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Re: CC Docket No. 96-128

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Dear Sir or Madam:

Graham & James LLP

In accordance with the Commission's Rules of Practice and Procedure, please find enclosed an original and 14 copies of the Comments of California Payphone Association on Pacific Bell's and Nevada Bell's CEI Plan for Payphone Service, as well as the Motion of California Payphone Association for Extension of Time to File Comments, both submitted this day for filing with the Commission in the above-referenced docket.

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Extra copies of both documents are enclosed for returning file-stamped copies to our messenger.

Deacons Graham & James

Thank you in advance for your kind attention to this matter.

Bangkok
Hanoi
Ho Chi Minh City
Hong Kong
Jakarta
Tapei

Very truly yours,

Martin A. Mattes
of

GRAHAM & JAMES LLP

Brisbane
Canberra
Melbourne
Perth
Sydney

MAM:jw

Enclosures

cc w/ enc: ITS, Inc.
Attorneys for Pacific Bell
and Nevada Bell

Affiliated Offices

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Brussels
Bucharest
Frankfurt
Hamburg
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Our File: 16063.5

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CERTIFICATE OF SERVICE

I, Jeannie Wong, certify that I have on this date caused the foregoing Comments of California Payphone Association on Pacific Bell's and Nevada Bell's CEI Plan for Payphone Service and Motion of California Payphone Association for Extension of Time to File Comments to be served on all persons listed below by placing a copy thereof addressed to each of said persons in the United States mail, first-class, postage prepaid.

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

Executed this 13th day of February 1997, at San Francisco, California.



Jeannie Wong

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

In the Matter of)
)
Implementation of the Pay Telephone)
Reclassification and Compensation Provisions) CC Docket No. 96-128
of the Telecommunications Act of 1996)
)
PACIFIC BELL AND NEVADA BELL)
)
Comparably Efficient Interconnection)
Plan for the Provision of Payphone Service)
_____)

**MOTION OF CALIFORNIA PAYPHONE ASSOCIATION
FOR EXTENSION OF TIME TO FILE COMMENTS**

In accordance with Rule 1.46 of the Commission's General Rules of Practice and Procedure, the California Payphone Association ("CPA") hereby moves for a one day extension of time for its filing of comments in the above captioned proceeding.

While it is the Commission's policy that extensions are not routinely given, brief extensions will be given for reasons related to exigent circumstances. CPA asserts that a combination of circumstances related to its counsel's geographic distance from the Commission and a failure of word processing equipment prevented timely filing and created a need for an additional day to effect filing of its comments. Further, as this extension is extremely small, allowing the CPA an additional day to file comments will not unduly burden the other parties commenting in this proceeding.

CPA's counsel has not reviewed any filed comments received from other parties prior to the submission of CPA's

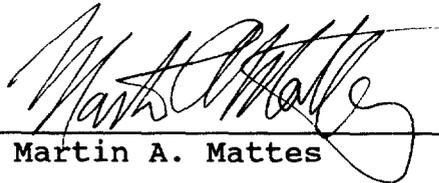
comments and will serve Pacific Bell and Nevada Bell with a copy of CPA's comments no later than the day of submission.

Therefore, for the reasons stated above, CPA respectfully requests that its motion for a one day extension of time be granted.

Respectfully submitted,

GRAHAM & JAMES

By



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Attorneys for CALIFORNIA
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February 13, 1997

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

In the Matter of)
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)
Comparably Efficient Interconnection)
Plan for the Provision of Payphone Service)
_____)

**COMMENTS OF CALIFORNIA PAYPHONE ASSOCIATION
ON PACIFIC BELL'S AND NEVADA BELL'S
CEI PLAN FOR PAYPHONE SERVICE**

In accordance with the public notice issued by the Federal Communications Commission ("Commission") on January 13, 1997, California Payphone Association ("CPA") hereby respectfully submits its comments on the Comparably Efficient Interconnection ("CEI") Plan for the provision of payphone service that was filed by Pacific Bell and Nevada Bell on December 26, 1996, in the above-captioned docket. These comments are addressed solely to those aspects of the CEI Plan that pertain to Pacific Bell, and so will refer to the Plan as that of Pacific Bell.

