commission is not relinquishing its jurisdiction to the local agencies, and local agencies may not use land use and zoning authority to prevent utilities from constructing legitimate projects to provide service.

Each jurisdiction will have the authority to enforce its own safety and traffic standards through its ministerial permit process so that any related impacts are mitigated.

Comment #3: The Negative Declaration fails to address the important issues such as equipment necessary to operate the facilities, their impact on safety, pavement, and aesthetics.

Response: The Project Description of the Negative Declaration contains information regarding the use of switches that are necessary to operate the facilities. Besides the necessary switches, some of the petitioners may need to install small service boxes (not the same as described in 4, Schuller) to effectively distribute service. The Project Description of the Negative Declaration has been modified to discuss the service boxes. Impacts on safety, pavement and aesthetics are discussed in responses below (Comments 4, 5 and 7).

Comment #4: The Mitigation Measures are not strong enough to prevent repeated excavation in public streets. Local agencies should have authority to limit excavations and regulate facility placement. Moreover the loss of street life as a result of the excavations should be compensated from the petitioners.

Response: Mitigation Measure F has been modified to clarify that local ministerial permitting ensures that the installation is done safely and with minimal impact on traffic. Compensation for loss of street life can be effectively implemented through the local permitting process, rather than specifying it in the Negative Declaration. Also, see

Response to 3, Hoffstadt (Comments #1 & 2):

Comment #5: The Initial Study indicates that there is no hazardous impacts associated with the facilities. However, the proposed operating equipment (same as described in 4, Schuller) may be potentially hazardous to the public. Recommends that Question IX

should be marked as "potentially significant unless mitigation incorporated"

Response: See response to 4. Schuller.

Comment #6: The location, number, type and design of the proposed facilities are not identified in the Negative Declaration. Excessive installation could leave inadequate space for other public services, and space for telecommunication facilities should be limited by local agencies. Questions XI (d) and (e) should be marked as "potentially significant unless mitigation incorporated" in the Initial Study.

Response: See response to 15. Grant-McLaughlin (Comment #1). The amount and size of facility installation will vary from city to city, and from street to street. As stated in the Project Description of the Negative Declaration, it is anticipated that existing utility conduits can accommodate the installation of fiber optic cable. In the event that a petitioner will be forced to go beyond the existing utility right-of-way to install its own facilities, Mitigation Measure A is triggered and a full environmental review of the proposed project would be completed. Question XI (d) of the Initial Study has been modified to indicate the need for mitigation of potential impacts on public road maintenance.

Comment #7: The potential aesthetic impacts of the proposed facilities described in Comment #5 above are not mitigated in the Negative Declaration. Encroachments into sidewalks and parkway, diminished aesthetic appeal of surrounding areas, and pedestrian/vehicular conflict are not addressed. Moreover, cost and time for upkeep and maintenance of the facilities are additional concerns. Recommends that the petitioners submit a master plan to local agencies for review and approval so that cumulative effects of these facilities can be mitigated. Finally the City has a number of aesthetic regulations that the petitioners need to comply with.

Response: The proposed facilities as described in Comment #5 are part of Pacific Bell's project to upgrade its existing infrastructure and is not related to the proposed projects as discussed in the Negative Declaration (projects to extend facilities to new territories for service). However it is anticipated that some petitioners may require smaller, less obtrusive service cabinets to provide competing service in new territories. The Project Description in the Negative Declaration has been modified to discuss the use of service boxes in greater detail. For these facilities, the petitioners will be required to consult with local agencies regarding aesthetic concerns about their construction. Finding #9 and Mitigation Measure I has been modified to clarify this point. The Negative Declaration will not prescribe a specific method for the petitioners and the local agencies to follow in addressing this issue since each locality has the means to determine the approach most appropriate for it.

18. Richard Janak, Deputy Executive Officer (ERC), Stanislaus County, dated 11/20/92.

No comments on the Negative Declaration

17. Lee Hitchcock, Building and Safety Manager, City of Buena Park, dated 11/20/95.

Comment #1: Pacific Bell has submitted an application requesting a permit to install node cabinets with the City's limits. The node cabinets combine 110 volt primary power, battery backup and low-pressure gas generators for emergency power in an above-grade cabinet. There is insufficient data about vehicle impact and explosion resistance safeguards.

