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SEP 24 1996  
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Decision 96-09-072 September 20, 1996

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA  
In the Matter of the Application of ~~for~~ Based  
FRONTIER LOCAL SERVICES, INC. for ~~for~~ **ORIGINAL**  
authority to provide facilities-based local exchange service, filed December 19, 1995  
Based Local Exchange Service, division of ~~for~~ Application No. 95-09-072  
and proceeds as set forth in the application for a competitive local exchange service.

**O P I N I O N**  
OPINION OF THE COMMISSION . III

**I. Introduction**

Frontier Local Services, Inc. (PLS, Applicant or Company), seeks authority under the Public Utilities (PU) Code to permit it to provide facilities-based local exchange telecommunications service as a competitive local carrier (CLC). By this decision, we grant authority requested subject to the terms and conditions set forth below.

**II. Background**

By Decision (D.) 95-07-054 (Rulemaking (R.) 95-04-043/Investigation (I.) 95-04-044), we established initial procedures for the filing for CPCN authority to offer competitive local exchange service within the service territories of Pacific Bell (Pacific) and GTE California Incorporated (GTEC). Prospective CLCs who filed petitions by September 1, 1995, for CPCN authority to enter the local exchange market and otherwise met eligibility requirements were authorized to offer local exchange service under the following schedule. Competitive local exchange service for facilities-based carriers was authorized effective January 1, 1996. Competitive resale of the bundled local exchange service of Pacific and GTEC was authorized effective March 31, 1996. Any filings for

competitive local exchange service for the bundled local exchange service of Pacific and GTEC were authorized effective April 1, 1996.

<sup>1</sup> A competitive local carrier is a common carrier that is issued a CPCN to provide local exchange telecommunications service for a geographic area specified by such carrier.

DECEMBER 19, 1995  
FCC - Docket No. A.95-050

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION OF THE  
UNITED STATES OF AMERICA, IN THE MATTER OF  
FRONTIER COMMUNICATIONS OF THE GREAT LAKES, INC.,  
APPLICANT, AND PLATINUM LOCAL SERVICES, INC.,  
A CPCN TO PROVIDE LOCAL EXCHANGE SERVICE,  
BOSTON, MASSACHUSETTS, APPLICANT'S REQUEST FOR  
CLC CPCN AUTHORITY MADE AFTER SEPTEMBER 1, 1995,  
WERE TO BE TREATED AS APPLICATIONS AND PROCESSED IN THE NORMAL COURSE OF THE  
COMMISSION'S BUSINESS. FLS'S REQUEST FOR AUTHORITY TO PROVIDE  
LOCAL EXCHANGE SERVICES AS MADE ON DECEMBER 19,  
1995. ACCORDINGLY, THE REQUEST WAS DOCKETED AS AN APPLICATION.

### III. Overview of Application

PLS, a Michigan corporation, is qualified to do business  
as a foreign corporation in the State of California. A copy of the  
Applicant's Articles of Incorporation under the laws of the State  
of Michigan and Statement in Designation by Foreign Corporation are  
provided with the application. FLS is an indirect subsidiary of  
Frontier Corporation (Frontier). Frontier, through its affiliates,  
including FLS, is the parent company of a number of local telephone  
company subsidiaries in thirteen states and long distance companies  
certified in all 48 contiguous states.<sup>2</sup>

In compliance with Rule 18(b), the names and addresses of  
the entities with which Applicant may compete with respect to these  
services are listed in Exhibit (Exh.) 7 to the application. A copy  
of the application and Notices of Availability were mailed to each  
likely competitor named.

2 By D.96-08-020, we approved Application (A.) 95-12-008 of

Frontier Communications of the Great Lakes, Inc., an affiliate of  
PLS, for authority to offer local exchange resale service.

1 A competitive local carrier is a common carrier that is  
a CPCN to provide local exchange transmission services for a  
discrete public area designated by such carrier.

PLS initially plans to offer the following three categories of facilities-based local exchange services: (a) local exchange access services; (b) local exchange usage services to customers of FLS's end user access services; and (c) switched carrier access services to other common carriers. As required by Rule 18(a), FLS describes these services as follows:

In addition, FLS initially intends to offer the following local exchange access services:

- a. basic dial tone lines;
- b. analog private branch exchange (PBX) trunks;
- c. analog direct inward dial (DID) trunks;
- d. digital PBX and DID trunks;
- e. Centrex-type system lines.

Each of these services will provide dial tone access to the public switched network.

In addition, FLS intends to offer the following local exchange usage services to customers of its local exchange access services, including:

- a. direct dial calling; services and features offered by telephone companies (i.e., toll free calling (i.e., local 800, 950, or comparable services);
- b. toll free calling (i.e., local 800, 950, or comparable services);
- c. operator assisted service; services offered by telephone companies (i.e., directory assistance service);
- d. emergency 911 service, at no charge to the 911 caller; and
- e. Video services.

PLS intends to offer switched carrier access services for the efficient transmission of traffic between users of FLS's local exchange access services and the networks of other entities, including:

- a. terminating access to enable other common carriers to terminate traffic via end user board-access services provided by FLS; and/or
- b. originating access to enable customers of FLS's local exchange access services to employ those services to access the intrastate, interstate, and international calling services of other interexchange providers.

Noncarriers on an Equal Access ("14 CFR 10.214  
xxx") basis.  
Rule (e) authorizes telephone board action to adopt or reject the Applicant's proposed to provide services at rates competitive with those existing carriers. Applicant must submit proposed tariffs which conform to other consumer protection rules set forth in Appendix B of D:95-07-0542. Applicant's proposed tariff, or pursuant to Rule 18(h), containing its proposed rates and terms and conditions of service, is attached as Exh. 5 of the application.

On June 13, 1996, the Commission Advisory and Compliance Division (CACD) submitted a list of deficiencies in FLS's tariff filing. On July 15, 1996, FLS provided an amendment correcting most of the tariff deficiencies. FLS states that the draft tariff for FLS has been revised to be consistent with the form of the draft tariff submitted by its affiliate, Frontier Communications of the Great Lakes, Inc. (A.95-12-060), except for the inclusion of provisions for switched access and interconnection arrangements with other carriers. FLS asserts that all revisions directed by CACD with respect to either initial draft tariff have been included in this revised draft tariff. In addition, applicant has added language and made revisions in accordance with prior directives from CACD to other applicants for CLC authority.

We conclude that applicant's tariffs as amended on July 15, 1996 properly conform to Commission rules, except for certain remaining deficiencies set forth in Attachment B. Applicant's compliance tariff must include a satisfactory correction of each remaining deficiency in order to be approved.

We have reviewed the applicant's CPCN filing and conclude that it qualifies as a facilities-based CLC and meets the financial requirements set forth in our adopted rules for facilities-based CLCs. A facilities-based CLC must demonstrate that it has a minimum of \$100,000 of cash or cash equivalent, reasonably liquid and readily available to meet the firm's start-up expenses as prescribed in Rule 47B(1) of D:95-07-0542. CLCs must also conform

to the following financial requirement adopted in D:95-12-056, customer deposits collected by a CLC must be deposited in a safe, protected, segregated interest-bearing escrow account subject to the Commission's oversight.

Pursuant to Rule 18(g), we conlclude that FLS is financially qualified to render the proposed services. The funding required for the construction and operation of FLS's new telecommunications network in California will be provided by its parent company, Frontier. FLS, accordingly, has the financial resources to provide the services described in its application. Attached as Exh. 2 to the application is the most recent annual report of applicant's indirect parent company, Frontier, upon whom applicant will be reliant for financing, and the most recent Form 10-Q for the quarter ended June 30, 1995. Also attached at the end of Exh. 2 is a guarantee in the amount of \$100,000 issued by Frontier, FLS's indirect parent, as required by Interim Rule (B)(3) of FLS states that it is not currently aware of any deposits that will be required by LECs or interexchange carriers, but states that it has additional resources to cover any such deposits, if necessary.

