

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Rulemaking on the Commission's Own Motion to Govern Open Access to Bottleneck Services and Establish a Framework for Network Architecture Development of Dominant Carrier Networks	R.93-04-003
Investigation on the Commission's Own Motion into Open Access and Network Architecture Development of Dominant Carrier Networks	I.93-04-002
Order Instituting Rulemaking on the Commission's Own Motion Into Competition for Local Exchange Service	R.95-04-043
Order Instituting Investigation on the Commission's Own Motion Into Competition for Local Exchange Service	I.95-04-044

**SUPPLEMENTAL BRIEF IN SUPPORT OF PACIFIC BELL TELEPHONE
COMPANY'S (U 1001 C) COMPLIANCE FILING**

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**PACIFIC BELL TELEPHONE COMPANY'S (U 1001 C) SUPPLEMENTAL BRIEF
IN SUPPORT OF D.98-12-069 COMPLIANCE FILING AND IN SUPPORT OF
MOTION FOR AN ORDER THAT PACIFIC BELL TELEPHONE COMPANY HAS MET
THE REQUIREMENTS OF § 271 OF THE TELECOMMUNICATIONS ACT AND
§709.2 OF THE PUBLIC UTILITIES CODE***

In December 1998, the California Public Utilities Commission ("Commission" or "CPUC") provided a "solid blueprint" for a 271 request that the Commission could "enthusiastically support." Decision 98-12-069, at 71 (Dec. 17, 1998) ("Final Decision"). Pacific Bell Telephone Company's ("Pacific") Compliance Filing, submitted July 15, 1999, followed that blueprint to the letter, establishing Pacific's compliance with section 271 of the Federal Telecommunications Act. On September

* This filing will be available on March 8, 2000, at <http://www.sbc.com/PublicAffairs/PublicPolicy/Other/Home.html>

7, 1999, Pacific answered all questions that subsequently were raised regarding Pacific's showing of compliance.

Since Pacific's filings last year, local competition has continued to thrive in California. Pacific estimates that as of the end of January 2000, there are 232 carriers certified to provide local service within California, serving an estimated 2.3 million local lines in Pacific's serving areas. See Hopfinger Supp. Aff. ¶¶ 5-6.¹ Pacific has been processing orders for at least 35 facilities-based CLECs in California, and at least 65 carriers resell Pacific's local service. Id. ¶ 5. These CLECs are enrolling customers in more than 85 percent of Pacific's 413 local calling areas, confirming that local exchange competition is growing throughout the State. Id.

Local competition is especially robust in the area of advanced services, which the FCC has identified as being of particular concern in section 271 proceedings. Id. ¶ 6. The DSL market has been explosive in California, far surpassing that in New York, for example. In January alone, Pacific billed CLECs for 43,669 xDSL loops. Id. This compares to a total of 172,404 UNE loops provided to CLECs, meaning that fully one quarter of all the loops Pacific has provisioned are being used for CLECs' xDSL services. Id.

¹ The designation "Supp. Aff." refers to an affidavit filed with this Supplemental Filing. "Aff." refers to an affidavit filed July 15, 1999, Compliance Filing. "Reply Aff." refers to an affidavit filed with the September 7, 1999, Reply Filing.

Since Pacific's Compliance and Reply Filings, the legal and regulatory landscapes also have changed somewhat. Pacific has implemented numerous improvements promised in its earlier filings, and the FCC has issued more orders relating to local competition.² In addition, the FCC has, for the first time, approved a Bell Operating Company ("BOC") application to provide in-region interLATA service, providing additional guidance for Pacific's showing that it also satisfies section 271.³

Accordingly, on February 14, 2000, Assigned Commissioner Josiah Neeper instructed Pacific to update its Compliance and Reply Filings to take account of these intervening developments and other specific issues. With this filing, Pacific responds to the specific issues raised in the Assigned Commissioner's

² See Third Report & Order and Fourth Further Notice of Proposed Rulemaking, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, FCC 99-238 (rel. Nov. 5, 1999) ("UNE Remand Order"); Supplemental Order, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, FCC 99-370 (rel. Nov. 24, 1999) ("UNE Remand Supplemental Order"); Third Report & Order and Fourth Report & Order, Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket Nos. 98-147 & 96-98, FCC 99-355 (rel. Dec. 9, 1999) ("Line Sharing Order"); Second Report & Order, Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98-147, FCC 99-330 (rel. Nov. 9, 1999) ("Advanced Services Second Report and Order").