Response: See response to 4. Schuller.

Comment #2: The size and number of the node cabinets create visual blight and possible visual obstructions in the right-of-way.

Response: See response to 16. Meeks (Comment #7).

Comment #3: The installation of the service cabinets may necessitate negotiation for private property easements. Predicts that most citizens will object to the installation of the cabinets on their property.

Response: As stated in the modified Project Description of the Negative Declaration, the petitioners who need to install the cabinets are committed to building installation or underground vaults. Based on other comments, private property easements are preferable to installation on sidewalks. The petitioners will have to obtain rights to use whatever property is needed, if not already in their possession.

Comment #4: Same as 3. Hoffstadt (Comment #2). Recommends common trenching and/or systems to mitigate the problem rather than deterioration fee or limit on the number of competitors.

Response: See response to 3. Hoffstadt's (Comment #2).

Comment #5: The City could experience liability for the service cabinets located in sidewalks and parkway areas.

Response: As noted in responses to earlier comments, the local agencies may enforce its safety standards on the petitioners through ministerial permits. Safety concerns shall be resolved to the satisfaction of the local agencies. Local agencies are liable for those facilities it permits.

18. Richard Jantz, Deputy Executive Officer (ERC), Stanislaus County, dated 11/20/95.

No comments on the Negative Declaration.

19. **Thomas Berg, Director, Ventura County, dated 11/21/95.**

Comment #1: The County's Transportation Department concurs with the Initial Study checklist. Its review of the project is limited to impacts on the County's roadway network and transportation system. The traffic generated by the projects will not significantly impact County roads in unincorporated areas.

Response: Comment noted.

Comment #2: Construction in the road right-of-way will require an encroachment permit from the County Transportation Department

Response: Comment noted. All work in public road ways will require ministerial permits such as encroachment permits from the local agencies, and the Mitigation Measures have been modified to clarify this point.

20. **Daniel J.P. Weaver, Project Coordinator, San Francisco Beautiful, dated 11/21/95.**

Comment: The service boxes will encroach into sidewalks and parkways, diminish aesthetic appeal of surrounding areas, and impact pedestrian/vehicular movement along city streets. Moreover, boxes are often the target of graffiti vandalism. Recommends all service cabinets be placed either underground, or on leased private property, fenced and landscaped to avoid visual blight.

Response: See response to 16. Meeks (Comment #7).

21. **Donald Stroh, Dolores Heights Improvement Club and the Coalition of San Francisco Neighborhoods, dated 11/28/95.**

Comment: Opposes the Negative Declaration. The widespread proliferation of utility "street furniture" or service boxes and cabinets results in adverse visually effects and presents hazards for the blind and disabled. Recommends that all utility above-ground boxes be removed from public property and placed in underground vaults or on private property. Also requests public posting by the local public works agency for proposed above-ground boxes, and public hearing procedures, through an independent committee, that are identical to procedures used by the local parking and traffic agency.

Response: The construction of all utility facilities will require compliance with all local

ministerial standards and that the petitioners are required to cooperate with local agencies about aesthetic impacts. The Mitigation Measures have been modified to clarify the local agencies' authority. However, the Negative Declaration will not specify standards or procedures for aesthetic or safety concerns. The recommendations made in the comment are directed to the local permitting agencies.

22. John E. Cribbs, Director of Public Works, City and County of San Francisco, dated 12/6/95.

Comment: The Negative Declaration does not address the projects' impact to the City's street pavement due to the increase in excavations by the petitioners. Enclosed a study done by San Francisco State University which found that the useful life of street pavement declines from multiple utility cuts or excavation.

Response: See response to 3. Hoffstadt Comment #2. Response: Comment noted. All work in public road ways will require ministerial permits such as encroachment permits from the local agencies, and the Mitigation Measures have been modified to clarify this point.

30. Daniel J.P. Weaver, Project Coordinator, San Francisco Beautiful, dated 11/15/95.

Comment: The service boxes will encroach into sidewalks and parkways, diminish aesthetic appeal of surrounding areas, and impact pedestrian movement along city streets. Moreover, boxes are often the target of graffiti vandalism. Recommendations: service cabinets be placed either underground, or on leased private property, fenced and handsigned to avoid visual blight.

