

immediately, but also should consider innovative policies that will prevent their recurrence.)

(ORA raises issues in this Petition that relate to the degradation in the quality of the service Pacific provides customers calling its residential order center.) Service quality is a subject that would formerly have been considered in a general rate case. In fact, in deciding Pacific's last general rate case, the Commission considered the abusive marketing activities Pacific had engaged in and fashioned measures which included a program to provide for restitution to compensate Pacific's ratepayers and an order that Pacific fund a legal trust to educate the public. (*See Re Pacific Bell*, (1987) 27 CPUC 2d 1, 33.)

ORA's investigation has also uncovered evidence of questionable screening practices by Pacific of callers for Universal Lifeline Telephone Service. In Pacific's last general rate case, the Commission addressed proposals by the parties to provide completely for the protection of ratepayers with limited means. (*Re Pacific Bell* (1988) 28 CPUC 2d 371, 398.)

Petitions in this Forum Docket must include an affirmative showing why other available forums are inadequate or inappropriate to meet their needs. (*Id.*) ORA files this Petition here in the belief that this is the appropriate forum. There is no general "service quality proceeding" before this Commission and the Commission has decided not to consider service quality in its third triennial review of the new regulatory framework adopted for Pacific. (Scoping Memo and Ruling of Assigned Commissioner, R.98-03-040, April 13, 1998, p. 4-5.) There are two complaints filed against Pacific for marketing abuses, but ORA believes that a proceeding that is broader in scope is warranted by the evidence ORA has obtained in its investigation. Pacific's practices affect all of its ratepayers' rights to privacy, to sufficient information upon which to make informed choices about services, and to efficient and reasonable service. The forum docket "was established by the Commission to bring to its attention quality of service problems for Pacific and GTE California, Inc." (*Communications Workers of America* (1994) 54

CPUC 2d 139; D.94-04-070; 1994 Cal. PUC LEXIS 326, footnote 1, dismissing a complaint, but stating that, “[i]f complainant develops facts to support its assertion that service quality has deteriorated, it may file a complaint in the I.90-02-047 docket.”)

Furthermore, Pacific’s emphasis on sales rather than service has exposed the ULTS program to abuse that affects all those who pay the surcharge for lifeline rates. ORA is aware of no other proceeding in which the appropriateness of Pacific’s charges against the ULTS Fund are being examined.

The Commission opened the Forum OII “for the purpose of entertaining complaints about utility operations and services.” (Kenneth Bates, Jr. v. GTE California (1992) 45 CPUC 2d 90, 91; D.92-07-044.) As detailed below, ORA’s investigation of Pacific’s residential service order centers shows a deterioration in the service and operations of the company.

The Forum OII directs Petitioners to “first address their concerns to the Commission’s Advisory and Compliance Division (CACD) in order to attempt to reach an informal resolution of the problems.” (Forum OII, supra, 1990 Cal. PUC LEXIS 103. Since the internal reorganization of the Commission in 1996, CACD no longer exists. ORA did notify the Director of the Telecommunications Division, which acts in an advisory role on telecommunications matters to the Commission, that it would be filing a report on Pacific’s residential call center operations. On June 3, 1998, ORA met with representatives of Pacific and showed them copies of the report of its investigation. Pacific’s representatives expressed a willingness to work with ORA on the issues, but ORA believes that Pacific’s practices at the residential order centers cannot be allowed to continue while ORA and Pacific attempt to resolve their differences.<sup>3</sup> ORA believes that the matters it has raised in this Petition and in its Report need to be brought before the Commission immediately.

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<sup>3</sup> See attached Declaration of Elena Schmid

## V. CONCLUSION

For all the foregoing reasons, ORA asks the Commission to order Pacific to cease immediately its improper sales practices and to submit new marketing procedures for its Residential Service Order Center to the Commission for approval within 30 days of a Commission order in this proceeding. To notify customers who may have been victimized by Pacific's improper sales practices, ORA recommends that workshops be held with the ultimate goal of determining the proper amount of reparations Pacific owes its customers and the most effective means of ensuring that those customers receive it. The Commission should consider whether to hold workshops on the imposition of a Service Quality Assurance Mechanism to ensure that its ratepayers' calls are answered in a timely manner, or whether to address this issue in another forum. ORA also recommends that the Commission order an audit of Pacific's charges to the ULTS Fund. Finally, ORA asks the Commission to order any further relief it deems appropriate.

