

CALIFORNIA PUBLIC UTILITIES COMMISSION
TELECOMMUNICATIONS DIVISION
FINAL STAFF REPORT

Pacific Bell (U 1001 C) and Pacific Bell Communications
Notice of Intent to File Section 271 Application
For InterLATA Authority in California

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CHAPTER I: INTRODUCTION

A. EXECUTIVE SUMMARY

1. Introduction

On March 31, 1998, Pacific Bell (Pacific) filed a draft application with the California Public Utilities Commission (Commission or CPUC) to become a long distance provider pursuant to Section 271 of the Telecommunications Act of 1996 (the Act or the TA96). The submitted draft was in response to this Commission's requirement that it receive a draft application at least 90 days in advance of any filing with the Federal Communications Commission (FCC). The Act requires the FCC to consult with the relevant state commission concerning compliance with Section 271; the FCC, however, makes the final determination.

This *Final Staff Report* (FSR) is the second major report produced by the Commission's Telecommunications Division staff in its evaluation of Pacific's current draft application. The FSR provides a comprehensive list of corrective actions most likely to aid Pacific in complying with Section 271 requirements. Pacific has stated that it intends to work with staff and parties to determine solutions to the problems raised in the 271 process. To that end, Pacific should make a compliance filing, sometime in the future, with this commission. Any compliance filing should include data proving Pacific's compliance with issues identified in this report. In any case, Pacific has not yet filed its application with the FCC.

In the *Initial Staff Report*, staff determined that Pacific had not complied with 11 of 14 checklist items, as well as key over-arching issues required by the Act (e.g, Operations Support Systems (OSS), collocation, and Section 272 requirements). Even before issuance of the *Initial Staff Report*, Pacific expressed a strong desire to cooperate with Commission staff and parties to determine what corrective actions might bring it into compliance with the Section 271 requirements: Pacific filed a motion to change to a more collaborative process. The Commission agreed, inspired, in part, by similar actions taken by other commissions in states where Bell Operating Companies (BOCs) requested interLATA authority.

The collaborative process, while productive, had limitations. All parties found that time constraints often curtailed exploration and analysis of potential solutions. As a result, staff's recommendations for corrective actions represent the actions that staff believes will most likely lead to compliance. As Pacific implements corrective actions, staff encourages Pacific to perform further analysis of recommended solutions in this report to determine if a more efficacious solution exists. If Pacific determines that a better solution exists, it

should implement that solution. In the final analysis, Pacific must demonstrate that it has successfully met Section 271 requirements, not simply that it has implemented a specific set of corrective actions.

2. Five Key Conclusions

In analyzing the results of the collaborative process, staff came to five key conclusions that shape many of the recommendations for individual checklist items.

1. **Interconnection Agreement Performance.** Interconnection agreements are not performing as intended by either the Commission or parties to the agreements in question. In approving these agreements, the Commission and most parties intended the agreements to be self-executing commercial contracts, such as those in a competitive market.
2. **Wholesaler/ Retailer Communication.** Pacific and CLECs do not communicate in a manner consistent with their wholesale/retail relationship. Parties generally communicated as though they were in litigation, not in a business negotiation.
3. **Allowing Mass Market Competition.** Pacific has not opened its market to an extent that allows CLECs a reasonable expectation of serving the mass market. Staff believes that Congress and this Commission intended competition to reach all segments of the telecommunications market.
4. **Solutions That Meet Needs.** Pacific must realistically assess whether its proposed solutions serve to open its markets to competition. Staff has observed that Pacific often chooses solutions based on Pacific's determination of whether it complies with Section 271 requirements, not based on how effective they might be in promoting competition.
5. **Application Requires Quantitative Support.** Pacific does not adequately acknowledge that quantitative data is needed to support its application; generic statements of compliance will not suffice. Staff has been clear and consistent that to prove its compliance Pacific should use Commission-adopted performance measures. Quantitative measures can provide Pacific incontrovertible proof that its systems and processes are nondiscriminatory and fair to competitors.

a) Interconnection Agreement Performance

During the collaborative process, staff observed that three types of recurring problems caused interconnection agreements not to function as business contracts. First, the provisions in interconnection agreements that allow CLECs to incorporate new network elements and services have not produced timely results. CLECs have found this process too slow for a competitive marketplace and lacking in tangible results. Second, the process for resolving contractual disputes is burdensome, time consuming and inconclusive. Third, when CLECs seek to amend interconnection agreements, it becomes apparent that they have unequal bargaining power and no recourse to a neutral third party

that can authoritatively resolve disputes. These three problems illustrate that the provisions which were intended to provide interconnection agreement (ICA) flexibility have not worked.

Except for a handful of resellers, all CLECs have ICAs with Pacific. The relationship between Pacific and each carrier is governed by the ICA between the two parties. The contract sets all the terms and conditions of service, as well as the parameters for the services that competitors can obtain. Staff believes that it is important for ICAs to function as closely as possible to private contracts between parties in a competitive market.

Staff realizes that the Commission intended ICAs to be self-governing. However, this has not occurred; it appears to staff that ICAs are not functioning as contracts, but rather as playing fields for constant litigious behavior. As a result, staff urges the Commission to re-assert its role as an active neutral party that resolves disputes, consistent with prior Commission practice and the Act. Staff makes the following specific recommendations:

- simplify and clarify how competitors request new unbundled elements or services;
- expedite Pacific's responses so that requests are processed in a timely manner;
- settle disputes through either expedited Commission processes or commercial arbitration. This includes disputes about interpretations of current contract language and requests for new unbundled elements;
- propose fair and equitable generic amendments for access to operational support systems and other elements and services.

Staff believes these recommendations will serve to balance the competing and unequal economic incentives of Pacific and its competitors. Staff also recommends time limits to contract disputes that will allow both Pacific and competitors to progress with business plans. Staff proposes generic amendments because contracts for operational support systems or other elements should not become a factor which inhibits the development of competition. The terms of an interconnection agreement may shape Pacific's and competitors' business plans, but the actual negotiation of the contract language should not become a barrier to entry.

b) Wholesaler/ Retailer Communication

During the collaborative process, staff observed several types of communication breakdowns between Pacific and CLECs. These breakdowns highlight an earlier conclusion contained in the *Initial Staff Report*: Pacific treats CLECs as competitors rather than as wholesale customers. Pacific appears to have two primary channels of communication with CLECs. Each carrier has an account team assigned to it that functions as a liaison between Pacific's business units and the carrier. The account teams' primary responsibilities include: answering carrier questions about policies and

procedures in the interconnection agreement; settling disputes that arise from contracts, and informing carriers of new policies and procedures that affect a carrier's operations. The other major form of communication is the *CLEC Handbook* (not really a handbook, but more of an operations manual detailing myriad operational issues).

In the collaborative sessions, carriers cited numerous examples of policy changes that were either not communicated to them or were inaccurately communicated. Sometimes those policy changes were communicated solely via the *CLEC Handbook*. This surprised some carriers which were not aware of amendments to the Handbook. Pacific, however, contends that it is the carriers' responsibility to be aware of policy changes and that account teams cannot be reasonably expected to convey verbally all policy or procedure changes. Pacific encourages carriers to rely on the *CLEC Handbook* as the definitive source of information.

Staff's recommendations focus on improving both types of communication. To improve communication between account managers and carriers, staff recommends that assessment tools be developed and utilized to provide feedback to Pacific that will improve the responsiveness of its account managers. Staff also recommends training for personnel in the Local Service Center (LSC) where account managers interact with other Pacific personnel who resolve ordering and billing disputes for carriers. Finally, staff reminds Pacific that most wholesalers do not refer their customers to lengthy "handbooks" when their customers have questions about ordering services and service availability.

In the collaborative process, staff determined that the CLEC Handbook had substantial deficiencies. Accordingly, staff provided numerous recommendations to ensure that Pacific provides relevant information to the CLECs. If Pacific intends to rely on the handbook, staff encourages Pacific to redouble its efforts to keep the handbook timely and to notify carriers of changes that may be relevant to their operations. Staff understands that all commercial relationships are governed by rules, but compliance with those rules is much more likely to occur if there is open communication between the parties. While staff can make recommendations for improvement, only Pacific can improve communication by embracing its role as a wholesaler.

c) Allowing Mass Market Competition

During the collaborative process, Pacific did not demonstrate that it is able to accommodate CLECs entry into mass markets. Many carriers plan to enter the mass market through the combining of network elements or use of unbundled loops. Unfortunately, Pacific has not demonstrated that it has in place a workable method for CLECs to order and provision combined elements. Unbundled loops require termination in a collocation cage; Pacific has not made adequate collocation options available for Unbundled Network Element (UNE) combinations or unbundled loops. Further, Pacific does not yet have an automated system for processing those orders. Many of these issues

are described in the report as “gating” factors. Gating factors are those barriers to robust competition that Pacific has erected through the policies and procedures it has adopted.

Pacific proposes a process for combining network elements that is labor intensive at best and completely infeasible at worst. Pacific did not demonstrate the feasibility of its proposed method of combining network elements through actual data or a test. Other new entrants plan to use unbundled loops; this requires collocation at Pacific’s locations. However, collocation space is limited in many central offices, and Pacific has not explored certain types of collocation (e.g. cageless collocation) which would alleviate space constraints and make it possible for more carriers to collocate.

In addition, Pacific does not yet have Operations Support Systems (OSS) in place for network elements that afford CLECs a meaningful opportunity to compete. Pacific is just beginning to bring ordering systems on line that allow competitors to automatically generate an order on Pacific’s systems. Pacific has not demonstrated that those systems function effectively.

During the collaborative process the staff and parties sought a solution to the impediments to mass market entry. How UNEs are combined is an issue to be addressed in the Commission’s Open Access and Network Architecture Development (OANAD) proceeding. Pacific is automating the process surrounding generating orders for network element combinations; however, Pacific will still need to demonstrate that this new process provides CLECs with a meaningful opportunity to compete. Optional arrangements for collocation are recommended in this report; the process for determining lack of space in a CO will be addressed in the Local Competition Proceeding.

d) Solutions that Meet Needs

In the process of reviewing Pacific’s application, staff examined many solutions that Pacific designed either to open its markets or to address CLECs’ operational concerns. However, some of those solutions failed to open the market or to address carriers’ concerns. It appears to staff that Pacific designs solutions only to meet perceived legal requirements of Section 271. In staff’s opinion, while Section 271 does contain specific legal requirements, it also contains the larger requirement that Pacific open its market to meaningful competition.

As Pacific implements the solutions proposed this report, staff recommends that Pacific emphasize solutions which truly open the local market to competition. This requires Pacific to analyze solutions objectively and ask, “If I were facing this problem, would this solution allow me to conduct business?”

Staff would like to promote CLEC input in solution development. To that end, and as examples of that intent, staff recommends that:

- Pacific develop solutions to white pages, directory assistance, and E911 ordering concerns through a series of industry meetings;
- Pacific manage the placement of DSL compatible loops consistent with industry standards and carriers' concerns;
- Pacific develop new ordering interfaces only after determining carriers' needs and requirements.

e) Pacific's Application Requires Quantitative Support

Pacific must demonstrate with quantitative data that the competitive framework for ordering and provisioning is either at parity with its retail operations or affords competitors a meaningful opportunity to compete. Staff recognizes that a significant number of the company's resources will be devoted to the development, implementation, and application of performance measures. Nevertheless, only by providing quantitative data can Pacific prove that its wholesale processes function and afford competitors a meaningful opportunity to compete. The benefit to Pacific is significant: a system of performance measures will provide incontrovertible proof that its systems and processes are nondiscriminatory and fair to CLECs. The ISR stated that Pacific's commitments to undertake future action, or Pacific's assertions that certain conditions prevail, do not prove compliance. The *Initial Staff Report* relied on unambiguous statements in the FCC's 271 orders in making these assertions. Pacific may substitute test data for commercial data, but the Commission should consider only a rigorous independent test as probative.

In addition to the key conclusions, staff determined that Pacific is not fully complying with affiliate safeguards contained in Section 272 of the Act and relevant FCC orders. Staff has determined that Pacific is not complying in three ways with affiliate safeguards:

- First, staff believes there may be problems with Pacific's use of customer proprietary network information. The FCC requires state commissions to investigate past and present behavior in evaluating Section 272 compliance. A past lawsuit indicates that Pacific has already misused customer proprietary network information. Staff finds this past behavior significant.
- Second, Section 272(b)(3) outlines requirements for "separate officers, directors, and employees." Staff has identified deficiencies in Pacific's reporting structure, namely that certain officers report to both the parent company, Pacific, and/or an affiliate.
- Third, staff determined that Pacific's use a central service organization contradicts the stated intent of Section 272 – to keep personnel and reporting relationships, separate.

In this report, staff recommends compliance actions that should allow Pacific to comply with affiliate safeguards in Section 272 of TA 96.

3. **Prospects for Compliance**

Pacific has complied with four of the 14 checklist items. In its *Initial Staff Report*, staff concluded that Pacific had complied with three checklist items. Based on the collaborative sessions, staff determined that Pacific has complied with a fourth checklist item, reciprocal compensation for local traffic.

For the remaining checklist items (and identified, overarching issues) Staff believes that this report presents a detailed roadmap that, if fully implemented, can help lead to compliance. For some subjects, the map is still under development, but the report still provides basic directions.

B. PROCEDURAL BACKGROUND

On March 31, 1998, Pacific filed its draft 271 application with the Commission requesting approval for long distance authority under Section 271 of the Telecommunications Act of 1996. Pacific filed its draft in response to a ruling which required Pacific to file with this Commission at least 90 days in advance of filing at the FCC.

On June 26, 1998, in response to a motion filed by Pacific, the Managing Commissioner and assigned Administrative Law Judge (ALJ) issued a joint ruling changing the process for review of Pacific's application. The ruling established a collaborative process. That ruling directed Telecommunications Division staff, which had made an exhaustive review of Pacific's draft filing, to issue a comprehensive report assessing its findings and evaluating Pacific's compliance with the Act's requirements. The *Initial Staff Report*, which was issued on July 10, 1998, set the agenda for the collaborative process.

In the ISR, staff found that Pacific proved compliance with three items of the 14-point checklist: Access to Rights of Way, Access to Telephone Numbers, and Dialing Parity. Staff found that Pacific had not provided evidence that it was in compliance with eleven of the checklist items, or with Section 272 of the Act regarding affiliate safeguards. The ISR also stated that neither Pacific's Operations Support Systems nor its physical collocation policies were in compliance with the Act. Under the collaborative process adopted in the June 26 Ruling, Pacific, CLECs, interested parties and staff were to work together to develop solutions to each problem identified in the report which would enable Pacific to satisfy a particular checklist item. Each section of the report slated specific issues for discussion in the collaborative process.

The assigned ALJ convened a Pre-Hearing Conference (PHC) on July 15, 1998, to discuss the scope and procedure for the collaborative workshops. A total ex parte ban had been established from the issuance of the ISR, which was to extend through the issuance of the *Final Staff Report*. Part way through the workshops, the ALJ relaxed the ban imposed on staff to make it possible for staff to have separate meetings with parties during the collaborative sessions in order to further the process. An Assistant Chief ALJ not otherwise assigned to the 271 proceeding was named as facilitator/mediator for the collaborative process and was present daily at the workshop to offer his skills as facilitator/ mediator and to keep the process on course.

The collaborative workshops were held daily for five weeks, from July 22, 1998, through August 25, 1998. In order to cover all the issues, staff established a dual track: OSS, 911, white pages and directory issues were addressed on one track and the technical checklist items were addressed on the second track.

The ALJ assigned to the collaborative process developed two goals to govern the process:

1. to allow staff to explore and understand options for solutions to identified problems;
2. to reach agreements on solutions to recommend to the Commission.

To ensure that staff received the information necessary to prepare this *Final Staff Report*, the primary focus of each workshop session was to meet Goal #1. In terms of Goal #2 (reaching agreements), staff found that parties remained largely in litigation mode; as a result, agreements were reached only on some of the less important issues. To a large extent in writing this FSR, staff was in a position of having to recommend solutions to the Commission, based on its analysis of various solutions parties presented in the course of the workshop. Since staff's work was expanded by the lack of agreement among parties, the Managing Commissioner and assigned ALJ issued a joint ruling on September 14, 1998, extending the due date for the FSR from September 21, 1998, to October 1, 1998. By further ALJ Ruling on September 25, 1998, the issuance of the *Final Staff Report* was deferred until Monday, October 5, 1998, to be followed by Opening Comments on October 13, 1998 and Reply Comments on October 22, 1998.

C. STAFF REPORT CONTENTS

1. The Roadmap to "Yes"

The purpose of this FSR is to recommend steps that Pacific should take in order for the Commission to recommend approval of Pacific's application for long distance authority to the FCC. However, given the complexity of the issues and the limited time available in the collaborative process, in some cases the Roadmap is not completely developed. In their comments, parties should make recommendations as to what additional steps or milestones need to be in place before Pacific returns to the Commission with its compliance filing. Staff poses its proposals as "recommendations" rather than "requirements," with the understanding that the five Commissioners, not its staff, are the ultimate decision-making authority. In an upcoming decision, the Commission itself will make its own determination of the steps Pacific must take to comply with the 14-Point Checklist.

Staff cannot predict when Pacific might return with its compliance filing, demonstrating that it has accomplished the steps ordered by the Commission. No date is set for Pacific's compliance filing; it will be up to Pacific to determine, in a cooperative manner with CLECs, how rapidly solutions can be implemented. In some cases for OSS, specific dates have been set for particular milestones to be met. In most instances, the parties set those dates during the workshop.

In analyzing the various solutions presented by parties, staff was mindful of the need for any proposed solutions to assist in meeting this Commission's goal of developing a competitive local market. Local competition is floundering at the present time: the resale market is moribund with only a handful of new orders coming in. The so called "UNE platform," in which a competitor provides service using combinations of unbundled elements, is not yet a viable method of entry. At the present time, it is almost impossible for a residential customer to find an alternative carrier, unless that customer lives in one of the few areas around the state where cable companies are offering telephone service to their cable customers.