Response: See response to 16. Meeks (Comment W).

31. Donald Stroh, Dolores Heights Improvement Club and the Coalition of San Francisco Neighborhoods, dated 11/28/95.

Comment: Opposes the Negative Declaration. The widespread proliferation of utility "street furniture" or service boxes and cabinets results in adverse visually effects and presents hazards for the blind and disabled. Recommendations that all utility above-ground boxes be removed from public property and placed in underground vaults or on private property. Also requests public posting by the local public works agency for proposed above-ground boxes, and public hearing procedures, through an independent committee that are identical to procedures used by the local parking and traffic agency.

Response: The construction of all utility facilities will require compliance with all local

Since many of the facilities-based petitioners are initially targeting local telephone service for areas where their telecommunications infrastructure is already established, very little construction is envisioned. However, there will be occasion where the petitioners will need to install fiber optic cable within existing utility underground conduits or attach cables to overhead lines. There is the possibility that existing utility conduits or poles will be unable to accommodate all the planned facilities, thereby forcing some petitioners to build or extend additional conduits into other rights-of-way, or into undisturbed areas. For more details on the project description please see Project Description in the Negative Declaration.

Introduction

Roles and Responsibilities:

As the lead agency under the California Environmental Quality Act (CEQA), the Commission is required to monitor this project to ensure that the required mitigation measures are implemented. The Commission will be responsible for ensuring full compliance with the provisions of this monitoring program and has primary responsibility for implementation of the monitoring program. The purpose of this monitoring program is to document that the mitigation measures required by the Commission are implemented and that mitigated environmental impacts are reduced to insignificance or avoided outright.

Because of the geographic extent of the proposed projects, the Commission may delegate duties and responsibilities for monitoring to other environmental monitors or consultants as deemed necessary. For specific enforcement responsibilities of each mitigation measure, please refer to the Mitigation Monitoring Table attached to this plan.

The Commission has the ultimate authority to halt any construction, operation, or maintenance activity associated with the CLC's local telephone service projects if the activity is determined to be a deviation from the approved project or adopted mitigation measures. For details refer to the mitigation monitoring plan discussed below.

Mitigation Monitoring Table:

The table attached to this plan presents a compilation of the Mitigation Measures in the Negative Declaration. The purpose of the table is to provide the monitoring agencies with a single comprehensive list of mitigation measures, effectiveness criteria, the enforcing agencies, and timing.

Project Description

Dispute Resolution Process: The Commission has authorized various companies to provide local exchange competition with Pacific Bell and GTE California. If petitioners notified the Commission of their intent to provide service, the Commission is expected to reduce or eliminate many potential disputes. However, in the event that a dispute occurs, the following procedure will be observed:

Step 1: Disputes and complaints (including those of the public) shall be directed first to the Commission's designated Project Manager for resolution. The Project Manager will attempt to resolve the dispute.

Step 2: Should this informal process fail, the Commission Project Manager may initiate enforcement or compliance action to address deviation from the proposed project or adopted Mitigation Monitoring Program.

Step 3: If a dispute or complaint regarding the implementation or evaluation of the Mitigation Monitoring Program or the Mitigation Measures cannot be resolved informally or through enforcement or compliance action by the Commission, any affected participant in the dispute or complaint may file a written "notice of dispute" with the Commission's Executive Director. This notice shall be filed in order to resolve the dispute in a timely manner, with copies concurrently served on other affected participants. Within 10 days of receipt, the Executive Director or designee(s) shall meet or confer with the filer and other affected participants for purposes of resolving the dispute. The Executive Director shall issue an Executive Resolution describing his decision, and serve it on the filer and the other participants.

Parties may also seek review by the Commission through existing procedures specified in the Commission's Rules of Practice and Procedure, although a good faith effort should first be made to use the foregoing procedure.

Mitigation Monitoring Program:

1. As discussed in Mitigation Measure B, the petitioners shall file a quarterly report which summarizes those projects which they intend to construct for the coming quarter. The report will contain a description of the project and its location, and a summary of the petitioner's compliance with the Mitigation Measures described in the Negative Declaration. The purpose of the report is to inform the local agencies of future projects so that coordination of projects among petitioners in the same locality can be done. The quarterly report shall be filed with the appropriate planning agency of the locality where the project(s) will occur. The report shall also be filed as an informational advice letter with the Telecommunications Branch of the Commission Advisory and Compliance Division (CACD) so that petitioner compliance with the Mitigation Measures are monitored.