PLS seeks to offer facilities-based local exchange service within the areas defined by the existing areas in which Pacific Bell and GTEC already are authorized to operate. The boundaries of these exchange areas already are established by maps filed with the Commission by Pacific Bell and GTEC in their local exchange tariffs, and PLS intends initially to adopt those existing exchange boundaries in its tariff for purposes of its local access or exchange resale services. Pursuant to Rule 18(a), PLS, however, has attached a map of its proposed service area as Exh. 16 of the original application. Rule 18(d) of the original application provides that PLS intends to provide facilities-based service by utilizing its own facilities, and by leasing facilities from third parties. PLS acknowledges its obligation pursuant to Interim Rule 4(F)(2) to provide service on a nondiscriminatory basis to all bona fide

customers within 300 feet of the facilities depicted in Exh. 101 of FLS intends to initially provide facilities-based local exchange service in the vicinity of these facilities. To the extent that unbundled loops become available on an economically viable basis, FLS expects to be able to provide facilities-based local exchange service over a broader area than will remain after unbundling.

In addition, an applicant is required under Rule 18(g) to make a reasonable showing of technical expertise in the field of telecommunications or a related business. FLS's management and personnel possess extensive experience in the telecommunications industry, and the company has the technical ability to provide the proposed services. As previously mentioned, applicant is a 100% owner owned indirect subsidiary of Frontier. Frontier currently has four similar local exchange networks in 13 states in which it provides through local exchange carrier subsidiaries local services. A summary of the experience of applicant's management personnel is attached hereto as Exh. v36. Attached hereto as Exh. v4 is a list of the officers and directors of FLS. Thus, based upon this showing, we conclude applicant has the technical expertise and other requisite qualifications to conduct its business. Rule of Practice 219.

Having no access problems with regard to the delivery of service within the state of California.

**IV. California Environmental Quality Act (CEQA) Review**

We have reviewed FLS's application for compliance with CEQA. CEQA requires the Commission, as the designated lead agency, 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 the Proponent's Environmental Assessment (PEA). The PEA is used by the

not necessary and for the environmental impact analysis 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).

We previously performed a CEQA review for the initial group of 40 facilities-based CLCs which were certified pursuant to D.95-12-057. We consolidated these 40 CLC petitioners into a single comprehensive CEQA review. Based on its assessment of those 40 facilities-based petitioners' filed PEAs, CACD prepared a draft Negative Declaration and Initial Study generally describing the facilities-based petitioners' project and their potential environmental effects. The Negative Declaration prepared by CACD was considered a mitigated Negative Declaration. This means that although the initial study identified potentially significant impacts, revisions which mitigate the impacts to a less than significant level were agreed to by the petitioners. (Pub. Res. Code § 21080(c)(2).)

Based upon our Initial Study and the public comments received, we determined that with the inclusion of mitigation measures incorporated in the projects, the proposed projects would not have potentially significant environmental effects. Accordingly, we approved the Negative Declaration as prepared by CACD, including CACD's proposed Mitigation Monitoring Plan in D.95-12-057.

Pursuant to Rule 17.14 and Initial Rule 4.C(2), PLS provided a PEA as Exh. 10 to its application, describing its proposed measures to mitigate environmental impacts of its proposed facilities. PLS declares its intent to adopt the environmental mitigation measures set forth in the October 12, 1995, memorandum from the Commission's Environmental and Energy Advisory Branch which formed the basis for the Final Mitigated Negative Declaration approved in D.95-12-057. PLS requests that the Commission issue a

Final Negative Declaration which will include the following: Mitigation Measures will be followed and implemented. The following Negative Declaration, including CACD's proposed mitigation measures to be set forth

proposed Mitigated Negative Declaration for its application for public review.

In order to provide switched local exchange services, FLS plans to install a digital switch configured as both a tandem and end office switch. The switch will be connected to end users, end offices and tandems, and interexchange carrier networks via facilities provided by FLS. FLS's switching and network systems will feature advanced common channel signaling (sometimes referred to as "CCS" or "SS7") and database capabilities. It will establish facilities to enable CCS signaling between its affiliates and other carriers. It will also set up a Network Operations Control Center (NOCC) to monitor the operations of the switch, all peripherals, and all network facilities on a continuous basis.

In order to assure compliance with CEQA for facilities not based CLC applications which were not included in the Negative Declaration adopted in D.95-12-057, we initiated a second CEQA review on a consolidated basis for those CLCs. FLS was included among those CLCs covered by our second consolidated CEQA review.

Following a procedure similar to that used for the Negative Declaration approved in D.95-12-057, CACD prepared and circulated a draft Negative Declaration and Initial Study based upon an assessment of the PEAs of FLS and other CLC applicants. Public comments were received by August 30, 1996.

All public comments were reviewed and answered. CACD then finalized the Negative Declaration covering eight facilities-based applications, including this applicant. Comments and responses are attached as Appendix C to the Final Negative Declaration (see Attachment C of this decision) of a manner described below.

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 (Appendix C to the Final Negative Declaration) which will ensure that the listed Mitigation Measures 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 Attachment C of this decision.

of local facilities otherwise than by telephone or cable television. In accordance with the Commission's rules for competitive local exchange certification, we conclude that it conforms to the adopted Commission rules for competitive local exchange certification subject to compliance to the terms and conditions set forth herein, and approve it on this basis.

Findings of Fact After review of a most thorough need and extensive record, 1. (d) Applicant filed its application on December 19, 1995, for authority to provide facilities-based local exchange telecommunications services, no later than the carrier AQBQ .81

2. Applicant served a Notice of Availability in lieu of its application on parties of record in ID 95-04-043/1795-04-044, M indicating that copies of the application would be served at the request of any party receiving the notice. This is in accordance with Commission Rule 5(d). A hearing is not required under 47 CFR 1.41(b)(2).

3. A notice of the filing of the application appeared in the Daily Calendar on December 21, 1995, and it was noted on January 4, 1996. No protests have been filed by either the telephone company or the public utility commission. A hearing is not required under 47 CFR 1.41(b)(2).

4. By prior Commission decisions, we authorized competition in providing local exchange telecommunications services within the service territories of Pacific and GTEC.

5. By ID 95-02-054, ID 95-12-056, ID 96-02-072, and D.96-03-020, we authorized facilities-based CLC services effective January 1, 1996, and CLC resale services effective March 31, 1996, for carriers meeting specified criteria.

6. Applicant has demonstrated that it has a minimum of \$100,000 of cash or cash equivalent reasonably liquid and readily available to meet its start-up expenses. This amount is sufficient to meet the requirements of Commission Rule 5(d).

7. Applicant's technical experience is demonstrated by the descriptions of the background qualifications of FLSI and Frontier officers and directors as contained in Exhibit 3.

8. Applicant has submitted with its application a complete draft of applicant's initial tariff together with supplemental

corrections, which complies with the requirements established by the Commission, except for the deficiencies noted in Attachment B.

11. An Exemption from the provisions of PU Code §§ 816-830 has been granted to other nondominant carriers. (See, e.g., Dkt. No. D.86-10-007 (and D.88-12-076).) This will not inhibit the proposed FLS.

12. The transfer or encumbrance of property of nondominant carriers has been exempted from the requirements of PU Code § 851 if whenever such transfer or encumbrance serves to secure debt. (See D.85-11-044.)

13. CEA requires the Commission to assess the potential effects environmental impact of its project. This is being done. (See, e.g., A.95-12-050)

14. The Commission staff has conducted an initial study of the environmental impact of certain facilities based on CLC applications filed after September 11, 1995, including the FLS application, and prepared a Mitigated Negative Declaration.