The solutions staff proposes in this FSR set a framework which will encourage competition to develop. In the course of the collaborative workshop, Pacific initiated a number of policy changes and process improvements, many of which parties welcomed and supported. In other cases, Pacific agreed to implement particular changes proposed during the workshop or which evolved from workshop discussions. In both cases, staff discusses those process and policy changes, and has either recommended that Pacific maintain those changes, or, in some instances, has recommended modifications.

In some cases, staff found it helpful to further analyze FCC orders to determine which proposed solution would be most appropriate. Those instances are described in the report.

Staff recommends that when Pacific submits its compliance filing, it should include three months of data on performance measures. In addition, Pacific must prove that it has complied with other staff recommendations which are adopted by the Commission, many of which are not addressed in the performance measures. The performance measures, along with other required information, will be Pacific's way of providing definitive proof that it has opened its markets and met Section 271 requirements.

2. Report Structure

The report is structured slightly differently from the *Initial Staff Report*. Separate sections have been developed for three non-checklist item issues that extend across or impact multiple areas. Those multiple-issue subjects are: performance measures/ incentives; Expedited Dispute Resolution (EDR) process, and; the Interconnection Network Element Request (INER) process.

The INER section was added because CLECs' problems with requesting new elements and services present a significant barrier to entry. Staff determined the need to expedite the INER process and to set specific timeframes for Pacific to respond to requests. In addition, staff proposes that Pacific create template amendments to ICAs for any CLEC to use when it wants to obtain a particular network function.

Staff proposes new dispute resolution processes with the intent of providing quicker resolution to outstanding disputes. Staff believes the dispute resolution processes could be used to resolve INER disputes, and also to address ICA conflicts.

In this report, some of the issues identified in the ISR are regrouped or otherwise reorganized. Still other issues from the ISR were eliminated during the collaborative process and therefore do not appear in this report. For example, while white pages, E911, and directory assistance were included among the checklist items in the ISR, those issues are discussed in the OSS section of this report.

Each section of the report reflects any agreements parties made during the collaborative workshop, and/or anything that Pacific agreed to do. It should be noted that even if a so-called agreement was reached, it does not necessarily mean that all the parties found that solution to be adequate, or that it presented the totality of the agreements that should be reached on the subject in question. Each section also presents staff's recommendation of the steps Pacific needs to take to comply with Section 271.

CHAPTER II: MULTIPLE-ISSUE ITEMS
OPERATIONS SUPPORT SYSTEMS (OSS)
PERFORMANCE MEASURES/INCENTIVES
COLLOCATION
INTERCONNECTION AND NETWORK ELEMENT (INER)
EXPEDITED DISPUTE RESOLUTION PROCESS

A. OPERATIONS SUPPORT SYSTEMS (OSS)

1. Overview

Staff believes that the importance of OSS in the 271 context cannot be overstated. OSS is a collection of systems which allow a carrier to supply services; access to OSS is essential for all forms of competitive entry. Some of the systems discussed as part of OSS, such as access to E911, directory assistance and white pages are checklist items, while other systems are essential to gain access to many of the remaining checklist items. OSS enable pre-ordering, ordering, billing, maintenance and repair functions associated with the other checklist items. Pre-ordering consists of activities that a carrier undertakes with a customer to gather and confirm the information necessary to place an order. Ordering consists of the exchange of information necessary for completing carrier purchases of services and products from Pacific.

Most of Pacific's OSS pre-date competition. TA96 requires that Pacific open to its competitors the myriad systems which it relies on to provide service in a way that provides them with a meaningful opportunity to compete. Pacific has taken great strides in meeting this requirement by developing and offering pre-ordering and ordering interfaces which allow the exchange of information between Pacific and CLECs. Competitors now have a variety of means for exchanging this information ranging from gateways that allow machine-to-machine transfer of data from the competitor's systems to Pacific's, Graphical User Interface (GUI) input systems created by Pacific for the transfer of electronic data and by FAX to Pacific's Local Service Center (LSC) which is responsible for input. It is the electronic interfaces which receive the greatest attention in this report because they account for the vast majority of orders and are the only mechanism that will allow sufficient speed to reach the mass market. The interface between Pacific's systems and the competitor's then becomes critically important.

While it is important to keep in mind the functional significance of OSS, it is also critical to appreciate how problematic OSS has proven for Pacific and other Bell Operating Companies seeking interLATA entry before the FCC. For this reason it is important to recall the weight placed on OSS in the ISR. The ISR stated that of all the issues before

the Commission in the Section 271 proceeding, the fitness of Pacific's OSS offering generated the most comment. Most commenters asserted that Pacific failed to meet its obligation to provide non-discriminatory access to its OSS. Pacific generally responded that it has met the non-discriminatory standard contained in Section 271. Further, Pacific appears to have certain interpretations of TA96 and FCC orders that have greatly shaped its current offering of OSS. Specifically, Pacific apparently believes that manual interfaces can provide equivalent access to a mechanized process, that access to its proprietary systems meets the requirements of the TA96, and that the promise of future improvements is acceptable evidence of adequate performance.

As noted in the ISR, staff's review of all parties' comments led it to determine that Pacific has not provided non-discriminatory access to its OSS. Staff is particularly concerned that FCC orders denying prior Section 271 applications do not appear to support Pacific's interpretation of the Act or the FCC's orders. In the ISR staff provided a review of the relevant provisions of the FCC's orders which it relied on for guidance, so this information will not be repeated here. Staff would like to re-iterate the key conclusions it drew in the ISR based on its analysis of Pacific's OSS in light of the FCC's orders. These conclusions were that:

- Pacific's OSS must offer the same level of mechanization as its retail offering;
- Pacific cannot base compliance solely on its proprietary systems. Pacific must offer all functionalities through non-proprietary interfaces;
- Pacific's promises of future system improvements cannot be used in review of its application.

Despite Pacific's significant investment in making OSS available to competitors, staff believes that Pacific's OSS offering needs fundamental changes to bring it into compliance with Section 271.

2. Summary of Recommendations

The collaborative process produced two outcomes that should facilitate Pacific's compliance with its OSS requirements under Section 271. First, the collaborative generated a series of cooperative efforts which will allow Pacific to move forward with its ongoing improvements to its OSS in a way that meets its wholesale customers', i.e., CLECs', needs. Second, the collaborative provided staff with sufficient information concerning Pacific's processes and competitor's needs so that staff can identify milestones that Pacific must achieve to demonstrate compliance with OSS requirements. Staff believes that the cooperative efforts and achievement of the milestones identified in this report will confirm that Pacific is willing to improve communications with its CLEC customers and implement solutions that will provide CLECs with a meaningful opportunity to compete.

One of the primary results of the collaborative process was the emergence of ongoing cooperative efforts to address chronic OSS problems. These cooperative efforts represent an improved means of communication between Pacific as a wholesaler and its CLEC customers and an attempt by Pacific to seek solutions that meet CLEC needs. A model for many of these cooperative efforts was the Change Management Process developed in the context of the OSS OII by Pacific and CLECs. In the past, modifications to Pacific's OSS interfaces were characterized by abrupt changes and changes which often were not useful for the CLECs. The Change Management Process is designed to allow CLEC input into Pacific's implementation of changes to OSS interfaces and create an orderly structure under which the changes can be rolled out. The essential features of change management are (1) deference to national standards, (2) a systematic method for notifying CLECs, (3) a mechanism for soliciting CLEC user input, (4) an opportunity for CLECs to formally vote on implementation of interfaces and (5) an orderly dispute resolution process. The Change Management Process reflects the mutual interest Pacific and the CLECs have in creating systems that meet the respective needs of Pacific as a supplier of wholesale services and CLECs as purchasers of these services. While the Change Management Process is the most highly developed formal procedure discussed during the collaborative, other procedures also sought to include some the basic concepts of adequate notice, customer input and orderly, expeditious dispute resolution.

Parties were sufficiently confident in the efficacy of the Change Management Process that they sought to apply aspects of change management to other aspects of OSS. These efforts included a meeting to address 911 and directory listings issues, a forum on Local Service Center (LSC) issues, a design and development meeting for a new pre-ordering interface, a meeting to discuss the ordering process for xDSL compatible loops, a focus group on billing problems and a meeting to discuss training issues. The Fix-It Team for 911 and directory listings issues is one of the most important of these efforts. The Fix-it Team is composed of 911, Directory Assistance and Directory Listings subject matter experts from Pacific and interested CLECs. The purpose of the Fix-It Team is to review and analyze problems in 911, Directory Assistance and Directory Listings, to identify the cause of errors and recommend corrective action.

In addition to participation in these cooperative efforts, the staff believes that there are several aspects of Pacific's OSS which must be addressed as part of Pacific's compliance filing. These aspects are discussed in detail in the report, but there are five elements which are particularly important. First, Staff believes that Pacific should demonstrate that it has implemented a functional flow through mechanism for the products that CLECs plan to use to serve the mass market. By functional flow through, staff means that orders submitted electronically by CLECs automatically generate an order without an undue level of errors. Second, Pacific should integrate E911 directory listing and white pages entry into order entry for resale services and UNE combinations. By integrating order entry, staff means that a CLEC should be able to enter common information once in an order and that this information should populate Pacific's E911, directory listing and white page databases. Third, Pacific should implement an automated system for notifying CLECs when

UNE orders are rejected or in jeopardy of not being completed. Fourth, Pacific should demonstrate that its interfaces have been implemented in a useful manner. Fifth, Pacific should demonstrate that the Change Management Process for incorporating modifications to OSS systems is governing the implementation of changes to its OSS. Pacific should demonstrate that these measures have been implemented and are effective in its subsequent filing.

Staff recommends that the Commission staff host semi-monthly up-date meetings which will give Pacific and other parties an opportunity to inform the Commission on the status cooperative efforts and progress of implementation of OSS improvements. Keeping the Commission informed will reduce the amount of time needed to consider Pacific's compliance filing. Staff believes that it may be important for an Administrative Law Judge to be present at least one of these meetings per month and be available to attend more of the meetings if parties believe this is necessary.

It is important to recall that many of the compliance actions discussed in this report are a means to an end, namely improved OSS performance. This performance is best demonstrated through performance measures being developed in the OSS OII or rigorous, independent, third-party testing where commercial data is not available.

3. Pre-Ordering Functions

a) Overview

Pre-order information is used by competitors to complete orders for both resold services and UNEs. Most competitors access pre-ordering information for a customer through electronic gateways (Verigate and DataGate). These gateways provide access to the same databases that Pacific's retail representatives use to obtain customer information. Within in the last six months Pacific has substantially upgraded competitors' access to pre-ordering information. Despite these improvements, Pacific's pre-ordering interfaces still have significant limitations that were mentioned in the *ISR*. In that report, staff outlined several areas for parties to address in the collaborative sessions including integration of pre-ordering and ordering interfaces, electronic access to Customer Service Records (CSRs) and additional databases, the Automated Pricing Terminal Operations and Service system (APTOS) and the Loop Facility Assignment Control System (LFACS), and address validation. In the collaborative sessions, parties addressed Pacific's K-1023 process for reserving facilities, and flexible due dates for unbundled loops. For purposes of discussion, parties agreed to consolidate pre-ordering issues related to E911, directory assistance/listings and white pages with the overall discussion of those issues. This report will treat all issues related to those three topics separately from other pre-ordering issues. In the pre-ordering section of this report, staff will address electronic access to CSRs,

address validation, Pacific's K-1023 process, access to additional databases and flexible due dates for unbundled loops.

b) *Electronic Access to Customer Service Records*

(i) Background

At the collaborative sessions, Pacific responded to the staff's concerns about availability of electronic access to CSRs and equivalency of access between retail and wholesale. Pacific indicated that Verigate and DataGate currently provide electronic access to CSRs. Generally, Pacific's retail representatives and CLECs which access CSRs have equivalent access to information contained in the CRIS database. Some selected information related to a customer's payment history, their social security number and driver's license number, are not made available to CLECs when they request a CSR through Verigate or DataGate. One competitor did indicate that CSRs faxed from Pacific's LSC contained information about hunting sequences that was not available through Verigate. Pacific researched this example and agreed that an inappropriate screening of data had occurred. Pacific fixed this problem during the course of the workshop.

CLECs inquired about using the customer address contained in a CSR to validate the address for the purpose of ordering and for E911 data entry. Pacific did not recommend this use and responded that its own customer service representatives do not use the CSR in this way because formatting requirements for both E911 records and CSRs have changed over time. The service address in a CSR may be accurate, but differences in formatting could result in either the order or the E911 data entry being rejected.

Pacific explained in detail how orders placed in Service Order Retrieval and Distribution (SORD) eventually update CSRs and what options are available to view pending updates to a CSR. Parties also addressed any potential size limitations on CSRs imposed by various OSS systems. Pacific indicated that its own retail OSS interfaces have the same size limitation on a CSR as does Verigate. DataGate does not have a size limit for CSRs.

(ii) Recommendations

Based on discussion in the collaborative sessions, staff does not recommend any compliance actions. To staff, it appears that Pacific is offering equivalent access to customer service records. Staff is concerned that CLECs do not have an easy method to verify service addresses. As explained below, it appears that service address validation for E911 purposes uses different rules than the ordering process. Recommendations to address this issue are made below.

c) Service Address Validation

(i) Background

The ISR indicated that competitors' concerns about address validation could be handled through improvements to the documentation provided by Pacific on the use of pre-ordering address validation functions. During extensive discussions in the collaborative sessions, Pacific explained that a CLEC could use Starwriter, Verigate or DataGate to verify a service address. Pacific indicated that even the address verification tools in Verigate and DataGate may not yield a correct address for use by downstream systems such as E911. Thus, parties' concerns were partially alleviated, but competitors still had questions and concerns about down stream systems that depend on correct address validation earlier in the process. Pacific agreed that this issue should be addressed during meetings about integrating E911, directory listings and white pages into the ordering process for UNEs.

In the course of discussion, it became apparent that some CLECs were using address validation to determine if they had the correct customer. CLECs would enter an address and then compare the customer specific information to determine if the CLEC had the correct address for a specific customer. Pacific indicated that address validation merely tells a CLEC that service is available at the address, not necessarily which customer is receiving service.

(ii) Recommendations

Staff believes that Pacific offers CLECs access to address validation features which is equivalent to that available to its retail representatives. Staff is concerned that improper use of address validation by CLECs may cause some of the problems that CLECs experience. Staff agrees with CLECs that a solution must be found to situations in which an address passes validation checks in either Verigate or DataGate, but then fails to generate a correct E911 entry or a correct directory or white page listing. It is not realistic or reasonable to expect that CLECs will be able to infer subtle business rule changes regarding address formatting between a customer service address on an order and a customer service address on an E911 entry. Pacific must either make these rules easier for a CLEC to understand and implement or, ideally, Pacific and CLECs should develop a solution that allows service addresses that pass pre-ordering validation to be used for post-SORD provisioning systems, such as E911. Staff recommends that parties explore options through either the Fix-It team or through on-going discussions to integrate ordering and E911 and directory listings. When Pacific makes its compliance filing, it should demonstrate that it has clear guidelines for address validation and that addresses that pass pre-ordering validation will not be rejected in post-SORD provisioning processes, such as E911 and white pages.

d) Enhanced 911(E911)/ Directory Assistance and White Pages

(i) Background

At the July 15, 1998 PHC in which scheduling issues for the collaborative sessions were discussed, parties and staff concluded that many of the issues relating to nondiscriminatory access to E911, directory listings and white pages were related to the OSS used to access those “services.” In addition, many of the issues were common to the three services, and parties thought that the issues should be addressed together. Staff agreed and those issues, along with staff analysis contained in the ISR are addressed in this section. Thus, two of the checklist items, access to E911 and access to directory assistance and directory listings, are addressed in this sub-section of OSS issues.

The ISR identified several key issues for discussion in the collaborative process relating to E911, directory assistance and white pages, including:

- staff suggested that Pacific upgrade or streamline its E911 system so that additional comparative steps are not necessary;
- staff had general concerns that the lack of pre-ordering/ordering integration would increase the chance of errors;
- staff wanted to explore the reasons behind the significant errors Pacific says CLECs make in entering DA information;
- staff recommended a root cause analysis of errors and drops be undertaken to determine how both types of errors could be prevented;
- staff recommended that the requirements for providing mechanized capabilities for CLECs to input and check white pages directory listings;
- review the process for entry and re-entry of E911 listings;
- review the “real-time verification system” for 911 to determine ease of access for CLECs;
- additional clarification is needed on CLECs’ abilities to verify orders in general, and “real-time” verification systems in particular;
- determine a way to analyze the performance of the shift from CABS to CRIS and determine the impact on data in the 911 and DA systems;
- perform a root cause analysis of DA errors and drops to determine how to prevent the problem;
- prepare clear instructions/process for CLECs to use in inputting 911 and DA entries.
- Implement an interface with up-front edits which allows CLECs to correct errors before data is entered.

In the 271 collaborative workshops, staff and parties focused on recent system improvements and identification of further system improvements.

(ii) E911 Overview

Pacific provided an extensive overview of the E911 system for both retail and wholesale. In the course of the presentation, it became apparent that several key issues affect competitors' ability to efficiently enter E911 information. First, competitors must manually re-enter all information for E911 purposes even when most, if not all, of the information does not change when a customer transfers between carriers. Second, the entry system for E911 is relatively complex and the confirmations of orders are equally complex. Third, facilities-based carriers must use a separate system for entering E911 information. Pacific is currently taking steps to improve E911 data entry and those system improvements should greatly improve the accuracy of CLEC entry of information for E911 databases.

Prior to May 11, 1998, Pacific used its Carrier Access Billing System (CABS) system for all resale orders. The CABS format was more prone to error and more difficult for Pacific to integrate with other sources for E911 information. On May 11, Pacific migrated resale accounts from the CABS billing system to the Customer Records and Information System (CRIS) billing system with the expectation that Pacific would be able to more easily compare CRIS data to CLECs' E911 data entries, thus improving accuracy. In the workshops some of the CLECs indicated they had noticed improvements as a result of the migration, for other CLECs it was too early to determine any impacts. Most CLECs agreed that the shift from CABS to CRIS for resale billing should improve E911 accuracy.