A. Introduction

In its CEI Plan, Pacific Bell claims to demonstrate:
1) that it will interconnect to and take all basic network services ("BNSs") it will use in the provision of payphone service at tariffed rates and on the same terms and conditions as are available to all independent payphone service providers

("PSPs"); and 2) that it satisfies all the non-structural safeguards required for provision of payphone services pursuant to CEI plans. CEI Plan, at 2. While there are many positive aspects to Pacific Bell's CEI Plan, there are important respects in which the Plan fails to measure up to either of Pacific's claims.

In some cases, what is lacking is simply the demonstration that the requirements for an adequate CEI plan are met; in such instances, a more detailed presentation of Pacific Bell's plans may resolve the issue. In other cases, however, it appears that Pacific Bell must take positive steps to revise its procedures, operations, and services in order meet the Commission's CEI requirements.

B. There Are Important Instances in Which Pacific Bell Apparently Does Not Intend to Take Payphone Services on the Same Terms and Conditions as Are Available to Independent PSPs.

Unlike BellSouth, Pacific Bell does not propose to create any corporate or structural separation between its Public Communications Division ("PubCom") and its network services it provides as a local exchange carrier ("LEC operations"). This means that interested parties and the Commission must exercise particular scrutiny to determine whether the services, facilities, and accommodations Pacific Bell's LEC operations offer and provide to PubCom are truly the same as those available to independent PSPs.

Pacific Bell asserts that all services and features that will be used by PubCom "will be available to independent PSPs under state tariffs." CEI Plan, at 5. Pacific claims that

the basic services provided to independent PSPs will have the same technical characteristics as those of the basic services PubCom will use. Id. at 6-7. In significant respects, however, this claim appears to be unfounded.

1. Pacific Bell has not made adequate commitments to ensure independent PSPs nondiscriminatory protections against toll fraud.

It is anticipated that most access lines ordered by PubCom will be Customer-Owned Pay Telephone ("COPT") Coin lines, designed to serve traditional "dumb" pay stations, while most lines serving independent PSPs will continue to be "basic" COPT lines, designed to serve "smart" pay stations. See, CEI Plan, at 3-4. These facts make it important that the characteristics of the two service types intended to provide protection against toll fraud should be as equal as possible.

Historically, Pacific Bell has protected its own pay stations against toll fraud more effectively than it has protected subscribers to COPT service. A major difference is that independent PSPs have had to monitor their bills for improper charges and dispute those charges that result from fraud, while PubCom traditionally has not been held accountable at all for such charges. While this situation may change as PubCom becomes a customer of tariffed services, there remain two important sources of differential protection against toll fraud. One relates to a difference in the assignment of screening codes, the other to a difference in the assignment of telephone numbers.

Pacific Bell traditionally has provided a unique "27" screening code to operator service providers on calls originating at one of its own payphones, while providing only a single-digit "7" code to identify COPT lines along with many other types of "special" lines (such as those serving hotel switchboards). A network operator would have to make further inquiry to determine that a "7" screen code identifies a pay station, and failure to make that further inquiry often allows a toll call to be charged, fraudulently or accidentally, to a COPT line, and so to a PSP. The unique "27" screening code protects Pacific Bell's pay stations from such charges.

This discrepancy in screening security carries over to the provision of COPT service (screening code "7") and COPT Coin service (screening code "27"). Pacific Bell's provision of a less technically efficient means of fraud protection for the version of COPT service most used by independent PSPs, while providing the more technically efficient means for the version suited to PubCom's pay stations, fails to meet the basic requirement of comparably efficient interconnection. See, Computer Inquiry III, Report and Order, 104 FCC 2d 958 (1986), hereinafter cited as CI III, at ¶ 147.

A second means by which operator service providers can identify a pay station is by its "automatic number identification" or "ANI." The ANI is the seven or ten-digit number identifying a telephone line. Traditionally, Pacific Bell has assigned ANIs in the 8000 or 9000 series to its own payphones, but not to those of independent PSPs. Telephone

operators, including international operators, are accustomed to recognize an originating ANI in the 8000 or 9000 series as denoting a pay telephone, and so are likely to be more careful about billing charges to such ANIs. Pacific Bell's failure to assign such numbers to independent PSP stations represents another failure to accord PSPs the most technically efficient means of protection against toll fraud, again failing the test of comparably efficient interconnection.

