2. JURISDICTIONAL ISSUES MUST BE RESOLVED CONSISTENTLY WITH THE TELECOMMUNICATIONS ACT OF 1996 AND THE SYSTEM OF DUAL REGULATION

The Commission seeks comment on three jurisdictional approaches to wireless interconnection: one in which the Commission sets voluntary guidelines for states to follow, a second in which the Commission's guidelines are mandatory but give states flexibility to choose among various options, and a third which sets specific parameters on state action regarding interconnection rates.[220] The Commission asks whether it has the authority to impose any of these approaches and preempt state regulation of interconnection rates.[221]

The Commission has authority to adopt only voluntary guidelines for states to follow, because it does not have the authority to regulate the rates LECs charge CMRS providers for interconnection. The Commission may not impose mandatory standards on state commissions.

The Provisions Of The Telecommunications Act Of 1996 Prohibit The Commission From Regulating LEC-To-CMRS Interconnection Rates

The Telecommunications Act of 1996 delegates to the states all authority over ratemaking for interconnection and termination of traffic involving LECs and other

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[220] NPRM, paras. 108-10.
[221] Id. at paras. 112-114.

telecommunications carriers, including CMRS providers. The new Act requires the Commission to adopt regulations to implement interconnection obligations,[222] but the states have full authority over the specific terms and conditions contained in interconnection and termination agreements. The states make "[d]eterminations . . . of the just and reasonable rates for the interconnection of facilities and equipment. . . ."[223] The states oversee, mediate, and arbitrate interconnection contract negotiations.[224] When arbitrating contract disputes, the states have the authority to "establish any rates for interconnection services . . . ."[225] The states also have the authority to approve interconnection contracts adopted by negotiation or arbitration.[226] The Commission itself has no role to play in the Section 252 negotiation process, unless a State Commission simply fails to act.[227] If the Commission were free to dictate a particular compensation arrangement, then the Section 252 process would be rendered meaningless. The Commission would be usurping a role that Congress intended to be played by negotiation, subject to arbitration and approval by the states.

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[222] See Section 251(d).
[223] Section 252(d)(1); see also Section 251(c)(2).
[224] Section 252(a)-(c).
[225] Section 252(c)(2).
[226] Section 252(e).
[227] Section 252(e)(5). While Section 253(e) of the Act states that the Section shall not "affect the application of section 332(c)(3) to commercial mobile service providers," we establish below that Section 332(c)(3) does not give the Commission the authority to preempt state regulation of intrastate interconnection rates.

No Regulator Can Mandate Bill And Keep

Even if the Commission did have authority to mandate particular compensation arrangements, it could not lawfully mandate a Bill and Keep arrangement. Not even state regulators can do that.

By using the term "reciprocal compensation" in Section 251(b)(5), Congress clearly contemplated some form of interconnection cost recovery.[228] The Commission's proposed Bill and Keep permits no cost recovery. But that is permissible under the statute only in one of two circumstances. First, there can be an "offsetting of reciprocal obligations,"[229] as might occur when both parties terminate roughly equal amounts of traffic. That is not the case, however, in the wireless context. LECs terminate much more traffic for two-way wireless providers than vice versa.[230] Second, the parties may agree to "waive mutual recovery."[231] But waiver is a voluntary process. It cannot be forced. Thus, regulators have no authority to mandate these arrangements.

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[228] See also Section 252(d)(2)(A) (for the purposes of compliance with Section 251(b)(5), any reciprocal compensation arrangement voluntarily negotiated by a LEC must "provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination" of calls that originate on each other's network, determined on the basis "of a reasonable approximation of the additional cost of terminating such calls").

[229] Section 252(d)(2)(B)(i).

[230] See discussion above and NPRM, para. 14.

[231] Section 252(d)(2)(B)(i).

