

PUBLIC UTILITIES COMMISSION

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August 8, 1996

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Re: CC Docket No. 96-45

Gentlemen:

Please find enclosed for filing an original plus four copies of the COMMENTS OF THE PEOPLE OF THE STATE OF CALIFORNIA AND THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA ON THE NOTICE OF PROPOSED RULEMAKING in the above-referenced docket.

Also enclosed is an additional copy of this document. Please file-stamp this copy and return it to me in the enclosed, self-addressed postage pre-paid envelope.

Yours truly,

Patrick S. Berdge
Attorney for California

PSB:cdl

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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In the matter of)
)
Federal-State Joint Board on)
Universal Service)
_____)

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CC Docket No. 96-45

**COMMENTS OF THE PEOPLE OF THE STATE OF CALIFORNIA
AND THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA
ON THE NOTICE OF PROPOSED RULEMAKING**

PETER ARTH, JR.
EDWARD W. O'NEILL
PATRICK S. BERDGE

505 Van Ness Ave.
San Francisco, CA 94102
Phone: (415) 703-1519
Fax: (415) 703-4432

August 8, 1996

Attorneys for the Public Utilities
Commission of the State of California

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I. INTRODUCTION

The People of the State of California and the Public Utilities Commission of the State of California ("California" or "CPUC") respectfully submit these comments on the second further notice of proposed rulemaking ("NPRM") issued by the Federal Communications Commission ("FCC") relative to the Public Notice (DA 96-1094) released by the FCC on July 10, 1996, requesting comment on cost models to be considered in this proceeding. The models to be considered are:

1. The Cost Proxy Model ("CPM") submitted by Pacific Telesis;
2. The Benchmark Cost Model ("BCM") resubmitted by MCI Communications, Inc., NYNEX Corporation, Sprint Corporation, and US West;
3. The Benchmark Cost Model 2 ("BCM2") submitted by Sprint Corporation, and US West; and
4. The Hatfield 2.2, Release 1 ("Hatfield model") submitted by MCI Communications, Inc. and AT&T Corporation.

A. The CPUC's Proposed Decision Concerning Several Of These Models

The CPUC has just recently issued a proposed decision ("PD") in its Universal Service Fund ("USF") proceeding (R.95-01-020/I.95-01-021). The CPUC proposes to adopt Pacific Telesis' ("Pacific's") CPM with major reductions in inputs. Since many of the FCC's questions raised in this NPRM are addressed in the CPUC's PD in its USF proceeding, a copy of that PD is attached to these comments filed with the FCC. The PD is approximately 275 pages in length and is not attached to copies of these comments served on the parties to this

proceeding. However, parties wishing copies of the PD may contact either Charlene Lundy at (415) 703-1186 or Linda Rochester at (415) 703-2014 to arrange for receipt of copies. The FCC and the parties to this proceeding must keep in mind that the CPUC has not issued the PD and that it may change before issuance which is expected in September of 1996. Nevertheless, the selection of the CPM and most of the adjustments to it are not expected to change. Interested parties may follow the CPUC's progress in issuing a decision in the USF by contacting the CPUC's web site at "<http://www.cpuc.ca.gov/>."

II. SUMMARY OF THE CPUC'S PD

Some of the key universal service rules and policies adopted in the PD are:

- The term "basic service" for residential customers is defined to include those telephone service elements that consumers have come to expect. (See App. B, Rule 4.)
- All carriers providing local exchange residential service shall at a minimum, provide all the service elements included in the basic service definition.
- The definition of basic service may be revisited to evaluate whether service elements should be added or deleted from the definition.
- A Universal Service Working Group will be formed to address ways in which access and deployment of advanced telecommunications

technologies can be provided to all customer segments, and how education, health care, community, and government institutions can be positioned to take advantage of these technologies.

