

TCG Proposed Rule	Explanation
<p>L. Telecommunications carriers shall provide each other with both answer and disconnect supervision to allow for proper billing of customer calls, as well as all available call detail information necessary to allow both parties to bill their customers properly.</p>	<p>Derived from CPUC Interconnection Rules, Decision No. 95-12-056, Dec. 22, 1995.</p> <p>Rationale: Alleviates customer confusion and contributes to accurate billing.</p>
<p>M. Preferred Outcome: ILECs providing physical collocation shall not impose any nonrecurring charges for the conversion of virtual collocation arrangements to physical collocation arrangements other than the nonrecurring costs associated with the construction of the physical collocation enclosure.</p>	<p>Nonrecurring charge limitation derived from FCC collocation policies.</p> <p>Rationale: Allow for efficient and fair transition to physical collocation from virtual.</p>
<p>N. Preferred Outcome: ILECs shall permit collocators to contract for the construction of collocation cages with contractors approved by the ILEC, such approval not to be unreasonably withheld or delayed. ILECs shall not impose any restrictions on the amount of collocation space ordered by a collocator or on the resale of collocation space to other carriers.</p>	<p>Derived from FCC investigation.</p> <p>Rationale: Allows for efficient use of collocation space and lower collocation costs.</p>
<p>O. Preferred Outcome: No ILEC-CLEC interconnection agreement shall be approved by a Commission unless the agreement include specific performance standards for the provision by the ILEC of interconnection, unbundled elements, transport and termination, and associated services, and financial penalties for failure to meet such standards. Such performance standards shall include, but are not limited to, mean time to repair, installation intervals, transmission characteristics, bit error rates, and the like. In the absence of an agreement to the contrary, the financial penalty for the failure to meet an installation, rearrangement or repair interval shall be triple the ILEC's retail nonrecurring charge for a similar service, and the failure to meet repair, maintenance, performance, and similar standards, shall be double the charge assessed to the CLEC for the affected facility or service for the prior month, or triple the nonrecurring charge, whichever is greater.</p>	<p>NPRM ¶ 61</p> <p>Rationale: Performance standards and penalties are essential to ensure ILECs properly implement interconnection agreement and provide a non-regulatory solution to potential disputes.</p>

TCG Proposed Rule	Explanation
<p>P. Preferred Outcome: CLECs shall have the right to accept the rates, terms and conditions of interconnection agreements in force between an ILEC and any other LEC, including any agreement with another ILEC that was in effect after February 8, 1994, subject to the reasonable terms and conditions thereof, provided that a limitation of a contract to LECs whose service territories do not overlap, or a specification of different rates or terms as to non-overlapping traffic, shall not be enforceable against another carrier accepting such agreement.</p>	<p>1996 Act Section 252</p> <p>Rationale: Allows carriers to negotiate individual agreements with other carriers eligible to accept them subject to reasonable terms and conditions; allows CLECs to utilize competitively neutral ILEC-ILEC agreements that have been in effect.</p>
<p>Q. Preferred Outcome: ILECs shall include CLEC's customers' primary listings in the ILEC white page (residence and business listings) and yellow page (business listings) directories, as well as the ILEC's directory assistance databases. ILECs will not charge CLECs to: (a) print CLEC's customers' primary listings in the white page and yellow page directories; (b) distribute directory books to CLEC customers; (c) recycle CLEC customers' directory books; and (d) maintain directory assistance databases. ILECs will provide such services with lead times, time limits, format, and content of listing information equal to that provided to ILEC customers.</p>	<p>Derived from TCG-ILEC Stipulated Agreements.</p> <p>Rationale: Recognizes that CLEC directory information enhances the value of ILEC directories, and that availability of single comprehensive directory information is in the public interest.</p>
<p>II. Unbundling</p>	
<p>A. ILECs shall unbundle all network facilities or services which are essential (<u>i.e.</u>, not readily or economically available from other sources) to a CLEC's ability to offer services, and make such facilities available to telecommunications carriers under terms and conditions that are equivalent to the terms and conditions under which a local exchange carrier provides such essential facilities or services to itself.</p>	<p>Derived from Arizona Proposed Interconnection Rules, Decision No. 59483, Jan. 11, 1996 and NYPSC Comparably Efficient Interconnection Standards.</p> <p>Rationale: Promotes facilities-based competition; helps prevent the ILEC from using the facilities</p>