15. Commission staff has concluded that with the inclusion of incorporation of all mitigation measures discussed in the Mitigated Negative Declaration (see Attachment C), certification of the CLCs covered therein, including FLS, will result in no significant adverse impact on the environment. (See, e.g., Dkt. No. D.85-11-044.)

Conclusions of Law (See, e.g., Dkt. No. D.85-11-044.)

1. Applicant has the financial ability to provide the proposed services. (See, e.g., Dkt. No. D.85-11-044.)

2. Applicant has made a reasonable showing of technical and expertise in telecommunications. (See, e.g., Dkt. No. D.85-11-044.)

3. Public convenience and necessity requires the competitive local exchange services to be offered by applicant, subject to the terms and conditions set forth below. (See, e.g., Dkt. No. D.85-11-044.)

4. Applicant is subject to the current GRTC surcharge applicable to intrastate services, except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund Universal Lifeline Telephone Service Fund (PU Code § 879, effective to file of Resolution T-15799, November 21, 1995);

- b. The current 0.36% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, 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 0.11% of gross intrastate revenue for the 1996-1997 fiscal year (Resolution M-4782); and
- d. The current 0.27% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California High Cost Fund (PU Code §§ 739-730; Resolution T-15826, December 20, 1995).
- Applicant should be exempted from PU Code §§ 816-830.
- Applicant should be exempted from PU Code § 851 when these transfers or encumbrances serve to secure debt.
- The application should be granted to the extent set forth in the order below:
1. Any CLO which does not comply with our rules for allocation to exchange competition adopted in R.95-04-043 shall be subject to sanctions, including, but not limited to, revocation of its CLO and certificate.
  2. OFLS is required to carry out any specific mitigation measures outlined in the Negative Declaration applicable to its facilities to begin compliance with CEQA section 15126.
  3. With the incorporation of the specific mitigation measures outlined in the Negative Declaration, OFLS proposed project will not have potentially significant environmental impacts.

for NIDIGC, except those for  
interconnection:

(1) Uniflow rate requirements for  
existing facilities under section 15126  
becomes effective on five (5)  
working days, subject to the  
Commission's discretion.

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

IT IS ORDERED (that) at half-past one o'clock this day of

1. A certificate of public convenience and necessity is granted to Frontier Local Services - (applicant) to operate as a facilities-based competitive local carrier, subject to the terms and conditions set forth below, effective subsection 116

2. Applicant shall file a written acceptance of the certificate granted in this proceeding.

3. a. Applicant is authorized to file with this Commission tariff schedules for the provision of competitive local exchange services. Applicant may not offer competitive local exchange services until tariffs are on file. Applicant's initial filing shall be made in accordance with General Order (GO) 496-A, excluding Sections IV, V, and VI, and must include a satisfactory correction of each deficiency listed in Attachment B in this decision. The tariff shall be effective not less than 10 days after tariff approval by Commission Telecommunications Division. Applicant shall comply with the provisions in its tariffs.

not by its Applicant as a competitive local carrier (CLC). The effectiveness of its future tariffs is subject to the schedules set forth in Appendix A, Section 41B of Decision (D) 195-07-054, if filed

not in Bidding shall be subject to the following: .01  
tariff and contract filing, revision  
and service pricing standards  
.02 (Contracts shall be subject to GO-96-Aver. 01 if  
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

an increase in tariff(s) is not required for rates to reflect decreases. It will be no later than the effective date.

(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 insertion of a message on the bill itself, or first class mail notice to each of its customers at least 30 days in advance of the pending rate increase. Notice of such increase will be provided prior to the effective date.

(3) Uniform minor rate increases, as defined in GO 95-07-054, shall become effective on not less than five (5) working days' notice to the Commission if customer notification under paragraph (1) above is not required for such minor rate increases.

(4) Advice letter filings for new services and for all other types of tariff revisions, except those that affect 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 Office of Telecommunications Regulation.

4. An applicant may deviate from the following provisions of GO 95-A:

- (a) paragraph II.C.(1)(b), which requires consecutive page sheet numbering and prohibits the reuse 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's Telecommunications Division. Tariff filings shall

reflect all fees and surcharges to which applicant is subject, as reflected in Conclusion of Law 4.

5. Applicant shall file as part of its initial tariff, after the effective date of this order and consistent with Ordering Paragraph 3, a service area map or written description of its facilities. Such written descriptions or maps must be adequate for staff to determine that the CLC is providing service to interested customers located within 300 feet of the CLC's facilities.

6. Prior to initiating service, applicant shall provide the Commission's Consumer Services Division with the applicant's designated contact person(s) for purposes of resolving consumer complaints and the corresponding telephone number. This information shall be updated if the name or telephone number changes or at least annually.

7. Applicant shall notify this Commission in writing of the date local exchange service is first rendered to the public within 5 days after local exchange service begins.

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

9. Applicant shall file an annual report, in compliance with GO 104-A, on a calendar-year basis using the information request form contained in Attachment A.

10. Applicant shall ensure that its employees comply with the provisions of Public Utilities (PU) Code § 2889.5 regarding solicitation of customers.

11. The certificate 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.

12. The corporate identification number assigned to applicant is U-5685, which shall be included in the caption of all original Commission communications.

filings with this Commission, and in the titles of other pleadings filed in existing cases.

13. Within 60 days of the effective date of this order, applicant shall comply with PU Codes 708, Employee Identification Cards, and notify the Director of the Telecommunications Division in writing of its compliance.

14. Applicant is exempted from the provisions of PU Code §§ 816-830.

15. Applicant is exempted from PU Code § 851 for the transfer or encumbrance of property whenever such transfer or encumbrance serves to secure debt.

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

17. Applicant shall comply with the customer notification and education rules adopted in D.96-04-049 regarding passage of calling party number.

18. The Final Negative Declaration including the Mitigation Monitoring Plan prepared by CACD (see Attachment C) is hereby approved and adopted.

19. The applicant shall comply with the conditions and carry out the mitigation measures outlined in the Negative Declaration.

20. The applicant shall provide the Director of the Commission Telecommunications Division with reports on compliance with the conditions and implementation of mitigation measures under the schedule as outlined in the Negative Declaration.

21. The application is granted as set forth above in paragraph 22.
22. Application 95-12-050 is closed. This order is effective today.
- Dated September 20, 1996, at San Francisco, California.
- Carey, the Director of the Telecommunications Division, in writing to the Commission.
- R. GREGORY CONLON  
President
- DANIEL Wm. FESSLER  
JESSIE J. KNIGHT, JR.  
HENRY M. DUQUE  
JOSIAH L. NERPER  
Commissioners
- If it is believed that the copy of the order is not timely or inaccurate, a report to the Commission may be filed by the Telecommunications Division shall be made to the Commission to correct the record.
- Consideration is requested that copies of the application be filed with the Telecommunications Division of the Commission and necessary information relating to the application be furnished to the Telecommunications Division.
- To file on behalf of the applicant, unless otherwise directed based on the application number.
17. The Final Mandate Decision (see Attachment C) is hereby transmitted by the Commission to the appropriate authority.
18. The application shall comply with the conditions and carry out the requirements of the Mandate Decision by the Commission (see Attachment C).
19. The application shall comply with the conditions and carry out the requirements of the Mandate Decision.
20. The application shall provide the Director of the Commission Telecommunications Division with a report on compliance with the conditions and requirements of the Mandate Decision under which the application was filed.
- The signature as outlined in the Mandate Decision.

**A. ATTACHMENT  
B6D-8  
ATTACHMENT A  
Page 1**

**INFORMATION REQUESTED OF COMPETITIVE LOCAL CARRIERS**

**FOR INFORMATION REQUESTED OF COMPETITIVE LOCAL CARRIERS** it is requested on March 31st of each year by the California Public Utilities Commission to all competitive local carriers doing business in California.