Both the differences in screening code detail and the differences in ANI assignments noted above constitute systemic differences in the fraud protection features offered by the two versions of COPT service. Because of the substantial commitment of independent PSPs, through their past equipment investments, to the use of basic COPT service and PubCom's similar commitment to what is now called COPT Coin service, these differences in features constitute systemic differences between a carrier and its competitors, and so are inconsistent with the equal access standard of CI III. See, id., ¶ 147 n. 210.

CPA respectfully requests that the Commission order Pacific Bell to provide an equivalent call screening security with respect to both COPT service and COPT Coin service, to be implemented at the earliest feasible date but no later than October, 1997. The simplest means of meeting this requirement likely would be to assign a unique two-digit screening code to COPT service lines and to provide effective notice of that change in screening codes among domestic and international operator service providers.

The Commission also should require Pacific Bell to enter into a commitment to assign ANIs in the 8000 or 9000 series to COPT stations on a first come, first served basis, regardless of whether the service provided is COPT service or COPT Coin service and without discrimination in favor of PubCom. Further, in order to enhance protections against toll fraud, the Commission should require Pacific Bell to facilitate such number reassignments, perhaps by ordering a three-month "true up" period during which Pacific Bell would satisfy requests for number reassignments without imposing the tariffed charge for changes of service.

There is, of course, a scarcity of numbers in many regions, including some areas Pacific Bell serves. However, the frequent occurrence of number planning area ("NPA") splits provides many opportunities to "free up" numbers in the 8000 or 9000 series for reassignment to pay stations and also allows for new assignments of such numbers in newly created NPAs. In this context as well, reassignment of payphone ANIs to the 8000 or 9000 series will enhance protection against toll fraud and should be implemented free of service change charges.

2. Pacific Bell should explain how it plans to provide coin refunds to users of PubCom stations and whether it intends to offer the same service to independent PSPs.

CPA has inquired of Pacific Bell regarding its future plans for providing refunds to callers who claim to have deposited coins in PubCom stations and to have been unable either to complete their intended calls or obtain the return of their

coin deposits. Currently, Pacific Bell responds to such calls by offering the following options: (1) to provide a free call from the payphone; (2) to send a check for the amount of the coin deposit to the caller's designated billing address; or (3) to provide a credit in the same amount on the caller's monthly bill for local service. In cases where the payphone in question is out of order and the call requesting a refund is placed from a non-coin station, only the second and third options are available.

Once Pacific Bell has separated its LEC operations from PubCom, the provision of the above-described coin refund service becomes problematic. While PubCom could manage the allowance of free calls and even the mailing of checks, it could not provide credits on customer bills without the active participation of LEC operations. Thus, to maintain the status quo, LEC operations will either have to provide the entire coin refund function on behalf of PubCom or will at least have to provide a billing service on PubCom's behalf. CI III, ¶ 158.

There may be a problem for Pacific Bell to offer a comparable coin refund service on behalf of independent PSPs, due to the difficulty of obtaining a reliable identification of the PSP from a caller who requests a refund by calling from a station different from the one at which the coins were lost. However, if Pacific Bell wishes to have its LEC operations continue to provide coin refund service on behalf of PubCom, Pacific should be obliged to offer an equivalent coin refund service to independent PSPs as well.

3. Pacific Bell should be required to state whether it intends to provide PubCom any other billing services that are not generally available under tariff.

In addition to the coin refund issue, CPA also is concerned about how Pacific Bell intends to handle future billings for non-coin calls that originate at PubCom stations and are processed through store-and-forward equipment or similar call processing platforms. It is CPA's understanding that such billings presently are recorded on tape and delivered to Pacific Bell's billing system in the same manner that a Traffic Operator Position System ("TOPS") tape is handled, without any charges being assessed under Pacific's billing and collection tariff.

An independent PSP employing store-and-forward call processing equipment should be entitled to subscribe to the same Pacific Bell billing and collection services that are available to PubCom for stations employing comparable technology. The simplest way to achieve that result is to hold Pacific Bell to its assurance that PubCom "will use tariffed basic services that are available to all PSPs." CEI Plan, at 10. To whatever extent PubCom is allowed to make use of Pacific Bell's billing and collection services, the Commission should require Pacific Bell to impute to PubCom the tariffed rates for the billing and collection services its LEC operations provide on PubCom's behalf and to offer the same services to independent PSPs at those rates.