TCG Proposed Rule	Explanation
<p>B. The following ILEC network facilities are deemed to be essential and shall be unbundled: (1) Local loop from the central office to the customer's premises; (2) Transport from the trunk-side of switch; (3) Switching Capacity (<i>i.e.</i>, ports or modules), including intra-central office connections; (4) Reasonable Access to and use of databases and associated signalling necessary for call routing, completion and billing; (5) Reasonable Access to and use of Ancillary Systems, including but not limited to ordering, maintenance, trouble reporting, and billing systems.</p>	<p>Unbundling requirements of 1996 Act.</p> <p>Rationale: Immediately allows for the unbundling of the basic network elements that are necessary to provide end-to-end facilities-based service without the time-consuming and costly process of determining a extensive list of unbundled network elements that initially may not be in demand.</p>
<p>C. An ILEC shall ensure that the retail and wholesale price of each telecommunications service offered by the company is greater than the imputed prices of all essential services, facilities, components, functions or capabilities used to provide such telecommunications services, whether such service is offered pursuant to tariff or private contract, including Transport and Termination and unbundled elements.</p>	<p>Imputation test.</p> <p>Rationale: Such an imputation rule assures that unbundled network elements are priced at just and reasonable rates as required by Sec. 252(d)(1) of the 1996 Act and alleviates the possibility that a price squeeze would occur thus fostering facilities-based competition.</p>
<p>D. Where a telecommunications carrier purchases unbundled elements from an ILEC that collectively duplicate the effective capabilities of a retail service offered by the ILEC, the ILEC shall charge the wholesale rate in lieu of the unbundled element rate, and shall be entitled to collect all other charges to which it would be entitled had the service been ordered on a wholesale basis.</p>	<p>To preserve relationship between 1996 Act pricing standards.</p> <p>Rationale: To prevent misuse of unbundled elements to circumvent statutory wholesale pricing requirements.</p>
<p>III. Reciprocal Compensation (Transport and Termination)</p>	
<p>A. Rates for Transport and Termination cannot include charges for universal service or contributions to ILEC overhead costs, nor can eligibility for Transport and Termination rates be based on geographic, class of service, or types of customers served by CLEC.</p>	<p>Derived from 1996 Act.</p> <p>Rationale: This ensures that transport and termination rates are appropriately applied.</p>

TCG Proposed Rule	Explanation
<p>B. Preferred Outcome: Local traffic subject to reciprocal compensation shall be transported and terminated by LECs on the basis of mutual traffic exchange ("bill and keep"), unless and until the LEC seeking monetary reciprocal compensation can identify and quantify the additional costs it incurs for termination of the other carrier's eligible traffic.</p>	<p>Derived from CPUC Interconnection Rules, Decision No. 95-12-056, Dec. 22, 1995.</p> <p>Rationale: Bill & keep affords the carrier's a compensation mechanism that can be immediately used and that complies with the 1996 Act's requirements that rates be just and reasonable.</p>
<p>C. Local traffic eligible for reciprocal termination and transportation is traffic originated and terminated within the same LATA where originated by customers receiving telephone service (dial tone) from the LEC.</p>	<p>New language.</p> <p>Rationale: Defines local traffic eligible for transport and termination.</p>
<p>IV. Arbitration</p>	
<p>A. Upon receipt of a timely and complete petition for arbitration, the State Commission shall either appoint an outside, professional arbitrator to conduct the arbitration proceedings, or ratify a selection of an outside professional arbitrator by the parties .</p>	<p>Wisconsin PSC Staff proposed arbitration rules.</p> <p>Rationale: Appointment of an outside professional arbitrator removes the costly and burdensome process from the Commission, leaving it with the ultimate task of reviewing and approving/disapproving the final decision.</p>
<p>B. Voluntary Agreement: If the parties reach voluntary agreement, after the initiation of arbitration, the arbitration panel will issue a consent award for Commission approval.</p>	<p>Derived from Wisconsin PSC Staff proposed arbitration rules.</p> <p>Rationale: Encourages negotiated agreements even after the arbitration process as ensued.</p>
<p>C. Parties: Only parties to the negotiations will be permitted to participate as parties to the arbitration hearing.</p>	<p>Derived from Wisconsin PSC Staff proposed arbitration rules.</p> <p>Rationale: A rule that prohibits outside parties from intervening, gives recognition to the fact that each competitive telecommunications provider has unique interconnection requirements and expedites the arbitration process. Such a rule also permits and encourages the development of differing interconnection arrangements.</p>