**TO: ALL COMPETITIVE LOCAL CARRIERS** 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 Competitive Local Carriers in California. However, you are hereby directed to submit an original and two copies of the information requested in Attachment A no later than March 31st of the year following the calendar year for which the annual report is to be submitted.

**Address your report to:** California Public Utilities Commission, Auditing and Compliance Branch, Room 3251, Room 11, 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.

Information requested includes:

a. A list of all telephone companies doing business in California.

b. Regulatory authority.

c. Public utility paid corporation.

d. Basic service rates as of December 31st of the year for which information is supplied.

e. Income statement for California operations for the calendar year for which information is supplied.

(END OF ATTACHMENT A)

**ATTACHMENT A**

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**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. DRAFTED BY JAMES CARPENTER, JR., OF

1. **Exact legal name and utility.** To a California public utility commission  
of address of principal place of business in California  
and type of corporation or organization.
  3. Name, title, address, and telephone number of the  
person to be contacted concerning the reported information  
and information well known.
  4. Name and title of the officer having custody of the  
general books of accounts 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 ATTACHMENT A)

**ATTACHMENT B**

**List of Deficiencies in Tariffs Filed by  
Frontier Local Services, Inc. in A.95-12-050  
to be corrected in Tariff Compliance Filing**

1. 1-T, Sheet 6: Preliminary statement is unclear. You must specify your intent to offer service in Pacific Bell and GTEC's service areas. You do not have the authority to service the entire State of California.
2. 1-T, Sheet 7: Service area map must be provided and must include only Pacific Bell and GTEC exchanges.
3. 1-T, Sheet 54, (B): Modify this rule to state: "The nonprevailing party may be liable for reasonable court costs and attorney fees as determined by the CPUC or by the court."
4. 1-T, Sheet 56: Rule 12, mentions availability of tariffs for inspection in the Company's business office, however you have not provided an office address in California. In compliance with PU Code Sections 489(a) and 791, the company's tariffs should be kept in an office in California; therefore, state the complete address of your California office in the tariffs.

**(END OF ATTACHMENT B)**

PUBLIC UTILITIES COMMISSION

505 MARKET AVENUE  
SAN FRANCISCO, CA 94102-3298

**NEGATIVE DECLARATION**

For filing with the California Public Utilities Commission  
**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 received 66 petitions from companies to provide competitive local telephone service throughout areas presently served by Pacific Bell and GTE California.

The 66 petitioners included 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 were for approval of facilities-based services, which means that the petitioners proposed to use their own facilities in providing local telephone service. The remaining 26 petitions were 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 indicated that physical modifications to existing facilities may be required, and construction of new facilities was a possibility in the long-term. The 26 resale-based petitions were strictly financial and billing arrangements that involved no construction and were therefore considered to be exempt from the California Environmental Quality Act (CEQA) (Public Resources Code Sections 21000 et seq.).

The Commission issued a draft Negative Declaration for the 40 facilities-based petitioners in October 1995. Comments on the draft Negative Declaration covered issues such as traffic congestion, public safety, cumulative impacts, aesthetic impacts, and physical wear on streets. These comments were addressed and the Negative Declaration was modified to some extent in response to the comments. In December 1995, Commission Decision 95-12-057 adopted a final mitigated Negative Declaration finding that the proposed projects of the 40 facilities-based petitioners would not have potentially significant environmental effects if proper mitigation measures were incorporated by the projects.

1 Wireless companies covered in the Negative Declarations adopted by the Commission for entry in the local telephone market are also subject to Commission General Order (G.O. 159A). G.O. 159A delegates to local governments the authority to issue discretionary permits for the approval of proposed sites for wireless facilities. Commission adoption of the Negative Declarations is not intended to supersede or invalidate the requirements contained in General Order 159A.

Following the adoption of D.95-12-057, the Commission received eight additional petitions for facilities-based services. The eight petitioners include cable television companies, resale-based providers approved by D.95-12-057, and other telecommunication companies. (See Appendix B for a list of the eight additional facilities-based petitioners.)

Similar to the earlier petitioners, the eight additional petitioners are initially targeting local telephone service for areas where their telecommunication infrastructures are already established, and therefore only minor construction is envisioned. The petitioners will need to make some off modifications to their existing facilities; 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 initially 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 the 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 only involves a single installation within an existing central communication facility or building.

Besides the minor modifications, some of companies are planning to install their own fiber optic cables to provide adequate service. Cables will be installed within existing utility underground or 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 remote

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.

Some 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 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.

The eight petitioners state their intention or right 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. Six petitioners appear to limit their initial targeted territories to specific areas such as the counties of Los Angeles, San Francisco, Orange, Ventura, Contra Costa, Alameda, Marin, San Mateo, Santa Clara, and San Luis Obispo and the cities of Los Angeles, Anaheim, Malibu and San Diego.

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.

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).

The Commission issued a draft Negative Declaration for public comment on August 13, 1996. The comment period expired on August 30, 1996. The document was sent directly to the planning agencies of the cities and counties in the state. In addition, the draft document was also sent to over 35 libraries for public accessibility, and notice of its availability for review at these locations was advertised in 55 newspapers throughout the state for two consecutive weeks. A total of 11 letters on the draft document was filed. The Commission's responses to the comments in the letters are in Appendix D of this document.

## **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 D 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, state and federal water resource agencies for projects that are in close proximity to water resources, underground or surface. The petitioners shall comply with all applicable local, state and federal 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. Impacts from trenching activity may occur in utility rights-of-way.

that contain other Public Services such as irrigation water lines.

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. For example, review of a planning agency's Capital Improvement Plan (CIP) to identify impacted street projects would be an expected part of the coordination effort by the petitioner.

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. Petitioners shall consult with local agencies on appropriate restoration of public service facilities that are damaged by the construction and shall be responsible for such restoration.

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 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

2 The petitioners discussed in this Negative Declaration shall coordinate with all CLCs including those listed in the first Negative Declaration adopted by the Commission (D.95-12-057) and all CLCs in future Negative Declarations. CLCs covered in the first Negative Declaration shall likewise be expected to coordinate with those CLCs listed in this Negative Declaration or any subsequent one adopted by the Commission.

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, notices of construction to contain bus routes, schools, daycares, parks, playgrounds, residential areas, and other facilities.

19. 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. Aesthetic impacts may also occur in utility rights-of-way that are landscaped. Moreover, there is potential for an increase in above-grade utility service boxes or cabinets which also carry aesthetic impacts.

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

The petitioners shall conduct appropriate data research for known cultural resources in the proposed project area, and avoid such resources in designing and constructing the project. 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 similar 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 Commission's Telecommunications Division. The Commission 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, state and federal water resource agencies for projects that are in close proximity to water resources, underground or surface. The petitioners shall comply with all applicable local, state and federal 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 (i) 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. For example, review of a planning agency's Capital Improvement Plan (CIP) to identify impacted street projects would be an *expected part of the coordination effort by the petitioner.* 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. Petitioners shall consult with local agencies on appropriate restoration of public service facilities that are damaged by the construction and shall be responsible for such restoration. 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 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.

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<sup>3</sup> See Footnote #2.

**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 by the petitioner. For example, this may include restoration of the landscaped utility rights-of-way. Petitioner's compliance with this Mitigation Measure shall be included in its quarterly report.

**J) Cultural Resources:** The petitioners shall conduct appropriate data research for known cultural resources in the proposed project area, and avoid such resources in designing and constructing the project. 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 written 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:** None of these measures are sufficient to eliminate the potential negative impact of the petitioners' construction on the environment or the public welfare of the state.

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 services. Therefore, the petitioners' required compliance with local permit requirements is subject to this limitation.

With the implementation of the mitigation measures listed in A) - J) 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 is included with this Negative Declaration as Appendix C.