The Commission Cannot Preempt State Authority Over Mutual Compensation

Therefore, the new telecommunications legislation not only prevents federal preemption of the states' intrastate ratemaking authority for interconnection, but provides the states with full authority in this area. Moreover, the Commission has no basis in this proceeding for interfering with that state authority. Despite granting the Commission authority to establish general rules implementing the interconnection obligations of Section 251, the new Act flatly prohibits the Commission from prescribing or enforcing any regulation that "precludes the enforcement of any regulation, order, or policy of a State Commission" that 1) establishes access and interconnection obligations of local exchange carriers, 2) is consistent with the requirements of Section 251, and 3) "does not substantially prevent implementation of the requirements of Section 251 and the purposes [of Part II of the act]."[232]

The new Act is therefore clear: the Commission may not preempt state regulations establishing LEC interconnection obligations unless they are inconsistent with the requirements of Section 251 and substantially prevent implementation of it or Part II of the Act. There is nothing in Section 251 (or any other provision of the Act) that conflicts with state interconnection arrangements that permit Mutual Compensation, rather than Bill and Keep. To the contrary, such policies are entirely consistent with Section 251's requirement that the LECs establish "reciprocal compensation arrangements for the transport and termination of telecommunications."[233] Thus, the

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[232] Section 251(d)(3)(A), (B), and (C).
[233] Section 251(d)(5).

Commission cannot preempt state authority over Mutual Compensation arrangements, and must allow time for parties to negotiate these arrangements and states to mediate and approve them.

The Commission Cannot Abrogate Our Existing Interconnection Contracts

Our plan to continue under existing interconnection contracts until we negotiate new ones is consistent with the requirements of the Telecommunications Act of 1996. Although the Commission has six months to establish regulations to implement the interconnection requirements of Section 251,[234] the rules for voluntary negotiations began upon enactment of the new Act. In fact, those rules require that any interconnection agreement, "including any interconnection agreement negotiated before the date of enactment of the Telecommunications Act of 1996, shall be submitted to the State commission...."[235] These agreements may be entered "without regard to the standards set forth in subsections (b) and (c) of section 251," which include the requirement of reciprocal compensation. Pacific Bell already submitted its existing agreements to the CPUC, and thus those agreements are now protected by the new Act. The Commission cannot abrogate those existing agreements through any kind of

[234] Section 251(d)(1).
[235] Section 252(a)(1).

interim measure.[236] We intend to retain them until we negotiate new ones based on Mutual Compensation, which we will then submit to state regulators. Given Congress' clear intent to leave ratemaking in this area to the states, we urge the Commission to rethink its tentative conclusions in favor of its preemption authority.

47 U.S.C. Section 332(c)(3) Does Not Give The Commission The Authority To Preempt State Regulation Of Intrastate Interconnection Rates

Congress' 1993 Budget Act did not alter the jurisdictional requirement leaving to the states the power to set the LECs' interconnection rates. As the Commission notes, 47 U.S.C. Section 332(c)(3) provides, in pertinent part, that "no State or local government shall have any authority to regulate the . . . rates charged by any commercial mobile service . . . ."[237] However, as BellSouth has aptly pointed out,[238] LECs' rates assessed to CMRS providers are not the same as "rates charged by" CMRS providers. Accordingly, in its prior decisions, the Commission was correct that

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[236] See, e.g., Implementation of Sections 12 and 19 of the Cable Television Consumer Protection and Competition Act of 1992, Development of Competition and Diversity in Radio Programming Distribution and Carriage, First Report and Order, 8 FCC Rcd 3359, 3414-15 (1993) (parties contended that application of new pricing discrimination statute to preexisting contracts constituted abrogation of contracts; Commission agreed that retroactive application of statute was inconsistent with Congressional intent); Applications of Bison City Television 49 Limited Partnership et al. for a Television Construction Permit, Memorandum Opinion and Order, 51 RR 2d 307, 310 (1982) ("[T]he Commission has no authority to compel parties to either enter into or abrogate settlement agreements which are by nature private contractual arrangements"); Applications of KQED, Inc., Memorandum Opinion and Order, 101 FCC 2d 723, 726 (1985) (reaffirming Bison City holding).

[237] 47 U.S.C. Section 332(c)(3)(A) (emphasis added). See NPRM, para. 97.