³ See Memorandum Opinion & Order, Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York, CC Docket No. 99-295, FCC 99-404 (rel. Dec. 22, 1999) ("Bell Atlantic New York Order").

Ruling ("ACR"), and, in so doing, confirms its compliance with the Final Decision and section 271's fourteen-point competitive checklist. Pacific will not repeat its exhaustive, item-by-item showing of compliance with the entirety of the section 271 checklist and the Final Decision, both of which Pacific demonstrated it had complied with almost nine months ago. See Compliance Br. at 31-87; Reply Br. at 33-97. Likewise, Pacific demonstrated in its Compliance and Reply Filings that it provides nondiscriminatory access to its OSS in accordance with this Commission's requirements, and there is no need to rehash those broad discussions. See Compliance Br. at 6-29; Reply Br. at 6-33. Rather, as directed by the ACR, this supplemental filing includes only the information necessary to update Pacific's earlier filings.

Pacific has completed each task to which it committed in its earlier filings, and complied with each recent FCC order on local competition. In its ongoing effort to satisfy wholesale customers in California and to keep local markets open to competition, Pacific has done everything this Commission and the FCC have asked of it. All that remains is the outcome of the OSS testing now being conducted, see R.97-10-016; I.97-10-017, and a Commission decision supporting Pacific's effort to bring California consumers the same benefits of full long distance competition that are now available to consumers in New York.

DISCUSSION

I. RECENT DEVELOPMENTS CONFIRM THAT PACIFIC MAKES INTERCONNECTION AND NETWORK ACCESS AVAILABLE IN COMPLIANCE WITH ALL REQUIREMENTS OF THE FINAL DECISION AND WITH THE COMPETITIVE CHECKLIST.

A. Additional Information Regarding the Final Decision's OSS Requirements

E911 Issues. Pacific's July Compliance Filing explained its plan to streamline the ordering process for CLECs that purchase Pacific's UNEs by integrating listings and E911 capabilities into the LEX and EDI ordering interfaces. Compliance Br. at 9-11. In August of 1999, Pacific accomplished this streamlining with the release of "E911 and Listings Integration" ("ELI"). Ham Supp. Aff. ¶ 10. ELI allows CLECs to choose, on an order-by-order basis, whether to provide listings and E911 information through the Local Service Request ("LSR") processor or through Pacific's Listings Gateway and MS E911 Gateway. Id. ¶ 11. ELI also ensures that CLECs' listing information submitted via LEX or EDI undergoes the same initial editing as Pacific's retail listings, ensuring accuracy and parity; ELI further provides flow-through for Directory Service Requests. Id. ¶ 10. The benefits of ELI are set forth in detail in Pacific's Compliance Filing and the September Reply. See Compliance Br. at 8-13; Viveros Aff. ¶¶ 129-150; Reply Br. at 7-9; Viveros Reply Aff. ¶ 6; see also Ham Supp. Aff. ¶¶ 10-11.

Flow-Through of xDSL Two-Wire Loops. In the Compliance and Reply Filings, Pacific committed to implement a detailed plan for flow-through of orders for xDSL-capable loops by the end of

October 1999. Viveros Aff. Attach. O; Reply Br. at 12; Viveros Reply Aff. ¶ 61; see also Final Decision, App. B at 3 (requiring Pacific to develop a plan for flow-through of xDSL two-wire loops with and without LNP by the end of 1999). On October 23, 1999, Pacific fulfilled this commitment with the release of its new, mechanized flow-through process. Ham Supp. Aff. ¶ 8-9.

Reject and Jeopardy Notifications. As directed in the Final Decision, and as described in the Compliance Filing, Pacific has implemented automated reject and jeopardy notice processes for both UNE and resale orders. See Final Decision, App. B at 3; Compliance Br. at 15-16.

Reject notifications for "syntax" errors on all LSRs submitted via LEX or EDI are returned electronically. Henry Supp. Aff. ¶¶ 4-6. Syntax errors, which occur when an LSR is either inaccurate or incomplete per the local service ordering requirements, are detected by "up front" system edits and are automatically rejected back to the CLEC without LSC intervention. Id.