If Pacific Bell cannot make the same billing service elements it provides PubCom available to independent PSPs on a technically equal and unbundled basis, then Pacific Bell must be

ready to charge PubCom a premium for the use of them, as all basic network capabilities used by its own service divisions, including billing capabilities, must be offered to competitors. CI III, at ¶ 158. Inability to provide such capabilities to independent PSPs would require Pacific Bell to charge PubCom an additional "Network Utilitization Rate Element." Id. Adherence to this previously adopted method is the only way to ensure that, to the extent PubCom has an inherent technical advantage, independent PSPs are not competitively disadvantaged.

4. The Commission must address the peculiar control PubCom appear to have over the rating feature of Pacific Bell's COPT Coin service.

It appears that the call rating feature of COPT Coin service as presently configured can offer only a single set of rates for calls placed at a pay telephone served by a COPT Coin line. Indeed, Pacific Bell's current COPT Coin service allows the PSP to charge only Pacific Bell's tariffed rates for local coin and coin sent-paid toll calls, even though its state tariff rules ostensibly permit a PSP to charge up to 10 cents per call more than those rates on toll calls. See, CEI Plan, Att. A, Schedule Cal. P.U.C. No. A5, 3rd Revised Sheet 476.4.2, ¶ 5.5.3.C.2.j.

This situation creates a dilemma, which will become a very serious one once the rates for local and long-distance payphone calls are left to be determined by the competitive market: In the future, should the choice of rates to be programmed into Pacific Bell's switches for charging on COPT Coin

lines be at the discretion of Pacific's LEC operations or at the discretion of PubCom? Giving that choice to PubCom appears blatantly anticompetitive, but would the result be any better if the choice resides with Pacific's LEC operations? Normally, LEC operations will seek to design its services to suit the needs and desires of the most important customers. In this case, PubCom dwarfs all independent PSPs in its importance as a source of revenue for LEC operations, especially with respect to COPT Coin service. Thus, PubCom is likely to call the shots, regardless of which side of Pacific Bell nominally has responsibility to configure the pricing feature of COPT Coin service.

The only way to escape this dilemma is to require Pacific Bell to develop a more flexible rating feature for COPT Coin service -- one that gives the customer, i.e. the PSP, the choice to determine the rates that will be charged to end users. The Commission should require Pacific Bell to develop and submit a plan to achieve this result within a reasonable period of time.

C. The Commission Must Adequately Protect Against Abuses That May Result from PubCom's Access to CPNI of Its Location Providers and Semi-Public Telephone Service Customers.

Pacific Bell promises to comply with all statutory and Commission requirements for the protection of customer proprietary network information ("CPNI"). CEI Plan, at 14. However, Pacific Bell's brief paragraph addressing this subject suggests that the only CPNI Pacific recognizes as relevant in this context is that of independent PSPs. Id.

CPA respectfully calls the Commission's (and Pacific Bell's) attention to two other classes of CPNI that are relevant to implementation of Section 276 and the Commission's orders in CC Docket 96-128. Those are the CPNI of the LEC's payphone location providers and the CPNI of subscribers to the LEC's Semi-Public Telephone service.

1. CPNI of PubCom's or other PSPs' location providers should not be available to PubCom.

The CPNI of Pacific Bell customers who are also location providers for PubCom or independent PSP stations should not be available to PubCom or to any other PSP, except to the extent the customer chooses to provide such information directly. The Commission should require Pacific Bell to provide assurances that PubCom will not be given access to such CPNI either through its participation in or access to the service ordering process or by any other means that derive from its close relationship with Pacific Bell's LEC operations and LEC personnel.

Location providers' CPNI can be extremely valuable to PSPs. For example, PubCom historically has enjoyed the benefits of "dial-tone referrals," by which its marketing personnel have learned long before any competitor could do so that orders for business or PBX lines have been placed for service to a particular business premises. This intelligence has given PubCom an unfair advantage in marketing its payphone services to the new occupants of such premises, either to maintain existing payphones in place or to install new pay stations.

Under its new CEI obligations, PubCom and Pacific Bell should no longer enjoy such an unfair advantage. PubCom personnel should be denied access to service order, billing, or other statistical information about Pacific Bell's business or residence customers and should be allowed access to directory information about such customers only on the same basis as other PSPs.