In order to ensure that the Mitigation Measures are fulfilled, the Commission will make periodic reviews of the projects listed in quarterly reports. The projects will be generally chosen at random, although the Commission will review any project at its discretion. The reviews will follow-up with the local jurisdictions so that all applicable Mitigation Measures are addressed.

If any project is expected to go beyond the existing utility rights-of-way, that project will require a separate petition to modify the CPCN. The petitioner shall file the petition with the Commission and shall also inform the affected local agencies in writing. The local agencies are also responsible for informing the Commission of any project listed in the quarterly reports which may potentially go out of the existing utility right-of-way. As discussed in Mitigation Measure A, a complete environmental review of the project will be triggered under CEQA, with the Commission as the lead agency.

2. In the event that the petitioner and the local agency do not agree if a project results in work outside of the utility rights-of-way, the Commission will review the project and make the final determination. See Dispute Resolution Process discussed above.

3. For projects that are in the utility rights-of-way, the petitioners shall abide by all applicable local standards as discussed in the Mitigation Measures. If a petitioner fails to comply with local regulatory standards by either neglecting to obtain the necessary permits, or by neglecting to follow the conditions of the permits, the local agency shall notify the Commission and Dispute Resolution Process begins.

4. The Commission is the final arbiter for all unresolvable disputes between the local agencies and the petitioners. If the Commission finds that the petitioner has not complied with the Mitigation Measures in the Negative Declaration, it may halt and terminate the project.

As discussed in Mitigation Measure B, the petitioners shall file a quarterly report which summarizes those projects which they intend to construct for the coming quarter. The report will contain a description of the project and its location, and a summary of the petitioners' compliance with the Mitigation Measures described in the Negative Declaration. The purpose of the report is to inform the local agencies of future projects so that coordination of projects among petitioners in the same locality can be done. The quarterly report shall be filed with the appropriate planning agency of the locality where the project(s) will occur. The report shall also be filed as an informational advice letter with the Telecommunications Branch of the Commission Advisory and Compliance Division (CACD) so that petitioner compliance with the Mitigation Measures are monitored.

In order to ensure that the Mitigation Measures are fulfilled, the Commission will make periodic reviews of the projects listed in quarterly reports. The projects will be generally chosen at random although the Commission will review any project at its discretion. The reviews will follow-up with the local jurisdictions so that all applicable Mitigation Measures are addressed.

Mitigation Monitoring Table

Impact	Mitigation Measure	Monitoring/Reporting Action	Effectiveness Criteria	Responsible Agency	Timing
ALL FACTORS Extension of work beyond or outside of the existing utility right-of-way into undisturbed areas.	A. Petitioner must file a Petition to modify its CPCN. An appropriate environmental study of the project is done.	Quarterly reports.	Any work outside of existing utility right-of-way is assessed through an environmental study.	CPUC Local agencies.	Before construction
CUMULATIVE EFFECTS Cumulative impacts due to multiple disturbances to a particular area.	B. Coordination efforts among the petitioners and the affected local agencies so that construction projects in the same location can be combined or simultaneous.	Quarterly reports.	The number and duration of disturbances to a particular area are minimized.	CPUC Local agencies.	Before construction
GEOLOGICAL RESOURCES Potential erosion due to excavation, grading and fill.	C. Petitioners shall comply with all local design, construction and safety standards through permit process. Erosion control plans for areas identified as susceptible to erosion.	Quarterly reports.	Erosion at the project areas is contained.	CPUC Local agencies.	Before and during construction.
WATER RESOURCES Potential impact on water resources, underground or surface due to excavation or grading work.	D. Petitioners shall consult with all appropriate water resource agencies for projects in close proximity to water resources. Appropriate mitigation plans shall be developed and compliance to all local and state water regulations is required.	Quarterly reports.	Impacts to water quality, drainage, flow, direction and quantity are averted.	CPUC Local agencies. Applicable state water resource agencies.	Before and during construction.