An LSR that contains no syntax errors may nevertheless contain information that prevents the order from being processed correctly. Id. These errors, known as "content" errors, are detected by LSC representatives during the order creation process. Id. Prior to implementation of the LASR GUI, deployed July 6, 1999, content rejects were returned to the CLECs manually (for example, by fax). Id. Now, however, using the LASR GUI, a LSC representative returns content reject notifications electronically to the CLECs via the same interface

through which the LSR was received. Id. The timeliness of reject notifications for both syntax errors and content errors is measured against an agreed-upon benchmark contained in Joint Partial Settlement Agreement on Performance Measures (Measure 3). Id. ¶ 7.

Pacific deployed in August 1999 a fully electronic jeopardy and missed appointment notification process for CLECs submitting requests via LEX and EDI. Id. ¶ 8. Under this process, the LSC receives jeopardy notices from Pacific's provisioning centers via e-mail. Id. ¶ 9. The LSC forwards this notification to the CLEC via the same interface used by the CLEC to transmit the original LSR. Id. Thus to receive notifications, CLECs no longer need to monitor their LSRs through CESAR or wait for telephone calls from the LSC. Id. The implementation of these automated processes has improved both the promptness and efficiency with which Pacific notifies CLECs of jeopardy situations. Id. ¶ 10. The timeliness of jeopardy notifications is measured against an agreed-upon benchmark contained in the JPSA (Measure 6). Id. ¶ 11.

Since the Compliance Filing, Pacific has also improved its provision of jeopardy notifications to CLECs that choose not to use the available electronic interfaces. Id. ¶ 12. Pacific now provides courtesy notifications via e-mail or fax. Id. CLECs that elect not to receive the courtesy e-mail receive phone calls from Pacific instead. Id. ¶ 13.

Change Management Process. As discussed in Pacific's previous filings, Pacific's entire suite of OSS interfaces is

continually reviewed in concert with other local providers and continuously evolves to meet these providers' needs. See Viveros Aff. ¶ 35-36. Pacific's comprehensive change management process ("CMP") has been designed to further this goal. Id.

Under the CMP, Pacific:

- hosts open, quarterly CMP meetings ("QCMP meetings") at which Pacific and interested CLECs introduce and discuss changes to Pacific's OSS interfaces;
- announces all new releases, retirement of old interfaces, and the availability of new interface protocols via accessible letters, on a set schedule; and
- employs a formal Exception Process to ensure consistency and avoid confusion when departures from the standard procedures of the CMP are necessary.

Id. ¶¶ 35-46. In addition, when issues are raised during the QCMP meetings that require more focused attention, Pacific schedules "sidebar" meetings with interested CLECs. Results of these sidebar meetings are distributed to all CLECs via accessible letter and are discussed in subsequent QCMP meetings. Id. ¶ 41.

The CMP has yielded practical results, including successful implementation of a variety of CLEC suggestions and the resolution of several process problems, particularly with regard to the ordering of xDSL-capable loops. Id. ¶ 43.

Since the July Compliance Filing and September Reply, Pacific and other SBC incumbent LECs have also worked with CLECs in a series of CMP "Drafting Team" meetings. These meetings are designed to merge Pacific's, Southwestern Bell Telephone Company's ("SWBT"), and Ameritech's CMP documents into an

improved, region-wide CMP. Ham Supp. Aff. ¶¶ 12-15. In September 1999, Pacific and SWBT successfully merged their CMPs. Id. ¶ 12. Merger of the resulting CMP with the Ameritech CMP is likely to be completed in April 2000. Id. ¶¶ 14-15. Once SBC's region-wide CMP is established, Pacific will promptly introduce it in California. Id. ¶ 15. As noted previously in Pacific's 271 filings, the region-wide CMP will be modeled largely upon the California process. Viveros Reply Aff. ¶ 9-10; Ham Supp. Aff. ¶ 14.

OSS Performance Reporting. As detailed in the Compliance Filing, Pacific has agreed to incorporate this Commission's OSS OII Performance Measurement Plan, in its entirety, into existing interconnection agreements with requesting CLECs. Johnson Aff. ¶¶ 6-7. Accordingly, Pacific now reports performance data for, among other things, all LNP-related measures. Johnson Supp. Aff. ¶ 5. These measures include: Coordinated Customer Conversions as a Percentage On Time, PNP Network Provisioning, Provisioning Trouble Reports (Prior to Service Order Completion), Percentage of Troubles in 30 Days for New Orders, Customer Trouble Report Rate, Percentage of Customer Trouble Not Resolved Within Estimated Time, Average Time To Restore, and Frequency of Repeat Troubles in 30 Day Period. Id. ¶ 6.

