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Federal Communications Commission
Office of Secretary

February 27, 1997

Mr. 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: CC Docket No. 96-128, Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Comparably Efficient Interconnection Plan for the Provision of Basic Telephone Service

On behalf of Pacific Bell and Nevada Bell, please find enclosed an original and 6 copies of their "Reply Comments" in the above proceeding.

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions or require additional information concerning this matter.

Sincerely,

Sherry Herauf

Enclosures

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

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Federal Communications Commission
Office of Secretary

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

REPLY COMMENTS OF PACIFIC BELL AND NEVADA BELL

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EXHIBIT A

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

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

REPLY COMMENTS OF PACIFIC BELL AND NEVADA BELL

I. SUMMARY AND INTRODUCTION

A. The Scope Of This Proceeding

In reviewing the comments, most of which were filed by our competitors, the Commission should keep in mind the important but limited scope of this proceeding. Consistent with Congress's requirement in §276(b)(1)(C) of the Telecommunications Act of 1996, the Commission required that each BOC file "an initial CEI plan describing how it intends to comply with the CEI equal access parameters and nonstructural

safeguards for the provision of payphone services."[1] For each of those parameters and safeguards, the Commission cited the requirements it established in *Computer III*. Our plan should be judged against those requirements alone and not against all the requirements that commenting parties wish the Commission had adopted over and above those in *Computer III* and the *Payphone Orders*, but did not.

The California Payphone Association ("CPA") acknowledges that "there are many positive aspects to Pacific Bell's CEI Plan."[2] Concerning issues where CPA and others say that our plan "fails to measure up," in these reply comments we show that no revisions in our procedures and services are needed in order to meet the Commission's CEI requirements. Most of the issues raised represent 1) untimely petitions for reconsideration of the Commission's Payphone Orders and Docket No. 91-35 Originating Line Screening ("OLS") Orders, 2) misunderstanding of, or dissatisfaction with, the Commission's CEI requirements, or 3) attempts to take advantage of the changes in payphone service regulation by seeking new rules that would benefit certain competitors at the expense of consumers and competition. As an example of this third category, American Public Communications Council ("APCC") and CPA distort both the CPNI rules and the definition of semi-public service in an attempt to take information and business away from both Pacific Bell's and Nevada Bell's

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[1] *In The Matter Of Implementation Of The Pay Telephone Reclassification And Compensation Provisions Of The Telecommunications Act Of 1996,* CC Docket No. 96-128, CC Docket No. 91-35, *Report and Order*, released September 20, 1996, para. 202, (*"Payphone Order"*), *Order On Reconsideration,* released November 8, 1996 (*"Payphone Reconsideration Order").*

[2] CPA at p. 2.

payphone service providers ("our PSPs"), rather than acquire their own information and compete for the business.

B. Fair Competition

Some of the commenting parties allege that our PSPs will have an unfair competitive advantage. Those parties are wrong. Our own PSPs will face the competitive market the same way as other PSPs. We will make available to other PSPs any basic network services that we will provide to our unregulated PSPs at the same tariffed rates, terms, and conditions. Moreover, our PSPs will have to make the same investment decisions as other PSPs concerning the choice of "smart" or "dumb" sets. With respect to our tariffed network services, all PSPs will have a nondiscriminatory opportunity to compete in the marketplace.

C. Integration vs. Separation

The Commission adopted CEI and ONA as nonstructural safeguards to replace the prior structural separation requirements that the Commission found were unnecessarily preventing benefits of integration that could help bring new and lower priced services to consumers.[3] In the Telecommunications Act, Congress did not require structural separation for payphone service, as it did for interLATA and electronic publishing services. In the *Payphone Order*, the Commission declined to order structural separation and adopted the *Computer III* CEI and ONA nonstructural safeguards referenced by Congress, in order to allow the efficiency benefits of

integration. So long as those safeguards are met, the BOCs should be allowed to integrate these businesses.