- All local exchange carriers (LECs) and competitive local carriers shall be responsible for pursuing the objective of achieving a 95% subscribership rate among all customer groups. They shall also be required to include in their annual reports information about their subscribership rates.
- All LECs and CLCs must provide a matrix of pricing information regarding basic service. Such a matrix will allow consumers to compare the rates charged by other carriers for the same type of service.
- The Commission should take proactive steps to educate the public about changes and issues in the telecommunications market.
- In accordance with state and federal directives, qualifying schools, libraries, and community based organizations shall be entitled to discounted rates for certain services.
- The five large and mid-size LECs shall be included in the proxy cost model calculation for determining universal service support. They, and other carriers of last resort (COLR), who serve high cost areas in these service territories, will be eligible for subsidy support through the newly

created California High Cost Fund-B (CHCF-B). The seventeen smaller LECs shall not be subject to the rules applicable to the CHCF-B fund. Instead, the seventeen smaller LECs shall continue to be eligible for universal service support under the existing California High Cost Fund. We shall refer to the existing fund as the CHCF-A.

- The Cost Proxy Model (CPM) sponsored by Pacific has been selected as the proxy model to estimate the cost of providing residential basic service to the five large and mid-size LECs. The CPM estimated the statewide subsidy needed for providing universal service at \$1.7 billion, of which Pacific estimated that it would receive \$1.3 billion in subsidy support. The CPM model, its inputs, and its results have been examined by the parties to this proceeding. As a result of these critiques, we have made adjustments to the model which total to \$1.452 billion. As adjusted, we believe the adjusted CPM is consistent with the consensus costing principles adopted in the Open Access and Network Architecture Development (OANAD) proceeding.
- Using the adjusted CPM, a statewide average cost of \$18.39 was derived. That average cost serves as the benchmark for deciding which census block groups (CBGs) are high cost, and which are low cost.

- The benchmark shall be offset with revenues that the LECs receive from the end user common line charge (EUCL), the common carrier line charge (CCLC), and the interstate Universal Service Fund.
- The incumbent LEC, and any other designated COLR, shall be entitled to subsidy support for those high cost CBGs in accordance with the adopted rules.
- In order to avoid a windfall to the five large and mid-size LECs, any subsidy support received from the CHCF-B shall be reduced by the same amount through an equal percentage reduction for all services except for basic service rates. An opportunity to decide what rates should be rebalanced downwards to permanently offset the explicit subsidy support shall take place in another phase of this proceeding.
- An all end user surcharge (AEUS), rather than a net trans account, will be used to collect the subsidy amount. The estimated surcharge is 1.24%.
- The CHCF-A and CHCF-B will appear as two separate line items for purposes of collection on a customer's bill.
- The CHCF-B shall undergo a review in three years. The use of an auction mechanism in the future remains an option.

- The Universal Lifeline Telephone Service (ULTS) program is revised to allow CLCs to compete for ULTS customers, and to receive subsidy support for providing service to this customer group.
- In order to avoid situations where ULTS funds are being used to promote the name of a particular carrier, the marketing expenses associated with promoting the ULTS program shall no longer be recoverable from the ULTS fund. Instead, a ULTS Marketing Working Group will be formed to provide competitively neutral marketing for the program. (PD at pp. 2-5.)

A. The CPM

With respect to the proxy cost models themselves, the PD states:

Using the criteria above to evaluate the two models, we conclude that the CPM is a more appropriate model for estimating the cost of providing basic service in California. The CPM can model costs for the entire state on either a CBG or wire center basis. The CPM's grid cell design is more conducive to an accurate representation of costs than the HPM's design. In addition, the CPM is more open and accessible to changes in assumptions and inputs. Also, the assumptions and inputs in the CPM are more easily verified than the HPM. For those reasons, we will adopt the CPM as the proxy model to develop the cost of providing basic service to all residential customers in California. (PD at pp. 109-10.)

The FCC and the parties to this proceeding should note that the PD makes substantial adjustments to Pacific's CPM. The CPUC has reduced Pacific's CPM figure of \$1.7 billion by \$1.452 billion.

III. CONCLUSION

Pursuant to DA 96-1094 in CC Docket 96-45, the CPUC respectfully offers its PD in its Universal Service Fund proceeding which, although not yet issued by the CPUC, contains relevant analyses of the proxy cost models presently before the FCC.