Moreover, to support Pacific's compliance with the FCC's Line Sharing Order and recent California legislation, see infra pp. 17-18, Pacific on February 28, 2000, filed a preliminary proposal for Line Sharing performance measurements. Johnson Supp. Aff. ¶ 8 & Attach. 1. This proposal calls for tracking

line sharing as a unique Service Group type under the OSS OII Performance Measurement Plan, and additionally addresses the challenge of evaluating two services, supported by two companies, within the same loop facility. Id. ¶¶ 9-11.

B. Additional Information Regarding the Competitive Checklist

1. Updates to Checklist Item (i) - Interconnection Collocation. As discussed in detail in Pacific's Compliance and Reply Filings, Pacific's collocation policies and procedures are in full compliance with the applicable FCC and California Commission orders. Compliance Br. at 32-41; Reply Br. at 35-49. As of February 29, 2000, Pacific had installed a total of 1,917 collocation cages in California - 327 of which were installed in the last six months - with another 158 collocation cages pending. Hopfinger Supp. Aff. ¶ 8. In addition, Pacific has provisioned 195 requests for cageless collocation, with another 273 cageless collocation requests in the process of being completed, id.; installed 9 virtual collocation arrangements since July 1999, id.; and reduced the number of central offices without available space for physical collocation from 18 to 8, id. ¶ 9.

Pending a final Commission decision on collocation pricing, Pacific has issued Accessible Letter CLECC 00-054, effective March 15, 2000, implementing interim rates. Id. ¶ 11. These interim rates, which are subject to true-up, are based on the CLECs' Collocation Cost Model ("CCM"), which provides cost-based prices that are consistent with the TELRIC methodology. Id.

The FCC approved an interim rate approach in its order approving Bell Atlantic's New York 271 application. See Bell Atlantic New York Order ¶ 258.

NXX Code Openings. Consistent with the information provided in the September Reply Filing, Reply Br. at 51-53, Pacific completed statewide deployment of its new automated code opening system in September 1999. Deere Supp. Aff. ¶¶ 5-6. Recent data show parity between Pacific's code openings for CLEC codes and Pacific's own retail code openings. From November 1999 through January 2000, Pacific successfully opened 99.15 percent of CLEC codes on or before the LERG effective date. Id. ¶ 8. During this same period, Pacific opened 98.78 percent of its own codes on or before the LERG effective date. Id.

Bona Fide Request ("BFR") Process. In its Compliance and Reply Filings, Pacific demonstrated that it has fulfilled all of this Commission's requirements relating to the Interconnection and Network Element Request ("INER"), or BFR, process. Compliance Br. at 41-43; Hopfinger Aff. ¶¶ 43-51; Reply Br. at 54; Hopfinger Reply Aff. ¶¶ 14-18.

In its comments on Pacific's Compliance Filing, MCI WorldCom claimed that Pacific missed the cost response deadline for MCI WorldCom's request for diverse routing of interconnection facilities for MCI WorldCom's Irvine switch. In its Reply, Pacific described the facts surrounding that request, and pointed out that MCI WorldCom and Pacific had signed a contract for the requested diversity routing. Reply Br. at 54 n.14; Hopfinger Reply Aff. ¶¶ 16-17. All construction

associated with MCI WorldCom's request was completed, and the job was closed, on October 6, 1999. Hopfinger Supp. Aff. ¶ 50.

2. Updates to Checklist Item (ii) - Unbundled Network Elements

UNE Remand Order. In the Compliance and Reply Filings, Pacific explained that it was in compliance with the then-extant unbundling requirements of section 251(c)(3), and that it therefore satisfied item (ii) of the checklist. Compliance Br. 50-54; Deere Aff. ¶¶ 47-57; Hopfinger Aff. ¶¶ 131-134; Reply Br. at 55-67. On November 5, 1999, following the Supreme Court's mandate, see AT&T Corp. v. Iowa Utils. Bd., 119 S. Ct. 721, 734-36 (1999), the FCC released its UNE Remand Order. Several aspects of this order went into effect February 17, 2000, and the remaining requirements take effect on May 17, 2000. Hopfinger Supp. Aff. ¶¶ 25-26.