[238] See id., para. 106, citing Ex Parte Letter from Ben G. Almond, Executive Director-Federal Regulatory, BellSouth, to Mr. William F. Caton, Acting Secretary, Federal Communications Commission, December 7, 1995.

the Budget Act does not preempt state regulation of interconnection rates and that the Supreme Court's Opinion in Louisiana PSC prohibits that preemption.[239]

If the Commission could preempt state regulation of the rates charged to CMRS providers by any entity simply by virtue of Section 332's language regarding rates charged by CMRS providers, the Commission's jurisdiction would expand dramatically and the states' jurisdiction would shrivel. If Congress intended this radical change in federal-state relations, it would have needed to state its intent explicitly. Because it did not do so, Section 332 must be given its plain meaning, and the provision must be deemed irrelevant to the question of state jurisdiction of LECs' intrastate rates for interconnection.

In fact, Congress's intent was to preempt rates charged by CMRS providers to their end user subscribers, not to LECs for interconnection and termination of traffic. This intent is shown by Congress's permission for states to petition for authority to regulate CMRS rates if "market conditions with respect to [CMRS] services fail to protect subscribers adequately from unjust and unreasonable rates or rates that are

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[239] Louisiana PSC 476 U.S. at 378. (47 U.S.C. Section 152(b)'s limitation on Commission's jurisdiction over intrastate communication services "denies the FCC the power to pre-empt state regulation of depreciation for intrastate ratemaking purposes"); Petition On Behalf of the Louisiana Public Service Commission For Authority To Retain Existing Jurisdiction Over Commercial Mobile Radio Services Offered Within the State of Louisiana, 10 FCC Rcd 7898, 7908 (1995) ("Louisiana's regulation of the interconnection rates changed (sic) by landline telephone companies to CMRS providers appears to involve rate regulation only of the landline companies, not the CMRS providers, and thus does not appear to be circumscribed in any way by [47 U.S.C.] Section 332(c)(3)"); Implementation of Sections 3(n) and 332 of the Communications Act Regulatory Treatment of Mobile Services, Second Report and Order, 9 FCC Rcd 1411, para. 231, (1994) ("[W]e will not preempt state regulation of LEC intrastate interconnection rates applicable to cellular carriers at this time").

unjustly discriminatory."[240] End user subscribers normally have a choice of whether or not to subscribe to a CMRS provider's service, and may choose a competitor. That competition places downward pressure on CMRS providers' rates to end user subscribers and protects them without regulation. The LECs, however, have no choice but to allow interconnection by CMRS providers. Thus, the rationale supporting preemption of charges to end user subscribers does not apply to interconnection and termination. Accordingly, Congress has not deprived the states of jurisdiction over intrastate rates for interconnection between LECs and CMRS providers.

State Regulatory Practices Do Not Preclude CMRS Entry Or Interconnection

Interconnection between LECs and CMRS is covered by Section 332(c)(1)(B), not 332 (c)(3), and Section 332 (c)(1)(B) simply states that physical interconnection arrangements must be established "pursuant to the provisions of section 201 of this Act." Section 201 has never been thought to trump state rate making authority under Section 152(b). Nor does it now trump the new interconnection agreement procedures of Sections 251 and 252. Section 332(c)(3)'s provision preempting state regulation of the entry of CMRS providers,[241] and Section 332(c)(1)(B)'s provision conferring a

[240] 47 U.S.C. Section 332(c)(3)(A)(i) (emphasis added).
[241] 47 U.S.C. Section 332(c)(3).

general right to interconnection,[242] do not confer power on the Commission to preempt state regulation of LECs' intrastate interconnection rates.[243]

Arguably, the FCC may have jurisdiction to ensure that, in setting or approving particular interconnection agreements, the states do not effectively preclude entry by CMRS providers. But a general authority to sweep away state-imposed barriers to entry does not entail any authority to mandate the particular terms and conditions of interconnection. Only if a state's rules "substantially prevent implementation of the requirements of [Section 251]" does the Commission's authority to preempt come into play.[244] In this respect, it is worth noting that, while Section 253 -- which eliminates state entry barriers -- expressly preserves the Commission's parallel authority under Section 332(c)(3), neither Section 251 nor Section 252 contain a similar provision. This demonstrates Congress's recognition that entry barriers can be preempted and interconnection can be mandated without preempting state authority over the precise terms and conditions of interconnection. Moreover, CMRS providers clearly are not precluded from entry into the telecommunications markets or from obtaining the right to interconnection by virtue of state regulatory practices.[245] For instance, Pacific Bell has negotiated interconnection contracts with the cellular and ESMR providers in our

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[242] 47 U.S.C. Section 332(c)(1)(B). We note that this section explicitly states that it "shall not be construed as a limitation or expansion of the Commission's authority to order interconnection pursuant to this Act." (Emphasis added.) Thus, to the extent that prior law allowed states the power to regulate interconnection rates, Section 332(c)(1)(B) changes nothing.