Currently, for resale orders the source for E911 entries is prior customer information contained in the CRIS database. Unbundled network element (UNE) orders, on the other hand, must have E911 information submitted by CLECs using a separate gateway from that used to order the product. This gateway has proven to be difficult for CLECs to use, and CLECs would like to include E911 data on the same form as the order. In the workshops Pacific agreed with CLECs that combining order entry and entry of E911 data on the same form would promote efficiency and accuracy. For some of the largest carriers this issue was considered a significant gating issue that would delay their entry into the local market. As will be explained below, the integration of E911 data on orders would also include integration of the data for directory assistance and simple white page listings.

In developing this solution, parties agreed that it would be imperative to follow the Change Management Process adopted by the industry. As detailed elsewhere in this report, the Change Management Process establishes a framework in which Pacific can develop interfaces and improvements to interfaces in a cooperative manner with CLECs. To move the process along, CLECs and Pacific agreed to have a two-day working session to resolve the important issue of the source of E911 data and the changes necessary for existing electronic order formats. The working session was set for September 10 and 11. Based on the results of this session, Pacific estimated that a solution integrating ordering and E911 entry could be deployed by the second quarter of 1999.

Although all parties did not agree, most parties accepted that this system improvement would only apply to CLEC orders for resold services or UNE combinations that include a

UNE port order, or a standalone UNE port order. Parties agreed that various national forums previously examined the issue of integrating E911 data on orders for UNE loops and decided to defer the issue. Staff appreciates that changes to ordering requirements for E911 data should be determined in national forums where all parties have an opportunity to participate in the process.

Nevertheless, staff believes that the lack of integration for E911 data entry could place facilities-based CLECs at a significant competitive disadvantage. In particular, staff is concerned that Pacific's separate gateway for E911 data entry may not be flexible enough to meet the needs of small carriers and that Pacific may be unwilling to entertain changes. In its formal presentation, Pacific indicated it would only consider modifications to its E911 data entry gateway if any proposed change would benefit all CLECs. Staff understands and appreciates Pacific's hesitation to entertain what could be endless proposals for modifications, but staff also understands that Pacific must provide non-discriminatory access to its OSS interfaces.

However, as a result of a three-way meeting with staff, Pacific, and a small facilities-based CLEC during the workshop, staff believes Pacific must be willing to adapt the E911 gateway to the needs of small carriers. Many of the issues raised in the meeting could be resolved through relatively minor programming changes, and both parties seemed to think that solutions are possible. Nonetheless, Pacific seemed hesitant to agree to the changes. Staff believes that Pacific must balance its hesitation toward modifying interfaces with the critical need of smaller carriers to have an efficient order entry interface.

CLECs identified two additional improvements which should be made to Pacific's E911 data entry system. First, CLECs wanted the ability to confirm E911 entries in a real-time mode. To the surprise of some CLECs, Pacific had already made this feature available, although CLECs were not aware that it was available. Pacific agreed to supplement the CLEC Handbook with additional information on this data verification tool. Second, some CLECs expressed an interest in having an application-to-application interface for E911 data entry. Pacific indicated that it is willing to consider such interfaces once it completes a replacement of the underlying E911 data storage system. Pacific expects to complete the replacement within the next year.

(iii) Recommendations

As noted in the ISR, Pacific has made substantial progress toward offering non-discriminatory access to its E911 system. In order to comply with Section 271, staff believes that Pacific must make both system changes and changes in operating practices. Pacific should institute three system improvements in a cooperative manner with CLECs. The three improvements are:

- Integrate E911 data entry into the order entry process for resold services, UNE combinations and stand alone UNE port orders;

- Work with smaller facilities-based CLECs to improve the E911 data entry gateway's ability to meet the needs of those carriers;
- Develop standards for an application-to-application interface for the entry of E911 data.

The single most important operating change would be Pacific's cooperation with and participation in the Fix-It team initiated during the collaborative process. This team is designed to examine process improvements to reduce fall-out of CLEC orders for both resold services and UNEs. ("Fall-out" refers to orders/database entries by CLECs which do not automatically enter into Pacific's systems.) This team will focus on improvements that might affect either CLEC ordering practices, Pacific's handling of those orders, or OSS interfaces or some combination of the two. This type of collaborative work group can identify problems that prevent Pacific from fulfilling its Section 271 obligations and, more importantly, can ensure that those obligations continue to be met in the future.

e) Directory Listings and White Pages

(i) Background

Pacific provided an extensive overview of its systems that handle directory listings for both retail and wholesale. At a high-level, entry of directory listing data can be included on orders for as-is migration of resold services with either simple listing or simple caption. All UNE orders must be entered through a separate gateway. For either UNE or resold orders that include complex captions, CLECs must contact the Statewide Marketing Directory Unit (SMDU). As in the case for E911, the separate interface for directory listings uses complex formatting rules and order confirmations. This is due in large part to an older system that Pacific uses for its white page listings. Pacific intends to replace its white page system in the near future.

(ii) Directory Listings Rejected Due to Formatting Errors

In the course of Pacific's presentation, it became apparent that some common formatting errors that constituted a large proportion of the listings that Pacific rejected. As Pacific identified these common errors, it worked with CLECs to correct the problems and in some cases developed system changes to automatically correct the errors. As an example, many orders for residential listings were submitted in all upper case, but Pacific's data gateway expects directory listings in a mixed-case format. Pacific determined that the simplest solution was to develop software that would convert from all upper case to a mixed-case entry by assuming that for residential listings the first letter in the first and last names should be capitalized and the remainder in lower case. Pacific outlined four common formatting errors for which it had developed solutions.

(iii) Directory Listings Dropping from Databases

Pacific reported that a system error resulted in some orders being dropped from directory listings even after the entry had been accepted as accurate. Pacific identified the problem in January 1998, fixed the problem by February 1998 and determined that the problem had existed since September 1997. The important aspect of this problem is that Pacific asserted in its draft application and initially in the workshop that only CLEC errors could have caused a directory listing to be dropped once the listing was in the directory database. Later Pacific confirmed that this system error could not have been detected by the CLECs or prevented by them. As explained more fully below, staff urges Pacific to examine CLEC problems with an open mind as to what may be causing errors.

(iv) Reject Report

Another important aspect of directory listings is that many errors for service orders associated with directory listing information were handled by the LSC. In other words, errors were corrected by the LSC without participation by the relevant CLEC. Parties discussed having errors returned directly to CLECs, and some CLECs expressed an interest in receiving reject reports. Staff encourages parties to explore the reject reporting process because CLECs must receive more information if they are expected to correct and prevent errors in directory listings. As explained below, the Fix-It team will allow both Pacific and CLECs to explore causes and fixes to directory listing errors.

(v) Complex Captions

In the workshops, Pacific explained that complex captions (captions which list sub-elements) are handled through the SMDU. This group handles both wholesale and retail customers. CLECs expressed frustration with not having clear guidelines for how their customers could place orders for complex captions and that those orders could not be submitted electronically. Pacific explained that CLEC customers could either work directly with the SMDU or the CLEC could negotiate on the customer's behalf. Pacific explained that some complex captions are owned by multiple customers. As an example, Bank of America may establish a corporate listing in the white pages and then allow branch offices to make sub-entries in the listing. Commonly, these sub-entries are independently owned by each branch. If the CLEC wins the corporate account but not the branch offices, the CLEC would be able to change only a portion of the complex listing. In the workshop, Pacific indicated that it currently receives a combined total of four retail and wholesale orders per day. For these reasons, Pacific argued that complex captions should be handled on a manual basis for both retail and wholesale customers. Staff agrees that the low volume and complexity of this order type do not warrant automation. Staff recommends that Pacific re-examine the CLEC Handbook and provide any necessary clarification or additional information to CLECs to assist them in placing orders for complex captions.

(vi) Inability to Confirm White Page Listings

As explained in the ISR, CLECs are given only a very limited time (typically less than five days) prior to the directory being published to review entries in white page directories. In the workshop, Pacific explained that it uses the same process for its own retail listings. Pacific indicated that CLECs could obtain an electronic version of their entries during the same review period. Pacific committed to make available by September 1, 1998, a web-based database that will allow CLECs to verify directory listing updates (confirmations and completions). CLECs will be able examine on a read-only basis their own customers' listings as well as listings for those customers for whom the CLEC has a Letter of Authorization. Complex captioned listings will not be included in the database. Several CLECs expressed an interest in alternatives including CLEC-specific reports and the ability to use the on-line database to place directory orders. Staff believes that the on-line tool that Pacific committed to provide on September 1, 1998 should provide CLECs with equivalent access to directory listings for verification purposes. This may not be the ideal solution, but it does afford CLECs non-discriminatory access to the information they need for verification purposes.

(vii) Recommendations

Pacific committed to make three system and process changes that staff believes will enable Pacific to offer non-discriminatory access to directory listings and white pages. First, Pacific agreed to integrate the ordering of resale service and UNE combinations with the processing of directory listings and white pages. This will allow carriers to use one gateway and one electronic Local Service Record (LSR) to order both a resold service and directory listing or a UNE and directory listing. All parties agreed that the Change Management Process should be followed, and Pacific indicated that it would likely roll-out this improvement in the first half of 1999. Second, parties agreed to form a "Fix-It" team that would gather data, recommend and implement corrective actions that would reduce or eliminate rejections of and errors in directory listings, white page listings and E911 orders. Third, effective September 1, 1998, Pacific will offer a web-based database CLECs can use to verify directory listings and white page listings.

Staff believes that these three solutions should result in significantly fewer errors and rejections of directory listing orders. For the solutions to work, it is critical that Pacific work cooperatively and diligently with the CLECs on the Fix-It team and in developing the integration solution. This team of industry experts should be in a better position to propose and implement solutions than Commission staff holding workshops to determine appropriate solutions. Staff believes forums of this type are a necessary component of a long-term wholesale relationship; staff is encouraged that parties were able to cooperatively develop the charter. In addition, the web-based application should provide CLECs with an efficient tool to monitor the effects their orders have on a customer's listing.

f) Determining Facility Availability and Quality: The K1023 Process

(i) Background

In order to complete certain loop orders, Pacific must check the availability and quality of facilities. The process for determining whether facilities are available or if they are of sufficient quality is known as the K1023 process. Staff believes that the K1023 process illustrates some of the nuances that distinguish Pacific's access to its legacy databases from the access afforded competitors. Pacific employs the K1023 process when an order exceeds a certain number of loops or when the order requires a certain quality of loop, such as an xDSL capable loop. The process is similar for Pacific's retail and wholesale business, except there are additional steps required on the wholesale side, and Pacific's marketing staff can access K1023 reports electronically.

On the retail side, Pacific conducts the K1023 process entirely within the APTOS system. Pacific's marketing representatives submit a K1023 to APTOS; within 24 hours a representative of the Mechanized Loop Assignment Center (MLAC) makes a preliminary check of the LFACS data base to determine if facilities are available. If LFACS indicates that facilities are available, the MLAC representative submits a report to APTOS which marketing representatives can search through for a response to their K1023 inquiry. If facilities are not available, the MLAC submits a P102 request into APTOS for an engineering analysis; Pacific's engineering organization responds within 72 hours. The response is a report, in APTOS, indicating (1) when the facilities will be available; (2) how they will become available (i.e. due to reclaiming of existing facilities not currently functioning, through ongoing relief efforts, etc.). In some cases Pacific does not discover that it does not have sufficient facilities until it is in the field attempting to perform installation, at this point it issues a P102 request. Pacific's marketing staff has access to this report by searching the APTOS interface.

Pacific will provide a manual K1023 process to the CLECs to determine facility availability; however, this process includes a couple of steps at either end in addition to the process Pacific follows on the retail side. Additionally, CLEC marketing staff does not have the same access to APTOS for the purpose of tracking the K1023 inquiry that Pacific's retail staff does. Specifically, in response to a K1023 submitted by the CLEC, Pacific will inform the CLEC of the approximate loop length, whether the loop is copper or has pair gain, the presence of load coils, and equivalency factors. To initiate the process, the CLEC must fax Pacific a K1023 request. Then a representative at the Facilities (F)LSC places the request in APTOS. At this point Pacific's MLAC and engineering departments follow the same steps described above for the retail side. On the return, the FLSC representative searches APTOS and then forwards the result to the CLEC. It should be noted that the results of the K1023 inquiry are faxed to the CLEC's marketing representative while on the retail side Pacific's marketing representative is able to search through APTOS for a response to their request.

Pacific also developed a way to reduce reliance on the K1023 for processing orders for xDSL capable loops. Pacific intends to place a new indicator in its retail ordering database (PREMIS) which will indicate whether a loop is likely to be able to support ADSL, Pacific's xDSL technology. The length of the loop is determinative. Pacific will indicate whether a loop is less than 12,000 feet and can be assumed to support ADSL, between 12,000 feet and 17,500 feet in which case the loop may be capable of supporting ADSL and over 17,500 feet where the loop is unlikely to support ADSL. Pacific will load the loop length indicator into PREMIS for central offices where it offers ADSL. During the collaborative Pacific offered to include a similar indicator in Verigate and DataGate for CLECs' use concurrent with its inclusion in PREMIS. In addition, Pacific offered to provide the indicator in central offices where it does not offer ADSL, but a CLEC indicates that it intends to offer xDSL.

(ii) Recommendations

Staff believes that Pacific should demonstrate that it has implemented the loop length indicator for CLECs as part of its 271 compliance filing. Staff is less certain about how to approach CLEC access to APTOS, LFACs and other legacy systems. The K1023 process illustrates that these systems can be an integral part of the way Pacific does business, but the benefits of increased access are unclear. Staff recommends that the Telecommunications Division continue its investigation of how these legacy systems are used by Pacific in the context of its overall service ordering process and report to the Assigned ALJ within 90 days.

As part of its compliance filing, Pacific should demonstrate that it has:

- made the loop length indicator it has loaded into PREMIS available to CLECs in DataGate and Verigate at the same time;
- offered CLECs the opportunity to identify COs where the CLECs plan to offer xDSL so that it can load the loop length indicator for those COs;
- loaded the indicator for COs where CLECs have indicated they intend to offer xDSL.
- at least made the manual K1023 process available to CLECs to determine facility availability and to inform the CLEC of approximate loop length, presence of pair gain and load coils, and equivalency factors.

g) *Flexible Due Date*

Flexible Due Date (FDD) is a process by which a company can modify the standard interval in which it can commit to provide service based on existing conditions. For example, if Pacific knows there has been flooding in a given region, it knows that it will take longer than usual to fulfill orders in that region. Pacific has access to a table which allows its service representatives to offer a more reliable due date than the standard. Pacific described its current flexible due date which is available for retail and resale. Pacific

agreed to expand the use of FDD to POTS loop and port combinations. Parties discussed extending FDD to cover 2-wire basic and assured loops. Pacific was concerned that the current FDD can return due dates shorter than it is possible for Pacific to physically provision an unbundled loop. CLECs clarified that they were looking for a more reliable date rather than a shorter date. Parties agreed that a due date for a basic or assured unbundled loop would be the longer of three business days or the date assigned using FDD.

h) Integration of Pre-Ordering and Ordering Interfaces

Using Pacific's current OSS for pre-ordering and ordering, carriers must re-enter much of the customer information obtained from pre-ordering interfaces into the ordering interface. As explained in the ISR, this re-entry of data greatly increases order rejection rates due to typing errors and also disadvantages competitive carriers who must retype information into their own customer and billing systems. In the ISR, staff recommended that parties explore integrating Pacific's pre-ordering and ordering interfaces.

Staff noted that Pacific had not provided sufficient integration of pre-ordering and ordering interfaces. Two issues were set for the collaborative discussions: (1) staff recommended that parties come prepared to discuss integration of Graphical User Interface (GUI)-based interfaces for resale and UNEs and; (2) Pacific should come prepared with cost and time estimates for fully integrating Verigate to LEX, Pacific's GUI based ordering interface. In addition, staff wanted to determine what information is needed by CLECs to allow them to build an integrated pre-ordering/ordering interface based on DataGate and Electronic Data Interchange (EDI).

In the course of the collaborative sessions, it became clear to staff that CLECs' need for integration depended on their OSS development plans. For the large CLECs planning to enter the mass markets, integration of GUI-based interfaces was less important. Those CLECs are either currently deploying integrated interfaces of their own or developing those interfaces. The integrated interfaces use DataGate to obtain pre-ordering information and EDI to electronically place orders. CLECs have chosen to develop their own integrated interfaces in part because integrated interfaces are necessary to handle the volumes associated with mass market products and in part because building their own interfaces allows the CLECs to integrate ordering systems with their own billing and customer care systems.

Smaller CLECs rely on GUI-based interfaces provided by Pacific, at least for an interim period. Those CLECs have not begun to develop EDI based interfaces, but have long-term business plans for deploying such interfaces in the next two to four years. The smaller resellers indicated that they are likely to continue using Pacific's GUI-based interface for the foreseeable future.

Another issue that surfaced in the collaborative sessions was the definition of integration. CLECs had widely varying opinions from just reducing duplicative data entry to eliminating steps in the ordering process. No clear definition emerged and parties agreed to have subsequent meetings to discuss problems that CLECs believed to be caused or associated with the lack of integration.

In the collaborative sessions Pacific presented information on the time and cost to integrate existing GUI-based interfaces and also provided information about third-party vendors that could build an integrated interface based on EDI. Pacific's high-level time and cost estimate for integrating Verigate into LEX was \$4 million and four years, subject to an error rate of 50% or more. Parties inquired if more modest forms of integration would substantially affect time or costs. Pacific was unable to answer these questions. During the collaborative session Pacific provided information on five potential third-party vendors of integration solutions. One of those vendors presented its solution to participants. From the information provided, staff was not able to conclude that any of the vendors had actually implemented an integrated pre-ordering and ordering interface for a CLEC in Pacific's territory. Nor was staff able to determine the costs that vendors would charge for such solutions due in large part to the customized nature of interface development.

Parties reiterated their original positions on Pacific's legal obligations to provide an integrated interface. Pacific stated that it was only obligated to provide integration similar to what its retail representatives experience. The only retail interface that provides integration is Starwriter which is used to order single line residential service. According to Pacific, CLECs currently have access to this interface and, therefore, Pacific has met its obligation under the Act. Pacific also indicated that from a technical perspective, it was far more desirable to have CLECs build to the industry standard EDI interface. By building an EDI-based interface, CLECs could integrate their ordering, customer care and billing platforms more easily. Various CLECs argue that Pacific must offer interfaces that allow carriers using UNEs a meaningful opportunity to compete and this can only be accomplished when Pacific offers an integrated interface for pre-ordering and ordering. This is due, in large part, to inherent inaccuracies associated with CLECs being required to enter information twice: once for the pre-order query and then again into the ordering interface. An integrated interface would eliminate many of the common reasons for errors in orders submitted by CLECs.