Pacific is in full compliance with that part of the UNE Remand Order that went into effect in February. Hopfinger Supp. Aff. ¶ 27. These unbundling obligations are largely similar to those of the FCC's prior Rule 51.319. Hopfinger Supp. Aff. ¶¶ 21, 23, 27. As a result, because Pacific continued to provide unbundled access to the elements identified by the FCC's initial Rule 51.319 even while that rule was not in effect, see Reply Br. at 55-56, Pacific has not been required to take further action to be in compliance with most of the currently effective requirements of the UNE Remand Order. Hopfinger Supp. Aff. ¶¶ 27-33.

Pacific has, however, taken some additional steps to ensure compliance with those new aspects of the UNE Remand Order that are now in effect. These steps include:

- revision of Pacific's generic UNE appendix and pricing appendix, where appropriate;
- redefinition of the unbundled loop element, including DS3 loops, in those documents;
- redefinition in the generic UNE appendix of the Network Interface Device ("NID") element to include any means of interconnection of end-user customer premises wiring to Pacific's distribution loop facilities, and to reflect that a CLEC may connect its local loop facilities to end users' premises wiring through Pacific's NID (or at any other technically feasible point); and
- redefinition in the generic UNE appendix of the transport network element to include dedicated transport above OC-96 levels as such higher capacities are deployed in Pacific's network.

Id. ¶¶ 28-33. These steps ensure compliance with the unbundling requirements set out in the UNE Remand Order.

As noted, several unbundling obligations imposed by the UNE Remand Order will not take effect until May 17, 2000. These include access on an unbundled basis to (1) dark fiber, (2) subloops and inside wire, (3) packet switching, (4) dark fiber transport, (5) Calling Name Database, 911 Database, and E911 Database, and (6) loop qualification information. Id. ¶ 26. Pacific is currently working to ensure full compliance with these obligations (where they are not already satisfied), and it intends to be in compliance on May 17. Id.

Pricing. Following passage of the Federal Telecommunications Act, the FCC instructed states to establish

different cost-based UNE and interconnection rates in at least three separate geographic zones, in order "to reflect geographic cost differences." 47 C.F.R. § 51.507(f). This geographic deaveraging rule was stayed, and then vacated, by the Eighth Circuit soon after its promulgation. See Iowa Utils. Bd. v. FCC, 120 F.3d 753, 819 & n.39 (8th Cir. 1997). The Supreme Court reversed the Eighth Circuit, see AT&T Corp. v. Iowa Utils. Bd., 119 S. Ct. 721 (1999), but, soon after, the FCC itself stayed the rule to "afford the states an opportunity to bring their rules into compliance with section 51.507(f)." Stay Order, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, 14 FCC Rcd 8300, 8301-02, ¶ 4 (1999).

Although this Commission has not yet adopted final deaveraged rates, it has signaled its intention to do so.⁴ In the meantime, Pacific has issued an accessible letter offering interim, geographically deaveraged loop rates in three zones, subject to a true up once the Commission adopts final rates. Hopfinger Supp. Aff. ¶ 14 & Attach. 3. These interim rates were derived directly from the costs the Commission approved in the OANAD decision (D.99-11-050). Id. ¶ 14. Beginning in May 2000 (when the FCC's stay of its geographic deaveraging rule lifts), and lasting until the Commission adopts geographically

⁴ See Order Instituting Investigation on the Commission's Own Motion into the Deaveraging of Unbundled Network Element Rates within at Least Three Geographic Regions of the State of California Pursuant to Federal Communications Commission Rule 51.507(f), I.00-03-002 (CPUC March 2, 2000).

deaveraged rates, Pacific will offer CLECs a choice of this interim deaveraged rate plan or the state-wide averaged rate plan approved in the OANAD proceeding. Id. ¶ 15.

UNE Remand Supplemental Order. On November 24, 1999, the FCC issued a supplemental order addressing incumbent LECs' obligation to offer UNE loop/transport combinations. The FCC stated that, at least for the time being, an interexchange carrier "may not convert special access services to combinations of unbundled loops and transport network elements," unless the IXC also uses UNE combinations "to provide a significant amount of local exchange service . . . to a particular customer." UNE Remand Supplemental Order ¶ 2.