[243] See NPRM, para. 111.

[244] See Section 251(d)(3).

[245] See NPRM, para. 113 for inquiry regarding state practices precluding entry of CMRS providers.

territory (covering MSAs and RSAs) and with the certificated paging and mobile carriers. In addition, Pacific Bell has negotiated a contract with Pacific Bell Mobile Services for two MTAs and is negotiating with two other PCS license holders. Nevada Bell has interconnection tariffs from which CMRS providers obtain interconnection.

The New Act Is Consistent With Section 151(b)'s Preservation Of State Authority Over Charges For Intrastate Communications Services

The new Acts' preservation of state authority over interconnection agreements is, in light of the overwhelmingly intrastate nature of such agreements, consistent with the existing Communications Act. Section 152(b) of the Communications Act of 1934 deprives the Commission of jurisdiction over "charges, classifications, practices, services, facilities, or regulations for or in connection with intrastate communications service by wire or radio of any carrier," except as provided in Sections 223 through 227, and Section 332.[246] Old Section 152(b) thus dovetails with new Sections 251 and 252, which leave it to the states to control the specific terms and conditions of interconnection agreements.

This conclusion is not altered by erroneous arguments that interstate and intrastate CMRS calls are inseverable. Indeed, the Commission already has ruled correctly that the states have the authority to regulate the intrastate rates because the costs attributable to intrastate CMRS calls are segregable from interstate costs.[247]

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[246] 47 U.S.C. Section 152(b) (emphasis added).

[247] Second Report and Order, supra, para. 231, citing Louisiana PSC, 476 U.S. at 375 n.4.

Either the LEC or the CMRS provider can determine the point of origination or termination of a call. In fact, the CMRS provider's switch knows which cell segment the call originates in, and, with the appropriate equipment, the CMRS provider can record this information. As is the situation with other types of switched calls, the Commission can require the provision and use of PIUs where needed.

In addition, the Commission could adopt a surrogate method for determining the jurisdictional nature of the traffic in order to make implementation easier. For instance, for FGA and FGB services that lacked ANI capability, the Commission adopted the Entry/Exit Surrogate ("EES") method of jurisdictional measurement, under which "calls that enter an IXC network in the same state as that in which the called station is located are deemed to be intrastate, and calls that terminate in a different state than their IXC point of entry are considered interstate." The Commission found:

> For the reasons discussed in the Joint Board's recommendation, we believe that the unadjusted EES method is the best nationwide measurement approach available in terms of accuracy and ease of implementation. Since the EES methods is based upon call detail information already in possession of the IXCs, the information used to perform EES measurements is available to the IXCs at little or no additional cost, further simplifying implementation of this measurement method. Indeed, this method has been used successfully for the past several years by the states and in the federal access tariffs. We also believe that the Joint Board is correct to recommend a degree of flexibility through its proposed procedures that allow implementation of "adjustment factors" or alternative measurement techniques in localities with particularly high levels of "false traffic." We concur with the Joint Board that these adjustments need not be established as nationwide adjustments to EES because <u>these anomalies generally occur only in limited geographical 'pockets' such as metropolitan areas that</u>

> straddle state boundaries. We adopt the guidelines and process that that the Joint Board has recommended for carriers/states to obtain variances from the general rule.
>
> We also endorse the Joint Board's conclusion that the EES method should be used to allocate the FGA and FGB traffic not only for cost separations purposes, but also for interstate access charge billing purposes.[248]

With CMRS traffic, the first point of entry into the PSTN at an IXC's switch, a CMRS provider's MTSO, or the LEC's switch could be used as the surrogate for the origination point of the call for jurisdictional measurement purposes. If warranted, adjustment factors could be applied to account for any anomalies that may occur, such as in "metropolitan areas that straddle state boundaries."