TCG Proposed Rule	Explanation
<p>E. Discovery: The arbitrator will permit discovery by establishing a schedule and by resolving disputes which may arise during discovery.</p>	<p>Derived from Wisconsin PSC Staff proposed arbitration rules.</p> <p>Rationale: Discovery between the parties will provide the Commission with information that will allow fair and timely decision making.</p>
<p>F. Written Award: The arbitrator will timely make a written arbitration decision which will adopt one of the two proposals offered by the parties. Provided that where one of the parties offers as its proposal a preferred outcome, the arbitrator shall adopt the preferred outcome as the final decision unless the party proposing the preferred outcome has expressly waived the right to that preferred outcome result.</p>	<p>Derived from Wisconsin PSC Staff proposed arbitration rules.</p> <p>Rationale: An "either or" structure, would place pressure on the parties to compromise their positions to one that may be satisfactory to both sides thus expediting the arbitrations process.</p>

ATTACHMENTS

ATTACHMENT A:

TEXAS: Plaintiff's Original Petition, filed May 7, 1996, Southwestern Bell Telephone Company v. Public Utility Commission of Texas (No. 96-05327) (District Court of Travis County, Texas).

ATTACHMENT B:

CALIFORNIA: *Order Instituting Rulemaking on the Commission's Own Motion into Competition for Local Exchange Service and Order Instituting Investigation on the Commission's Own Motion into Competition for Local Exchange Service*, R.95-04-043 and I-95-04-044, Decision 95-12-056, (December 20, 1995)(Appendix A, the Preferred Outcomes, only).

ATTACHMENT C:

NEW YORK: *Proceeding to Examine Issues Related to the Continuing Provision of Universal Service and to Develop a regulatory Framework for the Transition to Competition in the Local Exchange Market, Case 94-C-0095, Order Instituting Framework for Directory Listings, Carrier Interconnection and Intercarrier Compensation*, New York Public Service Commission, (June 28, 1995).

ATTACHMENT D:

WASHINGTON STATE: *Fourth Supplemental Order Rejecting Tariff Filings and Ordering Refiling; Granting Complaints, in Part*, Washington Utilities and Transportation Commission, (October 31, 1995), Dkt. No. UT-94146.

ATTACHMENT E:

ARIZONA: *Rules for Telecommunications Interconnection and Unbundling*, Arizona Corporation Commission Order, Decision No. 59483, (January 11, 1996), Proposed Rule R14-2-1303.

ATTACHMENT F:

FLORIDA: *Resolution of Petitions to Establish Nondiscriminatory Rates, Terms and Conditions for Interconnection Involving Local Exchange Companies and Alternative Local Exchange Companies Pursuant to Section 364.162, Florida Statutes*, Docket No. 950985-TP, Order No. PSC-96-0445-FOF-TP, (March 29, 1996).

ATTACHMENT A

NO. 96-05327

SOUTHWESTERN BELL TELEPHONE COMPANY,
Plaintiff

v.

PUBLIC UTILITY COMMISSION OF TEXAS,
Defendant

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§

IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

_____ DISTRICT COURT

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Southwestern Bell Telephone Company, Plaintiff, complaining of the Public Utility Commission of Texas, Defendant, and for cause of action would show the Court as follows:

PARTIES

1. Plaintiff Southwestern Bell Telephone Company ("Southwestern Bell") is a Missouri corporation duly qualified to do business in Texas.

