

LATHAM & WATKINS LLP

December 8, 2003

BY ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: *Ex Parte* Presentation in CC Docket No. 01-92 and CC Docket No. 96-262

Dear Ms. Dortch:

On December 3, 2003, Dick Jalkut, President and Chief Executive Officer of U.S. TelePacific Corp. d/b/a TelePacific Communications ("TelePacific"), Karen Brinkmann, and I met on behalf of TelePacific with Commissioner Kathleen Abernathy and Matt Brill, Legal Advisor to Commissioner Abernathy, concerning the provision of exchange access services by competitive local exchange carriers ("CLECs"). TelePacific urged the Commission to reject Qwest's Petition for Clarification or, in the Alternative, Reconsideration, filed in CC Docket No. 96-262, on June 20, 2001, in which Qwest urges the Commission to conclude that a CLEC must provide each of the services listed in paragraph 55 of the *CLEC Access Charge Order* as necessary to originate and terminate interexchange calls in order to tariff its access services at the benchmark rate established in that order. The attached briefing sheet, which TelePacific distributed during the meeting, summarizes the points TelePacific made during the meeting.

In accordance with Commission rules, this letter is being filed in the aforementioned dockets. If you have any questions, please contact me at (202) 637-1023.

Sincerely,

Tonya Rutherford
Counsel for U.S. TelePacific Corp.

cc: Commissioner Abernathy
Matt Brill

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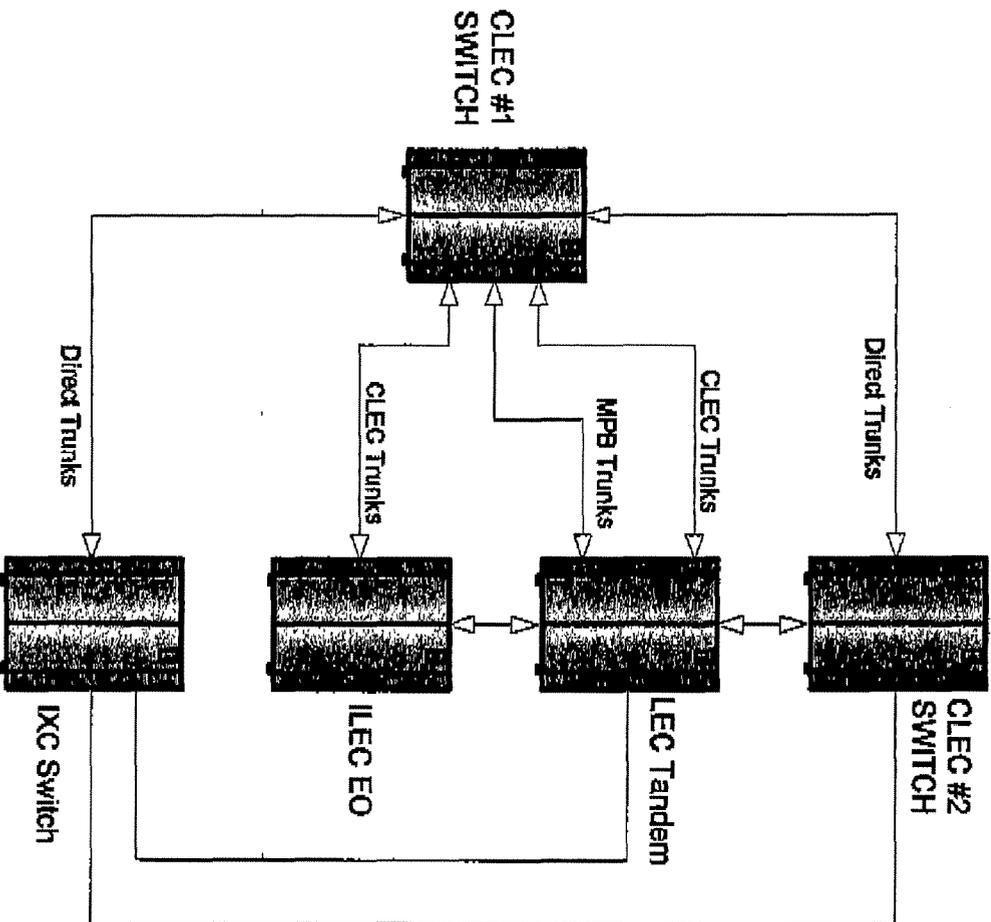
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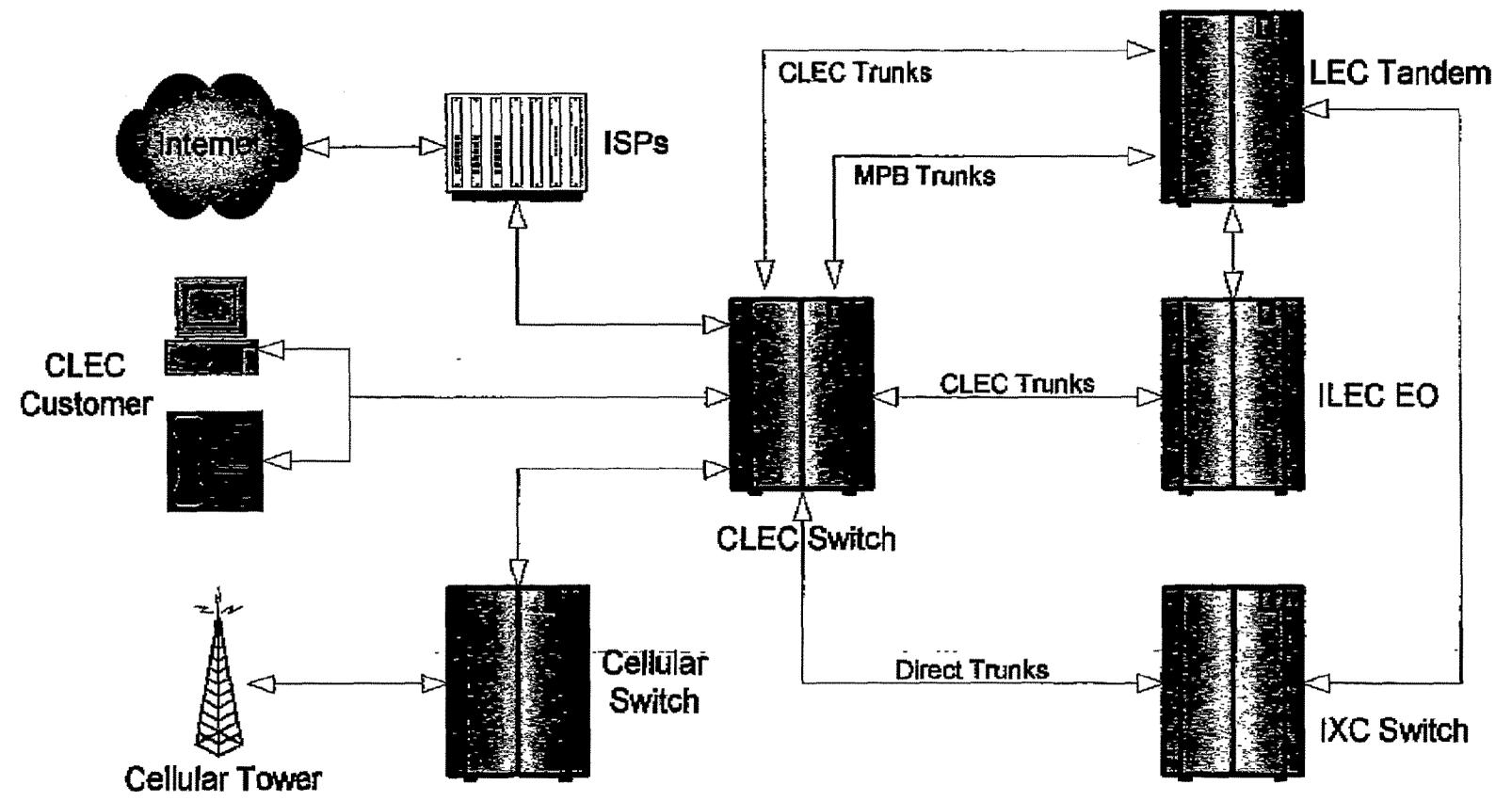
BRIEFING SHEET ON CLEC ACCESS SERVICES