For all these reasons, the Supreme Court's inseverability exception in Louisiana PSC, in which the FCC may preempt contrary state law if "it [is] not possible to separate the interstate and the intrastate components of the asserted FCC regulation,"[249] does not apply here.[250]

Therefore, even prior to the adoption of the new Act, any federal policy which imposed mandatory requirements on intrastate rates for interconnection with LECs -- as the Commission's second and third proposed options do -- was inconsistent with the law and could not be adopted. Under the new Act, the Commission must give full deference to the states concerning interconnection rates.

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[248] EES Order, 4FCC Rcd 8448, paras. 13-14 (emphasis added).

[249] Louisiana PSC, 476 U.S. at 375 n.4.

[250] See NPRM, paras. 111-12 for inquiry regarding applicability of inseverability exception.

Only Voluntary Standards Are Permissible

We have no objection to the Commission's implementing voluntary standards for states to follow. We also have no objection to the Commission's suggestion that it "have an industry group develop specific standards to govern the terms and conditions for interconnection arrangements,"[251] so long as those standards are voluntary and not mandatory. In fact, we believe that the Commission can perform a very useful function in helping the states and parties voluntarily share information and coordinate their efforts in order to bring more benefits to the public.

[251] NPRM, para. 108.

III. INTERCONNECTION FOR THE ORIGINATION AND TERMINATION OF INTERSTATE INTEREXCHANGE TRAFFIC INVOLVING CMRS MUST BE CONSISTENT WITH ACCESS REQUIREMENTS FOR OTHER FORMS OF INTERCONNECTION

The Commission points out that it has never addressed "whether LECs or IXCs should remit any interstate access charges to CMRS providers when the LEC and the CMRS provider jointly provide access service."[252] The Commission tentatively concludes "that CMRS providers should be entitled to recover access charges from IXCs, as the LECs do when interstate interexchange traffic passes from CMRS customers to IXCs (or vice versa) via LEC networks."[253]

We, of course, have no objection to CMRS providers recovering access charges from IXCs for the portions of access service that they provide for IXCs. CMRS providers, however, are not entitled to recover any charges from us for the access services they provide. When interexchange traffic passes from CMRS customers (or vice versa) via our network, we provide local transport for the IXC, and the IXC compensates us for the local transport rate element of interstate access charges. On tandem routed calls, the CMRS provider provides the local switching and carrier common line functions. On calls routed directly to an end office, we perform local switching and local transport functions and charge the IXC for them. In either case, we receive no compensation from either the CMRS provider or the calling party.

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[252] NPRM, para. 115.
[253] Id. at para. 116.

We do not know whether or not CMRS providers currently receive compensation from the IXC for the access functions they provide, but we believe that they should be able to do so. The Commission should continue to forbear from regulating CMRS providers' access charges, because with the emergence of PCS the CMRS marketplace will be fully competitive.

The CMRS providers can bill the IXC directly for the functions that they perform. If the LECs were required to pay the CMRS providers for these functions, the LECs first would have to collect the compensation for those functions from the IXCs and then forward it to the CMRS providers. LECs should not be required to perform these billing and collection services. The Commission should allow these services to remain part of unregulated billing and collection service, subject to voluntary negotiation among the parties. Accordingly, these billing and collection services should not be tariffed, but we have no objection to making negotiated contracts publicly available if we provide these services.

IV. THIS PROCEEDING SHOULD APPLY TO ALL TWO-WAY CMRS PROVIDERS

The Commission invited comment "on whether the proposals and options considered in this Notice of Proposed Rulemaking should apply to interconnection arrangements between LECs and: (1) broadband PCS providers only; (2) broadband PCS, cellular telephone, SMR, satellite telephony, and other CMRS providers that offer two-way, point-to-point voice communications, which could compete with LEC landline telecommunications services; or (3) all CMRS providers."[254] We recommend the second option to the extent that the Commission adopts new rules, but, as we have discussed, no interim changes should be adopted for any providers.