Dated: August 8, 1996

Respectfully submitted,

PETER ARTH, JR.
EDWARD W. O'NEILL
PATRICK S. BERDGE

By: PATRICK S. BERDGE

Patrick S. Berdge

505 Van Ness Ave.
San Francisco, CA 94102
Phone: (415) 703-1519

Attorneys for the Public Utilities
Commission of the State of
California

CERTIFICATE OF SERVICE

I, Charlene D. Lundy, hereby certify that on this 8th day of August, 1996, a true and correct copy of the foregoing COMMENTS OF THE PEOPLE OF THE STATE OF CALIFORNIA AND THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA ON THE NOTICE OF PROPOSED RULEMAKING in FCC Docket No. 96-93, CC Docket 96-45, was mailed first class, postage prepaid, to all known parties of record.

/s/ CHARLENE D. LUNDY

Charlene D. Lundy

Decision PROPOSED DECISION OF ALJ WONG

(Mailed 8/5/96)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Rulemaking on the Commission's Own)
Motion into Universal Service and to)
Comply with the Mandates of Assembly)
Bill 3643.)

R.95-01-020
(Filed January 24, 1995)

Investigation on the Commission's)
Own Motion into Universal Service)
and to Comply with the Mandates of)
Assembly Bill 3643.)

I.95-01-021
(Filed January 24, 1995)

(See Appendix F for List of Appearances.)

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O P I N I O N

I. Summary

This decision finalizes the universal service rules that we originally proposed in Decision (D.) 95-07-050. Many of the issues raised in those proposed rules did not require any evidentiary hearings, but instead were commented upon by a number of parties in written comments in accordance with Rule 14.1 of the Commission's Rules of Practice and Procedure. (Cal. Code Regs., Title 20, Sec. 14.1.) Other issues, such as the proxy cost model for developing the costs of basic service, required evidentiary hearings. This decision addresses both the written comments and the evidence presented during the evidentiary hearings.

Today's decision reaffirms the Commission's commitment to universal service by ensuring that residential basic telephone service be made available throughout California, and that the rates for such service remain affordable. Our decision adopts final rules pertaining to how universal service will be carried out in California as the local exchange telephone markets are opened to competing carriers. As we enter this competitive environment, yesterday's policies supporting universal service will no longer be sustainable.

The following are some of the key universal service rules and policies that we adopt:

- o The term "basic service" for residential customers is defined to include those telephone service elements that consumers have come to expect. (See App. B, Rule 4.)
- o All carriers providing local exchange residential service shall at a minimum, provide all the service elements included in the basic service definition.
- o The definition of basic service may be revisited to evaluate whether service

elements should be added or deleted from the definition.

- A Universal Service Working Group (USWG) will be formed to address ways in which access and deployment of advanced telecommunications technologies can be provided to all customer segments, and how education, health care, community, and government institutions can be positioned to take advantage of these technologies.
- All local exchange carriers (LECs) and competitive local carriers (CLCs) shall be responsible for pursuing the objective of achieving a 95% subscribership rate among all customer groups. They shall also be required to include in their annual reports information about their subscribership rates.
- All LECs and CLCs must provide a matrix of pricing information regarding basic service. Such a matrix will allow consumers to compare the rates charged by other carriers for the same type of service.
- The Commission should take proactive steps to educate the public about changes and issues in the telecommunications market.
- In accordance with state and federal directives, qualifying schools, libraries, and community based organizations (CBOs) shall be entitled to discounted rates for certain services.
- The five large and mid-size LECs shall be included in the proxy cost model calculation for determining universal service support. They, and other carriers of last resort (COLR), who serve high cost areas in these service territories, will be eligible for subsidy support through the newly created California High Cost Fund-B (CHCF-B). The seventeen smaller LECs shall not be subject to the rules applicable to the CHCF-B fund. Instead, the seventeen smaller LECs shall continue to be eligible for universal service support under the existing

California High Cost Fund. We shall refer to the existing fund as the CHCF-A.