- Requiring CLECs themselves to perform all of the functions enumerated in paragraph 55 of the *CLEC Access Charge Order* in order to tariff their access services at the established benchmark rate represents a departure from the *CLEC Access Charge Order*.
 - In paragraph 55 of the *CLEC Access Charge Order*, the FCC stated that switched access service typically includes (1) a connection between the caller and the local switch; (2) a connection between the LEC switch and the serving wire center; and (3) an entrance facility which connects the serving wire center and the IXC's point of presence.
 - Although the FCC requires that the composite rate for access service not exceed the benchmark, it acknowledged that the benchmark rate "applies, but is not necessarily limited, to the following specific rate elements and their equivalents: carrier common line (originating); carrier common line (terminating); local end office switching; interconnection charge; information surcharge; tandem switched transport termination (fixed); tandem switched transport facility (per mile); tandem switching."
 - The FCC concluded that the CLEC benchmark rate "does not require any particular rate elements or rate structure." The FCC's "only requirement is that the aggregate charge for these services, however, described in their tariffs, cannot exceed [the] benchmark."
 - The FCC recognized that CLECs do not structure their service offerings in the same way as ILECs. The FCC wanted to "preserve the flexibility which CLECs currently enjoy in setting their access rates."
- A CLEC should not be required to reduce the total charges it assesses an IXC by an amount equal to the ILEC's rate for the services the ILEC provided to the IXC.
 - TelePacific (sometimes in conjunction with a CMRS carrier) performs functions equivalent to those that the ILEC would provide if TelePacific were not providing access.
- If the FCC determines that CLECs can no longer charge the full benchmark, it may order CLECs to alter their rates on a prospective basis only.
 - To conclude now that CLECs are required to provide all of the access functions listed in paragraph 55 of the *CLEC Access Charge Order* would supplant the current rule with a new one. Such a rule change may apply prospectively only.
- If the FCC requires CLECs to emulate ILEC rates, it should clarify which ILEC rate applies for CLECs operating in areas with multiple ILECs.