Respectfully submitted,

/s/ LAURA J. TUDISCO

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June 4, 1998

## DECLARATION OF ELENA SCHMID

1. I, Elena Schmid, declare that I am the Director of the Office of Ratepayer Advocates (ORA) of the California Public Utilities Commission.
2. On June 1, 1998, I contacted Mary Vanderpan, Regulatory Vice President at Pacific Bell (Pacific) and arranged a meeting at the Commission for June 3, 1998 to discuss a report ORA was preparing on Pacific's residential service order center operations. I told Ms. Vanderpan that attending the meeting with me would be Kelly Boyd, PURA IV of ORA, and Laura Tudisco, an attorney with the Commission's Legal Division representing ORA.
3. On June 3, 1998 from 3:00 p.m. until 4:30 p.m., I met with Ms. Vanderpan at the Commission. Also present at the meeting were Al Swan, Executive Director, Regulatory of Pacific Bell, and Kelly Boyd, Laura Tudisco, David Morse, Senior Manager, ORA and Michael McNamara, Senior Manager, ORA.
4. At the June 3<sup>rd</sup> meeting, I showed copies of ORA's non-redacted Report on Pacific Bell's Handling Of Residential Service Ordering to Ms. Vanderpan and Mr. Swan. I informed them that ORA planned to release the report the next day.
5. At the June 3<sup>rd</sup> meeting, Ms. Vanderpan and Mr. Swan expressed Pacific's willingness to work with ORA. I explained that ORA was not willing to let the practices at the residential service centers continue while ORA and Pacific attempted to resolve their differences, and believed that the issues raised in ORA's report needed to be brought to the Commission's attention immediately. I told Ms. Vanderpan and Mr. Swan that ORA would contact them as soon as the report was filed and make arrangements to deliver the report and pleadings.
6. I also told Ms. Vanderpan and Mr. Swan that ORA would not publicly release notes relating to calls received at Pacific's residential service centers, or notes in the text stating sales quotas until such time as ORA received authorization either from Pacific or from the Commission.
7. On June 3, 1998, I contacted Jack Leutza, Director of the Telecommunications Division of the California Public Utilities Commission and informed him that ORA had prepared a report on Pacific's residential call center operations which it would be releasing soon.

8. I declare under penalty of perjury under the laws of the State of California that the facts contained herein are true and correct to the best of my knowledge.

Executed this 4th day of June, 1998 at San Francisco, California

  
Elena Schmid

**REPORT ON PACIFIC BELL'S HANDLING OF RESIDENTIAL SERVICE  
ORDERING**

**RECEIVED**  
AT&T Corp. Legal - SF

JUN 05 1998

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**OFFICE OF RATEPAYER ADVOCATES**  
California Public Utilities Commission

**June 4, 1998**

**REDACTED VERSION**

## Executive Summary of Findings/Recommendations

- I. Improper Release of Customer Information: Pacific Bell (Pacific) fails to obtain sufficient customer identification information during routine residential customer contacts (other than new service orders) before releasing customer account information, in violation of Public Utilities (PU) Code Section 2891. Violations of this Code Section represent grounds for civil suit by the aggrieved residential subscribers. Failure to validate identification before releasing account information also mirrors “cramming”, if the subscriber of record is not clearly identified before new services are ordered. Pacific’s failure to adequately screen a caller for identity leaves subscribers vulnerable to fraudulent use of and access to proprietary account information.
- II. Failure to Screen ULTS Customers Adequately: Pacific fails to screen residential customers adequately for Universal Lifeline Telephone Service (ULTS) eligibility. Pacific routinely advises customers of what income levels qualify without first verifying the customer’s income. Pacific’s emphasis on sales over service leads their service representatives to identify ULTS improperly as a “low cost” rate, rather than as a low income subsidy. Pacific has the highest number of ULTS subscribers among California’s LECs, and draws most heavily on existing ULTS funds. Pacific should carefully screen customers for eligibility as the other LECs routinely do. Pacific’s practices expose the ULTS program to fraud.
- III. Misleading Package Selling Techniques: Pacific requires its service representatives to attempt to sell Custom Calling Feature Packages, local toll calling plans and other optional features to customers on all incoming order calls; including trouble calls, billing inquiries, requests for bill adjustments or other informational requests. Pacific’s practices of having default optional offerings of feature packages which have “basic” in the brand name or of offering the highest priced wiring plan to customers first are confusing to customers and likely result in the purchase of more or higher priced products than a customer intends or needs. This practice violates PU Code Section 2896 (a), which requires carriers to provide customers with sufficient information upon which to make “informed” choices among telecommunications services.
- IV. Misleading Marketing of Caller ID: The scripts used by Pacific’s service representatives to inform customers of how Complete versus Selective Blocking of Caller ID functions, especially as these features are impacted by Automatic Call Rejection (ACR), are misleading. Furthermore, Pacific uses the Customer Proprietary Network Information (CPNI) available to it on all types of customer contacts to systematically attempt to obtain customer approval to switch customers from Complete to Selective Blocking status. The combined effects of the misleading information and misuses of access to CPNI likely result in many customers unwittingly changing their intended blocking status. These sales and

ordering practices fail to respect customers' privacy rights. These practices also violate PU Code Section 2896(a).