Lastly, parties discussed their needs for documentation that would assist CLECs in developing their own integrated interface that would interact with DataGate and EDI. Some prior issues related to documentation will be addressed by parties adherence to the Change Management Process which includes a requirement that Pacific provide system specifications in advance of implementing upgrades to current OSS interfaces. Pacific also agreed to provide a document that describes where CLECs should obtain information that is required by the Local Service Order Request (LSOR) that CLECs will submit to order services and elements via the EDI interface.

i) Recommendations

As indicated above, the CLECs' need for an integrated pre-ordering and ordering interface depends on both the type of services the carrier wants to offer and when an integrated interface would be ready. Staff recommends that any integrated solution that the Commission may order should have an expected completion date no later than two years from the date of this report. By that time most carriers will either have deployed an integrated solution of their own or will be developing one. While staff agrees with Pacific that in the long run it is more desirable from a technical perspective for CLECs to develop their own integrated interface, staff cannot agree that Pacific is not required to offer an integrated solution in the short run. Pacific is required to provide carriers with a meaningful opportunity to compete, and staff believes that it is unlikely that Pacific's unintegrated OSS interfaces will be capable of meeting this standard. Too many of the reasons for order rejection are associated with the manual inputting of customer information, especially customer service address and customer features. Staff does not agree with Pacific that third-party solutions to integration of pre-ordering and ordering exist. Based on the information provided by Pacific, one of the vendors and the CLECs, staff does not find any indication that third-party solutions are viable because none of the solutions have been fully implemented and the costs of implementing various solutions are unknown.

Staff recommends that Pacific be required to offer an integrated interface that, at a minimum, does not require the re-keying of information obtained from pre-ordering functions onto an electronic order. The integrated interface should provide CLECs with a GUI-based interface that has features and functionality similar to Pacific's current versions of Verigate and LEX. Staff will not specify whether the new interface should be based on the current Verigate and LEX interfaces or on an interface that uses DataGate and EDI. If, as Pacific asserted in the workshop, there are many vendors that are offering integrated solutions, it should be relatively easy for Pacific to partner with one of those vendors to create an integrated solution. Staff recommends that any costs associated with development of an integrated interface be reviewed and treated similarly to other interface development costs. The development of an integrated interface should be governed either by the principles adopted by parties in the collaborative sessions that addressed new interface development or by relevant change management principles.

4. Ordering

a) *Overview*

After completing the necessary order forms, competitors submit, usually electronically, orders through one of several electronic interfaces. The order is translated by those interfaces into an order that is submitted into Pacific's master ordering system, SORD. As mentioned in the ISR, competitors have had numerous difficulties with both completing orders and the functioning of Pacific's electronic interfaces. Staff outlined three significant shortcomings of Pacific's ordering interfaces. First, for almost all order types, Pacific's interfaces are not designed to automatically generate an order to be submitted to SORD. Pacific's interfaces require manual intervention on most orders. Second, Pacific's current ordering interfaces do not allow for errors and rejects to be returned via the same interface for unbundled network element orders. Third, ordering of E911, directory listings and white pages associated with UNEs must be done through a separate ordering interface. Those limitations impair CLECs' ability to compete because orders are more likely to be delayed or processed incorrectly.

The ISR outlined several areas for parties to address in the collaborative sessions including front-end edits, proprietary nature of many of Pacific's interfaces, flow-through and technological impacts on the speed of an interface. In the collaborative sessions, parties focused on front-end edits, mechanized rejection and jeopardy notices, and flow-through. As anticipated in the ISR, parties spent much of the time on flow-through, although rejection notices were a significant issue for all carriers. As will be discussed more fully below, Pacific and the competitors were able to agree on mechanisms that would allow the parties to discuss and plan further system development to address the three issues, at least in part. Parties were not able to agree on all issues and therefore left several key issues for Commission resolution. Overall it appears that Pacific and CLECs have a strong interest in cooperatively working on solutions to issues raised in the *ISR*.

b) *Front-End Edits*

(i) *Background*

Front-end edits are used by Pacific to reduce rejects, errors and "fall-outs" of orders. These rejects can occur either in the ordering or provisioning of services. Rejects can also occur during activities that are done once an order is provisioned or completed in SORD. Those activities include updating E911 information, directory assistance or directory listings. In the collaborative session, Pacific indicated that it has over 3,500 front-end edits built into its primary ordering interface (SORD). Due to the magnitude and complexity of the task, most parties agreed that it was not realistic or desirable to move these edits into OSS ordering interfaces that CLECs use. Parties did agree that both

Pacific and CLECs could improve their order processing by studying and implementing corrective actions to reduce rejects associated with activities that occur after an order has completed in SORD.

To facilitate studying rejects, parties agreed to form a Fix-It team. This team would be composed of inter-company subject matter experts from Pacific Bell and any interested CLEC to review and analyze perceived gaps, and to prioritize and implement corrective actions for 911, directory assistance and directory listing rejects, errors and “fall-out.” Corrective action could be either within Pacific and/or CLEC processes or systems. Parties agreed that a monthly report would help the group remained focused and assure stake-holders that the group was a good use of resources. Team leaders were established at the workshop and tentative dates for a first meeting. The charter for the Fix-It team is attached in Appendix A.

(ii) Recommendations

The Fix-It team is designed to be an on-going group with solutions developed and implemented over time. As a result, staff cannot recommend any one specific action, but rather recommends that the Commission examine Pacific’s participation on the team. The Commission should examine if Pacific implements corrective actions identified by the team and if Pacific has been an active participant on the team. Pacific’s actual performance will determine if it provides non-discriminatory access, and staff believes that Pacific is much more likely to achieve that goal by actively and willingly working with CLECs to identify corrective actions to improve E911, directory listing and directory assistance error and reject rates.

The Fix-It team is Pacific’s opportunity to demonstrate that it is willing to work cooperatively to identify causes of rejects and errors. Staff has concerns about how willing Pacific is to identify problems caused by its internal systems. For example, in its initial filing, Pacific asserted that all errors associated with directory listings were caused by CLECs inappropriately completing and submitting orders. Yet, as discussed above, Pacific admitted during the collaborative that it had long been aware that its own internal systems contributed to listing fall-outs. Pacific declined to identify this partial cause for fall-out of listings in the initial filing even though the fall-outs were beyond CLECs’ control. Staff believes that Pacific needs to be more receptive to the possibility that its systems may cause some errors.

c) *Proprietary Nature of Pacific’s Interface*

(i) Background

The *ISR* identified issues related to Pacific’s proprietary interface including the necessity for CLECs to enter information twice in order to complete orders and track customers in their own customer care and billing systems. National standards bodies have not adopted any guidelines for GUI-based interfaces; therefore, any GUI-based OSS interface that

Pacific offers is proprietary. At the collaborative sessions, parties focused on Pacific's development plan for including pre-ordering functions into EDI. EDI is Pacific's OSS interface that is designed to be compliant with national standards. Currently, Pacific's offering for a machine-to-machine pre-ordering interface (DataGate) is not fully compliant with national standards. Many of the CLECs in the workshop indicated that they would eventually build OSS interfaces compliant with national standards set for EDI interfaces and therefore were very interested in Pacific's plans to add pre-ordering functions to its EDI interface.

Pacific committed to introduce an EDI Pre-Ordering interface, based on industry guidelines adopted to date, as a front-end to DataGate in a time frame concurrent with the implementation of EDI 9 (expected to be April 1999). Parties agreed that DataGate would not be replaced until the EDI Pre-Ordering interface is operating on EDI 10 guidelines and that a reasonable amount of time would be allowed for transition. In the workshop, parties agreed to hold a design and development meeting for EDI Pre-Ordering interface on September 23, 1998. CLECs asserted that until the EDI Pre-Order interface is implemented, market entry will be impeded. Parties that are currently implementing EDI interfaces are designing those interfaces to interact with DataGate for pre-ordering information.

(ii) Recommendations

Staff did not find persuasive evidence that Pacific's current OSS offerings hampered CLECs unduly because they relied in part on proprietary elements. Pacific has clearly committed to developing to national standards and to upgrading its proprietary pre-ordering interface to those standards. As with many of its proposed changes to interfaces, staff recommends that the Commission examine in Pacific's compliance filing whether Pacific followed applicable change management principles or, in cases where the principles cannot be applied, it has worked with CLECs on solutions.. It will also be important to examine how fully Pacific implements the new EDI guidelines. At this time staff does not recommend that Pacific's refiling be conditioned upon Pacific implementing a certain version of EDI. Pacific's development of EDI-compliant interfaces is driven largely by national standards setting bodies and by change management principles.

d) *Mechanized Rejects and Jeopardy Notices*

(i) Background

As noted in the ISR, Pacific is unable to return automated rejection or jeopardy notices for orders that involve UNEs. Reject notices are generated by LSC personnel and faxed to the CLEC. The faxing of rejection notices requires CLECs to set up a separate business process to handle those notices. Pacific currently is capable of returning automated rejection notices for resale orders. In the collaborative sessions, it became evident that competitors are focusing their marketing plans on UNEs either in combinations to replicate existing retail services or to be used with their own facilities to offer service.

Some CLECs asserted that Pacific's inability to offer automated jeopardy and reject notices was equivalent to a design flaw. Those carriers believe Pacific should not have introduced OSS ordering interfaces without the capability for automatic rejection notices.

Pacific committed to developing an automated rejection capability for UNE orders placed via LEX and EDI. To accomplish this, Pacific will need to establish a special interface for LSC personnel. Pacific expects the interface to be in place by the beginning of the second quarter of 1999. In the meantime, Pacific committed to meet with CLECs on interim solutions, but no date was set for the first meeting. CLECs noted that any interim solution would not alleviate the process and added expense that CLECs incur.

(ii) Compliance Actions for Pacific

As staff noted in its ISR, staff believes that processes that rely on significant manual intervention are generally inferior to automated processes. Staff is not convinced that Pacific's current manual process for issuing rejection notices for UNE orders is capable of handling a commercial volume of orders. Particularly troubling is the case of orders for UNE combinations which CLECs plan to use to serve the mass markets. Even assuming only a 1% market churn in a quarter--that equates to approximately 160,000 orders per quarter--, with current reject rates, the process could result in thousands of reject notices per quarter. Staff thinks that those volumes cannot be handled by a manual, fax-based system. As a result, staff recommends that Pacific implement a fully automated reject and jeopardy notice process for any order that involves a UNE. In implementing this solution, Pacific must adhere to change management principles developed in the OSS OII.

e) Flow Through

A critical element of OSS is the ability of an order entered by a CLEC to be automatically generated in SORD. This automatic order generation process is known as "flow through." Flow through is important because it minimizes manual intervention and associated errors and it implies reliance on a more firmly established set of procedures, timelines and guidelines.

In order for the benefits of flow through to be realized, the capability must be implemented in a manner compatible with CLEC systems, and the capability must perform without an undue number of errors. The collaborative process focused on the first issue, namely the capability of Pacific's OSS to generate a service order. The second step, exercising the capability without significant errors or fallout could only be assessed by examining actual commercial data or, in the absence of actual data, third-party testing. It is this second stage, the quality of flow through, which has received the greatest attention in the FCC's analysis of 271 applications. It is premature to consider the issue of quality, since flow through capability either has only recently been made available or is not yet implemented.

During the collaborative process Pacific maintained that flow through is not necessary for compliance with the 271 checklist. It is difficult for staff to conceive of CLECs having a

reasonable opportunity to compete without flow through for high volume wholesale products. Indeed, mechanization of OSS processes was a consistent theme and the level of mechanization of Pacific's own systems seem to belie its assertions. The FCC has relied on a comparison of flow through rates for resale with flow through rates for retail as a cornerstone of its assessment of whether OSS provides equivalent access.¹ Staff concedes that there are limits on the margins where low volumes, or the high likelihood of manual intervention may make flow through inefficient.

(i) Background

The collaborative process operated under the assumption that flow through would be beneficial for all parties because it would (1) facilitate timely and accurate processing of CLEC orders and (2) streamline Pacific's OSS processes and reduce the need for costly manual processing. For Pacific there would be the added benefit that it could demonstrate non-discriminatory access to an expanding number of wholesale products. Parties recognized that establishing flow through for all of Pacific's possible order types would be long and laborious; consequently, parties sought to identify a set of principles that would guide flow through. Those principles, from the CLEC perspective, would mean that the order types most anticipated would receive flow through at an early stage. In addition, CLECs sought flow through implementation with ample notice for CLECs, an opportunity for CLEC input and adherence to national standards. Pacific sought flow through for services with sufficient demand so that the costs of mechanizing the order generation process would be worth the effort and expense.

Parties agreed to a set of flow through principles to govern the implementation of automatic order generation. Those principles defined flow through as automatic service order generation with the objective of mechanizing the process of going from the Local Service Order to the existing SORD order. The principles set forth a way for Pacific to notify CLECs of changes and allow CLECs to bring disputes according to the same procedures as those established under the Change Management Process. The principles also indicate that Pacific's flow through plans should comply with national standards where possible, and sought to create an orderly framework for those cases in which the application of national standards is not possible. The use of national standards is critical because it allows CLECs to develop their own systems in such a way that flow through capability actually works properly once it is implemented. The principles also established a set of factors for determining the priority under which various products will be given flow through treatment and also determined that not all products would receive flow through. (See Appendix B for the principles regarding automatic order generation.)

In order to create a priority list, Pacific agreed to take into account the following factors: volumes, cost effectiveness, whether the process has inherently manual features, and the likelihood that CLECs will have necessary corresponding mechanization. Participating CLECs provided assessments of priority and forecasts of volumes to assist in this effort

¹ FCC, 97-418, &&

while Pacific provided its assessment of the feasibility of providing flow through. The results of this process are contained in the following table²:

² The table is based on forecasts and lists of priorities provided by some of the CLECs participating in the collaborative. It does not reflect the priority of CLECs that did not participate in the collaborative or did not respond to the staff's request for information. Pacific's ability to appropriately prioritize flow through, and the staff's ability to oversee this are constrained when these forecasts are not provided.

Pacific Flow Through Plans
In Order of CLEC Priority/Forecasted Order Type Volumes

Order Type	Pacific Priority	Exceptions	Expected Implementation Date/Current Scope
1. Loop & Port Combo: 2 wire loop with POTS Port	H	Project Quantity: 20 Supplemental Orders Conversion to loop and port combinations from existing resale service Pending order Hunting Pending certification for ULTS, DDTP Partial account conversion	Conversion as Specified 8/98 New Connect 12/98 Change 12/98 Disconnect, 12/98
2. 2 wire Loop with & without LNP, Basic & Assured	H	Project Quantity: 40 lines Supplemental orders Partial account conversion	Conversion as Specified: exists New Connect 2/99 Change 2/99 Disconnect 2/99
3. Directory Service Requests	M		Concurrent with LSR Consolidation
4. xDSL capable 2 wire loop with and without LNP	L	Project Quantity: 10 lines	No Flow through Plans: Pacific & CLECs will meet to define ordering requirements.
5. Stand Alone LNP	NA	Project Quantity: 20 lines Supplemental orders Partial account conversion	Conversion as specified: exists
6. Loop & Port Combo: 2 wire ISDN capable loop & port; 2 wire loop & coin compatible port; 2 wire loop & Centrex capable port; 2 wire loop & PBX capable port	M		No Flow Through Plans
7. Resale Basic Exchange	H		Conversion: exists Change: exists New: 12/98 Disconnect 12/98
8. x DSL capable 4 wire loop with & without LNP	L	Project Quantity: 10 lines	No Flow Through Plans
9. Trunks	L		No Flow Through Plans, volume insufficient, manual steps required
10. 4 wire with & without LNP, DS1	L		No Flow Through Plans, no flow through on retail or access, service requires engineering design

Definitions

Pacific Assessment: *Pacific's indication of the practical likelihood of flow through given its current plans.*

Exceptions: *a circumstance which prevents automatic flow through and requires manual processing.*

- "Project Quantity" represents the minimum number of orders which constitute a "project" which requires a check for the availability of facilities prior to processing the order.
- "Supplemental Orders" are changes to an existing order.
- "Conversion from" an order which transforms an existing account held by a CLEC using resale to a customer account.
- "Hunting" is a service which routes a call to a customer's other number when the number dialed is not available.
- "Pending certification for ULTS, DDTP" means that an end user customer has asked for benefits under the Universal Lifeline Telephone Service of Deaf and Disabled Telecommunications Program and Pacific is waiting for certification confirming eligibility to be returned by the customer.
- "Partial account conversion" means that an end user customer has chosen to have a CLEC provide some of the services it currently receives. . Consequently, part of the account is being converted to the CLEC, but not all of the account.

Expected Implementation Date/Current Scope:

- "Conversion as is" conversion of an existing service provided by Pacific to a service provided by a CLEC with no changes.
- "Conversion as Specified" conversion of an existing service provided by Pacific to a service provided by Pacific with any modifications desired by the end user customer at the time of migration
- "Exists" flow through capability currently in place.
- "No Flow Through Plans" Pacific did not indicate any plans for offering flow through.

The resulting analysis revealed that Pacific has successfully anticipated demand for many of the relatively high volume services identified during the workshops (e.g., 2-wire basic and assured loops, POTS loop and port combinations) and expects to have flow through in place for those services by December 1998 or February 1999. However, there are some disparities between the CLECs' priorities and Pacific's plans. First, Pacific presented no flow through plans for xDSL capable loops. Pacific asserted that the reason it had no flow through plans for DSL compatible loops was that the national standard setting body, the Ordering and Billing Forum, had not defined the product. Pacific agreed to meet with CLECs on September 22, 1998 to create the necessary definitions to allow flow through for DSL in advance of national standards. The second disparity is that Pacific has given resale a high priority for flow through treatment even though resale is no longer a key element of most CLECs' business plans. Because its implementation plans are so advanced, Pacific plans to continue its work on resale flow through and does not plan to re-deploy resources to other projects.