Consistent with this supplemental order, Pacific has developed qualification criteria and a process to convert a special access arrangement for a CLEC customer to a combination of the loop and transport elements necessary to recreate that arrangement, provided that the requesting carrier certifies that it provides a significant amount of local exchange service to the customer. Hopfinger Supp. Aff. ¶ 34. Pacific has posted a description of how to reconfigure special access arrangements to loop and transport elements, the qualification criteria, and the certification form on its website. Id.

3. Updates to Checklist Item (iv) - Unbundled Local Loops

Loop Installation/Provisioning. As explained in the Compliance Filing, Pacific has, pursuant to Staff's recommendation, see Final Decision at 42-45 & App. B at 17-20,

revised and improved its wholesale processes to ensure that CLECs can order loops at parity with Pacific's retail operations. Compliance Br. at 55-60. Applying these revisions and improvements, Pacific estimates that it has provisioned, from the end of July 1999 through January 2000, at least 85,000 stand alone UNE loops. Hopfinger Supp. Aff. ¶ 6.

Pacific agreed in the Collaborative Workshops to provide a Flexible Due Date ("FDD") with a minimum three-day commitment for most 2-Wire Analog Loop orders. Viveros Aff. ¶¶ 65-67. This new process allows CLECs to provide the most reliable due date to their end users. Id. ¶ 65. Pacific met this commitment by implementing the FDD process in three phases. Ham Supp. Aff. ¶¶ 4-7. The first phase, completed in May 1999, insured that Pacific could provision CLEC orders for new 2-wire analog lines within three days. Id. ¶ 6. The second phase, completed in October 1999, insured that Pacific could do so without manual intervention. Id. The third phase involved moving Pacific's existing Expanded Interconnection Service Cross Connect ("EISCC") inventory from the TIRKS database to the SWITCH database, as a means to improve Pacific's efficiency in the provisioning of 2-wire analog loops. This final phase was completed in December 1999. Id. ¶¶ 6-7.

Coordinated Loop Cutovers. The ACR cites the allegation that "Pacific personnel place [CLECs] on hold for such an extended period of time" that scheduled cuts are cancelled. ACR at 4. As the ACR recognized, Pacific has previously explained that the average speed of answer at the LOC varies depending on

whether a call is routed to the maintenance, provisioning, or acceptance testing queue. See Tenerelli Supp. Aff. ¶ 8; Tenerelli Reply Aff. ¶ 5.

Pacific makes every effort to staff the LOC to ensure that all customer calls, including hot cut calls, are answered promptly and courteously. See Tenerelli Supp. Aff. ¶ 12. As part of that effort, Pacific has repeatedly requested that CLECs provide information to support accurate forecasts of order loads. Id. But with little data provided by CLECs, Pacific has had to rely largely upon historical data to determine staffing needs. Even so, answer times in each of the three queues have declined significantly in the last several months. Id. ¶ 13 & Attach. 1-3.

Pacific makes extraordinary efforts to accommodate CLEC orders, and has yet to deny a CLEC request for a scheduled cutover. Id. ¶ 12. To ensure that CLECs receive prompt, efficient service from the LOC, Pacific also provides CLECs with escalation procedures and the telephone and pager numbers for all LOC supervisory personnel. Id. ¶ 14 & Attach. 4.

Line Sharing Order. On December 9, 1999, the FCC released its Line Sharing Order, which directed incumbent LECs to provide CLECs seeking to furnish xDSL service with unbundled access to the high frequency portion of the loop. See also Cal. Pub. Util. Code § 709.7. The Line Sharing Order became effective February 9, 2000. However, due to the necessity of extensive system modifications to provide separate access to the high frequency portion of the loop, the FCC has determined that an

incumbent LEC providing line sharing by June 5, 2000, will be in compliance with the order. Hopfinger Supp. Aff. ¶ 36. In an Administrative Law Judge and Assigned Commissioner's Ruling issued on February 25, 2000, the Commission set forth a time line for either agreed-to amendments for line sharing to be submitted on March 27, 2000, or for parties to submit a request for interim arbitration on that same date. Id. ¶ 41. The schedule contemplates that a final arbitrator's report is to be filed by May 26, 2000, and contract language consistent with that report is to be filed and effective June 2, 2000. Id.