- V. Time Consuming Sales Techniques Negatively Impact Service Quality: Pacific's sales techniques lead to longer wait times on all incoming calls to the residential order centers. The amount of time Pacific requires on each customer contact other than a new service order to attempt to sell products and services and to attempt to get existing customers to change blocking status (both Caller ID and 900/976), impacts its ability to answer customer calls promptly and to maintain reasonable service quality. These practices collectively imperil Pacific's compliance with PU Code Section 2896(c), which requires carriers to maintain reasonable statewide service quality standards regarding customer service, among other areas.
- VI. The Commission Should Order Pacific Bell to Cease Improper Sales Practices and Submit New Marketing Procedures for Approval : ORA recommends that the Commission order Pacific Bell to cease all improper, abusive and deceptive marketing practices which violate PU Code Section 2896 (a) immediately, and submit to the Commission new marketing procedures within 30 days of a Commission order in this proceeding. \_
- VII. The Commission Should Order Workshops or Another Suitable Review Process to Examine the Impacts of all of the Above Areas on Pacific's Service Quality: ORA has found that Pacific Bell's residential service practices adversely impact privacy rights, ULTS funding levels, and basic service quality. ORA believes a review is required to ensure that Pacific answers customer calls in a timely manner consistently, addresses network problems and customer trouble calls in a timely manner and properly bills and credits customers.

## Service Order Observations and Findings

### I. Background and Summary of ORA's Service Order Center Findings

The Office of Ratepayer Advocates (ORA) began its inquiry into the business practices of Pacific Bell (Pacific) in conjunction with ORA protests to advice letters regarding Caller ID services and proposed public office closures filed by Pacific. ORA attempted to determine what areas of service would be impacted by the proposed closure of the public offices and what impacts the offering of Automatic Call Rejection (ACR) in conjunction with Caller ID would have on residential customers. Once ORA began to examine how Pacific was handling customer contacts, ORA expanded its investigation to include all of the New Regulatory Framework (NRF) Local Exchange Carriers (LECs).

In November 1997, ORA staff visited GTEC's Residential Service Order Center in Oxnard in conjunction with the Wholesale Phase of the OANAD proceeding. During this visit ORA staff noted that, on incoming residential orders, GTEC disclosed to customers that there are two types of Caller ID blocking available at no charge: Complete and Selective Blocking. GTEC also made full disclosure of 900/976 blocking availability and of the existence of Universal Lifeline Telephone Service (ULTS) to qualified low income customers. ORA staff had no concerns over any of these disclosures at the time and has subsequently followed up with GTEC in various phone conversations and data requests to obtain more information about how GTEC handles residential service orders and what sales practices exist.

(1) ORA's review of GTEC's practices indicates GTEC takes a customer oriented approach to residential ordering in the competitive environment. GTEC's practices ensure that customers are informed about the privacy implications of services GTEC and other carriers offer which may impact customers. GTEC also screens callers for identity before accessing account information, and does not aggressively market services on all customer contacts.

GTEC responded to all of ORA's informal data requests in a prompt and thorough manner. ORA's review of scripts and resource materials used by GTEC's service representatives validates observed practices from the 1997 site visit. ORA's review of the numerous resource documents and customer mailings regarding Caller ID services indicates that GTEC provides detailed, accurate information to its customers about all aspects of this service, including blocking. GTEC enhances the information sent to customers with each advancement in the Caller ID service as well, so that customers know how each new feature or capability changes the service and the prospect of blocking.

ORA began attempting to observe Pacific's residential ordering processes in early March of 1998. Due to issues raised by Pacific over access to its operations, ORA was not able to sit down with service order representatives and listen in to actual residential service orders with the representatives until May 15, 1998.

ORA contacted Roseville Telephone Company (RTC) in May of 1998 and scheduled a visit to RTC's residential order center in Roseville for May 14, 1998. ORA contacted Citizens Communications (Citizens) on May 6 and was able to schedule a visit to Citizens' residential order center in Freeport for May 21, 1998. ORA met with no resistance from GTEC, RTC or Citizens about any informal information requests and was obliged with site visits upon request and on ORA's terms in a very timely manner. The staff of all three companies were accommodating and helpful to ORA.

ORA was able to make arrangements to do the site visits, but under restricted terms at Pacific's request<sup>1</sup>. Pacific's regulatory staff, service order management and service order representatives were courteous, frank and helpful during ORA's May 15, 1998 visit to the

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<sup>1</sup> Pacific indicates that the reasons for this resistance revolved around pending complaints, labor issues internal to Pacific, and some confusion on Pacific's part as to the purpose of ORA's inquiries.

Sacramento residential order center and in all contacts prior to its scheduling and subsequent to the visit.

ORA staff attempted to make clear to each of the LECs the purpose of the visit, what ORA hoped to observe, and the fact that there might be follow-up questions later. ORA staff was given written materials on most of these visits or in response to inquiries, which provided more information about how disclosures are made and what product information customers are given. ORA staff also benefited from good informal discussion and question- and- answer sessions with Pacific's, Citizens', RTC's and GTEC's regulatory and sales supervisory staff.