Mitigation Monitoring Table

Impact	Mitigation Measure	Monitoring/Reporting Action	Effectiveness Criteria	Responsible Agency	Timing
AIR QUALITY Excessive dust and other air emissions due to construction.	E. Appropriate dust control measures by petitioners. Compliance with all applicable air quality standards as established by air quality management districts.	Quarterly reports.	Dust and other emissions are contained. Air quality standards for area are met.	CPUC Air quality management districts	Before and during construction.
TRANSPORTATION & CIRCULATION Traffic congestion, insufficient parking, and hazards for pedestrians.	F. Coordination by petitioners through local agencies to minimize right-of-way encroachments. All local safety and construction standards shall be met through the local permit process. Advance notice to surrounding area of construction date and time.	Quarterly reports.	Traffic congestion is minimized.	CPUC Local agencies. Caltrans	Before and during construction.
HAZARDS Construction in right-of-way may interfere with emergency or evacuation plans.	G. Measure F above shall be augmented by informing and consulting with emergency and evacuation agencies if the proposed project impacts a route used for emergencies or evacuations.	Quarterly reports.	Construction projects do not interfere with emergency or evacuation routes.	CPUC Local agencies.	Before and during construction.
Potential increase in overhead poles and communication lines.	G. Petitioner shall obtain all necessary building permits for the poles. CPUC's Safety & Enforcement Division will inspect the overhead lines.	Quarterly reports.	Poles are built in compliance with local safety standards. Lines are inspected and maintained as safe.	CPUC Local agencies.	Before and during construction.

Mitigation Monitoring Table

Impact	Mitigation Measure	Monitoring/Reporting Action	Effectiveness Criteria	Responsible Agency	Timing
<p>NOISE Noise standards for the area are exceeded due to construction.</p>	<p>H. All applicable noise standards shall be complied with by the petitioners. Petitioners shall notice the surrounding area of construction dates and times.</p>	Quarterly reports.	Noise from construction is kept to levels that do not exceed local standards.	CPUC Local agencies.	Before and during construction.
<p>AESTHETICS Service boxes or cabinets may be a visual bight.</p>	<p>I. All applicable aesthetic standards will be met by petitioners for above-ground facilities, especially service cabinets.</p>	Quarterly reports.	Cabinets are placed within existing buildings, underground, or in areas that are landscaped so that aesthetic impacts are minimized.	CPUC Local agencies.	Before and during construction.
<p>CULTURAL RESOURCES Cultural resources are encountered during construction; resources are damaged or moved.</p>	<p>J. All earthmoving that would impact the resources shall cease or be altered until the petitioner retains the service of an archeologist who will propose mitigation.</p>	Quarterly reports.	Cultural resources that are encountered are not destroyed or adversely impacted.	CPUC Local, state and/or federal agencies.	During construction.

R.95-04-043, I.95-04-044 ALJ/TRP/lcg

APPENDIX E
INFORMATION REQUESTED OF COMPETITIVE LOCAL CARRIERS

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Page 1 of 2 INFORMATION REQUESTED OF COMPETITIVE LOCAL CARRIERS

TO: ALL COMPETITIVE LOCAL CARRIERS
The annual report is submitted by the calendar year for which the information requested is submitted. The annual report is submitted by the calendar year for which the information requested is submitted.

Article 5 of the Public Utilities Code grants authority to the California Public Utilities Commission to require all public utilities doing business in California to file reports as specified by the Commission on the utilities' California operations.

A specific annual report form has not yet been prescribed for the California's competitive local carriers. However you are hereby directed to submit an original and two copies of the information requested on the following page no later than March 31st of the year following the calendar year for which the annual report is submitted.

Address your report to:
California Public Utilities Commission
Auditing and Compliance Branch, Room 3251
505 Van Ness Avenue
San Francisco, CA 94102-3298

Failure to file this information on time may result in a penalty as provided for in §§ 2107 and 2108 of the Public Utilities Code.

If you have any question concerning this matter please call (415) 703-1961.

1. Date operations were begun.
2. Description of other business activities in which the utility is engaged.
3. A list of all affiliated companies and their relationship to the utility. State if affiliate is:

 - a. Regulated public utility.
 - b. Publicly held corporation.

4. Balance sheet as of December 31st of the year for which information is submitted.
5. Income statement for California operations for the calendar year for which information is submitted.

