BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	
Telephone Number Portability	CC Docket No. 95-116
Petition of SBC Communications Inc. For Forbearance Under 47 U.S.C. § 160(c) From the Application of the Five-Year Recovery Period for Local Number Portability Costs Under 47 C.F.R.§ 52.33(a)(1)	
Petition of SBC Communications Inc. for Waiver of the Five-Year Recovery Period for Local Number Portability Costs Under 47 C.F.R. § 52.33(a)(1)	CC Docket No. 95-116

RESPONSE OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION AND THE PEOPLE OF THE STATE OF CALIFORNIA TO PETITIONS OF SBC FOR FORBEARANCE AND FOR WAIVER

The California Public Utilities Commission (California or the CPUC) and the People of the State of California submit this response to two petitions filed by SBC Communications (SBC) on February 8, 2005 with the Federal Communications Commission (FCC or Commission). SBC's Petition for Forbearance asks the FCC to forbear from enforcing "its rule limiting SBC's ability to recover its costs from implementing local number portability ('LNP') to a five-year period". SBC's Petition for Waiver requests, in the alternative, that the FCC grant SBC a waiver of the Commission's rule limiting SBC to a five-year

recovery period for LNP costs. In both petitions, SBC asserts that it wishes to continue to assess end-user charges "for a limited time until SBC has fully recovered the total amount of LNP costs that the Commission has authorized it to collect". The CPUC cannot support either SBC petition at this time.

I. INTRODUCTION

The Commission authorized incumbent Local Exchange carriers (ILECs) to recover their costs associated with deployment of LNP.[1] The FCC authorized ILECs a five-year recovery period for LNP costs.[2] The CPUC does not dispute SBC's statement that the FCC's five-year limit on LNP cost recovery was "subject to change only upon proof that the charge 'was not reasonable based on the information available at the time it was initially set'".[3] The CPUC cannot, however, confirm SBC's contention that its original estimate of costs and cost recovery plan was not reasonable based on the information available at the time the FCC initially approved the cost recovery plan.

II. ABSENCE OF SUPPORTING DATA

The CPUC staff reviewed the information contained in the SBC petitions.[4] Specifically, CPUC staff was interested in the dollar amount identified in paragraph 11 of Mr. Connelly's Declaration, which states that SBC seeks "$41 million for Pacific Bell". Pacific Bell was the name of the SBC subsidiary in California prior to SBC's acquisition of Pacific Telesis, and is fully subject to

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[1] *See Third Report and Order*, Telephone Number Portability, 13 FCC Rcd 11701, 11777, ¶ 144 (1998).
[2] *Id.*
[3] Petition for Waiver, p. 2.
[4] *See* Declaration of John G. Connelly, appended to each of the two SBC petitions.

CPUC regulatory jurisdiction as the largest ILEC in California. SBC staff informed CPUC staff that the company did not submit to the FCC any supporting documentation showing how the specific figures identified in Mr. Connelly's Declaration were derived. Consequently, the sole information available to the CPUC in the petitions was the statement in paragraph 11 of Mr. Connelly's Declaration.

By telephone and then by written data request, CPUC staff requested the underlying calculations showing how SBC concluded that it still needs to recover $41 million dollars from SBC's California customers.[5] A copy of the CPUC staff data request is appended to these comments. On March 23, 2005, the day before the date of this filing, SBC provided a written response to the data request.[6] CPUC staff reviewed the data request, and concluded that the information provided was not responsive to the data request. As a consequence, the CPUC cannot determine whether the assertions contained in SBC's petitions are correct. The CPUC cannot support the SBC petitions without being able to verify the calculations that led to the claim of a $41 million shortfall.

III. CONCLUSION

The CPUC cannot support SBC's petitions for forbearance and for waiver, respectively. Further, the CPUC strongly urges the FCC to request from SBC data underlying SBC's contention that it has failed to recover LNP costs because of a

[5] The CPUC data request is appended to these comments.
[6] Because SBC submitted the response to the CPUC as proprietary, a copy of that response is not appended to these comments.

decline in its number of access lines. The CPUC is not asserting that SBC's claims are in error or false. Rather, the CPUC cannot assess the claims because of a lack of data. The CPUC recommends that the FCC obtain the relevant data to support the claims SBC makes in its petitions.

Respectfully submitted,

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