The same interconnection policies should be applied to interconnection arrangements between LECs and all two-way CMRS providers, but not to one-way paging providers at this time. This treatment would be consistent with Congress's intent in the Omnibus Budget Reconciliation Act of 1993 "to recognize that market conditions may justify differences in the regulatory treatment of some providers of commercial mobile services."[255] This treatment also would be generally consistent (with the exception of paging) with the actions taken by the Commission in implementing the

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[254] NPRM, para. 118.

[255] Conference Report of the Committee On The Budget, House of Representatives, to accompany H. R. 2264, Omnibus Budget Reconciliation Act of 1993, August 4, 1993, Section 332(c)(1), Conference Agreement, p. 491.

requirements of the Budget Act in CC Docket No. 93-252.[256] This policy would help ensure that all potential competitors are treated the same. Disparate treatment could create unfair competition.

At this time, paging is one-way service that does not directly compete with two-way CMRS and LEC services. Moreover, paging companies' traffic is 100% landline-to-wireless, whereas two-way CMRS providers' traffic in our territory is approximately 83% wireless-to-landline. Therefore, both the Commission's ill-advised Bill and Keep proposal and the much better approach of Mutual Compensation would affect LEC interconnection with paging companies in substantially different ways than they would affect LEC interconnection with two-way CMRS providers. In addition, the number of paging companies far exceeds the number of two-way providers. For instance, in California we negotiate with approximately 82 paging companies versus approximately 25 two-way CMRS providers. Thus, it may take much longer to negotiate new arrangements with paging companies. We have five-year contracts with paging companies. Therefore, there is adequate time to continue negotiating with them after we have negotiated new arrangements with two-way CMRS providers based on Mutual Compensation concepts.

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[256] See, e.g., CMRS Second Report, 9 FCC Rcd 1411 (1994). The Commission treated all CMRS providers the same. Here we recommend that the Commission treat all CMRS providers the same except one-way paging companies.

V. CONCLUSION

For all the above reasons, the Commission should not require Bill and Keep or any other "interim" measure for LEC-to-CMRS interconnection. The Commission should allow us to continue forward with our plans to negotiate Mutual Compensation arrangements that will support the legitimate interests of all parties and, most importantly, the interests of the public.

Respectfully submitted,

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Date: March 4, 1996

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EXHIBIT A

PACIFIC BELL

A Pacific Telesis Company

San Francisco, March 1, 1996

In compliance with our Wireless Interconnection Agreement, Section 16, Terms and Termination, paragraph b., Pacific is notifying our cellular and EMSR carriers that we are preparing to begin a new interconnection agreement.

As indicated in Pacific's responses to both State and Federal proceedings, we are strongly opposed to Bill and Keep arrangements. We favor a mutual compensation approach in which both parties receive appropriate compensation for the use of their respective networks. We recognize that our existing wireless interconnection agreements will require changes to meet this goal. These changes will affect our billing and network, not only the interconnection rate elements that are billed to you, but potentially the rates charged to Pacific's subscribers. We are continuing to assess the costs and possible price changes, and are still committed to an April 1996 start of a new round of negotiations that we hope will result in mutual compensation agreements. Our plan is to have a new mutual compensation agreement implemented upon the termination of our existing interconnection agreement.

D. M. Byrkit
Vice President
Industry Market's Group/Wireless Carriers

PACIFIC BELL®

A Pacific Telesis Company

San Francisco, March 1, 1996

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As indicated in Pacific's responses to both State and Federal proceedings, we are strongly opposed to Bill and Keep arrangements. We favor a mutual compensation approach in which both parties receive appropriate compensation for the use of their respective networks. We recognize that our existing wireless interconnection agreements will require changes to meet this goal. These changes will affect our billing and network, not only the interconnection rate elements that are billed to you, but potentially the rates charged to Pacific's subscribers. We are continuing to assess the costs and possible price changes, and are still committed to an April 1996 start of a new round of negotiations that we hope will result in mutual compensation agreements. Our plan is to have a new mutual compensation agreement implemented upon the termination of our existing interconnection agreement.