APPENDIX B
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APPENDIX B

INFORMATION REQUESTED OF COMPETITIVE LOCAL CARRIERS

To be filed with the California Public Utilities Commission, 505 Van Ness Avenue, Room 3251, San Francisco, CA 94102-3298, no later than March 31st of the year following the calendar year for which the annual report is submitted.

1. Exact legal name and U# of reporting utility.
2. Address of utility in California.
3. Name, title, address, and telephone number of the person to be contacted concerning the reported utility.
4. Name and title of the officer having custody of the general books of account and the address of the office where such books are kept.
5. Type of organization (e.g., corporation, partnership, sole proprietorship, etc.).
If incorporated, specify:
 - a. Date of filing articles of incorporation with the Secretary of State.
 - b. State in which incorporated.
6. Commission decision number granting operating authority and the date of that decision.
7. Date operations were begun.
8. Description of other business activities in which the utility is engaged.
9. A list of all affiliated companies and their relationship to the utility. State if affiliate is:
 - a. Regulated public utility.
 - b. Publicly held corporation.
10. Balance sheet as of December 31st of the year for which information is submitted.
11. Income statement for California operations for the calendar year for which information is submitted.

(END OF APPENDIX B)

APPENDIX F

COMPLIANCE

Outstanding CLC Deficiencies of Petitioners

GENERAL ISSUES THAT ALL PETITIONERS MUST CORRECT:

When the compliance tariffs are filed, they should be noted as original sheets, contain original sheet numbers, and should not contain any sidebar notations. Type in decision number of this decision, the December 27, 1995 filing date and the January 1, 1996 effective date.

CLC tariffs must contain rates for all services and elements listed in a CLC's tariffs, except those services offered only on a resale basis can be added later.

CLC tariffs should not reference a prior Commission Decision or P.U. Code section without describing completely its content. For example, regarding Privacy- CLC tariffs may not reference a PU Code or Decision without giving a complete description of the policy/content contained in that code or decision.

Pacific and GTEC will not have INP tariffs in place until sometime after February 1, 1996. Therefore, CLCs that have filed tariffs for INP have the option of removing INP rates in their tariffs at this time and may file an advice letter to add this element once LEC INP rates are finalized. Any CLC that has an INP tariff must show specific rates.

Non-Published Service -- CLCs need to define that "non-published service" means a customer is not listed in the published directory nor in the directory assistance database.

Advanced Payments -- consist of construction costs, non-recurring charges and first month's recurring charges and must be shown as a credit on the customer's first month's bill.

Refund of Deposits -- After 12 months of timely payments, a deposit must be refunded to the customer with interest and cannot be used as a credit against subsequent bills.

Rates in Rules -- Rates must be stated in the rate section of the tariff, and should not be included in the rules portion of the tariff.

Service Area Maps- For companies which concur in Pacific Bell's and GTE California's service area, their maps may only display Pacific Bell's and GTE California's exchanges. The exchanges of other LECs must to be removed.

COMPANIES:

APPENDIX F

Outstanding CJC Petitions of Petitioners

The Associated Group, Inc.

Rate Sheet 9-T, Section B, Digital Carrier Access Service: Need to replace with "This service provides for Utility-provided switching services for the routing of customer traffic to and from a long distance carrier for completion of long distance calls." effective date

AT&T Communications of California, Inc. CJC tariffs must contain rates for all services except those services offered only on a resale basis can be added later.

No. D-2, Sheet 8, Section 2.7.2, "Deposits": This section is in conflict with Rule 5 of App. B of D.95-07-054. CJC tariffs should not reference a prior Commission Decision or P.U.C. Code without describing completely its content. For example, regarding Privacy-CJC tariffs may not reference a P.U.C. Code or Decision without giving a complete description of the policy.

Brooks Fiber Communications of Bakersfield, Fresno, Sacramento, San Jose, Stockton

Brook's deficiency letter states concurrence in Pacific Bell's 176-T tariff for switched access. This concurrence must be stated in Brook's tariffs. Any CJC that has an INP tariff must show specific rates. LEC INP rates are limited.

Century Telecommunications, Inc. Non-Published Service -- CJC need to define that customer is not listed in the published directory nor in the directory assistance.