In conjunction with the pending Commission line sharing proceeding, Pacific is implementing a comprehensive line sharing trial to ensure its compliance with federal and state line sharing requirements when they go into effect. Id. ¶¶ 42-47. As a first step, Pacific and other SBC LECs are conducting a region-wide seven-city line-sharing trial. The details of this trial, which begins this week, were included with Pacific's February 15, 2000, filing in this Commission's Line Sharing proceeding. Id. ¶¶ 43-46; see also Johnson Supp. Aff. ¶¶ 8-12. Pacific will continue the provisioning of line sharing for trial participants upon CLEC request after the trial ends and until such time as the terms and conditions for such service are negotiated and interconnection agreements amended. Id. ¶ 46. In addition, on March 1, 2000, Pacific filed with this Commission proposed language - including interim TELRIC-based rates - to be used as a starting point for the negotiation of

line sharing arrangements in existing interconnection agreements. Hopfinger Supp. Aff. ¶ 40.

Loop Qualification. As explained in the Compliance Filing, Pacific has enhanced its OSS to permit CLECs real-time electronic access, via either Verigate or DataGate, to databases containing information about the suitability of loops for xDSL service. Compliance Br. at 55; Murray Aff. ¶¶ 25-29. Pacific also provides loop pre-qualification via the K1023 CLEC Request Form, for CLECs opting not to obtain this real-time electronic access. Murray Aff. ¶ 25. In either case, Pacific provides CLECs access to the very same loop information that is available to Pacific's own retail advanced services operations. Compliance Br. at 55-56; Viveros Aff. ¶¶ 68.

Since its July 1999 Compliance Filing, Pacific has further upgraded its loop pre-qualification and loop qualification processes and systems to ensure parity. Pacific has developed and deployed additional tools - including RTZ loop-length indicators and a DSL Planning Inquiry Web Site (formerly known as Geomap) - that allow CLECs to pre-qualify certain loops. Viveros Reply Aff. ¶ 51; Ham Supp. Aff. ¶ 16. Pacific now also provides e-mail responses to CLECs' faxed and phoned loop qualification requests. Ham Supp. Aff. ¶ 16. In addition, on March 18, 2000, Pacific will add a new functionality, "Loop Qual," to DataGate and Verigate. Id. ¶ 17 & Attach. 10 & 11. Loop Qual will provide a requesting CLEC mechanized loop make-up information for specified addresses, allowing the CLEC to

determine for itself whether a particular loop is capable of supporting the CLEC's intended advanced service(s). Id.

4. Update to Checklist Item (viii) - White Pages Listings

In Cox/MediaOne's Comments on Pacific's Compliance Filing, Cox complained that its CLEC customers were not receiving Pacific's directories as required under Cox's interconnection agreement with Pacific. This allegation was a restatement of Cox's formal complaint, which the Commission concluded was premature.

Pacific has worked closely with Cox to investigate and resolve the issues regarding delivery of initial directories to new-connect customers raised in Cox's dismissed complaint, and these efforts have borne fruit. Id. ¶¶ 52-54. Indeed, investigation of the new-connect customer complaints about initial delivery of directories communicated by Cox since mid-November 1999 reveals that of the complaints alleging non-delivery of initial directories, 88% involve situations where directories were, in fact, delivered. Id. ¶ 54. The few delivery failures for initial directories to new-connect customers that did occur were due to factors beyond Pacific's control, such as incomplete orders. Id.

5. Update to Checklist Item (xii) - Local Dialing Parity

In response to Sprint's complaint that its local resale customers cannot purchase Pacific's intraLATA toll service, Pacific previously explained that the dialing parity checklist

requirement - checklist item (xii) - addresses only local dialing parity. Reply Br. at 89. Pacific satisfies this item as long as "customers of competing carriers are able to dial the same number of digits that [Pacific's] customers dial to complete a local telephone call, and . . . these customers otherwise do not suffer inferior quality such as unreasonable dialing delays compared to [Pacific's] customers." Memorandum Opinion & Order, Application of BellSouth Corp., BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in Louisiana, 13 FCC Rcd 20599, 20772, ¶ 296 (1998)(emphasis added); see also id. at 20772, ¶ 297 (checklist item (xii) requires LEC to show "local dialing parity"); Bell Atlantic New York Order ¶¶ 372-73 (same). Pacific has satisfied this standard, and is therefore in compliance with checklist item (xii). Compliance Br. at 82-83.