D. M. Byrkit
Vice President
Industry Market's Group/Wireless Carriers

PACIFIC BELL

A Pacific Telesis Company

San Francisco, March 1, 1996

In compliance with our Wireless Interconnection Agreement, Section 16, Terms and Termination, paragraph b., Pacific is notifying all cellular carriers that we are preparing to begin a new interconnection agreement. I know you have not yet signed our Wireless Interconnection Agreement but I want you to be aware of our plans.

As indicated in Pacific's responses to both State and Federal proceedings, we are strongly opposed to Bill and Keep arrangements. We favor a mutual compensation approach in which both parties receive appropriate compensation for the use of their respective networks. We recognize that our existing wireless interconnection agreements will require changes to meet this goal. These changes will affect our billing and network, not only the interconnection rate elements that are billed to you, but potentially the rates charged to Pacific's subscribers. We are continuing to assess the costs and possible price changes, and are still committed to an April 1996 start of a new round of negotiations that we hope will result in mutual compensation agreements. Our plan is to have a new mutual compensation agreement implemented upon the termination of our existing interconnection agreement.

D. M. Byrkit
Vice President
Industry Market's Group/Wireless Carriers

EXHIBIT B

Statement of Professor Jerry A. Hausman

1. My name is Jerry A. Hausman. I am MacDonald Professor of Economics at the Massachusetts Institute of Technology in Cambridge, Massachusetts, 02139.

2. I received an A.B. degree from Brown University and a B.Phil. and D. Phil. (Ph.D.) in Economics from Oxford University where I was a Marshall Scholar. My academic and research specialties are econometrics, the use of statistical models and techniques on economic data, and microeconomics, the study of consumer behavior and the behavior of firms. I teach a course in "Competition in Telecommunications" to graduate students in economics and business at MIT each year. Mobile telecommunications is one of the primary topics covered in the course. I was a member of the editorial board of the Rand (formerly the Bell) Journal of Economics for the past 13 years. The Rand Journal is the leading economics journal of applied microeconomics and regulation. In December 1985, I received the John Bates Clark Award of the American Economic Association for the most "significant contributions to economics" by an economist under forty years of age. I have received numerous other academic and economic society awards. My curriculum vitae is included as Exhibit 1.

3. I have done significant amounts of research in the telecommunications industry. My first experience in this area was in 1969 when I studied the Alaskan telephone system for the Army Corps of Engineers. Since that time, I have studied the demand for local measured service, the demand for intrastate toll service, consumer demands for new types of telecommunications technologies, marginal costs of local service, costs and benefits of different types of local services, including the effect of higher access fees on consumer welfare, demand and prices in the cellular telephone

industry, and consumer demands for new types of pricing options for long distance service. I have also studied the effect of new entry on competition in paging markets, telecommunications equipment markets, and interexchange markets and have published a number of papers in academic journals and books about telecommunications. I have also edited two recent books on telecommunications, Future Competition in Telecommunications (Harvard Business School Press, 1989) and Globalization, Technology and Competition in Telecommunications (Harvard Business School Press, 1993).

4. I have previously provided affidavits before the FCC on the proper regulatory framework for Local Exchange Companies (LECs). I have also testified before state regulatory commissions on similar topics, in particular the correct regulatory treatment of interconnection. I have recently published two papers on interconnection issues: J. Hausman and T. Tardiff, "Efficient Local Exchange Competition", Antitrust Bulletin, 1995, and J. Hausman, "Proliferation of Networks in Telecommunications", ed. D. Alexander and W. Sichel, Networks, Infrastructure, and the New Task for Regulation (Univ. of Michigan Press, 1995).

5. I have been involved in the mobile telecommunications industry since 1984. I have provided testimony on previous occasions on cellular competition and regulation to state PUCs and to the FCC. I previously submitted testimony to the FCC on questions of cellular regulation, including the question of whether cellular companies should be allowed to bundle cellular CPE with cellular service, whether the FCC should forbear from regulation of mobile service providers, whether the FCC should require equal access obligations on CMRS providers, and whether the FCC should preempt state regulation of cellular. During the PCS proceedings I filed 6 affidavits which considered eligibility questions for LECs, the presence of economies of scale and scope in providing PCS, the design of an appropriate auction framework for PCS spectrum, spectrum allocation and band size, eligibility for in-region