In order to make the absence of discrimination between our PSPs and third-party PSPs even clearer, we plan to separate our PSPs from our network operations significantly more than is required by the safeguards. For instance, our PSPs will have their own dedicated installation, maintenance, and repair personnel solely for non-regulated payphone set work, while relying on the same regulated network installation, maintenance, and repair personnel as will other PSPs. We do intend to have our PSPs continue to integrate their billing, in compliance with all accounting safeguards, in order to increase efficiency. Some parties would have the Commission deny us even this limited amount of integrated efficiency. These unreasonable demands should be denied because allowing increased efficiency is a primary goal of the *Computer III* requirements.

D. The Relationship Between CEI And ONA ("Flash-Cut" Vs. "Evolutionary")

In the *Computer III* proceedings, the Commission developed CEI plan requirements in order to allow the BOCs to provide specific unregulated enhanced

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[3] *Amendment of Sections 64.702 of the Commission's Rules and Regulations ("Third Computer Inquiry")*, CC Docket 85-229, *Report and Order*, 104 FCC 2d 958, paras. 72-77, 88-99 (1986) ("*Computer III First Report and Order*").

services based on a process that would provide "expedited review" and would "minimize...delay."[4] Concerning the CEI plan process, the Commission stated:

> "We are aware that this interim service-by-service, carrier-by-carrier approach is similar, in certain respects, to the waiver proceedings that delayed service innovation and introduction under *Computer II*. However, by establishing the detailed substantive guidelines and expedited review procedures for CEI plans...,we seek to minimize the exploratory, ad hoc character of the Computer II waiver proceedings and the delays resulting from the regulatory review process."[5]

Some of the parties in this proceeding urge the Commission to reject our plan and start over. What those parties ignore is that our plan deserves approval based on its showing that we will provide to our PSPs the same basic network services that we provide to other PSPs, under the same tariffs, unbundled from other services, and on an equal basis, and that we have met the other specific nonstructural safeguards of *Computer III*.[6] For purposes of meeting the Commission's CEI requirements, the question is not whether other PSPs will choose to use the same network services that our PSPs will use. The question is whether there will be a nondiscriminatory opportunity to use those services.[7] The answer is clearly yes.

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[4] *Computer III First Report and Order* at para. 115.

[5] *Id.* (emphasis added).

[6] "The CEI standards...require a carrier's enhanced services operations to take under tariff the basic services it uses in offering unseparated enhanced services. Such basic services must be available to other enhanced services providers and users under the same tariffs on an unbundled and functionally equal basis." *Computer III First Report and Order* at para. 4.

[7] When the Commission developed the CEI principles it stated that a carrier that offers an enhanced service should be required to offer network interconnection

Building upon CEI principles, the Commission developed ONA as an "evolutionary process" to help meet the needs of third-party providers who may not want to use the same network services that the BOC's provider uses, or who may want to purchase only unbundled parts of those services.[8] PSPs may request additional unbundled network services or features through the 120-day ONA service request process, in which we must meet requests that satisfy the Commission's technical and economic criteria.[9]

Many of the commenting parties in this proceeding distort this relationship between CEI and ONA, in which the Commission designed CEI to allow BOCs to offer particular services with minimized delay, and designed ONA to include longer term network development. These parties argue that they cannot immediately start using the network services that our PSPs primarily use. These parties use that argument, which is irrelevant to CEI requirements, as justification for their request that the Commission delay approval of our CEI plan. However, it is the 120-day ONA service request process that these parties must use if they seek additional unbundled network services or features, not a delay in our CEI plan. As all parties surely know, immediate

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"opportunities" to other enhanced service providers. *Computer III First Report and Order* at para. 112.

[8] In *Computer III*, the Commission stated, "A carrier providing enhanced services through Open Network Architecture must unbundle key components of its basic services and offer them to the public under tariff, regardless of whether its enhanced services utilize the unbundled components." *Computer III First Report And Order* at para. 113 (emphasis added). The Commission explained that "ONA implementation will be an evolutionary process." CC Docket No. 85-229, *Memorandum Opinion and Order on Reconsideration*, 2 FCC Rcd 3035, para. 143 (1987). *See Computer III Further Remand Proceedings*, CC Docket No. 95-20, *Notice of Proposed Rulemaking*, 10 FCC Rcd 8360, paras. 15-16, concerning the "Evolutionary ONA Model."

unbundling and development of network services is impractical. Thus, these parties are, in effect, requesting an indefinite delay in the approval of our CEI plan.

