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PACIFIC  TELESIS
Group-Washington

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March 19, 1997

Federal Communications Commission
Office of Secretary

CC 96 149

Mr. William F. Caton
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

RE: Petition for Forbearance (E911 Service)

Dear Mr. Caton:

Please find enclosed for filing Pacific Telesis Group's ("Pacific") Petition for Forbearance requesting that the Commission forbear from applying the requirements of Section 272 of the Telecommunications Act of 1996 to Pacific's E911 service.

Please direct any questions concerning this filing to the undersigned.

Respectfully submitted,



Gina Harrison

cc: Radhika Karmarkar

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MAR 19 1997

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

**Federal Communications Commission
Office of Secretary**

In the Matter of)
)
Pacific Telesis Group)
Petition for Forbearance from) CC Docket No. 97 -
Application of Section 272 of the)
Communications Act of 1934,)
as Amended, to Previously)
Authorized Services)

**PACIFIC TELESIS GROUP
PETITION FOR FORBEARANCE**

Pacific Telesis Group ("Pacific") hereby petitions the Federal Communications Commission ("Commission") pursuant to Section 10 of the Communications Act of 1934, as amended (the "Act"), 47 U.S.C. § 160(a), to forbear from applying the requirements of Section 272 to Pacific's E911 service. In addition, Pacific respectfully requests expedited consideration and approval of this petition.

INTRODUCTION

On February 7, 1997, BellSouth Corporation ("BellSouth") filed a Petition for Forbearance asking the Commission to forbear from applying the requirements of Section 272 of the Act to its "reverse directory" and E911 services.¹ On March 6, 1997, Bell Atlantic filed a similar petition requesting forbearance for its E911 service.² Comments on BellSouth's Petition

¹ BellSouth Petition for Forbearance (filed Feb. 7, 1997) ("BellSouth Petition").

² Bell Atlantic Petition for Forbearance; Bell Atlantic Comments (filed Mar. 6, 1997)
(Continued...)

were filed on March 6, 1997, and reply comments were filed on March 17, 1997. As shown below, Pacific submits that it is entitled to equivalent forbearance relief for its E911 services.

I. PURSUANT TO ITS SECTION 10 AUTHORITY, THE COMMISSION SHOULD FORBEAR FROM APPLYING SECTION 272 TO E911 SERVICES

The Commission should immediately forbear from applying Section 272 of the Act to Pacific's E911 service under its Section 10 authority. Section 10 of the Act requires the Commission to forbear from applying any provision of the Act if the Commission determines that: (1) enforcement is not necessary to ensure just and reasonable rates; (2) enforcement is not necessary to protect consumers; and (3) forbearance is consistent with the public interest.³ This three-pronged test is easily met with respect to E911 service.

First, requiring the provision of E911 service through a separate affiliate pursuant to Section 272 is wholly unnecessary to ensure just and reasonable rates. The rationale behind the structural separations requirement is to equalize the playing field for all service providers, not to regulate rates. In granting BOCs the authority to provide E911 service, the U.S. District Court previously concluded that such an offering would "not endanger competition."⁴ The Department of Justice ("DOJ") has similarly endorsed this view by concluding that BOC provision of

(...Continued)

("Bell Atlantic Petition" and "Bell Atlantic Comments"). The routing of a 911 call through Pacific's network mirrors that of Bell Atlantic as described in the Bell Atlantic Petition at 2-3.

³ Communications Act, § 10, codified at 47 U.S.C. § 160(a).

⁴ *U. S. v. Western Electric Co.*, No. 82-0192, 1984 U.S. Dist. LEXIS 10566, at *1 (D.D.C. Feb. 6, 1984).

interLATA E911 service “does not present any threat to competition among interexchange service providers.”⁵

Second, application of the separate affiliate safeguards to Pacific’s E911 service is not necessary to protect consumers. To the contrary, *forbearance* is required to protect the public. Requiring a separate affiliate to provide E911 service would interfere with a BOC’s ability to engineer its networks and systems in the most efficient and reliable manner possible, thereby potentially threatening the public safety. The U.S. District Court found that allowing BOCs to provide E911 service would “serve the public interest by avoiding expensive reconfigurations and unnecessary disruption of telephone service”⁶ These concerns are equally valid in the context of forbearance from the separate affiliate requirement. To avoid jeopardizing the safety of the public through service degradation, the Commission should follow the Court’s lead and forbear from applying Section 272 to Pacific’s E911 service.

Finally, forbearance for E911 service clearly serves the public interest. This third prong of the forbearance test is subsumed within the first two prongs. Indeed, as discussed above, the U.S. District Court and the DOJ have already conducted the equivalent of public interest analyses and have concluded that BOC provision of E911 service will clearly service the public interest. Specifically, DOJ has determined that “[a]llowing the BOCs to provide interLATA 911 services

⁵ Letter from Constance K. Robinson, Chief, Communications & Finance Section, U.S. Department of Justice, Antitrust Division to Alan F. Ciamporcero, Pacific Telesis Group, at 1 (Mar. 27, 1991) (citing *Motion of the United States for a Waiver of the Modification of Final Judgment to Permit the BOCs to Provide MultiLATA 911 Service* at 3 (Nov. 17, 1988)).

⁶ *U. S. v. Western Electric Co.*, No. 82-0192, 1984 U.S. Dist. LEXIS 10566, at *1 (D.D.C. Feb. 6, 1984).

and E911 service is in the public interest for it permits customers to reach providers of emergency services conveniently and efficiently.”⁷

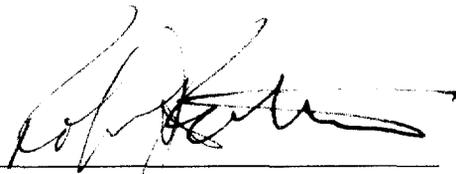
E911 is a life-saving service and its continued quality and reliability should be the Commission’s paramount concern. Therefore, Pacific urges the Commission to refrain from imposing the unnecessary regulatory constraints of Section 272 on Pacific’s E911 service.

CONCLUSION

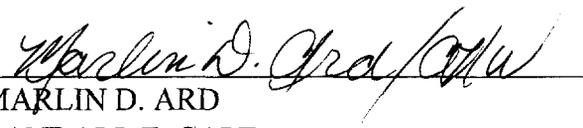
For the aforementioned reasons, Pacific respectfully requests that the Commission forbear from applying the Section 272 separate affiliate requirements to its E911 service.

Respectfully submitted,

PACIFIC TELESIS GROUP



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March 19, 1997

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⁷ Letter from Constance K. Robinson, Chief, Communications & Finance Section, U.S. Department of Justice, Antitrust Division to Alan F. Ciamporcero, Pacific Telesis Group, at 1 (Mar. 27, 1991).