Finally, after reviewing Pacific's flow through plans, another problem emerged, namely that certain exceptions to the normal flow through process might affect the degree of flow through. While parties seem to recognize that some of these exceptions are technically inevitable, or sufficiently rare, others were troublesome and viewed as a barrier by CLECs. These exceptions included the project quantity for 2-wire basic and assured loops and stand alone Local Number Portability (LNP). CLECs asserted that they anticipate routinely submitting loop and port combination orders for more than 20 lines. They were also puzzled at the necessity for such a limitation for LNP because facility availability is not an issue with LNP. CLECs fear that these limitations will deny them the benefits of flow through.

(ii) Recommendations

Parties agreed to principles to guide the implementation of flow through. The main goal is to implement the plan that Pacific has in place, follow the principles regarding notice, national standards, dispute resolution, and establishing priority. Staff believes that the Commission should encourage the proposed industry processes for notice and dispute resolution, and order Pacific and CLECs to follow the flow through principles developed during the collaborative process.

Staff believes that exceptions to flow through could represent an impediment to Pacific and CLECs receiving the full benefits of flow through. Unfortunately, there was insufficient time to explore this issue during the collaborative. Consequently, staff recommends workshops to address exceptions. During these workshops, CLECs should be prepared to identify which exceptions may impede the usefulness of flow through. Pacific should be prepared to explain the necessity of these exceptions and whether or not they could be modified in any way, e.g. could the project quantity restrictions for standalone LNP or loop and port combinations be relaxed.

The issue of flow through for xDSL capable loops is sufficiently urgent that Pacific should be required to define this product and establish flow through. Staff believes that the Commission should have a continuing role in monitoring Pacific's flow through implementation to ensure that Pacific's plans are in sync with its CLEC customers' demand. Staff believes that Pacific will have established a significant degree of flow through when it has implemented flow through for loop and port combinations, two-wire basic and assured loops, either with or without LNP, xDSL compatible 2-wire loops with and without LNP, directory service requests and stand alone LNP. Once flow through is in place, Pacific will need to demonstrate that the process is effective either through three months of commercial data or an independent, third-party test.

In its compliance filing Pacific should demonstrate that it:

- is following flow through principles;
- has defined xDSL compatible loops in cooperation with CLECs;
- has implemented flow through for:
 - loop and port combinations;
 - two-wire basic and assured loops with and without LNP;
 - xDSL compatible two-wire loops with and without LNP;
 - directory service requests
 - standalone LNP
 - resale

5. Maintenance and Repair

a) Background

Competitors can purchase resold services and UNEs to use in providing service to their own customers. Pacific provides maintenance and repair for those services and elements. When reporting trouble or requesting maintenance, competitors have a choice of two interfaces: Electronic Bonding Interface (EBI) and Pacific Bell Service Manager (PBSM), or they can call the Local Operation Center (LOC).

The ISR outlined three areas of inquiry. First, were there any potential differences in functionality between Pacific's two automated interfaces for placing trouble reports, EBI and PBSM? Second, should the collaborative process be used to explore any development issues associated with EBI? Third, how should problems with installing a service or UNE be recorded? Staff indicated that participants should also address electronic access to trouble histories for UNEs, access to electronic real-time alarms, and performance reports.

In the collaborative process, parties determined that the only functional difference between PBSM and EBI is that PBSM provides electronic access to trouble histories. Pacific indicated that complete histories are available electronically in PBSM for 45-days prior to the inquiry. PBSM does contain an indicator for prior troubles, but details can only be obtained via a manual request. Pacific has not yet allowed electronic access to trouble histories in EBI because national standards-setting bodies have not adopted final requirements and specifications. Pacific indicated it will deploy electronic trouble history in EBI when national standards are finalized.

Competitors reported that EBI has been deployed. Competitors did not indicate any unusual problems with deployment, but few competitors are using EBI and those that do have very limited experience with the system. In any case, parties did not raise any significant issues concerning EBI functionality or deployment.

In discussing loops during the collaborative process, parties reached agreement on how to report problems with installations and how those reports would be recorded for the purpose of performance measures. There is a more detailed discussion of this issue in the section on unbundled loops.

While the issue was not identified in the ISR, a facilities-based carrier raised the issue of mechanized tests for unbundled loops. The carrier indicated that the mechanized loop test is needed to afford testing that is equivalent to that Pacific can perform on loops used to serve its retail customers. Currently, facilities-based carriers do not have the ability to isolate where in the network a problem is occurring. Rather, the carrier must submit a trouble ticket to Pacific to have testing performed on the loop. Pacific offers a 4- or 8-hour window during which it will complete the test to determine responsibility for the problem. If Pacific is responsible for the problem, it will fix it within the original service window. If Pacific determines it is not responsible, Pacific informs the CLEC that the problem is with their network or Customer Premise Equipment (CPE). In either case, the CLEC pays to have the test completed. By offering a mechanized test for unbundled loops, CLECs could isolate problems without involving Pacific or incurring technician charges. Also, CLECs would be able to offer faster resolution of problems to their customers.

The CLEC claimed that Pacific can perform automated tests for retail customers and therefore, similar testing capability should be offered to CLECs using UNEs. This is necessary to afford CLECs the ability to solve service problems in as timely a manner as Pacific. Pacific responded that the appropriate end-users for comparison purposes are private line customers. For those customers Pacific does not have mechanized testing unless the circuits are DS-1 or above. Pacific stated that it uses the same testing technology for its private line customers as it does for CLECs who purchase unbundled loops.

Both Pacific and the facilities-based carrier recognized that further discussions would benefit both parties. Neither party had fully explored all technical options that were

available, and the specific technology the CLEC focused on may not allow it to perform tests that would isolate the source of the problem. In the collaborative sessions, Pacific indicated that mechanized testing technology is expensive, but failed to quantify the exact costs.

b) Recommendations

As a result of the collaborative sessions, staff does not have any specific recommendations for process or system design changes related to maintenance and repair. Staff encourages Pacific and facilities-based carriers to work on cooperative testing plans that will allow facilities-based carriers to provide timely service to their customers. Based on the information that was provided in the workshop, staff cannot recommend that mechanized loop tests be required for all unbundled loops. If, after further joint meetings, facilities-based carriers believe that their needs are not being met, those carriers should file a motion in the OSS OII to bring the issue before the Commission.

In its 271 compliance filing, Pacific should clearly indicate through any performance data which interface was used to place trouble tickets, and an approximate break-down for resale, unbundled loops, and unbundled network element combinations. This disaggregation will assist staff in determining Pacific's compliance with Section 271 requirements.

6. Billing

a) Overview

The ISR suggested that the parties to the collaborative process should explore how billing disputes are handled. The report noted that aspects of Pacific's OSS offering indicate that systems feeding the billing process have experienced errors, but that some of these concerns might be addressed by improvements in Pacific's OSS. The ISR described a multitude of persistent billing problems which affected many CLECs.

b) Collaborative Process

The collaborative process focused on ways to improve the billing process. CLECs suggested that billing issues should be addressed on a process level, rather than by addressing issues such as double billing, late billing, billing ZUM as intraLATA toll, incorrect discount rates and incorrect rates for recently changed prices, independently. Parties agreed on the fundamental approaches CLECs identified to resolve billing problems, namely, researching the cause, relying on national billing standards, applying

special scrutiny to billing for new products or products with recently changed prices and employing high level quality checks. It became clear during the discussion that the resolution of billing problems will require ongoing dialogue between Pacific and its CLEC customers. Pacific indicated that it is willing to participate in ongoing CLEC focus groups to identify billing issues and seek resolution of them. Pacific indicated that problems associated with billing for new products would be addressed in these CLEC focus groups.

Another area discussed during the collaborative process was improved communication between Pacific and CLECs on the resolution of billing disputes. Pacific agreed to share dispute logs with respective CLECs upon request. Pacific indicated that it would track the number of disputes which are resolved within 30 days and report those results to CLECs. In addition, Pacific made a commitment to advise CLECs within 30 days when the disputed bill will be credited, or when Pacific expects to resolve the claim. Pacific said it would inform CLECs of those procedures by announcing dispute log availability in the CLEC Handbook and documenting the process for requesting credits and submitting billing related claims.

Pacific indicated that it was considering options that would make billing more useful for small carriers. Since the conversion from CABS to CRIS, the number of bills small CLECs receive each month has increased from one to 38 (19 each in the northern and southern California regions). According to the small carriers, Pacific has the capability of consolidating bills since it does so for carriers that have a specific provision in their ICA. Pacific asserted that it is considering consolidating the number of billing rounds so that CLECs could receive fewer bills. Pacific also asserted that it is considering measures that would make preferred billing media more affordable, such as reducing the price of a billing CD ROM. While Pacific stated it is considering various actions, Pacific did not commit to any particular billing changes to accommodate small carriers.

c) Reciprocal compensations issues identified in the ISR that are now more properly disposed of in OSS billing.

As noted in the reciprocal compensation section of this report, staff realized – after the collaborative process – that the issues discussed related to the data exchange process used for switched access traffic, rather than reciprocal compensation of local traffic. The issues raised were determined to be billing issues that are more properly disposed of in the OSS section. (See the reciprocal compensation section for a detailed discussion.)

(i) Background

Competitors reported two on-going problems with data exchange related to inter-company billing -- 1) an inability to get timely and correct billing data, and 2) an inability to be receive compensation for certain transactions.

In its initial filing, AT&T complained that it had not received necessary billing data. Interestingly enough, AT&T received the first set of data it had been requesting during the collaborative process. AT&T reported back with several problems with the data submitted: First, the report was in the wrong byte format. Second, AT&T received another company's data.

In a separate issue, TCG reported a problem involving the Single Bill/ Single Tariff process.³ TCG claims that it has never received compensation for calls in one direction (from TCG to Pacific). For calls terminating to TCG's customer, remittance has worked, and has been in place since February 1996. The problem relates to calls which originate from the TCG's customer. Pacific is supposed to bill the IXC on behalf of TCG, and – TCG reports – Pacific has not. Pacific responded that the data received from TCG contained errors and that this must be corrected before Pacific can remit amounts to TCG. TCG responded that they did not hear of any problems until recently. TCG said that the problem may be the result of their single bill format, and Pacific agrees that if TCG moves to a multiple bill format, the problem should be solved. TCG notes that Pacific still owes TCG a significant amount of money.

d) Recommendations

Staff believes that the measures Pacific offered are essential steps, but that improved billing performance will be essential for demonstration 271 compliance. Pacific has made progress by offering to (1) meet with CLECs to identify billing issues and (2) better communicate the results of billing disputes. Hopefully, the measures Pacific has already taken, together with an ongoing effort to meet with CLECs to identify billing problems, will lead to improved billing performance. Nonetheless, given past billing problems, staff believes that Pacific must demonstrate sound billing performance. Staff believes that billing performance can be demonstrated through the application of billing performance measures to billing data.

Staff was concerned in the lack of concrete progress in making billing information available to smaller carriers in a useful and affordable manner. Staff believes that Pacific should consolidate the number of billing cycles for smaller carriers to one cycle per region, per month.

With respect to reciprocal compensation, Staff believes that Pacific has not shown adequate performance in providing the billing records and data necessary for CLECs to bill IXCs. Also, Pacific has not resolved its billing problems with the single tariff - single bill format so that TCG can be paid.

³ See TCG initial 271 filing, "Declaration of Dennis McClure."

In general, staff is concerned that Pacific's performance is not adequate in the "real time" data exchange test with AT&T -- even when it was in Pacific's best interest to perform well.

Pacific can demonstrate compliance by:

- satisfactory billing-performance measures;
- focus groups to identify billing issues;
- tracking bill disputes resolved within thirty days and report results to CLECs;
- sharing dispute logs with respective CLECs;
- advising CLECs within thirty days when a) dispute will be resolved and b) when credit will be issued;
- consolidating bill rounds for small CLECs;
- providing proof that it has solved the reciprocal compensation billing issues that AT&T raised and is providing AT&T and other carriers with correct and timely bills;
- providing proof that it has resolved the reciprocal compensation single bill - single tariff problem and has paid any monies due to other carriers.

7. **Change Management**

a) Overview

In the ISR, staff identified the need for better change management policies to be in place before Pacific institutes any changes agreed on in the collaborative process. Staff encouraged parties to come prepared to design a Change Management Process that will allow for a timely and efficient implementation of changes to Pacific's OSS. At the same time, staff wanted to take advantage of the important gains that parties made in the OSS OII with regard to change management.

b) Summary of Change Management Process Developed in OSS OII

In the collaborative process parties presented the most recent agreement from the OSS OII. The agreement represented a comprehensive plan to cover almost all issues related to change management. In the introduction to the draft settlement, parties identified the purpose of having a Change Management Process:

By this process, the parties intend to document the process by which Pacific will notify CLECs of changes to the OSS interfaces detailed below and provides for the identification and resolution of CLEC issues (Change Management Process). The parties intend for the Change Management

Process to be dynamic in nature, managed through regularly scheduled meetings and based on group consensus.

Parties divide changes into two categories (Gateway and GUI) and established time frames for implementing changes. Gateway changes are more massive and complex and are on a six-month time frame. GUI changes usually are simpler and are on a one-month time frame. All parties felt the process developed was both comprehensive and likely to protect the interests of all carriers involved.

Staff and parties agreed that the change management plan developed in the OSS OII should be filed in that proceeding as a settlement consistent with the Commission's rules for settlements.

c) Unresolved Issues

At the workshops, parties identified two issues that were not resolved in the OSS OII. Parties were unable to agree on the application of change management principles to the retirement of interfaces. CLECs were interested in having continued support for earlier version(s) of a release, after a new version has been implemented. This is sometimes referred to as sunset/sunrise for an interface, "versioning" or "version control." Two reasons were given for supporting prior versions: (1) CLECs were concerned about coordinating their own development plans to upgrades planned by Pacific and (2) CLECs raised the additional issue of economic viability of re-building their OSS to each new version. Some CLECs expressed an interest in upgrading to every other version. Pacific appreciated those concerns, but believed that the issue was best addressed in national forums which are currently considering the issue. CLECs expressed concern that the issue may not be resolved for another 12-14 months in the national forums. Meanwhile, Pacific has indicated that it is considering implementing Version 9 and Version 10 of the EDI interface.

The other unresolved issue was the applicability of the Change Management Process adopted in California to other states served by Southwestern Bell (SBC). Parties noted that Pacific used the same interface across SBC's traditional five states and another interface in California and Nevada. Pacific and CLECs agreed that in the long term, interfaces would likely be standardized across all seven states. Some interfaces such as DataGate and EDI are fast approaching that goal. After discussion with staff, parties realized that this issue would need to be addressed in each jurisdiction independently and that the CPUC could not order another state to follow a Change Management Process adopted in California.

d) Topics Not Yet Addressed

Parties indicated that the team developing the Change Management Process had not yet addressed issues related to introduction of new interfaces and the retirement of existing interfaces. In the collaborative process Pacific and CLECs agreed to a set of principles that Pacific would use in developing new interfaces. CLECs considered this to be a significant agreement and it is attached as Appendix C. Staff is encouraged by the parties' agreement on this issue, as it has the potential to make the Change Management Process even more efficacious. Parties expressed a desire to address those issues and scheduled another meeting on September 1, 1998, to discuss the issues.

e) Dispute Resolution for Change Management Processes

In discussing the enforcement of the Change Management Process, parties expressed concerns about two types of disputes and identified that a third type was already addressed in the process. The parties agree that the dispute resolution mechanisms in the settlement document address the common situation where several CLECs disagree with Pacific on technical standards or requirements associated with an OSS upgrade. The Change Management Process allows for "current users" to vote on whether to delay an upgrade. Parties were less clear about how to handle disputes that affect only two parties, typically related to the requirements in ICAs for certain features and functions of an OSS interface.

Generally, parties thought that those disputes could be handled through the dispute resolution process in the individual ICAs. Even more problematic was how to address what happens if parties do not abide by the process contained in the settlement. Some parties advocated having an explicit dispute resolution clause in the Change Management Process and having the whole process adopted by the Commission. Those same parties wanted to have the agreed-upon process imposed on all carriers in California that use Pacific's OSS. Other parties wanted to have disputes handled outside of the Change Management Process but still have the Commission resolve differences. After extensive discussions with staff, all parties agreed that the group developing the Change Management Process should develop a proposal and present it to the Commission either within the agreed upon process or as a separate issue.

f) Recommendations

Through a consensus process, parties created a comprehensive program to address the most serious concerns that parties raised in their original comments on Pacific's draft 271 application. In the collaborative meetings Pacific agreed to follow the Change Management Process in advance of its adoption by the Commission. The following steps are necessary for compliance with 271:

1. the Commission should adopt the Change Management Process developed in the OSS OII;

2. if parties are unable to develop a process to address concerns about versioning, the Commission should establish a policy for Pacific to follow;
3. parties need to resolve how to handle disputes arising from the Change Management Process.

While Pacific has agreed to follow the Change Management Process, staff is concerned that other parties may not have strong incentives to follow the process. Staff recommends the formal adoption by the Commission of this process to make it clear that the Commission supports and will enforce the industry consensus opinion. Similarly, parties' interest in abiding by the process will be enhanced by having a clear procedure for resolving disputes. Parties indicate that they may be able to agree on dispute resolution procedures through further meetings in the OSS OII. If resolution is not reached, staff recommends that parties file comments on the issue, perhaps concurrently with the settlement filing containing the Change Management Process. Finally, staff recommends that the Commission address versioning because the introduction of upgrades can have a significant operational and economic impact on CLECs. Without some form of versioning, the introduction of a new interface could result in some CLECs not being able to place new orders. Staff does not have a recommended position on versioning, but suggests that a brief comment round in the OSS OII could provide the Commission with sufficient information.

8. Local Service Center (LSC) Performance and Anti-Competitive Behavior

a) Background

The ISR identified two areas where the quality and character of Pacific's interaction with CLECs raised concern: the operation of the Local Service Center (LSC) and alleged anti-competitive behavior. The issues concerning the LSC generally centered on lack of attention to CLEC customer needs. Anti-competitive issues focused on Pacific's inappropriate use of Customer Proprietary Network Information (CPNI) when seeking to regain or "win-back" a customer from a CLEC, as well as inappropriate contact with CLEC customers by Pacific's wholesale staff denigrating the quality of the CLEC's service.