Schedule Cal. P.U.C. 2-T, Sheet No. 63: Address for Southern California PUC office is incomplete. Add "Room 5109" to the address.

Fiber Data Systems, Inc. Advanced Payments -- consist of construction costs, non-recurring charges and first month's recurring charges and must be shown as a credit on the customer's first month's bill.

Sheet 45-T: Tariffs must state that E911 access is provided at no charge. Refund of Deposits -- to the customer with interest and cannot be used as a credit against subsequent bills.

MCI Metro Access Transmission Service, Inc. Rates in Rules -- Rates must be stated in the rules portion of the tariff.

Rule 3.1.3.4 must be rewritten to comply with ALJ November 21, 1995 Ruling regarding legal fees and costs. Service area maps -- For companies which occur in Pacific Bell's and GTE California's service area, their maps may only display Pacific Bell's and GTE California's exchange.

Rule 7.1 -- remove the entire third sentence regarding other security interests and pledges because it goes beyond what is allowed in the Commission's Rule 5 of Appendix B of D.95-07-054.

MFS Intelenet of California, Inc.

Pacific Bell

Cal. P.U.C. No.2, First Revised Sheet No. 10-T: Reference dates for effectiveness of CHCF surcharge and California Relay Service & Communications Devices Fund surcharge are incorrect. Effective dates are not required, remove references from tariff.

Cal. P.U.C. No. 2, Sheet 46-T: Local calling areas need to be defined prior to tariff approval.

Cal. P.U.C. No. 2, Sheet 89-T: Rule 3, Customer Application for Service language must specify all documents that a customer may be reasonably requested to complete.

No. 2, Sheet 91-T, Rule 7, Section B - Deposits: This section is in conflict with Rule 5 of App. B of D.95-07-054.

Cal. P.U.C. No. 2; Rule 9, Section B and Rule 10, Section 2: The two rules conflict with each other because in Rule 9 bills are due 30 days after presentation date and in Rule 10 undisputed bill portions are due 15 days after presentation date. MFS may specify either due date, but the date must be applied consistently to non-recurring, recurring and usage charges. Due dates may not be different for undisputed portions of disputed bills.

Cal. P.U.C. No.2; Sheet 121-T: MFS cannot refuse to provide service to a customer solely because the customer has outstanding charges with another telecommunications corporation.

NewTelco, L.P.

A-1, Sheet 96: If NewTelco offers blocking of 900/976 calls to its customers, NewTelco must allow customers to remove the blocking. If NewTelco charges for removing the blocking, the charge must appear in NewTelco's tariffs.

A-1, Sheet 54-T, 63-T and 65-T: Rules 5 and 9 conflict because bill due dates are not consistent. NewTelco may specify either due date, but the date must be applied consistently to non-recurring and recurring usage charges.

Pacific Bell

Winstar Wireless of California, Inc.

No Tariff Title Page Incomplete Table of Contents

No Preliminary Statement

No Non-recurring charges for 1MB, PBX Trunks, Centrex Classic Feature Package

No Service Description or Terms and Conditions for 1MB PBX, Centrex and Frame Relay, ISDN, HICAP services, Custom 800, and local toll.

The tariff must state concurrence in Pacific switched access tariff.

Proposed tariff does not address rules? Pacific may state concurrence in its network and exchange tariff rules to the extent they do not conflict with the CLC rules established in Appendix B of D.95-07-054.

Winstar Wireless of California, Inc.

No. 1, Sheet 30-T: Local calling area needs to be specifically defined. Winstar cannot simply reference the exchange map shown on Sheet 7-T.

No. 1, Sheet 43-T: A-1, Sheet 96: If Winstar offers blocking of 900/976 calls to its customers, Winstar must allow customers to remove the blocking. If Winstar charges for removing the blocking, the charge must appear in Winstar's tariffs.

No. 1, Sheet 49-T, Section 7.1 Advance Payments: Advance payments may be for only one month's worth of recurring charges.

No. 1, Sheet 80-T, Rule 22.4 - Prohibited Uses: Winstar may not impose a disconnection fees when customers terminate service.

No. 1, Sheet 83-T, Rule 28 - Change in Service Provider: The rule does not correctly reflect Rule 11 in Appendix B of D.95-07-054. Winstar should rewrite this rule to mirror Rule 11.

(END OF APPENDIX F)