2. The Public Utility Commission of Texas (the "Commission") was created by the Public Utility Regulatory Act, article 1446c, Tex. Rev. Civ. Stat. Ann. ("PURA"), and is now governed by legislative enactments to be codified at article 1446c-0, Tex. Rev. Civ. Stat. Ann. ("PURA '95"). The Commission is an administrative agency with jurisdiction over the telecommunications utility business in Texas. The Commission may be served with citation by service upon its secretary, Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757.

3. The Texas Administrative Procedure Act, Texas Gov't Code ch. 2001 (the "APA"), requires in section 2001.176(b)(2) that copies of a petition for judicial review of an agency order be served on each party of record in the proceedings before the agency.

FILED

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Virginia R. ...
DISTRICT CLERK
TRAVIS COUNTY, TEXAS

Accordingly, Southwestern Bell requests that the clerk of the court serve a copy of this Petition by certified mail, return receipt requested, upon each party to the Commission proceedings or upon the authorized representative of each such party, as set forth in Attachment 1 to this Petition.

JURISDICTION AND VENUE

4. This is an appeal from the Final Order on rehearing of the Commission in its Docket No. 14633 captioned "Application of Teleport Communications Houston, Inc. for Service Provider Certificate of Operating Authority Within Harris County, Texas." Southwestern Bell brings this appeal pursuant to section 1.301 of PURA '95 and section 2001.171 *et seq.* of the APA. Because Southwestern Bell has exhausted its administrative remedies and is aggrieved by a final decision of the Commission in a contested case, it is entitled to judicial review. This Court has jurisdiction over appeals of administrative agency orders.

5. In addition, because this case hinges on the Commission's construction of controlling provisions of PURA '95, Southwestern Bell also seeks declaratory relief in this action pursuant to section 2001.038 of the APA and the Texas Uniform Declaratory Judgments Act, chapter 37, Tex. Civ. Prac. & Rem. Code. The rule adopted by the Commission in this case through the Commission's construction of applicable statutory provisions, and the threatened application of that rule, interferes with or impairs, or threatens to interfere with or impair, Southwestern Bell's legal rights and privileges. This Court has jurisdiction over Southwestern Bell's request for declaratory relief.

6. Venue is mandatory in this Court under APA § 2001.176(b)(1) (venue for APA appeal of an agency final order lies exclusively in the district courts of Travis County) and APA

§ 2001.038(b) (venue for APA challenge to an agency rule lies exclusively in the district courts of Travis County).

7. Southwestern Bell also invokes the general jurisdiction and inherent authority of the District Court under Article V, § 8 of the Texas Constitution, and under § 24.011 of the Government Code and § 65.021(a) and § 65.011(3) of the Tex. Civ. Prac. & Rem. Code to grant all appropriate remedies and relief in accordance with the principles of equity, including writs of mandamus and injunction, so as to secure the rights to which it is entitled under PURA '95, which the Commission has unlawfully denied.

STATUTORY BACKGROUND

8. Until September 1, 1995, PURA allowed local exchange telephone services to be provided only by an entity to which the Commission had granted a Certificate of Convenience and Necessity ("CCN") for a specified certificated area. Holders of CCNs were called "Local Exchange Companies" or "LECs." Local exchange services in a certificated area could not be provided unless an applicant for a CCN could demonstrate to the Commission that a LEC serving the area was providing inadequate service to the public, or for other good cause.

9. Among many changes made by PURA '95, the new act created a new structure for competition in the local exchange market. PURA '95 allows a telecommunications provider to begin offering local exchange services, as a competitor to the CCN-holder, if the provider first applies for and receives from the Commission either (1) a "facilities-based" Certificate of Operating Authority ("COA") pursuant to section 3.2531, or (2) a "service provider" certificate, the Service Provider Certificate of Operating Authority ("SPCOA") pursuant to section 3.2532. Whether a new market entrant receives (1) a COA or (2) an SPCOA, makes a substantial

difference to the ways in which it can offer services. These differences are at the heart of this case.

10. Under PURA '95, any telephone utility holding a CCN as of September 1, 1995, is designated an "Incumbent Local Exchange Company" ("ILEC") with respect to the area(s) certificated to it. The Act requires ILECs to interconnect with holders of COAs and SPCOAs, and to make certain services available which holders of COAs and SPCOAs can buy from the ILECs and resell to their own customers.