*Douglas Long, Manager, Environmental and Energy Advisory Branch*  
*9/16/96*

Date

**INITIAL STUDY CHECKLIST**

**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

Population and Housing

Geological Problems

Water

Air Quality

Transportation/Circulation

Public Services

Biological Resources

Energy and Mineral Resources

Hazards

Noise

Mandatory Findings of Significance

Utilities and Service Systems

Aesthetics

Cultural Resources

Recreation

Note: For construction outside of the utility right-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 if it is "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.)

<input checked="" type="checkbox"/> General Response	<input type="checkbox"/> History and Medical Records	<input type="checkbox"/> Biological Specimens	<input type="checkbox"/> Population Sampling
<input type="checkbox"/> References	<input type="checkbox"/> Health	<input type="checkbox"/> Aspirates	<input type="checkbox"/> Water
<input type="checkbox"/> Signature	<input type="checkbox"/> Notes	<input type="checkbox"/> Signatures	<input type="checkbox"/> Air Quality
<u>R. M. Johnson</u>		<u>9/16/96</u>	Date of signature

**Douglas Long** Environmental and Energy Advisory Branch  
Printed Name

(1) **A NEGOTIATION WILL BE LAUNCHED** ON THE ENVIRONMENTAL IMPACT REPORTS TO DETERMINE WHETHER THEY ARE APPROPRIATE FOR THE PROJECT. THIS WILL INVOLVE A DIALOGUE BETWEEN THE PROJECT TEAM AND THE COMMUNITY. THE GOAL IS TO IDENTIFY ANY DEFICIENCIES IN THE REPORTS AND TO WORK OUT A PLAN FOR IMPROVEMENT.

(2) **A NEGOTIATION WILL BE LAUNCHED** ON THE ENVIRONMENTAL IMPACT REPORTS TO DETERMINE WHETHER THEY ARE APPROPRIATE FOR THE PROJECT. THIS WILL INVOLVE A DIALOGUE BETWEEN THE PROJECT TEAM AND THE COMMUNITY. THE GOAL IS TO IDENTIFY ANY DEFICIENCIES IN THE REPORTS AND TO WORK OUT A PLAN FOR IMPROVEMENT.

(3) **A NEGOTIATION WILL BE LAUNCHED** ON THE ENVIRONMENTAL IMPACT REPORTS TO DETERMINE WHETHER THEY ARE APPROPRIATE FOR THE PROJECT. THIS WILL INVOLVE A DIALOGUE BETWEEN THE PROJECT TEAM AND THE COMMUNITY. THE GOAL IS TO IDENTIFY ANY DEFICIENCIES IN THE REPORTS AND TO WORK OUT A PLAN FOR IMPROVEMENT.

Potentially Significant impacts will be analyzed in the Environmental Impact Statement unless they are determined to be of Slight or Minimal significance.

Potentially Significant Unless Less Than Significant  
Mitigation Incorporated Impact Impact

### I. LAND USE AND PLANNING. Would the proposal:

- a) Conflict with general plan designation or zoning?
- b) Conflict with applicable environmental plans or policies adopted by agencies with jurisdiction over the project?
- c) Be incompatible with existing land use in the vicinity?
- d) Affect agricultural resources or operations (e.g. impacts to soils or farmlands, or impacts from incompatible land uses)?
- e) Disrupt or divide the physical arrangement of an established community (including a low-income or minority community)?

The proposed projects are not anticipated to have any significant impacts on general of 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?
- b) Induce substantial growth in an area either directly or indirectly (e.g. through projects in an undeveloped area or extension of major infrastructure)?
- c) Displace existing housing, especially affordable housing?

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.

1) equal 2) equal 3) less equal 4) equal

#### II. LAND USE AND PLANNING

##### Significant

(1)	(1)	(1)	(1)	Potentially Significant	Unless Less Than	(6)
Impact	Incorporated	Mitigation	Significant	Impact	Impact	

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

- a) Fault rupture? (1) (1) (1) (1)
- b) Seismic ground shaking? (1) (1) (1) (1)
- c) Seismic ground failure, including liquefaction? (1) (1) (1) (1)
- d) Seiche, tsunami, or volcanic hazard? (1) (1) (1) (1)
- e) Landslides or mudflows? (1) (1) (1) (1)
- f) Erosion, changes in topography or unstable soil conditions from excavation, grading, or fill? (1) (1) (1) (1)
- g) Subsidence of land? (1) (1) (1) (1)
- h) Expansive soils? (1) (1) (1) (1)
- i) Unique geologic or physical features? (1) (1) (1) (1)

- Not equal  Potentially Significant  Mitigation  No Impact

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? (1) (1) (1) (1)

- Not equal  Potentially Significant  Mitigation  No Impact

This proposed project will not impact upon local water resources. The impact to non-local water resources is minimal due to the low volume of water used by the project. Since competition will be limited to local service providers, no significant impact will occur.

	Not Significant	Potentially Significant	Potentially Significant	Potentially Significant	Less Than Significant	No Impact
	Impact	Impact	Impact	Impact	Incorporated	Impact
b)	(1) (2) (3) (4)	(1)	(1)	(1)	(1)	(1)
b)	Exposure of people or property to water related hazards such as flooding?			<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	(1) (2) (3) (4)	(1)	(1)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c)	Discharge into surface waters or other alteration of surface water quality (e.g. temperature, dissolved oxygen or turbidity)?					
d)	(1) (2) (3) (4)	(1)	(1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d)	Changes in the amount of surface water in any body of water?					
e)	(1) (2) (3) (4)	(1)	(1)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e)	Changes in currents, or the course or direction of water movements?					
f)	(1) (2) (3) (4)	(1)	(1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f)	Change in the quantity of ground waters, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations or through substantial loss of groundwater recharge capability?					
g)	(1) (2) (3) (4)	(1)	(1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g)	Altered direction or rate of flow of groundwater?					
h)	(1) (2) (3) (4)	(1)	(1)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h)	Impacts to groundwater quality?					
i)	(1) (2) (3) (4)	(1)	(1)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i)	Substantial reduction in the amount of groundwater otherwise available for public water supplies?					

The projects will involve alterations to existing telecommunication facilities (underground conduits or overhead poles) but could expose additional risks if more than one petitioner decide to compete in the same locality. Efforts to install cables, or if necessary, new conduits, in utility rights-of-way that are in close proximity to an existing underground or surface water sources could carry significant effects for quality, flow, quantity, direction or drainage if done improperly and without coordination. See Mitigation Measures (B) and (D) in the Negative Declaration for details.

V. AIR QUALITY Would the proposal:

- a) Violate any air quality standard or contribute to an existing or projected air quality violation?  Yes  No  Uncertain  Not Applicable

	Not Significant	Potentially Significant	Potentially Significant Unless Incorporation	Less Than Significant Impact	No Impact
b) Expose sensitive receptors to pollutants?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Alter air movement, moisture, or temperature, or cause any change in climate?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Create objectionable odors?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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. As a result, increases in traffic congestion, insufficient parking, and hazards to pedestrians are possible.

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

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

## VII. BIOLOGICAL RESOURCES.

Would the proposal result in impacts to:

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

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? (U) (L) (S) (D) (S) (U) (L) (D) (S) (U) (L) (D) (S) (U) (L) (D)
- b) Use non-renewable resources in a wasteful and inefficient manner? (S) (U) (L) (D) (S) (U) (L) (D) (S) (U) (L) (D)
- 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? (S) (U) (L) (D) (S) (U) (L) (D) (S) (U) (L) (D) (S) (U) (L) (D)

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.