E. Legal Requirements

The Commission must reject these requests for delay. A CEI plan is a "flash-cut" process whereby a BOC may offer an unregulated service with minimized delay so long as its plan shows that the *Computer III* safeguards are met. The Commission properly chose the "flash-cut" CEI plan process to meet Congress's demand for "flash-cut" changes in the regulation of payphone service. As part of these changes, §276 of the Act requires the removal of subsidies all at once -- upon the effective date of the Commission's rules. Sections 201 and 276 of the Act and the prohibitions on confiscation in the Fifth and Fourteenth Amendments to the U.S. Constitution require simultaneous implementation of a plan to ensure compensation to all PSPs for completed calls.[10] Accordingly, the Commission should evaluate our CEI

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[9] *Payphone Reconsideration Order* at para. 165.

[10] IXCs are currently paying interim compensation to independent PSPs and paying part of the CCL subsidy to BOC PSPs. The Commission should not remove the subsidy from a BOC PSP without allowing the BOC PSP to receive compensation from IXCs for services the BOC PSP provides for them. If it does, the Commission's action will require BOC PSPs to undercharge IXCs and, thus, its action will be in violation of §201(b), which requires common carriers to charge reasonable rates. At the same time, by removing a subsidy which was established to provide cost recovery, without providing a new mechanism for the recovery of costs, the Commission would be denying the BOC PSP the opportunity to recover all its costs and, thus, taking its property without just compensation. Even when unregulated payphone competition is in place, the BOC PSP could not raise payphone service prices for the purpose of making up this revenue shortfall. The BOC PSP will have to continue to compete with the independent PSPs, who will have no corresponding shortfall of revenues, but will continue to receive compensation from IXCs. Finally, there would be no rational basis for denying a BOC PSP the right to obtain one of these two cost-recovery mechanisms

plan based on the *Computer III* requirements for CEI plans and approve our plan by the time the subsidies are removed, while allowing network service development to move forward under the ONA process.

II. ARGUMENTS THAT EXISTING TARIFFED SERVICES ARE INADEQUATE TO MEET PSPs' NEEDS ARE MISPLACED AND MUST BE REJECTED

Many of the issues that APCC and CPA raise concerning the potential for discrimination in our provision of network services to PSPs relate to their expectations that, at least in the near term, our PSPs will purchase different network services than will other PSPs.[11] As the result of this anticipated difference, APCC and CPA argue that we must 1) unbundle the existing coin line service and offer new features so that the service will be more useful to PSPs,[12] and 2) add new functionality or procedures to the existing COPT basic service to meet the perceived needs of other PSPs.[13] These arguments are without merit for the following reasons.

-- either the existing subsidy or compensation -- as the result of not yet having obtained approval of a CEI plan. Delay in approval of a plan could, at most, justify continuation of the status quo with existing subsidies until the plan is approved.

[11] APCC at 4, n.3; CPA at 3.

[12] APCC at 3-4 & 10-13; CPA at 9-10.

[13] APCC at 18-21; CPA at 3-5.

A. Arguments That COPT Coin Line Service Is Inadequate Are Untimely Petitions For Reconsideration Of The Commission's Payphone Orders And Are Irrelevant To CEI Plan Requirements

1. Selective Call Rating

APCC and CPA assert that the Commission should require us to develop a more flexible rating feature for COPT coin line service.[14] This same request was made by parties in the *Payphone Proceeding*, and the Commission declined to adopt it. First, Georgia Public Communications Association ("GPCA") unsuccessfully requested unbundled "rate schedule functionality" in the *Payphone Order*.[15] The issue was raised again on reconsideration where "AT&T support[ed] NJPA's request that LECs be required to provide independent payphone providers the ability to obtain coin rating capabilities so that the independent payphone providers can establish their own rates...."[16] The Commission again declined to adopt this or other additional unbundling requests.[17]

The attempts by APCC and CPA to obtain selective call rating in this proceeding clearly are untimely petitions for review of the Commission's earlier decisions and must be rejected. Similarly, APCC's demand for flexible directory assistance rating and call time rating should be rejected. By offering the same COPT coin line service, including the same call rating functionality, to other PSPs as we provide to our own, we have met the CEI plan requirement. PSPs may request

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[14] APCC at 10-12; CPA at 9-10.
[15] *Payphone Order* at paras. 137, 146, 149.
[16] *Payphone Reconsideration Order* at para. 157.
[17] *Id.* at para. 165.

additional network functionality via the 120 day ONA process.[18] In the meantime, the PSPs also have the selective rating functionality available in their smart sets.