During each of the order center visits, ORA staff listened to incoming residential service orders and/or was able to interview order center managers and service representatives. This process enabled ORA to make observations about how each company handled required and voluntary disclosures to customers regarding both mandated programs and consumer protection or privacy issues. ORA was also able to observe sales practices of each of the companies and how issues of customer proprietary information were handled. ORA made specific findings regarding each company's handling of:

- ULTS program disclosure and customer qualification process
- Disclosures with regard to 900/976 and Caller ID blocking
- Sales practices and methods regarding optional services
- Processes for accessing customer information and effecting account changes

On the whole, ORA found that Citizens, RTC and GTEC provide exemplary privacy protection to their customers by their handling of account information access and by the information they provide to customers about products or services which impact a customer's privacy. Pacific's practices, on the other hand, were questionable in both of the above areas, due to what ORA perceived as Pacific's focus on sales rather than on customer service quality assurance. ORA also found that all the NRF LECs routinely

provided information about such consumer protection issues as blocking of 900/976 numbers. All of the NRF LECs, except Pacific, advised customers on all new residential service orders, and about the availability of two types of blocking for Caller ID services, Complete and Selective. The NRF LECs, except Pacific, provided information about how each type of blocking functions during the service order, and they provided follow-up information to customers about how to use each service after it had been ordered.

ORA found that all of the NRF LECs informed customers about the availability of a low income program to partially subsidize a single residential flat or measured service line, the Universal Lifeline Telephone Service (ULTS) program. However, the companies have varied ways of determining whether or not an incoming customer may be qualified for ULTS service. ORA believes that the more careful the LEC's approach to the qualifying process (for example, not prompting a customer with what specific income level would qualify), the more likely that only eligible customers will be self-certified for ULTS service. ORA strongly encourages all LECs to provide ULTS information to all customers in any situation, even beyond new orders, where the issue of a customer's ability to pay for phone service is pertinent. ORA believes, however, that over-zealousness in advertising the program's existence without responsible screening of all customers for eligibility can result in abuse of ULTS mandates and fraudulent access to reduced rates. ORA believes Pacific's practices thwart the purpose of Public Utilities (PU) Code Section 871.5(c), which requires carriers to make information about the program available to every person "qualified" to receive ULTS service. Furthermore, if significant fraud occurs as a result of Pacific's lax screening, it puts additional strain on the ratepayer funded stream of ULTS subsidy.

Finally, while all of the NRF LECs provided optional services to their customers and likely rely on sales of these services to maintain financial viability in a competitive environment, there should be reasonable limits on how these products are sold to basic residential and ULTS customers. For example, ORA notes that RTC, which advised ORA that they have seen an increase in sales of Caller ID service and other custom

calling features, sells custom calling features after all basic service has been ordered, and approaches these sales on a feature by feature basis. This approach allows a customer to understand fully each feature offered and determine its usefulness, and allows the customer more leeway to decline additional products.

ORA believes Pacific's practices, detailed throughout this report, violate PU Code Section 2896 (a), which requires them to provide customers with sufficient information to make "informed choices" among telecommunications services, including information regarding service options, pricing and terms and conditions of service. For example, Pacific's service representatives must first offer a \$12.95 package of optional features, under the brand name "Basic Saver Pack", before they can attempt to sell any features individually, if they are to comply with the dictates of company practice. Pacific's representatives must also offer the \$2.25 inside wire (I.W.) repair monthly insurance plan under the brand name "Wire Pro Plus", before they can offer a basic I.W. plan, which they have always offered, and which costs \$.60 a month. Furthermore, Pacific made these offerings to customers in a very aggressive manner on all types of service calls, not just customer requests for new service; and Pacific's representatives offered these expensive products to all classes of residential customer, including ULTS customers. Pacific, apparently, is not concerned with the affordability of basic residential service to its low income customers. ORA is also concerned there may be a connection between Pacific's zealotry to subscribe customers to the "low cost" ULTS residential service and its success in selling expensive add on features to these customers. Customers who clearly qualify for ULTS service are not likely to be in a position to absorb \$20 in additional charges every month before they make a single call; customers who can afford these additional services, are not likely to legitimately qualify for ULTS service.

The basis for ORA's concerns about customer privacy, consumer protection, universal service program compliance and service quality levels as well as for its findings and recommendations are detailed throughout this report. The findings are based on

discovery, site visits, interviews, test calls and other sources of information about how the NRF LECs handle service ordering from residential local service customers.