- o The Cost Proxy Model (CPM) sponsored by Pacific Bell (Pacific) has been selected as the proxy model to estimate the cost of providing residential basic service to the five large and mid-size LECs. The CPM estimated the statewide subsidy needed for providing universal service at \$1.7 billion, of which Pacific estimated that it would receive \$1.3 billion in subsidy support. The CPM model, its inputs, and its results have been examined by the parties to this proceeding. As a result of these critiques, we have made adjustments to the model which total to \$1.452 billion. As adjusted, we believe the adjusted CPM is consistent with the consensus costing principles (CCPs) adopted in the Open Access and Network Architecture Development (OANAD) proceeding.
- o Using the adjusted CPM, a statewide average cost of \$18.39 was derived. That average cost serves as the benchmark for deciding which census block groups (CBGs) are high cost, and which are low cost.
- o The benchmark shall be offset with revenues that the LECs receive from the end user common line charge (EUCL), the common carrier line charge (CCLC), and the interstate Universal Service Fund.
- o The incumbent LEC, and any other designated COLR, shall be entitled to subsidy support for those high cost CBGs in accordance with the adopted rules.
- o In order to avoid a windfall to the five large and mid-size LECs, any subsidy support received from the CHCF-B shall be reduced by the same amount through an equal percentage reduction for all services except for basic service rates. An opportunity to decide what rates should be rebalanced downwards to permanently offset the explicit subsidy support shall take place in another phase of this proceeding.

- o An all end user surcharge (AEUS), rather than a net trans account, will be used to collect the subsidy amount. The estimated surcharge is 1.24%.
- o The CHCF-A and CHCF-B will appear as two separate line items for purposes of collection on a customer's bill.
- o The CHCF-B shall undergo a review in three years. The use of an auction mechanism in the future remains an option.
- o The Universal Lifeline Telephone Service (ULTS) program is revised to allow CLCs to compete for ULTS customers, and to receive subsidy support for providing service to this customer group.
- o In order to avoid situations where ULTS funds are being used to promote the name of a particular carrier, the marketing expenses associated with promoting the ULTS program shall no longer be recoverable from the ULTS fund. Instead, a ULTS Marketing Working Group will be formed to provide competitively neutral marketing for the program.

The above rules and policies are discussed in the sections which follow.

II. Procedural Background

In D.95-07-050, we described the backdrop leading up to the issuance of this rulemaking (OIR or R.95-01-020) and investigation (OII or I.95-01-021) into universal service. A brief recap of some of those events, and of events subsequent to the issuance of D.95-07-050 will be of aid to those who seek an understanding of the process for today's decision.

R.95-01-020 and I.95-01-021 were opened in January of 1995 to develop rules to further the goals of universal service in a competitive telecommunications environment. This proceeding was

opened as part of this Commission's comprehensive review of how state regulatory policies need to respond to the opening of monopoly markets to competition. In addition, the enactment of Assembly Bill (AB) 3643 (Stats. 1994, Chapter 278), which became effective January 1, 1995, provided some guidance as to the type of issues the Commission should concern itself with.

AB 3643 called for the opening of a proceeding to examine the current and future definitions of universal service, and mandated that public hearings be held so as to encourage participation from broad and diverse interests from all areas of the state. AB 3643 also stated that the objectives of the proceeding were as follows:

"(1) Define the goals of universal service given the new technologies and increasingly competitive markets, with emphasis on the role of basic service in education, health care, and in the workplace.

"(2) Delineate the subsidy support needed to maintain universal service in the new competitive market.

"(3) Design and recommend equitable and broad based subsidy support for universal service in freely competitive markets.

"(4) Develop a process to periodically review and revise the definition of universal service to reflect new technology and markets.

"(5) Address the issues of 'carrier of last resort' and 'franchise obligations.'" (Stats. 1994, Chap. 278, Sec. 2 (a).)

AB 3643 also went on to state that the recommendations developed in this proceeding shall be consistent with Public Utilities (PU) Code § 709,¹ and with the following principles:

"(1) Essential telecommunications services should be provided at affordable prices to all Californians regardless of linguistic, cultural, ethnic, physical, geographic, or income considerations.