2. Operator Service Provider ("OSP") Selection

APCC requests that the Commission require us to unbundle operator services from COPT coin line service so that any third-party operator services can be used with the COPT coin line.[19] This request does not relate to any CEI requirement and is irrelevant to this proceeding.[20] As APCC indicates, the Commission clarified in *its Payphone Reconsideration Order* that states are preempted from permitting or requiring all O- non-emergency intraLATA calls to be routed solely to the serving LEC.[21] As the Commission pointed out, however, this requirement is intended to further the Act's policies supporting free competition between intraLATA carriers.[22] It is not relevant to our CEI plan for the provision of services for PSPs' interconnection to the network on a nondiscriminatory basis.

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[18] *Id.* Pacific Bell intends to offer the capability for flexible call rating of local calls at some point in the future.

[19] APCC at 12.

[20] The CEI "unbundling of basic services" requirement does not require the BOC to unbundle the parts of its service from each other. Rather, "[a]s part of its CEI offering, the basic services and basic service functions that underlie the carrier's enhanced service offering must be unbundled from other basic service offerings and associated with a specific rate element in the CEI tariff." *Computer III First Report and Order* at para. 158. Thus, the basic, regulated network services that our PSPs use must be unbundled from other basic services so that other PSPs can purchase and use them in the same manner as our PSPs. Our CEI plan demonstrates compliance with this requirement.

[21] *Id.* at 12, n. 13.

[22] Payphone Reconsideration Order at para. 242.

Our PSPs will be provided the same COPT coin line service, including the same operator service, as is available to other PSPs.[23] If PSPs want a different arrangement, they may request it in the ONA 120 day process. In addition, PSPs may use other operator services by using smart phones or by subscribing to the service of a facilities-based competitive LEC. Moreover, contrary to MCI's argument,[24] our plan is not deficient because we did not explain how we will comply with dialing parity requirements, which include access to operator services. That is not an issue to be dealt with here or at this time. The Commission "conclude[d] that the technical and timing requirements established pursuant to Section 251(b)(3), and Section 271(c)(2)(B), should apply equally to payphones."[25] We will apply those requirements to payphones in connection with implementing those sections of the Act.

B. Arguments That We Must Add Tracking Codes To Our COPT Basic Service, Or Offer "Flex ANI," Are Untimely Petitions For Reconsideration Of The Docket 91-35 "OLS Orders" And Are Irrelevant To CEI Plan Requirements

APCC states that "the Commission should require Pactel to clarify whether it will provide PSPs using COCOT lines with a screening code that uniquely identifies their lines as payphone lines."[26] APCC asserts that this identification must be provided by Flex ANI or by recognition of existing screening codes. The Commission considered this issue in its Docket 91-35 *OLS Order*, where it "require[d] the LECs to

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[23] Pacific Bell has been offering tariffed COPT coin line service to all PSPs since 1993. Nevada Bell intends to begin this offering on April 15, 1997.

[24] MCI at 3-4.

[25] *Payphone Order* at para. 292.

[26] APCC at 21. COCOT service is another name for our COPT basic service.

federally tariff OLS services that provide a discrete code to identify privately owned payphones...."[27] The Commission recognized that "[t]hree technologies either deliver OLS service or could be used to do so:" ANI II, Flex ANI, or line information data base ("LIDB").[28] The Commission found fault solely with ANI II technology, because the Commission did "not believe that the ANI II technology will be capable of providing adequate protection against toll fraud."[29] Thus, the Commission acknowledged the suitability of either Flex ANI or a LIDB-based OLS solution, as a means of identifying the type of originating line. Concerning LIDB, the Commission stated that in order to provide a separate code for private payphones "[t]he LECs plan to add OLS screening capability, which can provide a much wider range of screening codes, to the LIDB database software...."[30] Even after the Commission issued its *Payphone Reconsideration Order*, the Commission continued to recognize that the LIDB approach could satisfy the requirements of the *Payphone Order*.[31] The Commission stated that the waivers it granted to allow more time for LECs to implement LIDB-based OLS service or Flex ANI "permit the provision of enhanced OLS service within the time frames contemplated by the Commission for possible use in connection with per-call compensation requirements for payphone service providers established in the

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[27] *Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation*, CC Docket No. 91-35, *Third Report and Order,* released April 5, 1996, para. 34.