11. In section 3.2531, PURA '95 requires new market entrants to elect between seeking the "facilities-based" COA and the "service provider" certificate, the SPCOA. Because PURA '95 § 3.2532(e) prohibits any entity from holding both types of certificates for an area, the election between the two certificates required by section 3.2531 is mandatory.

12. A COA-holder is obligated to define a contiguous area of at least 27 square miles in which the COA-holder will "build out" a telecommunications infrastructure over no more than a six-year period, offering service to all potential customers within the area it builds out. An economic incentive for constructing a network arises from the fact that a COA-holder will not incur usage-sensitive line charges for local calls which it transports using its own facilities. As to 60% of the COA-holder's customers, this obligation to offer service must be satisfied through the COA-holder's own facilities, or those of a telecommunications facility other than the ILEC, or with wireless (but not cellular) services. The COA-holder can serve not more than 40% of its customers through purchasing and reselling the usage-sensitive services of the ILEC providing local exchange services in the same area. Thus, a COA requires the holder to construct a new,

predominantly "facilities-based" network and to provide service to all of those customers within its certificated area who request service.

13. An SPCOA involves much more limited obligations and rights. The holder of an SPCOA has no duty to build-out, and no duty to offer service to all customers or any defined percentage of customers within its certificated area. An SPCOA holder can choose to serve only those geographic submarkets and particular customers it wishes to serve. SPCOA-holders are entitled to buy usage-sensitive connections, flat-rate local exchange service, and "feature services" (such as call waiting and Caller ID) from ILECs (or any other entity certificated to provide local exchange service in an area). Flat-rate and feature services can be bought at 5% less than what the local exchange carrier charges its own customers, allowing the SPCOA-holder to resell those services to its own customers in combination with other non-local services that the SPCOA-holder itself provides, including, for example long-distance service.

14. As demonstrated more fully below, the decision by the Commission in this case ignores the carefully drawn statutory distinctions between COAs and SPCOAs and permits facilities-based providers of telecommunications services to obtain an SPCOA, thereby avoiding the duties and obligations imposed on the holder of a COA. The Commission's decision substantially undermines the economic incentives which the Legislature created for the construction of competitive telecommunications networks and for affording all customers within an area a choice between fully competitive alternative networks.

PROCEEDINGS BEFORE THE COMMISSION

15. Beginning on September 1, 1995, the effective date of PURA '95, the Commission received a flurry of applications for COAs and SPCOAs. Some applicants sought

approval to build facilities-based networks under COAs, including Teleport Communications Houston, Inc. ("TCG-H"), which filed an application for a COA, and was assigned Docket No. 14633.

16. The TCG-H application was argued on the merits in a joint hearing on September 22, 1995, and on October 4, 1995 the ALJ issued a Proposal for Decision recommending approval of the TCG-H application. On October 25, the Commission remanded to consider the adequacy of TCG-H's build-out plan. On November 10, 1995, TCG-H amended its application to request an SPCOA. On December 14, 1995, the ALJ issued an Amended Proposal for Decision again recommending approval of the TCG-H application.

17. The Commission consolidated the TCG-H case with other applications, and thereafter considered further briefing from the parties concerning legislative history. On February 23, 1996, the Commission issued its Order (copy attached as Exhibit A) ruling that TCG-H was entitled to receive an SPCOA. This is the final order of the Commission from which Southwestern Bell brings its appeal.

18. On March 11, 1996, Southwestern Bell timely filed its motion for rehearing with respect to the Commission's February 23, 1996 Order. That motion for rehearing (copy attached as Exhibit B) has been overruled by operation of law.

ERRORS OF THE COMMISSION

19. As the legislation which became PURA '95 moved through the Texas Legislature, a recurring theme was the legislative purpose of encouraging the construction of additional telecommunications infrastructure (in parallel to the infrastructure of the ILECs) to ensure that true, facilities-based competition existed in Texas. So that all consumers in an area served by

a COA-holder would have competitive network facilities available, and thus "true choice," one of the obligations under a COA is the duty to serve any customer who requests service within a build out area. This is a form of universal service.