## II. Pacific's Emphasis on Sales Impacts Service Quality and Customer Privacy/Consumer Protection

ORA staff were impressed with the efforts of the NRF LEC's representatives to provide high quality service and information to customers. It would seem that the LECs themselves put a great deal of effort into educating and training their service representatives about services, billing practices, network issues and other pertinent information. (ORA did find, however, that Pacific's service representatives work in a very stressful environment in which they must offer optional services or products to all types of callers in every customer contact situation. The time and energy required to focus on selling products and convincing customers to switch blocking options can detract from the service representative's ability to adequately handle all of a customer's concerns or needs. Clearly these practices imperil Pacific's ability to comply with PU Code Section 2896(c), which requires carriers to provide reasonable statewide service quality standards, including customer service, among other areas.)

In stark contrast, one of Citizens' service representatives, when asked a few questions about how sales of custom calling features are approached, confided that sales were really not her forte, and while she always asked customers if they wanted additional products and gave them full information about these products on new service orders, she never approached sales directly in any other type of calls. ORA staff observed this service representative taking service calls all morning on May 21, 1998, and noted how very effectively she worked with resources at her station and via phone to other areas of Citizens' operations to ensure that the customer was well informed and that the service arrangements satisfied the customer.

ORA observed that RTC's and Citizens'<sup>2</sup>service representatives were better able to deal with customer inquiries and to provide additional helpful information not related to the sale of a product or service because they were not under the intense pressure to get through a list of items to market to a customer. (While observing Pacific's service representatives, it was clear from their demeanor and from comments they shared with ORA that they found the burden of the required sales contacts to be a frustration that interfered with their ability to accurately and effectively take a service order.) ORA observed one of Pacific's service representatives making a very valiant effort to get a bill copy faxed to a customer at a suitable location to protect the customer's privacy within an hour to help the customer register a child for public school. The caller who wanted the bill copy was not the subscriber, so the service representative had to find a location to fax the copy so that the subscriber, not the caller, could pick it up after showing ID. During the course of the call, however, the caller, who only wanted the bill copy, had the subscriber's existing blocking status discussed (the subscriber had Complete Blocking) as a 'problem' because, as the representative put it, some people have ACR that blocks you from calling them. The rep then advised that she would suggest the caller get Selective Blocking. The caller, not the subscriber, agreed to the change based on the service representative's suggestion. Additionally the service representative had to try to sell a custom calling package and a promotional offering of Priority Ringing. The service representative's computer screen was even prompted by an E-mail during this call, which she mistook for a verification of the fax being received by another Pacific center. The E mail was a reminder, [REDACTED] a reference to the sales target for the default custom calling package, Basic Saver, that the representatives must attempt to sell on every call. At the end of the 24- minute call the service representative, frustrated, commented that the process was overwhelming and all the caller wanted was a copy of a bill.

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<sup>2</sup> Due to the lag time between ORA's visits to GTEC's offices and to those of the other LECs, ORA is unable to compare on a line by line basis GTEC's order process with Pacific's.

ORA believes these types of drawn out calls hamper Pacific's ability to timely answer business office and probably repair calls, as the two types of calls are often linked. ORA believes the Commission should put strict business office and repair center answering time standards on Pacific and penalize Pacific for failing to timely answer calls. A workshop or other similar venue might best allow the Commission to determine what additional standards it should impose on Pacific and whether or how to appropriately penalize Pacific for failure to meet standards.

Finally, while ORA observed no new service orders on the day side by side monitoring was done at Pacific, ORA did listen to two new service orders and one supersedure<sup>3</sup> order when remote monitoring was done at Pacific's Oakland Sales Quality Assurance Center on April 2, 1998. ORA found that all of the LECs have to dedicate about 20 minutes to each new residential service order. RTC, Citizens and GTEC took time up front to get substantial customer identification and to verify credit status, and then moved swiftly and efficiently through the ordering of basic service, including 900/976 and Caller ID blocking information. In contrast, much of Pacific's order time was dedicated to marketing optional features. In fact, Pacific makes no disclosure on any new service order of the availability of Caller ID blocking, or that two types of blocking are available and what the difference between the two types is<sup>4</sup>. On all new service orders, without a discussion, Pacific's customers are given selective blocking, which means they must code in blocking on all calls. Pacific provides no instructions or stickers for the customer's phone to advise the customer of how to activate blocking. Pacific's customers are mailed a confirmation letter which indicates their blocking status only.

The difference in approaches means the customers of the other NRF LECs have more complete consumer protection information when they order service and are better informed about the privacy implications of all the services they order or which other

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<sup>3</sup> A supersedure is when the customer of record is changed at the existing customer's request, to a new party now financially responsible for the service at the same address and with the same phone number.

customers may purchase that impact everyone's privacy. ORA made note of the numerous resource materials GTEC provides its service representatives to advise customers about various Caller ID services and the very specific information GTEC gives about how cellular calls, pay phone calls or other types of calls can be identified. GTEC's materials also advise customers using other than their own phones of how to handle the privacy of the person whose phone they are using in an environment when the called party may have Caller ID number or Caller ID name and number identification service.