	Will the proposal result in Potentially Significant Impact?	Potentially Significant Impact	Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
b) Possible interference with an emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
c) The creation of any health hazard or potential health hazard?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
d) Exposure of people to existing sources of potential health hazards?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
e) Increased fire hazard in areas with flammable brush, grass, or trees?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

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 this 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?        | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| b) Exposure of people to severe noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |

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 refilling. 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.

Potentially Significant effects will be determined by the following ratio of impacts:  
 1. Household mitigation, 2. General mitigation, 3. Significant mitigation.

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

Planning  
Assessing

**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) Police protection?
- c) Schools?
- d) Maintenance of public facilities, including roads?
- e) Other government services?

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. Trenching projects may also impact other existing public service facilities (e.g. irrigation lines) in the utility rights-of-way. 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?
- b) Communication systems?
- c) Local or regional water treatment or distribution facilities?
- d) Sewer or septic tanks?
- e) Storm water drainage?
- f) Solid waste disposal?
- g) Local or regional water supplies?

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

**XIII. CULTURAL RESOURCES.** Would the project affect:

Historical features?

Archaeological features?

Significant species or habitat?

Water bodies?

Rare or sensitive habitats?

Species at risk?

Other significant features?

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.

ion.	Perceived	Actual	Mitigation	Impact	Potentially Significant	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
W	Surging	Surging	Surging	Surging	Potentially Significant	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact

### XIII. AESTHETICS. Would the proposal:

- a) Affect a scenic vista or scenic highway? ( )

b) Have a demonstrated negative aesthetic effect? ( )

c) Create light or glaze? ( )

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. However, landscaped utility rights-of-way may be impacted by trenching activities.<sup>1</sup> Additional lines on the poles may be a concern, but the proposed cables are not easily discernible 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.

**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 known or unanticipated cultural resources are encountered during such work, then the Mitigation Measures (B) and (J) should be followed. See Negative 2003 Declaration for details.

# PROJECT ENVIRONMENTAL STATEMENT

## MIGRATION OF EXISTING LOCAL SERVICES

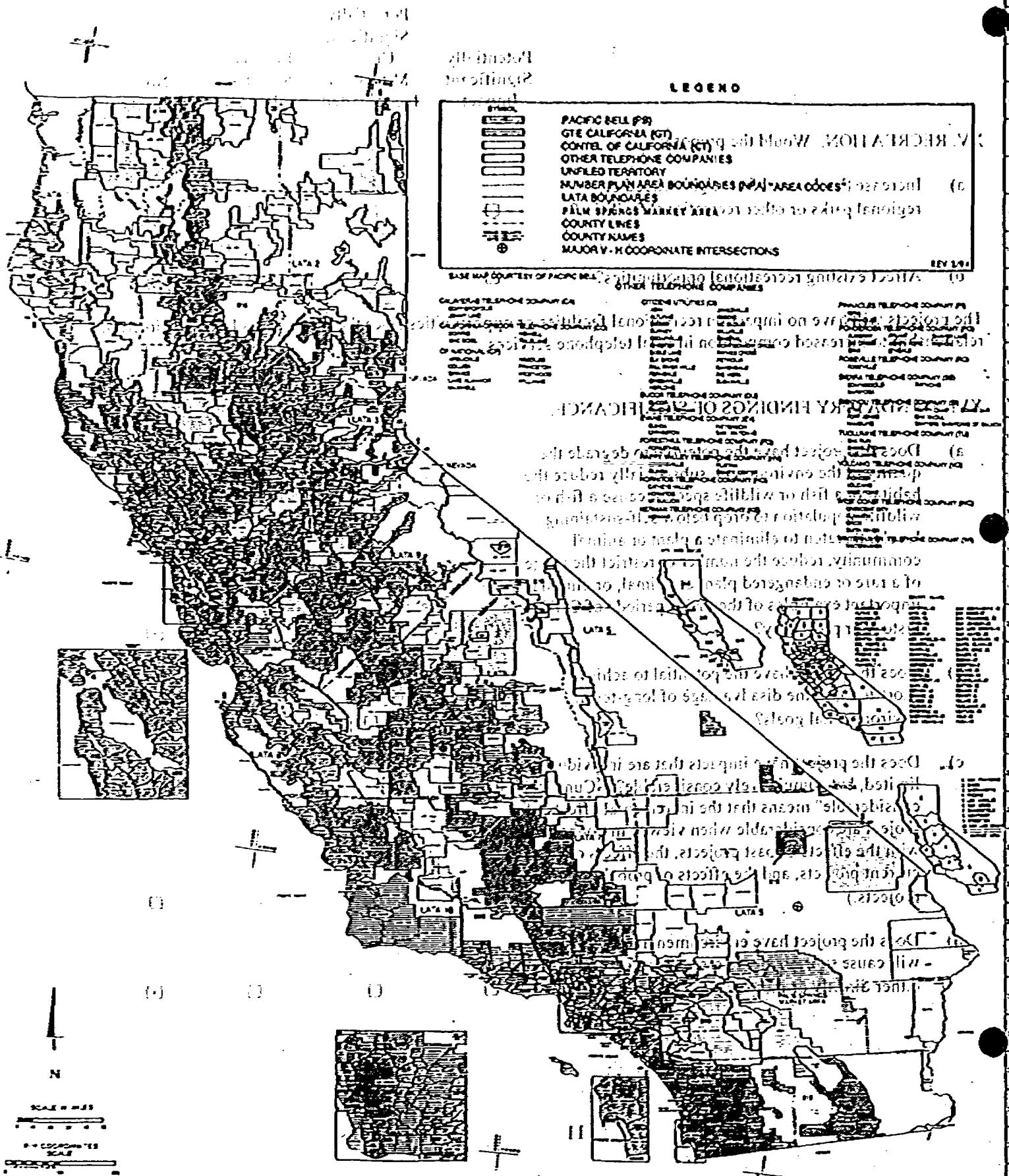
	Potentially Significant Impact	Potentially Significant Impact Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Increase the demand for neighborhood or regional parks or other recreational facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Affect existing recreational opportunities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>The projects will have no impact on recreational facilities or opportunities since these resources have no direct relationship to increased competition in local telephone services.</p>				
<b>XVI. MANDATORY FINDINGS OF SIGNIFICANCE.</b>				
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project have the potential to achieve short-term, to the disadvantage of long-term, environmental goals?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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.)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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 checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

# **APPENDIX A**

# **TELEPHONE EXCHANGE AREAS**

## **CALIFORNIA PUBLIC UTILITIES COMMISSION**

## **Appendix A**



**Appendix B**  
**Appendix C**  
**Project Sponsors and Addresses**

- Willingness Monitoring Plan**
1. **Bittel Telecommunications** 101 California St., Suite 2550, San Francisco, CA 94111
  2. **Cox California Telecom, Inc.** 5159 Federal Blvd., San Diego, CA 92105
  3. **Falcon Holding Group, L.P.** 10900 Wilshire Blvd., 15th Floor, Los Angeles, CA 90024
  4. **Frontier Local Services, Inc.** 180 S. Clinton Ave., Rochester, NY 14646
  5. **SpectraNet Anaheim** 6650 Lusk Blvd., Suite B100, San Diego, CA 92121
  6. **TCI Telephony Services of California, Inc.** 5619 DTC Parkway, 8th Floor, Englewood, CO 80111-3000
  7. **The Telephone Connection of Los Angeles, Inc.** 9911 W. Pico Blvd., Suite 6890, Los Angeles, CA 90035
  8. **Time Warner A&S of California, L.P.** 8925 Ware Court, Suite D, San Diego, CA 92121
- Willingness Monitoring Plan as an Attachment to the Negotiation Description**
- Commission adopts the Negotiation Description**
- and if taken action on the C.I.C. section to provide local exchange telephone service in the Commission will address its responsibility under Public Utilities Commission Code Section 31021.0.**

**Project Description:**

**Services** **which are telephone-based services to provide local exchange telephone service in combination with Pacific Bell and GTE California, 8 petitioners outline the GTE Commission's role in the negotiation process by serving as their own petitioners to provide services to consumers in the telephone-based services using their telecommunications facilities to serve consumers.**

**Exhibit A**  
**Appendix C**  
**Mitigation Monitoring Plan**

**Competitive Local Carriers (CLCs)**  
**Projects for Local Exchange Telecommunication Service throughout California**

**Introduction:** April 1990 to December 31, 1992

Local telephone companies

The purpose of this section is to describe the mitigation monitoring process for the CLCs' proposed projects and to describe the roles and responsibilities of government agencies in implementing and enforcing the selected mitigation measures.