The ACR, however, suggests that Pacific's decision not to provide intraLATA toll service to CLEC customers conflicts with the FCC's statement that the 2-PIC method implementing the dialing parity requirement in 47 U.S.C. § 251(b)(3) - as opposed to checklist item (xii) - "generally allows customers . . . to presubscribe to [a] telecommunications carrier (including, but not limited to, the customer's local exchange carrier) for all intraLATA toll calls." Second Report & Order and Memorandum Opinion & Order, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, 11 FCC Rcd 19392, 19418, ¶ 47 (1996) (emphasis added). Although that passage suggests that an incumbent LEC may offer intraLATA toll

service to CLEC customers, it does not suggest that any incumbent LEC must do so. Rather, the passage suggests that the only carrier that must offer intraLATA toll service to a particular end-user (if there is any such obligation at all) is the end-user's own local carrier.⁵ In the situation outlined by Sprint, therefore, it is Sprint, not Pacific, that must offer intraLATA toll service to Sprint's local customers.

Pacific does offer its intraLATA toll service for resale, thereby enabling Sprint, and other CLECs who resell local service, to comply with their obligation to offer intraLATA toll service. Hopfinger Supp. Aff. ¶ 55. But contrary to the ACR's suggestion, dialing parity does not mean that Pacific must itself be one of the carriers to which Sprint's local customers are allowed to subscribe.

Currently, Pacific's network is not configured to provide stand-alone retail intraLATA toll service to CLEC end-users. Nonetheless, if Pacific receives retail customer requests from CLEC local end-users to purchase intraLATA toll, Pacific will investigate the economic practicability of providing such service on a case-by-case basis. Id.

⁵ See also Fifth Report & Order and Further Notice of Proposed Rulemaking, Access Charge Reform, CC Docket No. 96-262, FCC 99-206, ¶ 50 (rel. Aug. 27, 1999) ("Dialing parity" requires that the customer's LEC - be it an incumbent LEC or a CLEC - "must . . . allow[] its [own] customers to presubscribe to at least one carrier other than the LEC for intraLATA toll services, and to at least one carrier other than the LEC for interLATA toll services.").

6. Update to Checklist Item (xiv) - Resale

Availability of Advanced Services at Wholesale Rates.⁶ On November 9, 1999, the FCC released its Advanced Services Second Report and Order, in which it addressed the application of the federal discounted resale obligation to incumbent LECs' provision of advanced services. In that order, the FCC concluded that DSL and other advanced services sold by incumbent LECs at retail to residential and business end-users are subject to the resale requirement. Advanced Services Second Report and Order ¶ 3. The FCC's order goes into effect on March 13, 2000. Pacific will comply with this order and will negotiate with requesting CLECs for the resale discount. Hopfinger Supp. Aff. ¶ 19.

It should be noted that the resale discount requirement only applies where Pacific, as an incumbent LEC, offers advanced services at retail. See 47 U.S.C. § 251(c)(4). SBC has formed an affiliate, SBC Advanced Solutions Inc. ("ASI"), to offer advanced services in California and other states. Because ASI is not an incumbent LEC, the resale requirement articulated in the FCC's November 9 order does not apply to it.

II. PACIFIC IS IN COMPLIANCE WITH THE STRUCTURAL SEPARATION REQUIREMENTS OF SECTION 272

The ACR notes the Commission's decision not to require Pacific to make any further demonstration of its fulfillment of

⁶ As used in this section, the term "advanced services" refers to the term as defined in the Advanced Services Second Report and Order, p. 1 n.2.

the Act's section 272 requirements. Nevertheless, the ACR invites Pacific to address the section 272-related issues raised in the Final Staff Report.

Pacific respectfully declines to address those issues at this time. In the Compliance Filing, Pacific explained that, in accordance with section 271(d)(3), it will provide interLATA service in compliance with the requirements of section 272. Compliance Br. at 88. Pacific believes that it is already conducting its operations, and those of its long distance affiliate, in accordance with section 272's requirements. See id. Pacific will make a comprehensive showing to that effect when it files its section 271 application with the FCC.

CONCLUSION

Pacific's Compliance and Reply Filings demonstrated compliance with the Final Decision and with each item in section 271's competitive checklist. Pacific has fulfilled the commitments set forth in those filings, and has taken the steps necessary to comply with the relevant intervening FCC orders. Subject only to the outcome of Pacific's OSS testing, the Commission should endorse Pacific's application to provide interLATA service in California.

March 6, 2000

Respectfully submitted,

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