The ISR indicated that Pacific has not demonstrated that the LSC can provide timely, accurate processing of competitors' orders and questions. Staff found that problems persist with Help Desk staffing and training; escalation procedures; manual processing of resale and UNE orders; issuance of jeopardy and rejection notices, and interaction between LSC personnel and account managers. Staff expressed concerns about conflicting incentives for employees of the LSC. Staff further requested that Pacific provide the rules, incentives and compensation established by senior management for LSC employees at all levels and for account managers.

The ISR raised concerns about the use of CPNI to reclaim customers that had recently migrated to CLECs. Staff did not question Pacific's right to solicit CLEC customers, but questioned the proximity of those solicitations to the customer's transfer to a CLEC. Staff indicated that it wanted Pacific to present how it keeps the CPNI of CLEC customers confidential and how it develops its marketing campaigns for win-backs. The report also stated that the reports of three-way calls between a CLEC customer, CLEC representatives, and Pacific, in which the Pacific representative denigrates the CLEC's service, should be investigated.

b) Collaborative Process Summary

Pacific provided an overview of the organizational structure and workflow of the LSC. Pacific also described its escalation procedures for problems with the LSC. Competitors followed this discussion with proposed solutions. Pacific indicated that it had reorganized the LSC in the last twelve months. Some larger CLECs acknowledged that they had seen improvements in LSC performance in recent months. Smaller CLEC participants had continuing concerns with the performance of the LSC. In the course of the discussion, Pacific agreed to some general measures designed to improve LSC performance. First, Pacific will host a forum in September 1998 to discuss LSC issues including staffing and incentives. Pacific will give LSC representatives the appropriate Accessible Letters (Pacific's vehicle for informing CLECs of changes in Pacific's procedures) and will investigate cross referencing the LSC Methods and Procedures to the CLEC Handbook for LSC representative use. Pacific also agreed to track first level escalations in the LSC, by CLEC, and will share that information with the respective CLEC, upon request.

CLECs generally proposed greater specialization in LSC representatives and account team managers. Smaller CLECs suggested that a single point of contact at the LSC would allow them better service, and would avoid situations in which they have to repeat problems to a number of LSC representatives. Pacific countered that dedicated resources for small carriers would be inefficient, and that basic exchange orders are sufficiently generic that specialization by carrier is not necessary. In addition, Pacific asserted that it heard concerns expressed that dedicated resources might lead to discriminatory treatment and too intimate familiarity with a particular carrier's business plan. Pacific indicated that it would consider dedicated service representatives for companies of sufficient size. Pacific also said it would consider grouping LSC representatives into groups by type of order placed. For example, Pacific might establish a group of LSC representatives that specialize in orders placed by facilities-based carriers.

Pacific stated that it currently has dedicated account team managers for each CLEC, although for small carriers the account manager might be responsible for more than one CLEC. Rapidly growing CLECs suggested that Pacific may want to implement a process whereby account teams could expand to accommodate CLEC growth. Pacific responded

that in the near future it intends to distribute a survey to CLEC customers regarding account managers.

Pacific made a commitment that by first quarter 1999, it would have an additional Automatic Call Distribution device for the Anaheim LSC that will allow CLECs to call the LSC that will be responsible for addressing their problems. Pacific agreed to provide LSC Help Desk representatives with training on the use of GUIs.

During the discussion of anti-competitive behavior, Pacific asserted that in February 1997 it ceased using customer disconnect information obtained during migration as part of its win-back programs. Detailed discussion of the use of CPNI was referred to the 272 workshop. Pacific committed to notify staff before using any information derived by virtue of providing services to CLECs for win-back type programs. Some CLECs suggested that the Commission also require that any time Pacific submits information to the Commission about a particular CLEC, that Pacific should simultaneously submit that information to the CLEC.

c) Recommendations

Staff recommends that Pacific:

- participate in the proposed LSC issue forum;
- demonstrate that LSC representatives have access to appropriate Accessible Letters and indicate to what extent the LSC methods and procedures have been cross-referenced with the CLEC Handbook;
- demonstrate that it has notified CLECs that records of first level escalations in the LSC are available upon request;
- indicate what additional training in GUI interfaces LSC Help Desk representatives have received;
- notify Commission staff when Pacific plans to resume a win-back campaign that uses customer information obtained by virtue of providing services to other carriers.

Staff does not believe that the Commission should take any action at this time in structuring the manner in which Pacific assigns LSC and account management resources; specifically, staff does not believe that the Commission should direct Pacific to dedicate LSC representatives to particular CLECs or establish a one-to-one correspondence between CLECs and account managers. Staff believes that there may be efficiencies for greater specialization within the LSC, i.e., establish work groups charged with addressing the needs of certain groups of CLECs. Ideally, Pacific and CLECs will address this type of a solution as part of the upcoming LSC forum.

9. OSS Appendix: Access to Interfaces, Training, and Evaluation

a) *Overview*

The OSS Appendix is an amendment to an ICA between Pacific and the CLEC governing access to OSS interfaces. While the original ICA typically contains terms governing access to OSS interfaces available at the time of signing, the OSS Appendix governs access to new interfaces as they are introduced. The Appendix is a critical document for competitors because it represents the agreement that Pacific requires CLECs to enter into before they can have access to new interfaces. This means that CLECs must enter into such an agreement before they can receive training, perform evaluation and begin live production on a new interface. As ICAs are renegotiated, the terms of access to current interfaces may be incorporated into the text of the subsequent ICA. Nevertheless, as long as OSS interfaces are being improved, an Appendix may be necessary to govern access.

The ISR identified issues surrounding the manner in which Pacific offered the OSS Appendix. The report noted the common perception of CLEC commenters that Pacific coerced signing of the OSS Appendix. The report found that among all allegations of anti-competitive behavior, those involving the OSS Appendix were particularly troubling. The report questioned what incentive Pacific employees had to negotiate fairly. The staff report also questioned the necessity of some of the characterization of interfaces as “non-discriminatory” in a document intended to establish the terms and conditions of access. The report recognized the extreme pressure CLECs were under and the relative weakness of their negotiating position at a time when they absolutely had to have access to the new interfaces.

Several CLEC participants in the collaborative process questioned the need for an OSS Appendix in their written comments or stated that it should not be required for training or evaluation. Some CLECs argued that an ICA should not be required in order to have access to OSS. Nevertheless, staff pursued the notion of coming up with a more acceptable form of OSS Appendix because it felt that some form of agreement would be necessary to govern access to interfaces. Staff also assumed that an ICA was necessary in order to have access to OSS functions, since OSS is available to CLECs as an UNE. Given that the terms and conditions of access to interfaces is typically part of the ICA, it appears that major changes to these interfaces would most likely require a modification to the ICA. The collaborative process was used to come up with more palatable provisions to the Appendix.

The OSS Appendix serves as a point of departure for two other OSS issues: training and evaluation. The ISR treated training as a separate topic, however, since the Appendix serves as the agreement covering the terms and conditions of training, as well as evaluation, it will be discussed in the context of the Appendix. Non-Appendix related training and testing and evaluation issues will also be discussed in this section. The ISR commended Pacific for its interface training and found it reasonable to charge for the

training. The report stated that minimum class sizes could prevent small carriers from participating in training. It also noted concerns about inconsistent quality in training classes. The ISR also suggested that Pacific be required to submit a training program for staff's review and comment.

b) Collaborative Process Summary

During the collaborative process, discussion centered on the form of the OSS Appendix, training and evaluation and testing. The discussion of the form of the Appendix had two dimensions. First, discussion focussed on creating a template which would form a point of departure for negotiations. Ideally, this new template would be sufficiently innocuous that both parties would find the terms acceptable without protracted negotiations. The second issue with respect to the Appendix is the ability to have separate agreements for different types of access. For example, there might be a separate memorandum of agreement (MOA) for training which would contain only the provisions governing OSS training.

(i) The Use of a Template

Several parties suggested developing a negotiations template for an OSS Appendix. During the workshops parties agreed to use a template based on the agreement between Pacific and AT&T. The use of this template resolved some of the CLECs' concerns: it removed language characterizing the access afforded by Pacific's OSS as "non-discriminatory"; tied pricing for OSS back to the Commission's OANAD and other product cost proceedings; and made the process of modifying and withdrawing OSS consistent with the change management procedures.

During the workshops carriers identified the three levels of access that the original OSS Appendix was intended to cover: (1) training, (2) testing and evaluation and (3) full production. In the Appendix, training means a "train the trainer" type class for CLECs as well as associated training materials. Training does not entail the use of interfaces from the CLECs' site. Testing and evaluation involves the use of the interface from the CLEC's site. Some CLECs argued that each level of access should be governed by a separate type of agreement: (1) an MOA governing training, (2) a form of agreement to govern evaluation and testing and (3) a full appendix governing production. During the workshops Pacific was amenable to offering an independent MOA for interface training based on this portion of its Appendix. Pacific and CLECs agreed on a MOA that will permit CLECs to attend training classes and workshops for Pacific's OSS systems without having to enter into a generic OSS Appendix. However, Pacific did not agree to a form of agreement other than the full Appendix which would allow CLECs to test and evaluate its OSS systems. Pacific argued that a full OSS Appendix was necessary since carriers using GUIs would have access to live data since there are no test databases for those interfaces. (Test databases are available for EDI interfaces for the purposes of Operational Readiness Testing.) From Pacific's point of view, in the case of GUIs, there is no qualitative difference between full access and access for the purposes of testing and evaluation, so no intermediate access is possible. Pacific asserted, however, that CLECs could sign an

interim appendix in order to commence evaluation and testing while negotiating an OSS Appendix.

The discussion of the negotiations template failed to resolve three issues: (1) the use of CPNI, (2) intellectual property, and (3) the meaning of language governing CLEC access to pre-order functions. CLECs argued that they need access to CPNI prior to winning the customer in order to compete with Pacific effectively and that the CPNI rules adopted by the FCC would allow them to do this. In addition, those CLECs contend that California Public Utilities Code § 2891 should be interpreted in such a way that it would not impose any restrictions on CLEC access to the CPNI of residential consumers. Pacific countered that § 2891 imposes a more stringent test than federal rules before obtaining access to a residential consumer's CPNI. Consequently, Pacific believes that the CPNI language in the OSS Appendix should require CLECs to abide by the provisions of § 2891 prior to accessing residential customer CPNI which places additional restrictions on the use of CPNI.

Some CLECs maintained that Pacific's model negotiations OSS Appendix should remove all language requiring the CLEC to agree to pay licensing and other intellectual property costs as a precondition to accessing and using the OSS systems. There was a general consensus among CLECs that the Template's § 1.11 "CLEC is responsible for obtaining operating system software and hardware to access OSS functions as specified in the document 'Requirements for Access to Pacific Bell OSS Functions.'" Competitors also questioned the meaning of the limiting phrase "Where available to Pacific," in reference to access to pre-ordering functions. Pacific attempted to explain the meaning and purpose of the phrase.

(ii) Recommendations

Staff recommends that Pacific adopt the revised OSS Appendix negotiation template developed during the collaborative process. (See Appendix D) The agreed upon modifications to the OSS Appendix negotiations template do much to address the concerns raised in the ISR. The presence of a template should reduce the disparity in bargaining power. The change management procedures should allow CLECs to coordinate the negotiation of an Appendix with the scheduled introduction of new interfaces without feeling coerced into signing an unacceptable Appendix for two reasons. First, the change management procedures create adequate notice and opportunity for CLEC comment prior to the adoption of changes to existing interfaces. Second, parties are considering expanding change management to apply to the introduction of new interfaces. In that case CLECs would have ample notice of the introduction of new interfaces as well. While the new OSS Appendix addressed some of the issues identified in the ISR, there were still some areas of concern.

The attached OSS Appendix negotiation template makes two changes to the version discussed during the collaborative.. First, the proposed template omits an indirect reference to intellectual property. Staff does not believe it should be incumbent upon

CLECs to make independent intellectual property arrangements. Second, staff clarified the language characterizing access to pre-ordering information.

The proposed negotiation template will not address the CPNI issues raised by CLECs because this represents a departure from Commission policy on an important topic which is broader than Pacific's 271 application. The CLECs' view represents one reading of the statutory language that does not preclude allowing competitors to have access to the information covered by § 2891. According to this view, a plain reading of the statute suggests that a competitor may have access to the restricted information, so long as the competitor is a telephone corporation "furnishing . . . telephone service between or within service areas". If this interpretation is correct, § 2891 may not impose any restrictions on residential consumer CPNI beyond those established by the FCC. Staff believes that the CPNI issue affects all telecommunications carriers, not just Pacific and the CLECs it does business with and is very important to consumers and competitors. Therefore, staff recommends that the Commission solicit comments in its Local Competition docket on the meaning of § 2891 in the competitive local exchange context and its relationship to relevant federal rules.

Staff believes that Pacific should be required to offer an MOA covering training independent of the full OSS Appendix, but should not be required to offer a separate form of agreement for testing and evaluation. The presence of a training MOA separate from the full OSS Appendix should facilitate CLEC access to interface training by reducing the commitments CLECs must make prior to training. In the case of testing and evaluation, staff believes that by ordering a form of agreement significantly less constraining than the OSS Appendix, the Commission would implicitly be ordering the creation of test databases for GUI interfaces so that the CLEC could test the system without access to live data. It would only be with test databases that significant portions of the Appendix could be eliminated. It is unclear which elements of the Appendix would be removed that would both make it easier for CLECs to accept and be sufficient to address Pacific's legitimate concerns about the integrity of its databases.

c) Training

In addition to the agreement that CLECs can receive interface training based on an MOA without signing a full OSS Appendix, there was additional discussion of training issues, and some agreements were reached. Those discussions addressed the quality of training, tying access to training with announcements of the availability of new interfaces, and the cost of training. Pacific agreed to host a series of meetings to discuss training issues with CLECs. An initial meeting date was not yet established when the collaborative closed.

Pacific provided information on training, as requested in the ISR. In addition, CLECs expressed concerns over how training schedules are developed and communicated to CLECs and suggested that new training requirements could be better integrated into

announcements of new interfaces. Pacific agreed that where training is required on a new interface, Pacific will issue an Accessible Letter declaring the interface to be “generally available” only after training is available to CLECs. Pacific agreed to offer hands-on training of GUI interfaces. Both Pacific and CLECs agreed that the generic OSS Appendix will be the draft presented to individual CLECs, subject to further negotiation between the individual CLEC and Pacific.

Currently Pacific only allows CLECs with signed ICAs to enter into an Appendix. Some CLECs, namely resellers that purchase services through a tariff rather than through an ICA, suggested that access to OSS should not be contingent on entering into an ICA. CLECs agreed to the new template without waiving their rights to argue that the terms and conditions of the agreement do not conform to the requirements of the Act.

Several CLECs raised issues about the cost of training. One issue identified in the ISR with respect to cost was the minimum class size which makes it prohibitively costly for small CLECs with only one or two students to participate. Pacific asserted that CLECs could arrange to share classes. In addition, CLECs raised broader questions about the cost of training. Some CLECs maintained that the cost of CLEC OSS training is already included in OANAD cost studies for UNEs so that charging for the classes separately constitutes a form of double recovery of these costs. Some CLECs questioned the overall cost of the classes.

One issue on which there was lingering disagreement in the collaborative was the cost of OSS training. Pacific’s willingness to allow more than one CLEC to share a class should reduce the minimum class size constraint faced by some small CLECs. Staff believes that Pacific should assist small CLECs in arranging shared classes. With respect to the issue of double recovery of the cost of CLEC training, staff believes that this issue has already been raised in the context of the OANAD cost studies and consequently was not identified as an issue in the staff report. Staff does not see a need to pursue the issue of training costs at this time as they do not appear to represent a barrier for competitors, and the process of analyzing training costs may represent a significant cost on its own. The ongoing training feedback meetings also represent an opportunity to improve the quality of training as they will allow trainers to receive input on how training can better meet CLECs’ needs.

d) Evaluation and Testing

The OSS Appendix establishes the parameters for CLECs to conduct a thorough evaluation and testing of OSS prior to using the system in a live production mode. In the case of the EDI interface, ORT requires the cooperation of Pacific and the CLEC. During the collaborative process Pacific stressed that it currently offers two 90-day periods during which a CLEC can evaluate and test at no cost. The initial 90-day period allows for testing and evaluation of interfaces at no charge. During the second 90-day period, the CLEC can submit live orders and receive a credit to its bill. Pacific indicated that the free

service is part of a promotional offer that could be withdrawn. CLECs argued that (1) Pacific should better publicize the offer and (2) testing and evaluation should be free on a permanent basis. Pacific agreed to issue an Accessible Letter to CLECs describing its two 90-day periods at no charge for OSS access. The letter would indicate that Pacific reserves the right to withdraw the offer with 14-days' notice.⁴ In addition to this agreement, Pacific agreed to make certain arrangements which it had negotiated with MCI available to all CLECs wishing to engage in EDI testing.

e) Recommendations

Staff finds that Pacific should:

- adopt OSS Appendix Template (Appendix D) as a basis for negotiation;
- adopt OSS Training Memorandum of Agreement (Appendix E);
- begin training feedback process;
- help small CLECs share OSS training classes;
- share results of EDI operational readiness testing with other CLECs;
- notify CLECs of its two 90-day promotional offerings for OSS access and indicate that Pacific will provide 14-days notice prior to withdrawing the offer.

These are all ongoing measures which Pacific can begin now to demonstrate compliance with the checklist. Although staff does not recommend that the Commission require Pacific to offer the two free 90-day periods for testing and evaluation on a permanent basis, the Commission should encourage Pacific to promote the use of its improved interfaces.

10. Interface Testing

a) Background

In the absence of commercial data, third-party testing is another way to determine if OSS work. The ISR stated that parties would benefit by discussing an appropriate testing methodology that Pacific could use in lieu of actual commercial usage. Staff rejected the position that only data from actual commercial usage may be used to demonstrate the fitness of various OSS interfaces. The ISR stressed the importance of Pacific and CLECs collaborating to determine an appropriate testing methodology for conducting independent tests of Pacific's OSS interfaces. Staff asserted that the testing methodology should include tests for all order types that an interface is designed to accommodate.