[28] *Id.* at para. 19.

[29] *Id.* at para. 34.

[30] *Id.* at para. 26.

[31] *Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation*, CC Docket No. 91-35, *Memorandum Opinion and Order*, released December 20, 1996, para. 12.

Payphone Order."[32] That is the approach that we are taking, and APCC's argument should be rejected as an untimely petition for reconsideration of the Docket No. 91-35 *OLS Order*.[33]

In addition, APCC, CPA,[34] AT&T, and MCI assert that we must provide the same screening capability to COPT coin line service as to COPT basic service.[35] They are wrong for two reasons. First, the relevant CEI requirements are met so long as whatever basic regulated network capabilities we provide to our own PSPs are available under tariff to other PSPs.[36] We will fully meet that condition. For instance, Pacific Bell has offered coin line service to other PSPs since 1993, and other PSPs do in fact subscribe to it.

Second, CPA incorrectly claims that the differences in the two services "constitute systemic differences between a carrier and its competitors, and so are

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[32] *Id.*

[33] MCI's (p. 3) concern regarding screening codes on Feature Group B ("FG B") service is irrelevant because we do not offer COPT basic or COPT coin line services using FG B.

[34] CPA's claims that Pacific Bell's COPT coin line service and COPT basic service should have the same screening capability, addressed in this section, and its claim of entitlement to telephone numbers in the 8000 and 9000 range, addressed in Section II. C. below, are the two prongs of CPA's more general argument that the Commission should remove a difference in fraud protection between the two services which CPA claims favors COPT coin line service. As discussed in this section, however, this argument is based on a misconception of the CEI requirements and therefore should be rejected. Instead, it should be noted that, when the California Public Utilities Commission authorized Pacific Bell to offer COPT basic service, that commission considered the issue of fraud protection and ordered Pacific Bell to include in the service a package of screening and blocking functions to protect PSPs from fraud. (CPUC Decision 85-11-057, 243-244.) In addition, the LIDB method which we are developing in response to the Docket No. 91-35 *OLS Order* offers additional opportunities for fraud protection.

[35] APCC at 18-19; CPA at 4; AT&T at 2; MCI at 3.

inconsistent with the equal access standards of *CI III*."[37] The equal access standard cited by CPA has nothing to do with systemic differences between the offering of two different services. Rather, the Commission's *Computer III* equal access standard involves a carrier's installation of the same basic network service to its own enhanced service operation as to other ESPs. The Commission recognized that requiring exact equality from installation to installation "is unachievable, since some minor variations occur even among carriers' own installations of such services."[38] With regard to installations of a particular service, the Commission "view[s] any systematic differences between a carrier and its competitors in such variations as inconsistent with this equal access standard."[39] That is the standard of relevance to our CEI plan, and our CEI plan demonstrates compliance.

Finally, the coding of the COPT coin line will not provide users of that line, including our PSPs, with the "special handling" objected to by San Diego Payphone Owners Association ("SDPOA") and Payphone Service Providers Group ("PSPG"): call completions and bill credits.[40] Years ago Pacific Bell eliminated call completions on the coin line for customers who chose that over refunds.[41] Rather than identify customers for refunds via coding, our PSPs are placing signage with refund phone numbers on their payphones, and operators will refer their customers to the signage just as they do customers of other PSPs. *See* Section III. C. below concerning coin refunds.

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[36] *Computer III First Report and Order* at paras. 157-160.
[37] CPA at 5.
[38] *Computer III First Report and Order* at para. 209.
[39] *Id.*
[40] SDPOA & PSPG at 3.