2. If PubCom is allowed access to Pacific Bell's LEC service ordering systems, those systems must be partitioned to protect LEC customers' CPNI and independent PSPs must be allowed equivalent access.

If Pacific Bell chooses to allow PubCom continued access and use of the service ordering processes developed for the use of Pacific's LEC operations, including access to the SORD, PREMIS, and BOSS systems, those processes must be partitioned in order to prevent PubCom employees from accessing data concerning the LEC service accounts of current or potential location providers or other PSPs. The Commission should require Pacific Bell to explain in detail how it intends to implement such protections for its customers' CPNI.

An example of the type of protection which could be required is offered in Ameritech's CEI Plan. Ameritech specifies that a form of "mechanical blocking" will be used to ensure that the CPNI of PSPs will not be available to personnel of its payphone division. Ameritech CEI Plan, at 15. CPA does not express any opinion on the sufficiency or efficacy of the Ameritech proposal, but only suggests that a similar blocking procedure may be technically feasible for Pacific Bell. Further,

the existing CEI rules require, at a minimum, a more detailed description of the procedures that Pacific Bell will use to comply with the CPNI requirements. CI III, at ¶ 265. As such, CPA respectfully asks that Pacific Bell be required to provide a detailed description of a procedure that prevents PubCom personnel from accessing the CPNI.

If PubCom is allowed to place service orders for COPT or COPT Coin service by direct use of the SORD system or other automated means, then such service order access must be made conveniently available to other PSPs as well. Surely, there can be no argument that to maintain preferential access to processes for ordering LEC services would be a denial of comparably efficient interconnection. Indeed, allowing PubCom but not competing PSPs to place service orders on an automated basis would violate the CI III principle, articulated in the enhanced services context, that the time periods for installation of basic services and facilities included in a CEI offering for competitors must be the same as those the carrier provides for its own operations. See, CI III, ¶ 161.^{1/}

3. PubCom should not be permitted to exploit its control of CPNI for customers of Pacific Bell's Semi-Public Telephone service.

Pacific Bell has long contended that the competitive market for pay telephone service was confined, in practical terms, to the efforts of LECs to offer Public Telephone service

^{1/} Other special advantages PubCom enjoys in the service installation context are discussed infra.

in competition with independent PSPs, all competing for the favors of location providers with commission offers and other incentives for permission to place their payphone equipment. Pacific Bell has never presented its Semi-Public service as a competitive service.

In its most recent consideration of Semi-Public service, the California Public Utilities Commission ("CPUC") found that semi-public telephones "serve an important public purpose by providing public access to telephone service in low-volume locations." Re Alternative Regulatory Frameworks for Local Exchange Carriers, Decision 94-09-065, 56 Cal. PUC 2d 117, 273 (Finding of Fact 141) (1994). The CPUC set rates based on treatment of Pacific Bell's and GTE California's semi-public services as "Category I" (non-competitive) services, at levels not fully recovering the indicated service-specific costs. See, Id. at 220.

Now Pacific Bell is detariffing its Semi-Public Telephone service. See, Pacific Bell Advice Letter No. 14861, filed January 15, 1997, with the CPUC. Presuming the CPUC allows Pacific Bell's tariff filing to become effective without major change, as of April 15, 1997, Pacific will be free to continue providing service to its semi-public customers at present rates, to require payment of higher rates, or to terminate provision of the service.

Customers of Semi-Public Telephone service are poorly prepared for such a flash-cut conversion to a deregulated, competitive market. Because only Pacific Bell knows the

identity, locations, and traffic data of its semi-public customers, PubCom will enjoy a tremendous degree of market power in dealing with these customers in a detariffed environment -- both in relation to competing PSPs and in relation to the customers themselves. In view of its exclusive access to these customers' CPNI, there is a very real risk that PubCom will succeed in picking off those semi-public customers whose locations are competitively attractive^{2/} and locking them into contractual commitments at less than a market-clearing cost to PubCom.

It is a basic axiom of economics that a market can be effectively competitive only with the widespread availability of competitively relevant information. PubCom's current monopoly over access to the CPNI of its customers of Semi-Public Telephone service combined with those customers' lack of information about competitive opportunities threatens to defeat the Commission's goal of achieving a fully competitive market for pay telephone services.