⁴ CLEC Agreements 1.10 OSS training Final Offer.

b) Collaborative Process

During the collaborative process consensus was not reached on the type of third-party testing that should be conducted. Pacific offered to expand the breadth and scope from previous tests to perform a test on pre-ordering, ordering and provisioning of a finite set of UNEs. According to Pacific this set of UNE combinations would represent 75-90% of anticipated UNE orders based on CLEC forecasts. The actual testing would take place in a single day, be based on 300 total orders in three central offices, i.e. 100 orders in each central office. Pacific also distributed a timeline for the proposed test. Pacific indicated it would involve the CLECs early in the test to assist with generic items, but stressed it was Pacific's test. A consultant Pacific previously used for more limited testing to support its draft application would also perform this test.

After discussing the testing plan proposed by Pacific, CLECs declined to support the proposal on the grounds that it was not sufficiently independent and too narrow. CLECs asserted that Pacific must present evidence of (1) commercial usage or (2) third-party testing to demonstrate that its OSS provide CLECs with parity access and/or a meaningful opportunity to compete. CLECs held that existing order levels do not constitute commercial usage, so Pacific must rely on a rigorous test. According to the CLECs, the testing that Pacific's consultant has engaged in to date has been extremely limited in scope and has not included testing and provisioning of actual orders. CLECs believe that testing must include all aspects of Pacific's OSS and all reasonably foreseeable order types in order to satisfy the third-party testing requirements. The CLECs further contend that Pacific's proposed new test is too narrow in testing only pre-order, order and provisioning for certain UNE loop and port combinations.

The CLECs suggested that the test currently being conducted by Bell Atlantic/Nynex (BANY) under the supervision of the New York Public Service Commission may serve as a model for California. The CLECs argue that California would not have to replicate the process which created the BANY test, but could borrow the methodology from the BANY test where possible to hasten the testing process here. The CLEC's contend that the BANY test represents the result of a compromise between a BOC, parties and regulators so that it should be viewed as the outcome of testing. The CLECs also noted that the United States Department of Justice discussed the BANY as a promising test design in its recent evaluation of Bell South's second application for interLATA entry in Louisiana.

Staff reviewed the DOJ's Louisiana evaluation for guidance concerning testing methods. While the DOJ did not set forth any specific criteria for an adequate test for Bell South in Louisiana, the DOJ did explain why it felt that Bell South's testing program compared unfavorably to the proposed BANY test. The DOJ states:

The limitations of the ... [test conducted by a consultant to Bell South] are apparent when it is compared, for example, with the ongoing review of Bell Atlantic—New York’s wholesale support processes, a review being conducted by KPMG Peat Marwick and Hewlett Packard under the supervision of the New York Public Service Commission. KPMG, as the test designer and manager, reports to NYPSC staff and operates independently from Bell Atlantic. Using numerous persons with actual experience in telephone company operations, KPMG has conducted a ground-up review of the business processes and relationships involved to determine the scope of the review, and thereafter, the tests that should be performed; it has consulted extensively with both Bell Atlantic and its competitors to ensure that the test will be complete. The recently published master plan, which will guide the testing and evaluation that is to occur later this year is quite detailed (roughly 500 pages in length), and is publicly available. This, combined with the documentation that will be made available as the evaluation progresses, is expected to provide all interested persons an opportunity to evaluate the validity and results of the test.

In part because many details regarding the implementation of the test are still being determined, we presently are not in a position to judge the adequacy of the test that will be ultimately performed. From the information that is available, however, it appears that an independent process of this type, along with the corresponding reports and related documentation is much more likely to develop and present evidence that will demonstrate the efficiency, effectiveness and adequacy of the wholesale support processes under review.⁵

Based on its positive characterization of the BANY test, the DOJ appears to consider the following attributes of OSS testing important: (1) independence of the tester; (2) expertise of the tester; (3) inclusion of BOC and competitors in determining scope of test, (4) thorough documentation; (5) publicly or widely available information concerning methodology, results and analysis.⁶ The FCC has not yet addressed BellSouth’s second application, so its view on these testing issues is unknown.

c) Recommendations

⁵ In the Matter of Second Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in Louisiana, Evaluation of the United States Department of Justice, August 19, 1998, footnote 75.

⁶ The DOJ states that the testing master plan is publicly available; however, it is unclear whether subsequent documentation will be made available to “interested persons” as a publicly available document or under some type of non-disclosure arrangement.

Staff believes that Pacific may need to test its OSS prior to filing an application with the FCC. Pacific's decision on when to make this application will determine the scope of testing. If Pacific applies soon it will need to perform more extensive testing since commercial volumes do not exist for the types of products which most competitors plan to use as a means of entry. It appears that commercial volumes currently do not exist for most of the services upon which CLEC business plans rest--loops, loop and port combinations, LNP and xDSL capable loops. If Pacific waits to apply, sufficient order volumes may develop so that performance measures based on actual orders will be meaningful for some types of orders. Staff believes that "commercial volumes" represent 50 percent of the maximum number of orders per month anticipated within the next two years according to a reasonable forecast. Staff also believes that it is important that commercial data or tests reflect the performance of systems which Pacific plans to use to accommodate CLEC orders. For example, Pacific has some data with respect to resale, unfortunately, the resale market is stagnant and those volumes accumulated at a time when Pacific's OSS systems were relatively primitive. The current number of resale customers is in place in spite of, rather than because of, Pacific's resale OSS.

Once a determination is made whether a test is necessary, Pacific will need to perform the test according to a rigorous process. The staff believes that it may be more expeditious to for Pacific to seek Commission approval in advance of performing the test. Staff believes that a hastily and unilaterally conceived and executed test may delay rather than expedite the process. If a test is undertaken without an opportunity for CLEC input on the mix and volume of order types to be tested and an opportunity to provide input on methodological concerns, Pacific will have to address those concerns after its test is complete with limited opportunity for corrective action. This process would involve lengthy discovery and sufficient opportunity for analysis. In addition, based on its analysis of the DOJ's assessment of Bell South's second Louisiana application, it seems unlikely that a unilateral test will satisfy the DOJ's independence concerns. If the Commission has an opportunity to review a well-documented test plan, secure significant input from CLECs and approve any test plan prior to the test, dispute over the result will be minimized. Staff believes that it is critical to ensure that CLEC input is sought, especially on forecasts of the volume and mix of orders they plan to generate, in order to ensure that Pacific's test is a relevant reflection of the market.

Staff believes that it is important to keep in mind that this is Pacific's application, that the burden of proof is on Pacific to demonstrate that its OSS work. It is in Pacific's interest to develop a test that is timely and robust to support its application. Staff notes that the BANY test is being funded entirely by Bell Atlantic. Bell Atlantic has had input into the design of the test, as have other parties, but it does not control the test. Staff believes (1) that a test to support Pacific's application should be funded entirely by Pacific and (2) for the test to be timely and rigorous Pacific has to ensure that it is independent.

If Pacific chooses to expedite the testing process, Pacific should:

- identify the scope of the test by

- enumerating the order types which it believes are relevant;
- delineating the subset of these orders which it believes it does not need to test has commercial volumes and three months worth of performance measures;
- submit a detailed test plan which will allow the Commission to seek comment on the scope and methodology of the test;
- include a vehicle which will allow the incorporation of CLEC forecasts of volumes and mix of orders;
- allow Commission staff to work directly with the testing contractor to ensure the independence of the test;
- once the test is complete according to the plan approved by the Commission, allow all interested parties to review raw data as well as the analysis produced by the testing vendor;
- demonstrate that the five methods that it has proposed CLECs use for combining UNEs are viable at high volumes.

B. PERFORMANCE MEASURES/INCENTIVES

1. Performance Measures

a) Background

The ISR did not recommend the evaluation of performance measures in the collaborative process, but at a PHC held before the collaborative process began, all parties agreed that the issue should be discussed. A joint presentation by Pacific and several CLECs reviewed the current status of performance measures that are under development in the OSS OII. Discussions focused on the outstanding issues that must be resolved before final performance measures can be adopted by the Commission. All parties involved in the OSS OII who were at the collaborative workshops strongly supported allowing participants in the OSS OII to complete work on the measures. Most parties supported using measures developed in the OSS OII as the basis for determining Pacific's compliance with Section 271 requirements. Pacific is willing to use the measures adopted in the OSS OII if that coincides with its next 271 submission. If the submission is made prior to final measures being adopted, Pacific indicated it would use the measures in its original draft Section 271 filing, supplemented with four new measures that address collocation and opening of new NXX codes in its switches.

Staff agrees that it is best to resolve outstanding issues with performance measures in the OSS OII. Further, staff recommends that the measures adopted in the OSS OII be used, along with other data, to determine Pacific's compliance with Section 271. Staff believes that Pacific should have three months of data that is recorded using the adopted performance measures.

b) Outstanding Issues

In the collaborative meeting, parties identified five major areas that are still unresolved:

1. Parties agreed upon measurement formulas, but still have disputes about appropriate levels of disaggregation (i.e., by service, by order type, etc.)
2. For each of the measures adopted, it will be necessary to compare the measure either to a equivalent retail process or to a benchmark. Those comparisons will determine if Pacific is providing non-discriminatory access.
3. To determine non-compliance parties agreed that a statistical test was necessary to compare retail and wholesale measurements. At the time of the collaborative meetings, parties had yet to agree upon an appropriate test.

4. CLECs want to discuss further both report format and reporting frequency. CLECs were very concerned that Pacific was unwilling to share data on its affiliates. Pacific did offer to share the affiliate data with Commission staff.
5. Although both Pacific and CLECs conceptually agree that there may be a need for independent audits, parties have not sufficiently considered this issue to determine if their positions differ.

While the breadth of outstanding issues appears considerable, parties felt that many of the issues could be resolved through further cooperative meetings and/or workshops in the OSS OII. For those issues that cannot be resolved, parties indicated that they should be resolved in the Staff Report that is scheduled in the OSS OII. Staff supports this recommendation and believes that the issue can be most expeditiously resolved in the OSS OII.

c) Use of Interim Measures

At the collaborative meetings, parties were unable to agree on what interim performance measures Pacific should use if it makes its Section 271 compliance filing prior to the time the Commission adopts final measures in the OSS OII and Pacific implement those measures. During the session Pacific indicated that it could implement almost all of the measures, but the level of disaggregation agreed to by parties would take more time. For some measures, Pacific indicated that fully implementing the measures could take several more months. CLECs believe that Pacific must determine which measures are necessary for them to prove their case in the draft application. At the same time, the CLECs strongly believe that the measures that are being developed in the OSS OII will represent what they consider to be a complete measurement system and should be comprehensive enough for use in evaluating Section 271 compliance. As indicated above, Pacific intends to use the measures proposed in its draft Section 271 Application with modifications if it makes its compliance filing prior to the Commission adopting measures in the OSS OII or if Pacific has not fully implemented the adopted measures.

Based on its participation in the OSS OII, staff recommends that when Pacific makes its compliance filing, Pacific use the measures adopted in the OSS OII. The cooperative nature of that proceeding ensures that all parties' interests are represented in the measures. Staff recognizes that measures developed in that environment will balance the twin goals of measuring all the different forms of potential discrimination and developing measures that will indicate either meaningful levels of discrimination or correct causality. If Pacific files prior to final measures being implemented, staff recommends that Pacific supplement the measures contained in its draft Section 271 Application because staff has significant concerns about the lack of disaggregation in Pacific's original proposal.

In its compliance filing, Pacific should include three months of data, regardless of the system of measurements used. Based on staff's analysis of OSS issues and Checklist items, staff has seen many examples of it taking several months for system or process

changes to have a meaningful impact on objective measures and subjective experiences. Three months seems to be a reasonable balance between obtaining sufficient data to determine the effect of a corrective action and minimizing delay in allowing Pacific to refile.

2. Incentives

a) Background

In the *Initial Staff Report*, staff indicated that the *Final Staff Report* would “enumerate compliance solutions, implementation goals, and potential sanctions in the event of non-compliance.” (P.2) Staff agrees with competitors’ concern that Pacific’s incentive to offer non-discriminatory access consistent with Section 271 will be significantly different after it receives authority to offer long distance service. The potential sanctions mentioned in the report have also been the subject of discussion in the OSS OII. In that proceeding parties made initial proposals for incentive mechanisms that would impose financial disincentives on Pacific based on results of performance measures adopted in the OSS OII. In the collaborative sessions, parties presented several proposals and determined that parties and staff would benefit from further discussions.

b) Proposals

Proposals for incentive/compliance mechanisms were put forth by ATT, MCI and WorldCom jointly, ICG, and Pacific. The proposals have some elements in common including a graduated penalty system based on the severity of non-compliance. Non-compliance is based on performance measures, and penalties are designed either to compensate CLECs and, in some cases, to be a sanction against Pacific. One significant difference concerned when penalties would be imposed. Pacific supported imposing penalties after an investigation into the root cause of non-compliance. CLECs supported the automatic imposition of penalties. Another difference was whether credits were to be given for above average performance. Pacific supported this plan. CLECs were divided, some argued that credits should not be permitted, because Pacific must comply with all parts of Section 271. Other CLECs agreed with the concept of credits. Finally, parties did not agree on the magnitude of penalties, in particular penalties for instances where Pacific missed multiple key performance measurements. Parties all agreed that their proposals needed further development before the Commission should consider adoption.

c) Additional Meetings

In the collaborative meetings, parties agreed to have three additional meetings to facilitate the parties making a filing in this proceeding about incentives. The filing will provide in a matrix format the major differences in the proposals and potential options for the Commission to resolve those differences. It will also afford parties the opportunity to be heard on key policy issues related to incentive mechanisms. The parties have committed to file with the Commission on October 5, 1998.

d) Recommendations

Staff recommends that parties to make a supplemental filing in this proceeding to address performance incentive mechanisms. Parties have been encouraged to prepare a filing that will highlight any differences between various proposals and limit the number of different proposals. After the Commission has analyzed this filing, and if sufficient detail is presented, the Commission may choose to adopt a framework for an incentive mechanism and a penalty structure. Staff believes that further work on the details of an incentive mechanism would best be accomplished in a collaborative process, once the Commission has adopted a framework and penalty structure. If sufficient information is not provided, staff recommends that the Commission refer the issue back to the OSS OIL.

Staff agrees with many of the parties' comments that an incentive compliance mechanism should be adopted prior to any approval of Pacific's draft Section 271 Application. Staff believes parties are correct in their assertion that Pacific has a greater incentive to comply with Section 271 requirements prior to receiving approval than after its approval. The Act has no clear mechanism that either the FCC or state commissions could use to ensure ongoing compliance with Section 271. For this reason alone, staff strongly believes the Commission should adopt a compliance mechanism prior to approving Pacific's draft Section 271 Application.

C. COLLOCATION

1. Initial Staff Report Summary

The following issues were slated for discussion in the collaborative process:

- A policy needs to be established for reservation of space in central offices.
- Pacific's rules for implementation of physical and virtual collocation are unclear and have undergone unilateral changes in recent months. The process should be clarified and made nondiscriminatory in all aspects.
- A process needs to be developed for Pacific to prove and the Commission to evaluate that space is not available for physical collocation in a particular central office.
- Pacific must prove that collocation is being used to combine UNEs for the commercial offering of service. Pacific must prove that competitors are able to use the platform to provide service.
- Pacific must also prove that competitors are able to use all methods it proposes to access and combine UNEs ordered from Pacific, since only physical collocation has been implemented to date.
- A nondiscriminatory policy should be adopted for the collocation of RSMs.
- Timetables must be set for implementation of physical and virtual collocation.

The ability to collocate in Pacific's COs is critical for CLECs which need to purchase unbundled loops or combine unbundled elements. At the present time, physical collocation is at a premium in many of Pacific's key COs, and lack of a 10' x 10' collocation cage in a particular CO can seriously disrupt a CLEC's business plans. Any policies which relate to collocation in general, especially those relating to reservation of space and a process for the Commission to determine that no space is available are of critical interest to CLECs.

In the following sections, staff addresses the process for obtaining physical and virtual collocation and the types of collocation available to CLECs in Pacific's territory. The FSR also addresses reservation of capacity, and collocation of Remote Switching Modules (RSMs). The process for ordering and provisioning UNEs combinations in a collocation setting is addressed in this section, as well as in the UNE and OSS sections.

2. Process for virtual and physical collocation.

The process for requesting and implementing physical or virtual collocation is extremely detailed, hence the need for a two-inch thick Collocation Handbook to describe the process. Following are a number of key areas discussed during the course of the

workshop and which staff determined warranted resolution to facilitate the collocation process.

3. Collocation Handbook/ Accessible Letters

Some of the lack of clarity in Pacific's rules can be attributed to poor communication between Pacific and collocators, and to a lack of written rules. Pacific agreed to provide changes in collocation processes and practices via Accessible Letters and will also post its Interconnector's Collocation Service Handbook on its web site.

The Handbook, which was distributed to staff and CLECs at the collaborative workshop, may have been available earlier, but since a number of pages are dated July 1, 1998, it appears that many portions of the Handbook were either recently revised or were recently developed. Some parties found the Handbook Pacific issued in late May/early June 1998 to be poorly organized and fragmented. Staff is not aware if the July 1, 1998, version of the Handbook corrected some of the problems found by CLECs. If CLECs find the current version of the Handbook to be poorly organized or unclear, they should notify Pacific. Pacific should work with CLECs to clarify the Handbook and ensure that it is a useful reference tool for collocators. The Handbook should include all steps for all types of collocation offered by Pacific, with the timelines and processes set out in logical sequential sections.

In order to clarify the process and alert collocators to changes in the Handbook, staff believes Pacific should institute a revision system, a simplified version of that used for its tariffs, so that collocators can see when a particular page was changed, with lines in the margin to show which section was changed. In addition, Pacific should issue Accessible Letters for all changes in its collocation rules, and send those Accessible Letters to all collocators. This should improve communications and eliminate some of the misunderstandings that have arisen in the past over how Pacific administers its collocation process.

Any competing carrier which finds any of the future changes Pacific makes to its collocation rules to be discriminatory may file under the Expedited Dispute Resolution process discussed elsewhere in this Report, asking the Commission to review Pacific's proposed change.