20. To ensure that competitive networks are built for the benefit of as many consumers as possible, and to avoid creating a market consisting solely of resale arbitrage, the Legislature in section 3.2531 presented new market entrants with a threshold choice governing how they could provide local exchange services: Engage in the resale arbitrage market through an SPCOA or build a network under a COA. The Commission's order effectively rewrites PURA '95 and removes meaningful incentives for network construction. By allowing SPCOA-holders to build-out selectively, the Commission has lost sight of several of the Legislature's goals. Only selected high-volume, more profitable customers (primarily larger businesses) will have a choice between different networks; meanwhile, only ILECs will have an obligation to serve every customer.

21. The Commission's decision ignores the plain meaning of the statutes. It also ignores the legislative history. The Legislature considered – and rejected – an amendment that was urged by the parent corporation of MFS-Dallas and MFS-Houston, that would have allowed holders of SPCOAs to combine use of their own local exchange facilities with the resale rights granted by PURA '95. That amendment, offered to and rejected by the Texas Senate, has in effect been adopted by the Commission.

22. Southwestern Bell respectfully contends that the Legislature meant what it said in PURA '95. A mandatory election must be made between a "service provider" certificate (SPCOA) and a "facilities-based certificate" (COA). An SPCOA can offer only those local

exchange services which it obtains from local exchange carriers for resale. SPCOA-holders can provide their own non-local exchange services (e.g., long-distance) and sell those in combination with resold local exchange services. PURA '95 does not authorize a third new category of certificate for market entrants, which would allow piecing together the most economically beneficial aspects of the COA and SPCOA, such as (1) offering facilities-based service like a COA (where it would be profitable to do so), but avoiding (2) the build-out requirements of COAs and (3) the universal service obligations of COAs, while (4) exercising the ability which comes with an SPCOA to choose customers selectively. The Legislature did not intend in PURA '95 to permit market entrants to avoid the obligations imposed on the holder of a COA by the device of choosing to become an SPCOA, while continuing to use its own facilities. Such a construction would render the COA provisions meaningless.

23. The effect of the Commission's order is to allow a holder of an SPCOA to provide much more than resale of local exchange "service" obtained from an ILEC. Under the Commission's erroneous view of the statute, an SPCOA holder can build-out selectively. It can build only to the most profitable customers. It can bypass others it does not choose to serve. In so doing, the Commission has ignored the legislative direction and intent that competition be encouraged through construction of competitive networks.

24. The Commission's final order impairs and diminishes the value of Southwestern Bell's CCN, under which Southwestern Bell is entitled to face only lawful competition in the market for local exchange services. The final order also deprives Southwestern Bell of revenues to which it is entitled under Texas law, by allowing holders of SPCOAs to build-out selectively to particular customers so as to avoid the local exchange charges and/or usage-sensitive charges

**REQUEST FOR DECLARATORY JUDGMENT
AS TO VALIDITY OR APPLICATION OF COMMISSION RULE**

28. Under the APA, Southwestern Bell is entitled to a declaratory judgment concerning the validity or applicability of any Commission rule which is alleged to interfere with or impair its legal rights or privileges.

29. The Commission's order, although issued in a specific docket, decides a statewide issue of first impression for all SPCOA applicants. Although the Commission misstates the issue, and gives an incorrect answer, the Commission clearly understood and intended its decision to serve as a statewide rule that SPCOA-holders may engage selectively in COA-holder services without fulfilling COA-holder duties.

30. In part, the Commission announced its rule as a matter of statutory interpretation. Insofar as the Commission's rule is an act of statutory interpretation, it is incorrect as a matter of law.

31. In the alternative, if the Commission made its rule as a policy judgment, the rule is invalid under § 2001.035 of the Texas Government Code because it was adopted without substantial compliance with the procedural requirements of Tex. Govt. Code §§ 2001.023 through 2001.034.

32. In particular, the rule that an SPCOA-holder should be allowed to engage in selective build-out, avoiding the build-out obligations of a COA, and to engage in customer selection, avoiding the service obligations of a COA was issued without adequate notice.

33. Likewise, the Commission's order adopting the final rule that an SPCOA holder may engage in COA practices without satisfying COA obligations lacks any reasoned

justification. The Commission identifies no factual basis or reasoned justification for concluding that its rule will not eviscerate the COA provisions of PURA 95.

