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December 10, 1996

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**EX PARTE**

William F. Caton  
Acting Secretary  
Federal Communications Commission  
Mail Stop 1170  
1919 M Street, N.W. , Room 222  
Washington, D.C. 20554

Dear Mr. Caton:

Re: Non-Accounting Safeguards, CC Docket No. 96-149

We are submitting the attached material in response to questions from the staff. Please associate it with the above-referenced dockets. We are submitting two copies of this notice, in accordance with Section 1.206(a)(1) of the Commission's rules.

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions.

Sincerely yours,



Gina Harrison

cc: Regina Keeney  
A. Richard Metzger  
Radhika Karmarkar  
Cheryl Leanza

Attachments

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**EX PARTE RE. OCS FACILITIES RE. 96-149**

This responds to two questions asked by the FCC Staff about Pacific Bell's potential use of its official company services network, PBNet, to provide interLATA transport services to its interLATA affiliate, PBCOM.

- Q1) Does PBNet currently have capacity to provide interLATA transport to its interLATA affiliate, PBCOM?
- A1) As explained in the attached declaration of Ross K. Ireland, Vice President, Network Engineering, PBNet does not currently have available capacity to provide interLATA transport services to PBCOM.
- Q2) Will current ratepayers be subsidizing PBCOM's entry into the interLATA business if PBNet is used to provide interLATA transport?
- A2) No. As noted above and in the attached Declaration, PBNet cannot currently be used to provide interLATA transport to PBCOM or any other interLATA service provider. PBNet would need substantial capacity to be used as a wholesale interLATA channel. The current price cap rules prohibit infrastructure costs from receiving exogenous treatment. Since our price caps cannot be increased for these costs, our rates cannot be increased nor will any investment needed to provide the connectivity and capacity to enable interLATA service over PBNet affect interstate access rates. Furthermore, since it became available, we have always chosen the "no sharing" option, so our interstate price caps cannot even be indirectly influenced by additional investment to support interLATA service. Therefore, Pacific Telesis' stockholders -- not its interstate access ratepayers -- will support Pacific Bell's provision of interLATA transport service.

Indeed, additional use of the network will result in economies of scope the Commission has in the past promoted. If the Commission adopts its tentative conclusion (CC Docket No. 94-1) to use a total factor productivity (TFP) method to set the interstate productivity factor (X-factor), when the X-factor is updated, any economies of scope will be automatically captured in that X-factor and lead to lower rates.

Moreover, under the Act, if Pacific Bell provides wholesale interLATA services to PBCOM, it must also provide wholesale interLATA services on nondiscriminatory terms and conditions to other IXCs. The current affiliate

transactions rules require Pacific Bell to publicly disclose the terms under which it provides services to PBCOM.

Lastly, Pacific Bell will follow the Commission's affiliate transaction rules which prescribe specific valuations for transactions among affiliates (including PBCOM). If Pacific Bell decides to offer interLATA transport services, under current regulations it will likely need to file tariffs to show that its proposed interLATA charges cover all related costs. In that case, Pacific Bell will charge PBCOM tariffed rates.

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
 )  
Implementation of the Non-Accounting Safeguards ) CC Docket No. 96-149  
of Sections 271 and 272 of the Communications )  
Act of 1934, as amended; )  
 )  
and )  
 )  
Regulatory Treatment of LEC Provision of )  
Interexchange Services Originating in the LEC's )  
Local Exchange Area )  
 )

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Declaration of Ross Ireland

1. My name is Ross K. Ireland. My Title is Vice President, Network Engineering, Pacific Bell. My address is 2600 Camino Ramon, Room 2S001, San Ramon, California. My responsibilities are to provide statewide engineering and planning of Pacific Bell's switched and private line network. My responsibilities also include systems engineering, technical support and methods and procedures for engineering.

2. Pacific Bell's intracompany business communications (OCS) network, commonly referred to as PBNet, currently has no excess capacity. PBNet is Pacific Bell's existing intraLATA and interLATA interoffice transport network and is being used for its own intra-company business communications. These facilities provide intra-company local and long distance telephone service, video links for company

broadcasts and teleconferencing, remote access to and interconnection of company computer systems, and carry traffic related to provision of certain services, operations support systems and network management. Presently, Pacific Bell is sizing PBNet based on existing guidelines. Because of technology obsolescence and capacity drivers, Pacific Bell has been considering the conversion of the existing network from an asynchronous transmission technology to one using SONET technology. This would include builds to provide physical diversity as well as upgrading to SONET ring electronics. Any additional capacity currently envisioned will be for foreseeable OCS demand only. Capacity, in this context, means all facilities, fiber and electronics required to provide service.

3. If PB Comm or any other retail interLATA service provider were to request Pacific Bell to provide wholesale interLATA transport in California, Pacific Bell could not use PBNet as presently constructed and planned. The capacity required to provide the requested service would have to be added to PBNet. It does not exist today.

I declare under the penalty of perjury under the laws of California that the foregoing is true and correct.

Signed this 9th day of December, 1996 at San Francisco, California.

  
Ross K. Ireland