**California Public Utilities Commission (Commission):**

The Public Utilities Code confers authority upon the Commission to regulate the terms of service and safety, practices and equipment of utilities subject to its jurisdiction. It is the standard practice of the Commission to require that mitigation measures stipulated as conditions of approval be implemented properly, monitored, and reported on. Section 21081.6 of the Public Utilities Code requires a public agency to adopt a reporting and monitoring program when it approves a project that is subject to the adoption of a mitigated negative declaration.

The purpose of a reporting and monitoring program is to ensure that measures adopted to mitigate or avoid significant environmental impacts are implemented. The Commission views the reporting and monitoring program as a working guide to facilitate not only the implementation of mitigation measures by the project proponents, but also the monitoring, compliance and reporting activities of the Commission and any monitors it may designate.

The Commission will address its responsibility under Public Resources Code Section 21081.6, when it takes action on the CLCs' petitions to provide local exchange telephone service. If the Commission adopts the Negative Declaration and approves the petitions, it will also adopt this Mitigation Monitoring Plan as an attachment to the Negative Declaration.

**Project Description:**

The Commission has authorized various companies to provide local exchange telephone service in competition with Pacific Bell and GTE California. 8 petitioners notified the Commission of their intent to compete in the territories presently served by Pacific Bell and GTE California, all of which are facilities-based services meaning that they propose to use their own facilities to provide service.

Since many of the facilities-based petitioners are initially targeting local telephone service soft land 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.

**Roles and Responsibilities:** As the lead agency under the California Environmental Quality Act (CEQA), the Commission is often 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.

The Mitigation Monitoring Plan 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 Commission's Telecommunications Division, 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.

The Mitigation Monitoring Plan is expected to reduce or eliminate urban sprawl disputes. However, in the event that a dispute occurs, the following procedures will be observed:

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.

Mitigation Monitoring Table

ALL FACTORS					
Extension or 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	Before construction
CUMULATIVE EFFECTS	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.	Local agencies	Before construction
GEOLOGICAL RESOURCES	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.	Local agencies	Before and during construction
WATER RESOURCES	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 quantity, drainage, flow, direction and quantity are averted.	Federal agencies Local agencies Applicable state water resource agencies	Before and during construction

\* The CPUC is ultimately responsible for compliance with the mitigation measures listed in this document, but shall defer the responsibility to local agencies, unless otherwise designated.

## Mitigation Monitoring Table

AIR QUALITY	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.	Air quality management districts.	Before and during construction.
TRANSPORTATION & CIRCULATION & PUBLIC SERVICES	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. Consultation w/ local agencies on appropriate restoration of impacted public service facilities in right-of-way.	Quarterly reports.	Traffic congestion is minimized. Public service facilities restored appropriately.	Catrans Local agencies	Before and during construction.
HAZARDS	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.	Local agencies.	Before and during construction.
WATER	H. Construction activities do not interfere with water supply or water quality.	Quarterly reports.	Water supply and quality are protected.	City	Construction

Mitigation Monitoring Table

Mitigation Monitoring Item	Monitoring Description	Frequency	Monitoring Criteria	Responsible Agency	Monitoring Period
<b>HAZARDS</b>					
Potential increase in overhead poles and communication lines.	O. Petitioner shall obtain all necessary building permits for the poles.  CPUC 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.
<b>NOISE</b>					
Noise standards for the area are exceeded due to construction.	H. All applicable noise standards shall be complied with by the petitioners.  Petitioners shall notice the surrounding area of construction dates and times.	Quarterly reports.	Noise from construction is kept to levels that do not exceed local standards.	Local agencies	Before and during construction.
<b>AESTHETICS</b>					
Service boxes or cabinets may be a visual blight. Landscaping in utility right-of-way may be impacted by trenching.	I. All applicable aesthetic standards will be met by local contractors for above-ground facilities, especially service cabinets. Consult with local agencies on proper restoration of landscaping.	Quarterly reports.	Cabinets are placed within existing buildings, underground, or in areas that are landscaped so that aesthetic impacts are minimized. Landscaping restored to original form.	Local agencies.	Before and during construction.
<b>CULTURAL RESOURCES</b>					
Cultural resources are encountered during construction; resources are damaged or moved.	J. All earthmoving that would impact the resources shall cease or be altered until the petitioner retains the services of an archaeologist who will propose mitigation. Thorough research done prior to construction to avoid known resources.	Quarterly reports.	Cultural resources that are encountered are not destroyed or adversely impacted.	Local, state and/or federal agencies.	Before and during construction.
<b>DISMANTLING</b>					
Y/N CHAPTER	Y/N	Y/N	Y/N	Y/N	Y/N

### Appendix D

#### Comment Response to Comments

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

**1. Antero Rivasplata, Chief, State Clearinghouse, dated August 30, 1996:**

No comments filed by the following state agencies: Fish & Game, BCDC, Water

Resources, California Highway Patrol, CalTrans, Air Resources Board, Regional Water Quality Control Board #2, DTSC/CTC, State Lands Commission.

**2. Gail Furness de Pardo, Associate Planner, City of Polson, dated August 6, 1996:**

**Comment:** the installation of telecommunication facilities in public utility easements may impact landscape and lighting district maintenance corridors. These impacts may include disruption or damage to irrigation water lines, vegetation, fencing, sprinkler heads, control valve wires, etc. Reduction to vegetation carries an aesthetic impacts and reduces available shade and air quality. These impacts were not addressed in the Negative Declaration. Recommends that the Negative Declaration incorporates measures which require the petitioners to replant impacted easements with plants of the same species and size as those disrupted or damaged. Also recommends that the petitioners repair and/or replace damaged public improvements to original conditions.

**Response:** If a petitioner chooses to install its facilities in public utility right-of-ways that are landscape and lighting district maintenance corridors, they will be expected to consult with local agencies as well as obtain all necessary ministerial permits. We agree with the recommendation that requirements be included in the mitigation measures for potential impacts to landscaping or public services in the utility easement. Findings 6 and 9 and Mitigation Measures F and I will be amended to address this point.

**3. Chip Griffin, Assistant Planner, Town of San Anselmo, dated August 15, 1996:**

**Comment #1:** The Negative Declaration should specify that a Stormwater Pollution Prevention Plan (SWPPP) pursuant to the National Pollution Discharge Elimination System (NPDES) should be required, in addition to the erosion control plan for those projects requiring trenching or similar work. The proponent should also be required to utilize NPDES best management practices for all construction work.

**Response:** The comment's recommendation is for a specific permit administered by the U.S. Army Corps of Engineers and the Regional Water Quality Boards. It is the proponent's responsibility to obtain all applicable federal and state permits (discretionary or ministerial), and all local ministerial permits for their project.

**Mitigation Measure D will be modified to include applicable federal permits.** This has been done in accordance with the established timeline.

**Comment #2:** The Negative Declaration should require project proponents to coordinate with local agency's Capital Improvement Plan (CIP) regarding street construction projects.

**Response:** The Negative Declaration states that proponents shall consult with all local appropriate local agencies prior to their construction of their project that may occur in streets (Mitigation Measure F). If a local agency has a CIP, the proponents are expected to coordinate with such a plan. Mitigation Measure F will be modified to include CIP as an example of a local agency plan.