### III. Pacific's Practices with Regard to Mandatory Disclosure Regarding Caller ID Blocking Options, Imperil its Customers' Privacy and, Potentially, their Safety

ORA believes Pacific's failure to provide customers with critical information about Caller ID service and how it can be blocked flies in the face of clear Commission direction on how this service was to be handled. It is clear to ORA that Pacific's position is that it is no longer required to make any disclosure about blocking options to new customers ordering service. ORA strongly disagrees. A customer's right to be informed of the impacts of Caller ID on privacy and, potentially, safety is not changed just because the service has been available for a while. Furthermore, the recent enhancements of ACR and of name and number transfer capability means there is even more reason to advise a customer of all available Caller ID options and to accurately describe how the blocking options function. As GTEC and the other NRF LECs enhance their Caller ID offerings, they augment information sent to all customers rather than cut back on this information. ORA believes such information is not only required by the CNEPs (Customer Notice and Education Programs) as set forth in Commission resolution T-15827, but is mandated for compliance with PU Code Section 2896 (a) requirements about providing information regarding service options and terms and conditions of service. Clearly, the two types of blocking represent two different terms and conditions of service and Pacific is failing to

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<sup>4</sup> Pacific verified in response to ORA's data request SKVID-1, that service representatives no longer make a Caller ID blocking option disclosure on new service orders. This was verified by supervisory staff of

advise its new customers of the different service situations, and is not allowing customers to make informed choices.

ORA believes the more customers who have Complete Call Blocking, the less marketable Caller ID and features such as ACR become. Nonetheless, sales objectives should not drive practices which impact customer privacy and safety in conjunction with the use of basic residential telephone service.) RTC, Citizens and GTEC send their customers stickers to affix to their phones, and detailed packets of information about the type of blocking the customer has requested. GTEC, Citizens and RTC do not solicit a change in blocking status from customers in routine calls, or even in move or change situations where a customer is moving from an existing service location to another. Yet, RTC's and GTEC's sales of Caller ID are on the rise according to these LECs. Apparently full disclosure to customers of Citizens, RTC and GTEC is not having an adverse impact on sales of Caller ID or even of stand alone ACR, which some customers purchase even if they do not have Caller ID. The sale of an enhanced product to one customer should in no event impact the privacy and safety of another customer who has purchased basic residential telephone service. Pacific's practices impact all of their customers' privacy and safety.

Caller ID is a product a customer either does or does not want. This Commission has long been concerned about the serious privacy implications of Caller ID feature. Public safety and sound public policy dictate that Pacific's aggressive marketing practice of aggressively and deceptively advising customers who are not even inquiring about purchasing a product to change the privacy status on their telephones should be prohibited.) Pacific's aggressive sales of Caller ID means many more Californians have these devices today, and with more capability, which makes a change to Selective Blocking status more compromising to the customer in question. The dangers of name and number going out with a call to an unknown party are many. If an unknown party calls a local phone customer and hangs up, repeatedly, many local phone customers now

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Pacific during ORA's visits.

rely on the \*69 function as a tool to stymie such annoyances. An unwitting victim, seeking to cease the hang up calls, dials \*69 and his or her name and phone number are transmitted out to the annoying caller. Reverse directories make it easy to then get the unwitting caller's address also with the name and number information in hand. The potential harm is absolutely clear. GTEC, RTC and Citizens present materials which, without being alarmist, let customers know exactly what information is transmitted and why a customer might want to protect his or her privacy.

[For all of these reasons ORA found Pacific's observed practice of aggressively pursuing unblocking alarming. ORA's investigation shows that Pacific's customers are solicited over the phone to switch to Selective Blocking, and that Pacific mails forms to customers who have Complete Blocking to get them to switch. (see Attachment B.) Even if a customer declines such an unsolicited call or throws away the mailed form, these customers are continually bothered on the subject every time they have to call Pacific to see if a payment was received, to check on a repair appointment time, or to make any sort of inquiry. Furthermore, the information given out in these contacts is worded in a deceptive manner.] The service representatives are prompted on their computer screens to use words like, "I see something on your account that troubles me" in approaching the subject of the customer's blocking status. The service reps are also prompted to advise customers that some of their calls may not go through if they have Complete Blocking. They use words like "hassle" and "bother" to describe the simple process of dialing the code to unblock to complete a call to someone who has ACR; but they represent having to code in a block every time a caller wants to remain anonymous as "convenient" or "easier"<sup>5</sup>. These types of phrasings do not provide accurate and unbiased information about service options.

[Finally, each subscriber of a local phone company is permitted one free change in blocking status. Pacific's aggressive drive to change customers from Complete to

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<sup>5</sup> ORA's notes of test calls and notes of calls monitored at the the Remote Monitoring Center and Order center of Pacific Bell are included in Attachment C.