C. We Make Line Number Assignments On A Nondiscriminatory Basis

CPA states that the Commission "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."[42] CPA suggests 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." APCC states that "Pactel should be required to allocate the numbers assigned to the existing base of payphones, without charge, so that an equal percentage of LEC payphones and IPPs are assigned 8000 and 9000 series numbers."[43]

In our territory, 8000 and 9000 numbers are not used exclusively by payphones. Other customers use them too. Accordingly, we consider them to be of limited use as a screening device in California and Nevada.

We will make line number assignments on a nondiscriminatory basis. The same pool of service representatives will take orders for our PSPs as for other PSPs. If a customer asks for a particular number or number series, including those in the 8000 and 9000 range, and it is available in the desired area, that customer will get the number on a first come, first served basis.

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[41] Nevada Bell does offer call completions.
[42] CPA at 6.
[43] APCC at 18, n. 16.

III. BILLING AND COLLECTION IS NOT A CEI SERVICE SUBJECT TO NONDISCRIMINATION REQUIREMENTS

A. Billing And Collection

CPA states, "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."[44] CPA is mistaken. As an integrated part of Pacific Bell, Pacific Bell's PSP operation, Public Communications ("PubCom"), has the right to use the Pacific Bell bill so long as all costs are properly allocated pursuant to this Commission's and the California PUC's accounting requirements.

We have no obligation to make billing and collection service available on an unbundled basis to independent PSPs. Concerning the unbundling of basic services, the June 1986 *Computer III First Report and Order* stated, "All basic network capabilities utilized by the carrier's enhanced service offerings, including signalling, switching, billing and network management, are subject to this unbundling requirement."[45] At that time, basic network capabilities utilized in billing referred to recording of billing data by network switching operations. In its January 1986 *Detariffing Order*, the Commission had already detariffed billing and collection functions, including recording, but ordered LECs to continue to offer recording services through

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[44] CPA at 8.

[45] *Computer III First Report and Order* at para. 158.

the later of 1989 or completion of the equal access conversion process.[46] The Commission concluded that billing services are not subject to Title II regulation.[47]

In its December 1988 *ONA Order*, the FCC declined to require the BOCs to make any billing and collection services available as ONA services,[48] and placed no restriction on the BOCs' billing of services for their own enhanced service operations. In its 1990 ONA Order, the Commission confirmed this decision:

> "At present ESPs are generally able to bill their subscribers without our mandating that BOCs perform such services for them....In addition, we find it unnecessary to change the BOC ONA Order concerning the provision of billing information services [defined as information ESPs need to perform their own billing]. Typical ESP network configurations, generally involving lineside access, appear to make provision of the recording type services available to IXCs with trunk-side connections irrelevant to ESP needs.[49]"

Since billing services, including recording services, are not ONA services, it follows, *a fortiori*, that they are not CEI services. Although ONA services need not be CEI services, CEI services are always ONA services. Thus, billing and collection services are not CEI services, and BOCs are not required to provide them to other PSPs regardless of whether or not the BOC's own PSP uses the BOC's billing. The Commission made it clear that this is the general rule when it required, in the *Payphone*

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[46] *Detariffing of Billing and Collection Services*, CC Docket No. 85-88, *Report and Order*, 102 FCC 2nd 1150 (1986) (*"Billing and Collection Detariffing Order"*).

[47] *Id.* at para. 34.

[48] *Filing and Review of Open Network Architecture Plans*, CC Docket No, 88-2, Phase I, *Memorandum Opinion and Order*, 4 FCC Rcd 1 at para. 109 (1988).

[49] *Filing and Review of Open Network Architecture Plans*, CC Docket No. 88-2 *Phase I, Order On Reconsideration*, released May 8, 1990, at para. 33-34. Similarly, PSPs can bill their own subscribers and primarily use lineside services.

Reconsideration Order, that LECs must make billing and collection services that they provide their own payphone operations available to competitors on a nondiscriminatory basis if LECs "provide basic, tariffed payphone services that will only function in conjunction with billing and collection services from the LEC."[50] As an example, the Commission referred to the situation "where coin services require the LEC to monitor coin deposits and such information is not otherwise available to third parties for billing and collection."[51] Our PSPs' use of our billing does not involve "tariffed payphone services that will only function in conjunction with billing and collection services from the LEC," and thus the narrow nondiscrimination requirement does not apply.