**Comment #3:** Further clarification is needed regarding those providers that utilize wireless facilities. Wireless providers are identified among the petitioners, but no specifics on their facilities are discussed.

**Response:** The Commission has adopted separate regulatory rules (General Order 159A) for wireless telecommunications providers. GO 159A delegates to local governments the Commission's discretionary permitting power for wireless sites. Wireless providers that have requested Commission approval to be facilities-based CLCs must still abide by the rules embodied in GO 159A. Neither this Negative Declaration nor the previous Negative Declaration (D.95-12-057) was intended to supersede or invalidate GO 159A.

The Project Description of the Negative Declaration will be modified to clarify this point.

#### 4. Debra Andaloro, Environmental Analyst, City of Santa Barbara, dated August 16, 1996.

**Comment:** The General Statement for all Mitigation Measures on page 9 of the Negative Declaration appears to have the potential to preempt the mitigation measures contained in the Negative Declaration. In the broadest interpretation, the General Statement grants the petitioners the authority to disregard any and all local permit requirements if they believe the requirements prevent the development of their service territories. It also recommends that the General Statement be rewritten to clarify the parameters by which petitioners can determine when a local jurisdiction's permitting requirements or standards prevent development of a petitioner's territories, and that a procedure be defined for the petitioners to follow prior to disregarding compliance with local permit requirements.

**Response:** As stated in the comment, the General Statement could be interpreted broadly where a petitioner believes a local requirement prevents its territory from being developed, and can therefore be disregarded. Explicit throughout the Negative Declaration is an expectation that both local agencies and the petitioners will take an approach of reasonableness in ensuring that local concerns are addressed and potential impacts are mitigated, while at the same time accommodating each petitioner's interest in competing. There is a necessity of striking a delicate balance between these dual goals, and that balance may vary among different localities depending upon the type of project(s) coming forth. The purpose of the General Statement is to clarify that in competition for local telephone service is an interest the Commission views as statewide, and that such competition shall not be impeded. In the event that either a local agency or a petitioner concludes that the other is unreasonable in the implementation of the

mitigation measures; the Negative Declaration's Mitigation Monitoring Program (Appendix C) provides a procedure to approach the Commission in resolving the dispute (see Paragraphs 3 & 4 on page 4 of the Mitigation Monitoring Plan.)

- S. Janies A. Ragsdale, Principal Planner, City of Ontario, dated August 26, 1996:**
- Comment:** No specific comments except that proper mitigation measures are encouraged and monitored for implementation.
- Response:** The Mitigation Monitoring Plan (Appendix C) is intended to ensure proper implementation of the mitigation measures. The comment is not necessary at this time.

- 6. Rita Westfield, Assistant Director Community Development, City of Tustin, dated August 27, 1996:**
- No comments on the document.

- 7. Wally Bobkiewicz, Manager, Telecommunications Bureau, City of Long Beach, dated August 27, 1996:**
- Comment:** The draft Negative Declaration identifies the real and potential impacts of the proposed installations, and that it sets forth the mitigation measures intended to reduce adverse effects while providing a pathway for furthering competitive telecommunications opportunities. The city will monitor the projects within the scope defined by the Negative Declaration and regulate such activities in the manner prescribed. No recommendations to change the text of the Negative Declaration.

**Response:** Comment noted.

- 8. Ann Grant-McLaughlin, Associate Planner, City of San Bernardino, dated August 28, 1996:**

**Comment #1:** Mitigation Measure B does not clearly recognize and inform petitioners of the potential review authority local agencies may have on a specific proposal. No recommendations made.

**Response:** Mitigation Measure B is intended to facilitate the avoidance or reduction of cumulative impacts of multiple projects through coordination among project proponents and local jurisdictions on a long-term basis. The potential review authority of local governments is explicitly clear in all the other Mitigation Measures (C through J) where the petitioners are required to abide by local ministerial regulations and standards. Because cumulative impacts are often a combination of specific impacts (e.g. geological and aesthetic), the proponents will still be required to abide by the specific Mitigation Measures (C through J). The long-range coordination effort envisioned in Mitigation

**Measure B is in addition to the specific requirements embodied in the other mitigation measures.** (e.g. the local government's role in mitigating cumulative impacts)

**Comment #2:** The quarterly reports that the petitioners are required to file with local agencies may present timing problems on the local level. The purpose of the quarterly report is to provide local agencies and the Commission information to adequately plan and coordinate incoming projects. The quarterly reports are due one month prior to the beginning of each quarter, which implies that some projects may have a start date one month after the report is filed. This may not be enough time for local agencies to adequately review and process their permit requirements, especially if a discretionary permit is needed, which may cause delays in project start dates. No recommendation is made, but the implication is that more advanced notice is needed by the local agencies than one month.

**Response:** It is the responsibility of the project proponents to ensure that their permit applications are thorough and in compliance with local permit requirements so that the review process is expedited. The anticipated start date for construction of a given project on the quarterly report does not relieve the project proponent from its compliance responsibilities as stated in the mitigation measures.

**Comment #2 also mentioned the possibility of discretionary permits issued by local governments.** It is not clear how the term 'discretionary permit' is being used in the comment, but the Commission's statutory authority (State Constitution and Public Utilities Code Section 1001) preempts local use of discretionary permits for utility projects, unless the Commission specifically delegates such authority to local governments (e.g. General Order 159A). The Certificate of Public Convenience and Necessity (CPCN) being sought by the CLCs covered in this Negative Declaration is the Commission's "use" permit for CLC projects. The Commission specifically recognizes the importance of local input on specific environmental impacts that may arise, but the authority for a discretionary permit by a local agency is preempted by the CPCN.

**Comment #3: The Mitigation Monitoring Table in the Negative Declaration (Appendix C) does not clearly indicate the level or quality of local agencies' review authority for Mitigation Measure B (cumulative impacts).** Recommends that the table specify that the local review will include ordinance requirements, discretionary permits and site specific environmental review.

**Response:** The comment assumes that the project proponents will only receive the Mitigation Monitoring Table and would therefore be unaware of the local review for their projects. Each CLC subject to this Negative Declaration will receive the entire document which clearly states throughout that local review for their projects is an integral component of the mitigation. As noted in the response to Comment #2 above, the inclusion of discretionary permits as part of the local agency's review is preempted by the Commission's issuance of a CPCN.

**Measure B is in addition to the specific requirements embodied in the other mitigation measures.** (e.g. the local government's role in mitigating cumulative impacts)

9. Gina Francis, Staff Analyst, County of Fresno, dated August 28, 1996.

Comment #1: To minimize conflicts with other projects, the proponents should notify the County Utility Engineer regarding impending projects.

Response: The proponents are expected to notify all relevant local agencies, departments and contacts for all impending projects through the quarterly reports as described in Mitigation Measure B and the Mitigation Monitoring Plan (Appendix C).

Comment #2: No concerns if the proponents conform to the recommended mitigation measures in the Negative Declaration.

Response: Comment noted.

10. James R. Lightfoot, Principal Planner, City of Simi Valley, dated August 29, 1996.

Comment #1: Discussion under Cultural Resources is limited to unforeseen encounter of archaeological resources. Recommends that the text be modified to address known cultural resources. Specifically, known resources that are mapped and recorded can be determined through careful planning and coordination, and therefore avoided by adjusting cable routes around them.

Response: We agree that the Negative Declaration lacks a discussion of known Cultural Resources and appears to assume that the projects will adjust their routes if impacts on such resources are determined. Mitigation Measure J will be modified to address known cultural resources.

11. Frank Coyle, Planner II, City of Palm Springs, dated September 6, 1996.

No comments on the document.

(END OF ATTACHMENT C)