Selective Blocking uses up this free change, and if a customer wishes to revert to Complete Blocking after experience with the lesser protection, the customer is then charged for a record change. ORA believes it is wrong for Pacific to manipulate customers into changing blocking status and then to charge customers if they change back to their original blocking option.)

Customers who purchase Caller ID do so for their convenience and/or for their protection. The same is true of customers who exercise their right to block their name and number from being transmitted on outgoing calls. Just as it would be an intrusion for a Pacific service representative to question a customer about why he or she might have a need for Caller ID or ACR, it is similarly an intrusion for Pacific's service representatives to pressure customers to switch to Selective Blocking by inquiring why they would want to block their number if they only call family members, etc.<sup>6</sup> It is deceptive and potentially dangerous to mislead a customer into believing that a necessary or emergency call will not be completed if the called party has ACR and the caller has Complete Blocking. RTC advises callers that, if they have Complete Blocking, they should hang up, code in unblocking for the call and place it again. Pacific tells its customers that some calls may or will not be completed, and that callers will be charged for them.

Pacific has posted throughout the call rooms sales quotas which average sales of [REDACTED] custom calling packages per day per representative. Presumably to meet these sales quotas,<sup>7</sup> some service representatives observed by ORA gave less than accurate information about the capabilities and limitations of Caller ID.) One caller, who was talking with the representative about an account which was not her own, advised that her mother had been robbed and that 52 hang up messages were on her answering machine. The caller said the police theorized that the thieves were circling the neighborhood in a car using a cell phone to make the calls and determine whether or not anyone was home.

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<sup>6</sup> Attachment C, Order Center notes and Remote Monitoring notes for Pacific Bell.

<sup>7</sup> ORA noted a board in Section E of the call center with the following quotas posted on it: Section quotas - CCS (custom calling services) [REDACTED]; CID (caller ID) [REDACTED], TMC [REDACTED], ADL [REDACTED]. The per rep quotas were CID [REDACTED], CCS [REDACTED], CNMBK (unblocking) [REDACTED].

The caller asked if the Caller ID device would work with a cell phone since she knew her \*69 feature did not. The service representative said Caller ID does generally work to identify cell phone numbers. However, what information will be transmitted, if a cellular company has the capability, is the name of the cellular company, and not the caller. Furthermore, calls can be blocked from a cell phone just as easily as they can be blocked from any other phone. So, in this instance, not only did the caller believe Caller ID had better capability and provided more protection than it actually did; but she was being pressured to order it for her mother's telephone service, not her own. (ORA notes the similarity of this situation to that of "cramming", where a subscriber does not authorize a billed service. The fact that the local exchange carrier and provider of the basic residential service is the culprit makes the implications of such practices that much more alarming. Also, regardless of whether services are ordered by other than the subscriber, this accessing of customer account information, including calling pattern data in some cases, subscriber credit or financial information, information about services purchased by the subscriber, etc. violate Article 3. of the Public Utilities Code about Customer Right of Privacy, as described in PU Code Section 2891. Furthermore, PU Code Section 2891 (e) provides that every violation of customer privacy is a grounds for civil suit by the aggrieved residential subscriber against the carrier. Thus, ORA believes Pacific's customers are likely due compensation for violations of their privacy.)

#### IV. Pacific Does Not Adequately Screen Customers for Eligibility for the ULTS Program

(ORA's observations at each of the LECs' order centers revealed that all customers calling in to order new service are informed about the existence of the ULTS program, unless a customer indicates up front that he or she is not qualified. However, Pacific's practices with regard to determining whether or not a customer is truly eligible for ULTS service appeared questionable.)

ORA monitored one call in which the caller wanted to order a stand alone voice mail box because he had been unable to pay his phone bill and his service had been disconnected (whether it was disconnected due to non-payment or whether the caller had ceased service but there was an outstanding balance from his previous account was not clear). Eventually the service representative got account information from the caller about his father's account (the caller was using the father's phone) and suggested ordering a second line for that service and voice mail on that line instead of a stand alone box. The service representative also suggested, even though there was already a working line at the father's residence, that if the caller was over 18 and not claimed as a dependent, he could get ULTS service. So, on top of ordering an unauthorized and unsolicited service at the father's residence, the service representative, aware of the caller's inability to pay his phone bills, was trying to get him cheap service through ULTS. ULTS service is only authorized for the first residential line going into a house, and total household income must be considered. Furthermore, the service representative was willing to sell the caller who could not afford phone service the line plus voice mail - and all on someone else's account.