This problem can be addressed in one or more of three ways:

- (1) By affording all PSPs, including PubCom, equivalent access to the CPNI of the customers of Pacific Bell's Semi-Public Telephone service; and/or
- (2) By requiring Pacific Bell to inform those customers, in a detailed but lucid and practical manner, about the competitive options available to them, including the

^{2/} Due in part to the Commission-mandated availability of compensation for the provision of access from these stations for carrier access code and 1-800 calls.

possible options of taking semi-public service from an independent PSP or contracting for the installation of a PSP's public telephone; and/or

- (3) By requiring Pacific Bell, for a transition period of perhaps three months after April 15, to forgive any service installation or service change charges that otherwise would apply where a PSP (including PubCom) places an order for COPT service or COPT Coin service in place of an existing Semi-Public Telephone line.

CPA urges the Commission to give serious consideration to requiring Pacific Bell to implement all three of these steps toward effective competition in the semi-public sector of the market for pay telephone services.

D. The Commission Should Require Pacific Bell to Ensure That Full Disclosure of Important Network Information Is Provided on a Nondiscriminatory and Basis.

Pacific Bell has stated in its CEI Plan that it would provide all needed network disclosures by January 15, 1997. CEI Plan, at 13. By an advice filing of that date with the CPUC, Pacific Bell did make very innocuous and terse disclosures with respect to a couple of new versions of inmate service that Pacific proposes to add to its state tariff. See, Pacific Bell Advice Letter No. 18640, filed January 15, 1997, Schedule Cal. P.U.C. No. A5, 2nd Revised Sheet 476.5.3, ¶ 5.5.3.D.2.e; Original Sheet 476.5.3.1, ¶ 5.5.3.D.2.f.

Pacific Bell has offered, however, no network disclosures at all with respect to its plans to offer and provide coin refund service and billing services to PubCom. See, Sections B.2 and B.3 of these Comments, supra. If Pacific Bell does intend to have its LEC operations continue performing such

functions on behalf of PubCom, appropriate network information disclosures are required.

Other subjects with respect to which the Commission should require Pacific Bell to make network information disclosures in the future, on a nondiscriminatory basis to all PSPs, include: (1) plans for network switch removals, installations and replacements; and (2) any call tracking system or service that Pacific Bell develops for purposes of ensuring accurate per-call compensation by carriers pursuant to the Commission's Report and Order adopted September 20, 1996, in CC Docket 96-128. The competitive need for Pacific Bell to disclose the details of any tracking service developed for compensation purposes is obvious. The need to disclose plans for changes in network switches may be less obvious, but it is also very important.

Replacement or upgrading of switches can seriously affect the quality of services provided to PSPs, in both negative and positive ways. Negative effects can be temporary or continuing disruptions of services, including the possibility that switch translations in the newly installed switch are not performed correctly. It is important that all PSPs have equal access to information about such network changes so that they can promptly monitor their pay stations in the field to determine whether they are operating properly after the network activity has been completed. Positive effects of switch upgrades may

include the availability of new service features. Here too, all PSPs are entitled to equal access to relevant network information.

Accordingly, CPA urges the Commission specifically to require Pacific Bell to provide timely network information disclosures with respect to the topics discussed above.

E. The Commission Should Require Pacific Bell to Ensure That All PSPs Are Provided the Same Accommodations in Connection With the Installation of COPT and COPT Coin Services.

Through its affiliation with Pacific Bell's LEC operations, PubCom will enjoy continued access to certain procedures and devices that facilitate efficient installation of payphone stations and enclosures in conjunction with the ordering of COPT and COPT Coin services. Examples of such accommodations include the following: (1) special telephone numbers for ordering services and testing lines; (2) provision of duplicate keys to access lock boxes on customer premises; and (3) access to node boxes for efficient testing of lines.

CPA would rather not seek to have the Commission prevent PubCom from taking advantage of such efficiency enhancements. However, if such accommodations continue to be accorded Pacific Bell, they must be accorded all PSPs without discrimination.

F. Conclusion

CPA respectfully urges that the Commission require Pacific Bell to augment its CEI Plan, clarify its future plans, and ensure adequate protections against unfair discrimination, as discussed in the foregoing comments.

Respectfully submitted,

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