Therefore, CPA's argument must be rejected. Our PSPs may use our billing and collection services so long as we properly account for the unregulated use, without a requirement that third parties be allowed to use them in the same manner.[52] Accounting will not be based on the tariffed billing service because our PSPs do not

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[50] *Payphone Reconsideration Order* at para. 149 (emphasis added).

[51] *Id.*

[52] As a result, CPA's argument is moot that our PSPs might have to pay a premium, in the form of a Network Utilization Rate Element ("NURE"), if we could not provide the same billing elements to other PSPs as we provide to our own. CPA at 9. In any event, CPA mischaracterized the NURE. The NURE was to be charged if the carrier's use of the unbundled network service for its own ESP degraded service for other ESPs. *Computer III First Report and Order* at para. 158. The Commission applied a NURE charge "to compensate for any loss of efficiency that occurs in the packet-switched network when asynchronous to X.25 protocol conversion is being performed." Southwestern Bell telephone Company, *Petition For Waiver of Section 64.702 of the Commission's Rules and Regulations to Provide and Market Asynchronous Protocol Conversion on an Unseparated Basis, Memorandum Opinion and Order*, 5 FCC Rcd 161, 165, n. 7(1990). *See Protocol Waiver Order*, 100 FCC 2d at 1096-97, 1107-09. The NURE was not a penalty for failure to provide the service to third parties, as proposed by CPA.

intend to use that service. Their billing will be integrated into our bills, rather than having a separate page layout and other features of the tariffed service.

If this approach provides both our regulated and nonregulated operations an efficiency benefit of integration, that is not a bad thing. In fact, as discussed in Section I above, the Commission's desire to allow such efficiencies was the reason that it developed the *Computer III* nonstructural safeguards and applied them in the *Payphone Proceeding*, rather than requiring structural separation. Efficiency benefits of integration benefit the economy and consumers.

B. Use Of Billing Systems For Payment Of Commissions

SDPOA and PSPG complain that Pacific Bell's PSP "utilizes the LEC's accounting, billing and collection systems to automate the calculation, creation and mailing of commission checks to location providers...."[53] The calculation and payment of commission checks is not a CEI service subject to nondiscrimination requirements. Moreover, the Commission has not subjected commissions to nondiscrimination requirements in the *Payphone Proceeding*.[54] Similarly, as discussed above in Subsection A, use of the billing and collection system is not subject to CEI or *Payphone Proceeding* nondiscrimination requirements. This is another example of where we should be allowed and encouraged to try to develop efficiency benefits of integration.

C. Use Of Billing Systems For Payment Of Coin Refunds

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[53] SDPOE and PSPG at 4.

[54] *See Payphone Reconsideration Order* at para. 52.

CPA asks how Pacific Bell intends to handle coin refunds.[55] Starting April 15, 1997, our operators will handle calls from end user customers seeking refunds from our PSPs' payphones the same way they will handle calls concerning refunds from other PSPs' payphones. Regardless of who the PSP is, our operators will refer each caller to the signage for the number to call concerning refunds. If there is no signage on the phone, Pacific Bell's operator will transfer the customers to a recording which will give them an 800 number to call to lodge a complaint. This is the same way that COPT enforcement is handled today in California.[56]

When Pacific Bell's PSP's customers call the numbers on the signage and are entitled to a refund, the customers will have the option of receiving checks in the mail or credits on their monthly phone bills if they are subscribers to our regulated services.[57] As discussed above in Subsection A, billing services are not subject to CEI or *Payphone Proceeding* nondiscrimination requirements, but are subject to the Commission's and the state's accounting requirements. Once again, integrated use of the billing system in this manner has the potential to create efficiencies that should be allowed and encouraged. Moreover, independent PSPs already have the capability to give refunds to end users who request them.

D. Billing And Related Activities Are Not Subject To Network Disclosure

[55] CPA at 6.

[56] Nevada does not have the additional process for situations where signage may be missing.

[57] Nevada Bell's customers have the option of call completion or a refund via a pre-paid calling card.