34. Finally, in its order adopting the rule that an SPCOA holder can selectively take advantage of COA rights without fully undertaking COA obligations, the Commission has misapplied the procedural burdens in a rulemaking. Under Tex. Govt. Code § 2001.033, it is the Commission's duty to explain the rule's factual basis and its reasons for rejecting a party's comments.

WHEREFORE, PREMISES CONSIDERED, Southwestern Bell prays that the Commission be cited to appear and answer herein; that after trial the Final Order of the Commission in Docket 14633 be reversed and the cause remanded to the Commission for further proceedings; for appropriate declaratory and injunctive relief, and for such other and further relief, including its costs, to which it may be entitled at law or in equity.

Respectfully submitted,

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ATTORNEYS FOR SOUTHWESTERN BELL
TELEPHONE COMPANY

ATTACHMENT B

ALJ/TRP/sid

Cal LOCAL Commission
Mailed LEC Authority
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DEC 22 1995

Decision 95-12-056 December 20, 1995

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the)
Commission's Own Motion Into)
Competition for Local Exchange)
Service.)

R.95-04-043
(Filed April 26, 1995)

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

I.95-04-044
(Filed April 26, 1995)

Appendix A

Preferred Outcomes for Interconnection Contracts

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

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

(End of Appendix A)

ATTACHMENT C

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on June 28, 1995

COMMISSIONERS PRESENT:

Harold A. Jerry, Jr., Chairman
Lisa Rosenblum
William D. Cotter
John F. O'Mara

CASE 94-C-0095 - Proceeding to Examine Issues Related to the
Continuing Provision of Universal Service and
to Develop a Regulatory Framework for the
Transition to Competition in the Local Exchange
Market.

ORDER INSTITUTING FRAMEWORK
FOR DIRECTORY LISTINGS, CARRIER INTERCONNECTION
AND INTERCARRIER COMPENSATION

(Issued and Effective September 27, 1995)

BY THE COMMISSION:

INTRODUCTION

This proceeding addresses the transition to competition in the local exchange market. A critical aspect of this transition is the establishment of a level playing field for local competition.^{1/} Staff made certain recommendations, embodied in its report issued February 15, 1995, for the establishment of terms by which to connect and compensate local

^{1/} Pursuant to the Order Instituting Proceeding (issued February 10, 1994) in this case, issues were under consideration in four issue areas, or modules. The issues addressed in this order were pursued in Module 2, the Level Playing Field module. The Commission's March 8, 1995 order identified them as integrally related to the Commission's consideration of Track II of the New York Telephone Incentive Proceeding (Case 92-C-0665).

CASE 94-C-0095

exchange carriers.^{1/} In an order in this proceeding, issued March 8, 1995, in addition to requiring interim number portability and directing a study of the feasibility of a trial of true number portability, the Commission remanded to staff, for further collaborative discussion with the parties, two broad issues related to the development of a level competitive playing field. The two issues were intercarrier connection and compensation, and directory listings and publication. This order takes final action on those issues and resolves various related matters.

Until recently, the incumbent landline telephone companies have been readily identifiable and distinct from other telephone corporations regulated by the Commission. Now, the potential for local service competition has attracted new entrants to the incumbents' previously sheltered monopolies. By order issued February 10, 1994 instituting this proceeding, the Commission identified certain interim requirements that apply to entities intending to provide local exchange service. This order institutes a framework by which local exchange carriers are eligible for compensation, and it establishes compensation terms that differentiate between facilities-based local exchange carriers that provide the full range of local exchange service (business, residential, and Lifeline), and those that do not.

Those carriers that are local exchange carriers are the traditional, wire line telephone companies providing service in New York as of the date this proceeding was instituted (the incumbents), and all other carriers who have received certification on an interim basis, or filed tariffs to provide

^{1/} Level Playing Field Issues: Number Portability, Directory, and Intercarrier Compensation. Staff's report deals with a variety of issues and this order takes action on only a portion of them; specifically, its recommendations regarding directory assistance, database access, and exchange access imputation are not considered here.