CLEC Interconnection



Customer Connections - ALL



Originating 8YY Call

CELLULAR

Cell Phone Dials
(8YY) XXX-XXXX

NS 800
Database

Cellular Tower

(8YY) XXX-XXXX

CIC
ZZZZ

Cellular Switch

(8YY) XXX-XXXX

TelePacific 5ESS

(8YY) XXX-XXXX
& CIC
ZZZZ

TEC Tandem

(8YY) XXX-XXXX
CIC
ZZZZ

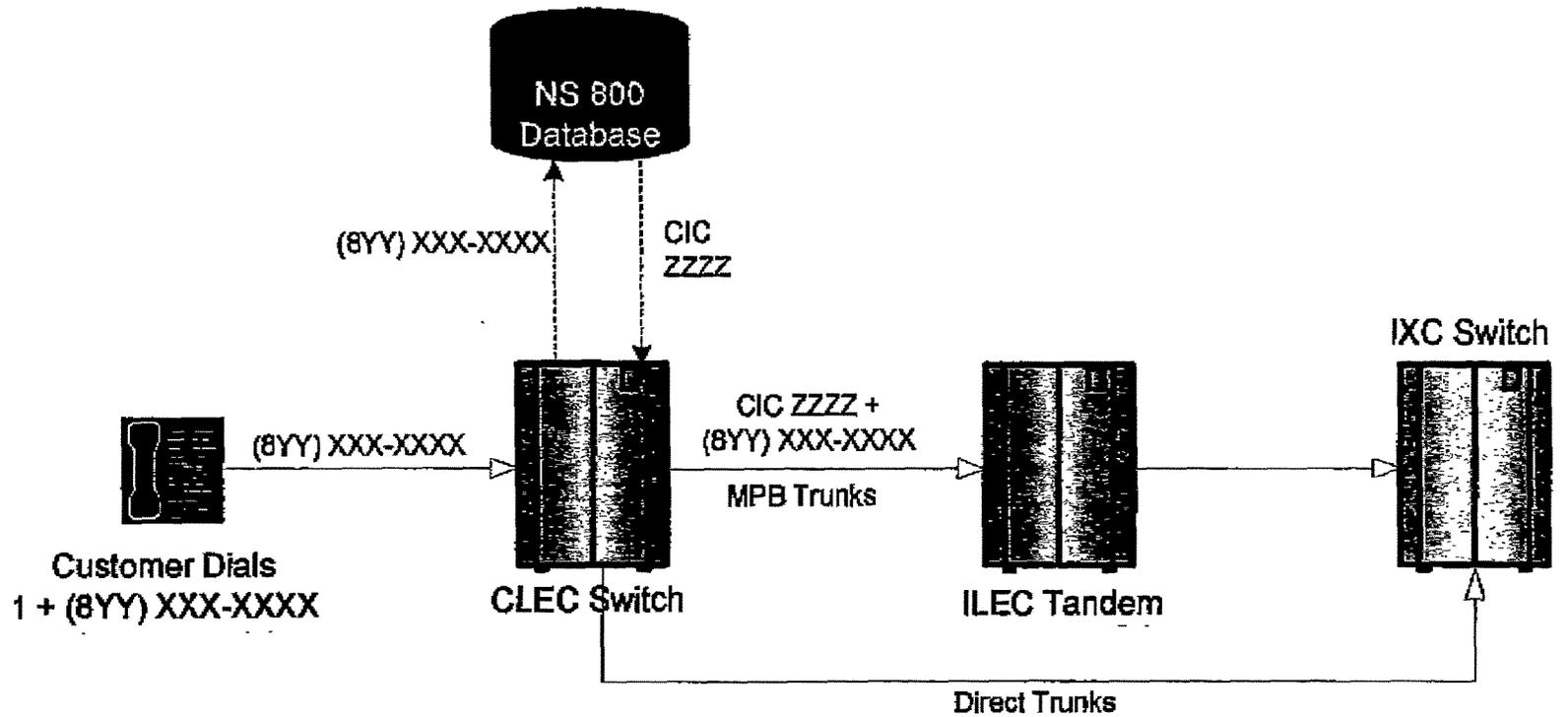
IXC Switch

IXC Switch
(Direct Trunks)



Originating 8YY Call To IXC

NON-CELLULAR



Originating 1+ InterLATA Call