Another example of Pacific's poor handling of ULTS qualification was noted in a call from a Pacific employee who called to inquire when his/her employee concession (50% discount on residential service) would start. The service representative looked at the account (the caller and representative knew each other) and noted the caller already had ULTS service, so the concession wouldn't represent any more savings. The service representative then went on to market optional features as on any other call. The point of ULTS is not to save a customer money. The service representative should have been aware the Pacific employee, based on salary, was not eligible for ULTS service and should have switched the account to a concession residential line. In a concession situation, however, Pacific is not reimbursed for the other half of the price of the residential line not paid by the customer; on ULTS service, Pacific is. [While the other NRF LECs have ULTS subscribership rates of 16-20% of residential access lines, Pacific's subscribership is 25% of residential lines. The practices ORA observed lead

ORA to question whether this percentage represents truly eligible and carefully screened ULTS subscribers at Pacific.]

V. Pacific Allows Unauthorized Access to Customer Proprietary Network Information (CPNI) and to Confidential Customer Account Information

ORA observed that GTEC, RTC and Citizens carefully screened callers for identification before discussing account information. [Pacific screened callers before mailing out any account information, but was very lax in its approach to verifying that account changes were made only by the subscriber of record.] Again, Pacific's aggressive sales practices seem to be at the root of this problem. Pacific's service representatives have scripts to get through and screen prompts to answer based on customer information they input, but they seemed to lack thoughtful guidance about how to handle proprietary customer information. ORA believes the caller previously cited in Section IV. of this report who was marketed services for his father's account rather than allowed to subscribe to a stand-alone voice mail box is an example of the laxity in the screening process. However, ORA observed many instances of questionable practices in regard to customer account information.

In one situation, a customer called in to complain about custom calling feature charges on her bills. She had two lines, one for herself and one for her daughter. She said she had been double-billed for some features, and for a package of features she had not ordered. The service representative adjusted the caller's bill, because the caller insisted she had been billed for ten optional features which she had not ordered. ORA heard sales pitches going on throughout this call while the customer was trying to get the bill adjustment and the optional features deleted. The caller indicated that she had been paying for features but she had no idea what functions they provided. Even as she said she did not need the features, she was being further solicited. It is likely that someone other than the

subscriber of record had ordered these features in the first place. Then, in the call ORA listened to, due to the service representative's adherence to the prompts about selling custom calling packages on all customer contacts - the customer was put in further peril of ordering more services she did not need, want or understand how to use.

In contrast, ORA observed one instance at Citizens where a caller complained the Call Waiting feature she had ordered wasn't working but she had been billed for it. After verifying customer identification, the service representative made a central office check and verified that the feature was not working. The representative then credited the customer's bill for the months when the feature did not work and made sure the service would be up and working that same day. While this customer had clearly ordered the feature, it did not work and the customer's bill was properly credited, after the representative verified it was indeed the subscriber she was talking to. This procedure protected the customer and ensured correct billing. No additional sales pitches were made by Citizens' service representative.

(ORA's inquiry into the service provided to NRF LEC customers has found that Pacific's order center practices put its customers' privacy, safety and financial security in jeopardy. This lack of sufficient verification of customer identification is only exacerbated by the aggressive, unclear manner in which Pacific markets optional products to customers.)

ORA believes this practice of failing to screen customer identification for the purpose of purchasing additional features, phone lines or accessing account information to switch blocking options stands in obvious contrast to the vigorous screening Pacific seems to do of callers ordering new service as noted in Attachment A to this report. While some Spanish speaking or non-native English speaking callers just trying to order new service were not allowed to place their orders over the phone because they did not give out a driver's license and social security number, other customers were . ORA's test calls, described in Attachment A revealed that in some instances, some customers may not be allowed to place an order for residential service over the phone. On the other hand,

ORA's order center monitoring observations indicated that at Pacific, once credit has been established on an account, just about anyone could access the account to make changes based on knowing the name of the subscriber and his telephone number.

#### VI. The Pace and Content of Pacific's Residential Order Process Cause Confusion

Even if a caller is the customer of record, it is likely that the caller is not aware of the implications of each of the steps of Pacific's ordering process. For example, Pacific's service representatives use a variation of this statement upon beginning calls as they call up a customer account, "May I have your permission to review your bill and discuss Pacific Bell products and services with you?" If the customer has called to inquire about a charge on his or her bill, as ORA observed in many instances, it seems logical the service representative would need to "review the bill" to help the customer. Most customers answered 'yes' or 'sure' to this inquiry, though some seem puzzled and asked questions like, 'You mean you want to call me back?' or 'Does that mean you'll call me again?' After this sort of query the customer, was told that no, there would be no second call, the inquiry is made so the representative can review the bill during this call. (It still seemed to be unclear to many callers 'why' Pacific wanted to review the bill though. Very few callers were successful in relating to the Pacific service representatives that they did not want to be marketed additional services,) that they just wanted to know where they could pick up a directory, or what AT&T's 800 number was, or whether Pacific could confirm receipt of payment<sup>8</sup>. All of these situations imperil the statewide customer service standards required by PU Code Section 2896.

One customer, who wanted a location where he could pick up a directory, had his bill scanned by the service representative, and a prompt came up to switch the customer to Selective Blocking. The service representative told the customer, as noted earlier in this