"(2) In order to avoid an 'information rich' and 'information poor' stratification, there must be an ongoing evaluation of which services are deemed essential and therefore a part of universal service.

"(3) Any subsidy that may be required to ensure that universal service remains a viable reality must have a clearly stated purpose and scope, include a broad based and competitively neutral funding mechanism, and be imposed in a manner that clearly identifies the source of the subsidy.

"(4) Public policy should provide incentives as needed to promote deployment of advanced telecommunications technology to all customer segments.

"(5) Consumers should be able to have access to all the information needed in order for them to make timely and informed choices about

¹ PU Code § 709 states as follows: "The Legislature hereby finds and declares that the policies for telecommunications in California are as follows: (a) To continue our universal service commitment by assuring the continued affordability and widespread availability of high-quality telecommunications service to all Californians. (b) To encourage the development and deployment of new technologies and the equitable provision of services in a way which efficiently meets consumer need and encourages the ubiquitous availability of a wide choice of state-of-the-art services. (c) To promote economic growth, job creation, and the substantial social benefits that will result from the rapid implementation of advanced information and communications technologies by adequate long-term investment in the necessary infrastructure."

telecommunications products and services, and how to best use them.

"(6) Because of their economic and social impact, education, health care, community, and government institutions must be positioned to be early recipients of the benefits of the information age.

"(7) All parties involved in providing services utilizing evolving public networks should adhere to the same guidelines regarding mutual interconnectivity and interoperability, common carriage, reliability, privacy, and security." (Stats. 1994, Chap. 278, Sec. 2(b).)

The universal service OII/OIR solicited initial comments on how to meet the above objectives and principles. Responsive comments were filed in March 1995.

As a result of those initial comments, the Commission issued D.95-07-050. That decision described and set forth a proposed set of rules pertaining to universal service responsibilities in a competitive environment. A set of the proposed rules are attached as Appendix A. Parties were allowed an opportunity to comment on the proposed universal service rules by filing opening and reply comments. Parties were also requested to identify in their opening comments whether any evidentiary hearings were needed to resolve any of the universal service issues.

In addition to the written comments, the Commission held a September 29, 1995 full panel hearing into the proposed universal service rules. A series of 13 public participation hearings (PPHs) were also held in September and October of 1995. The PPHs, which were co-hosted by the Commission and the State and Consumer Services Agency, were held in various parts of the state in both urban and rural areas. The purpose of the PPHs were to inform the public about universal service in a changing competitive environment, and to solicit their ideas and input. Numerous

letters were also received by the Commission in connection with this proceeding.

In D.95-12-021, the Commission reviewed the list of issues for which parties requested evidentiary hearings. Of the three categories of issues that parties raised, the Commission decided that only the issues pertaining to the formulation of a proxy cost study for determining the cost of basic service throughout the state should be handled in the universal service proceeding. D.95-12-021 outlined the framework for structuring the design and development of a proxy cost model. Workshops were also set to facilitate the development of the proxy cost model, and to narrow the scope of the issues.

At the scheduled workshops, none of the parties could agree to the format of a single proxy cost model to develop the cost of providing basic telephone service within California. Nor was any agreement reached regarding the model structure, inputs, assumptions, and cost components at these workshops. Following the lack of agreement at the workshops, the assigned Administrative Law Judge (ALJ) issued a ruling on February 21, 1996, setting forth the type of information that was to be included in the prepared testimony of the parties for the evidentiary hearings.

In ALJ rulings dated March 12, 1996, and April 3, 1996, delays in the schedule were granted to allow the parties additional time to prepare for hearings. Thirteen days of evidentiary hearings were then held in late April and May of 1996. The matter was submitted following the filing of opening and closing briefs, and the holding of oral argument before the assigned ALJ, and Commissioner Jessie J. Knight, Jr., the assigned Commissioner, on June 10, 1996.

During the time that parties were preparing for the universal service workshops, the Telecommunications Act of 1996