4. Types of Collocation

Pacific offers physical and virtual collocation alternatives, and recently began to offer common area collocation. In common area collocation, two or more CLECs share a caged area. Because collocation is needed for interconnection and access to UNEs, and because space is at such a premium, parties to the collaborative process looked for creative solutions which would increase the number of collocators in offices with

inadequate space. Some other alternatives suggested included: cageless, adjacent on-site, and adjacent off-site collocation. In the course of the collaborative workshop, parties agreed that Pacific should terminate the CLECs' copper or fiber entrance facilities from adjacent CLEC locations for the purpose of interconnection or access to UNEs. Pacific is to develop the methods and procedures to implement this process. Pacific did not agree to offer adjacent collocation with facilities on Pacific's premises (e.g., vault in parking lot). Also, for security reasons, Pacific is opposed to cageless collocation. Since no detailed record was developed about security issues associated with cageless collocation and possible mitigating measures, staff will not recommend that cageless collocation be authorized at the present time. However, staff recommends that this form of collocation be explored by the Commission in its local competition proceeding.

In addition to cageless collocation, CLECs proposed that they be allowed to sublease some of the unused space in their cages to other carriers. In the course of the workshop, parties agreed that Pacific should allow collocation space sub-leasing. The cage must accommodate additional POT bays or POT bays must be shared by the carriers, but the space requirements for additional POT bays are less than the space required to construct an entire collocation cage. Pacific is currently developing M&P to provide such sub-leasing, including processes to terminate unbundled elements. In a sub-leasing arrangement, the sublease will be between the two carriers involved; Pacific will not be a party to the agreement. However, Pacific must be notified of the sublease, and the sub-leasing carrier will order UNEs directly from Pacific. Since collocation space is a limited resource, carriers should not extort excessive rents. Carriers which agree to sublease their collocation space should not charge subleasing carriers more than their prorated share of the space. Pacific shall be indemnified and held harmless if the subleased space turns out to be inadequate for the purposes intended by that carrier wishing to use the space.

5. Collocation of Pacific's Affiliates

Parties expressed concern that Pacific's affiliates would be afforded preferential treatment in obtaining CO space. Pacific responded that the process for affiliates to gain space is similar to the process used by CLECs, although affiliates have a different form to complete and must go through the process of gaining CPUC approval, pursuant to Public Utilities Code ' 851. The timeline for affiliates to gain space is 135 days or longer, compared to 120 days for a CLEC to gain access. Pacific also stated that it does not reserve space for affiliates.

According to Pacific, affiliates are allowed greater access to Pacific's facilities than a CLEC because affiliate employees have been background-checked and trained by Pacific, and the company can discipline affiliate employees. Affiliates do not always have an enclosure and are sometimes given space not suitable for CLECs (e.g., areas with no nearby entrance or areas where affiliate employees have to walk through Pacific's area to get to their equipment).

Pacific agreed to provide a comparison of provisioning intervals for its affiliates and CLECs in the aggregate for the period May-June 1998. CLECs asked to have the data back to January 1998. Pacific provided a comparison after the conclusion of the workshop for April 1998, the only month in 1998 for which Pacific received CO space requests for affiliates. The average time from the receipt of the request to the turnover of the space was 93 days for affiliates. During that same month Pacific received 60 requests from CLECs for CO space. Thirty-five of those collocation requests were completed within the 120 days in Pacific's tariff. Twelve took longer than 120 days to complete, and the rest were still in progress; however, in some cases due dates were changed at the CLEC's request.

Pacific reported on how it handles CO space when a Pacific affiliate exits business (e.g., video services). When affiliates no longer need CO space, the space is turned back to Pacific and is available for use by all parties requesting collocation.

Parties also expressed concern that they were being denied physical collocation cages in offices where Pacific is deploying its own ADSL service, and staff shares those concerns. If there is no space for a CLEC in a particular CO, no space should be used for Pacific's own ADSL service. As part of any process developed for the Commission to determine whether space is available in particular COs, Pacific should provide information on space used in that office for provisioning its own ADSL service. That information shall be provided to staff and the space allocation marked on the floor plans provided.

While Pacific is offering ADSL service itself, and not through an affiliate, staff is concerned that Pacific's favoring of its own ADSL service could be at the expense of CLECs who want to provide xDSL service.

Pacific has an advantage in offering its own service, it does not need a 10' x 10' collocation cage to house the equipment necessary to provide ADSL service. Therefore, there could be room in a particular CO for Pacific to offer ADSL service while there may not be room for its competitors who must be located in collocation cages. Pacific needs to demonstrate in any walkthrough of an exhausted CO, the location of its own equipment used to provision ADSL service. If a CO is declared exhausted with no space for CLECs, then Pacific should not be able to deploy its own ADSL service out of that office.

Pacific has an obligation to ensure that competitors have an opportunity to compete for the ADSL market. Staff recommends that Pacific review its policy of not providing cageless collocation, since that form of collocation requires much less space than caged collocation. Other ILECs, including US West, have agreed to provide cageless collocation, and in its 706 NPRM, the FCC assumes that cageless collocation is available to CLECs, and asks parties to address security measures such as an indemnity bond, that need to be in place. Staff believes that, with proper security measures, cageless collocation provides a viable method of expanding the amount of space available to CLECs.

In addition, if Pacific does not have space for collocators in a particular CO, Pacific should not be permitted to provide space in that CO for any of its affiliates. Affiliates are advantaged in that they do not have to operate out of cages and can use less space, and space that is not secure. Pacific needs to develop creative solutions to ensure that CLEC competitors have the same opportunity to use space in its COs as do Pacific's affiliates and Pacific itself.

6. Cage-to-Cage Collocation

Pacific described the two methods of cage-to-cage collocation: those involving a single CLEC and those involving two different CLECs. In the case of cage-to-cage involving only one CLEC, Pacific's Collocation Point of Contact (CPOC) arranges to have the cages cabled together. The FCC addressed the issue of cage-to-cage between two CLECs in its *Local Competition Order*, Section 51.323(h). That section requires the ILEC to provide connection between the equipment in the collocation space of two or more collocating carriers, unless the ILEC permits the collocating parties to provide this connection for themselves. Pacific currently offers DS1 and DS3 and is negotiating with one carrier on DS0 interconnection. Pacific requires CLECs to negotiate the provision for cage-to-cage connections in their ICAs. Since amendments to ICAs can be problematic, Pacific should develop a template which is readily available to CLECs upon request. However, if CLECs have difficulty negotiating the amendments to their ICAs, they would have recourse to the EDR process described elsewhere in this report.

While CLECs would prefer to have the option to provide the connection themselves, staff does not recommend expanding the provisions of ' 51.323. Staff believes that Pacific should complete such cage-to-cage connections within 30 days of a request.

7. Cage Utilization Requirements

There are two aspects to cage utilization: (1) the percent utilization that is required before additional cross connect capacity, cabling and power will be provided to a collocation space, and (2) under-utilization by carriers. Pacific set an 80 percent utilization rate before accepting augmentation requests. During the course of the workshop, parties discussed dropping the utilization cutoff to 60%, and Pacific agreed to review its policy. The issue was still open at the conclusion of the workshop.

The CLEC is in the best position to know its own business plan and must be able to accommodate future customer growth. The CLEC must have the necessary capacity in place at the time that it wins a customer. Therefore, staff recommends that Pacific accept CLECs' requests for augmentation in collocation space when CLECs reach a 60 percent utilization rate.

Staff is also concerned about potential under-utilization of collocation spaces. Staff does not intend to recommend a minimum level of utilization for a CLEC to retain its collocation space. However, the FCC authorized ILECs to “impose reasonable restrictions on the warehousing of unused space by collocating telecommunications carriers...”⁷ If a CLEC accepts a collocation space and has all the cabling in place to make that collocation space operational, and does not use that space within six months from the time it becomes operational, staff recommends that Pacific should expediently reclaim that space, if that particular office is exhausted and other potential collocators would be denied space. Collocation space is at a premium and should not be stockpiled by carriers who are not using the collocation space to provide telecommunications services.

8. Bonafide Request (BFR) Process for Requesting Collocation

Pacific utilizes its BFR (or INER)⁸ process for carriers to request collocation in COs which are not in its tariff. Pacific agrees that the carrier which submits the BFR should be first in line for any collocation space found in the office, although a requestor does have a ten-day deadline to respond to Pacific’s notice of space availability in order to reserve its space in the queue.

Parties did not agree on the payment process for ensuring a carrier’s possession of a collocation cage, and which would trigger construction of the cage. Pacific said that under its tariff, carriers have 30 days to remit payment. The advance payment, as specified in Pacific’s tariff, is 50 percent of the construction costs. Some smaller carriers wanted a shorter time period in order to hasten the start of construction, while larger carriers have difficulty cutting checks in 30 days. If the carrier first in line for available for collocation space is delayed in cutting a check, the start of construction could be delayed for all other CLECs on the waiting list to get into that particular CO. MCI suggested that the CLECs be allowed to post a revolving bond to cover the 50% down payment. The bond would only be cashed if the CLEC did not pay the 50 percent within 30 days of the start of construction. Otherwise the bond would remain as a surety.

Staff’s goal is to take all steps necessary to expedite and streamline the collocation process. Pacific is not harmed by the posting of a security bond, in lieu of cash. Therefore, staff recommends that, as an alternative to the 50 percent construction down payment, CLECs be allowed to provide a revolving bond in the amount of the down payment. The bond would be cashed by Pacific if the CLEC does not submit the required 50 percent down payment within 30 days of the commencement of construction. Pacific should notify any carrier providing a bond of the specific date when construction commences in a particular CO.

Replacement of the check with a bond does not address the problem smaller carriers raised that allowing 30 days to make payment could delay the construction process for other

⁷ FCC, Local Competition Order, ' 51.323(f)(6).

⁸ The timeline for the BFR/INER process is discussed elsewhere in this report.

carriers wishing to collocate in the CO. This delay could be by as much as a month, if the carrier first in line is delayed in providing its payment. Staff suggests that large and small CLECs meet to discuss an acceptable timeframe for carriers to provide Pacific with either a check or a surety bond. CLECs should send a letter to Pacific requesting that the time be shortened; a copy of that letter should be sent to the Director, Telecommunications Division. Pacific should change its policy to reflect the shortened time period recommended by CLECs.

During the workshop parties discussed whether Pacific should proceed with collocation while an Advice Letter tariffing the CO is pending at the Commission. Staff would like to encourage Pacific to take all steps to expedite the process. While construction work could not start until the Advice Letter is effective, Pacific could receive and process applications to be ready to start construction as soon as the Advice Letter is approved.

The bond requirement described above would apply to any collocation arrangement requested by CLECs, including those for tariffed offices.

9. Reservation of Contiguous Cages

CLECs would like to be able to reserve adjacent blocks of space so that if a CLEC needs an additional cage area, the contiguous space would be available. A carrier requesting collocation space should be able to notify Pacific that it anticipates significant growth which would require expansion into a second cage. To the extent possible, Pacific should not fill cages consecutively but fill in cages in a manner that would allow for contiguous growth. However, if other carriers want to collocate in that CO and the reserved space is needed, that cage will be granted to the carrier filing an application. Pacific should notify the carrier which requested reservation of contiguous space that the contiguous space is no longer available.

While staff recognizes that having contiguous cages would be of benefit to CLECs, any policy of reserving those spaces should not have the effect of keeping other carriers from collocating in that CO. In those offices where space is not at a premium, it should be easier for Pacific to meet CLECs' requests for contiguous space.

a) Timetable for implementation of physical and virtual collocation.

While parties commented on this issue, the implementation timeline was not discussed in the course of the collaborative workshop. Pacific's homework referred to the terms and conditions in its 175-T tariff and its interconnection agreements, which include a standard provisioning interval of 120 days. Some carriers proposed that the interval be shortened to 60 or 90 days.

Despite the increased demand for collocation spaces, staff believes that the relatively brief record of this proceeding does not justify changing the 120-day provisioning timeframe in

Pacific's tariff. After reviewing the outcome of the 60 collocation requests Pacific received from CLECs in April 1998, it appears that the current collocation workload precludes instituting a shorter time frame. However, staff recommends that the issue be addressed by the Commission outside the 271 docket.

While staff finds the record to examine the time interval for implementing collocation to be inadequate, staff feels that Pacific should be held to its 120-day tariffed interval. The provisioning interval serves as one of the performance measures proposed in this docket, which measures Pacific's timeliness in turning over collocation cages.

10. Collocation of Frame Equipment

Parties to the workshop agreed that Pacific should provide frame equipment and repeaters necessary to extend UNEs into the CLEC's collocation cage under Method 1 of Pacific's "Five Methods of Access to UNEs" to enable the CLEC to combine the UNEs.

11. Floor Plan Content

CLECs expressed concern that the CLEC or third party engineer (the engineer who visits COs reported as exhausted by Pacific to determine whether space is indeed exhausted) be able to examine the entire building where the CO is housed, not just the space on floor plans, which is limited to what Pacific has determined is useable for CO equipment. Also, CLECs would like the floor plans to indicate equipment that is going to be removed, or is not in use.

Pacific responded that its floor plans reflect what is occupying the space, i.e., they identify Pacific's equipment, administrative space, affiliate space, switch footprints, and collocator space. The floor plans do not include square footage nor do they identify whether Pacific's equipment is in-use, idle or obsolete. Also, Pacific states that the floor plans show only CO eligible space in a particular building.

Staff does not recommend making changes to Pacific's floor plans. Additional information can be obtained during a walkthrough of the CO, whether conducted by a CLEC engineer or third-party engineer.

12. Staff Recommendations for Collocation Process Issues

- Pacific should place its Interconnector's Collocation Service Handbook (Handbook) on its web site and apprise all CLECs of that website address.
- Pacific should institute a revision system that shows, on each page, the date of the latest change and a line in the margin beside the section that was changed.

- Pacific should keep the Handbook on the website up to date. The website should include a summary of all Handbook changes made over the preceding six months.
- Pacific should solicit input from CLECs on how to clarify and better organize its Collocation Handbook.
- Pacific should send Accessible Letters to all collocators to alert them of changes in the collocation process.
- Pacific should provide alternatives to its current physical collocation offerings: common area collocation and cages with less than 100 square feet for those offices where less than 100 square feet is available.
- Pacific should allow CLECs to sublease collocation space to other carriers, and Pacific will deal directly with sub-leasing carriers for ordering UNEs.
- Pacific should make every effort to assist carriers who wish to interconnect at adjacent locations.
- Pacific should examine the possibility of implementing cageless collocation in its COs.
- Pacific should not deploy ADSL technology out of any exhausted CO in which competitors are not able to collocate to offer their own xDSL service.
- Pacific should, within 30 days of a request, provide cage-to-cage connections between collocation cages leased by two or more CLECs.
- Pacific should allow CLECs to augment their collocation space when they reach a 60 percent utilization rate.
- Pacific should allow carriers the option of submitting a bond to cover the 50 percent advance payment, in lieu of a check. Pacific would cash the bond if the CLEC did not submit the required 50 percent down payment within 30 days of the commencement of construction. Pacific should file an Advice Letter to make this change to its collocation tariff.
- Pacific should accept applications and payment in advance of its Advice Letter becoming effective. However, no construction work should commence until the Advice Letter is approved.
- Pacific should complete physical collocation installations within the 120-day provisioning timeframe established in its 175-T tariff.

13. Process for Denial of Physical Collocation Space

a) Background and Collaborative Process Summary

Per Section 251(c)(6) of TA96, an ILEC may not deny a request for physical collocation until the carrier demonstrates to the state commission that physical collocation is not practical for technical reasons or because of space limitations. The process that should be followed for determining a lack of space was discussed at length during the collaborative process, and Pacific agreed to institute several process changes, including the following:

- Pacific will change its policy to place CLECs on the waiting list for an office according to the date the CLEC submitted its application as opposed to the date the request was denied.
- Pacific committed to put time frames to the proposed “Third-Party Walk Through” process which incorporates some CLEC suggestions. Pacific will file floor plans with the CPUC when a central office is exhausted. CLECs may review these floor plans at Pacific’s Legal Department closest to the requesting CLEC (San Diego, LA or San Francisco).
- Pacific agreed to provide a comparison of provisioning intervals for its affiliates and CLECs in the aggregate for the period May-June 1998.
- Pacific will post the current list of exhausted COs on its website by September 17, 1998. Pacific will post updates on the website to the list of exhausted offices within 15 business days after Pacific has verified that space is exhausted.

Participants in the workshop did not agree on how the determination should be made that space is not available. One major area of difference arose over who should be able to examine the exhausted office: Pacific was opposed to having CLECs have access to their COs, and instead proposed that a third-party engineer be hired (at the CLEC’s expense) to perform the walk through. Commission staff would be able to accompany the third-party engineer on the walk through. CLECs wanted to have their own engineers walk through to survey the space in the CO, and were opposed to paying for a third-party engineer.

To date the Commission has not adopted a process for making a determination that physical collocation space is not available in a particular CO. However, on February 23, 1998, a group of facilities-based carriers filed a motion asking the Commission to establish a procedure for acting on an ILEC’s denial of physical collocation.⁹ It is important that a process be put in place as soon as possible so that the Commission can comply with its

⁹ Motion to Establish Collocation Procedures, R. 95-04-043/I.95-04-044, February 23, 1998, filed by Teleport Communications Group, NorthPoint Communications, Inc., Nextlink California LLC, and ICG Telecom Group, Inc.

responsibilities under Section 251 (c)(6). It appears that the Local Competition docket will be able to address this issue in a more expeditious manner than if the issue were addressed as part of this 271 proceeding. Parties filed comments to the February 1998 Motion, and the issue is currently ripe for resolution by the Commission. It is preferable to address the issue in the Commission's generic Local Competition proceeding, because then the rules developed will apply to other ILECs which offer physical collocation, while any rules adopted in the instant 271 proceeding would apply only to Pacific. For that reason, staff will not make a specific recommendation on the process the Commission should follow to determine whether or not space is available in a particular CO, and will instead defer to the outcome in the Local Competition proceeding.

Staff recommendation:

- Pacific should post on its web site any CO which Pacific has determined has no space available for physical collocation.

14. Collocation of Remote Switching Modules (RSMs)

Pacific had previously refused to allow CLECs to collocate Remote Switching Modules (RSMs), but in June 1998 reversed its prior policy and allowed CLECs to collocate RSMs. However, Pacific's ICA amendments which allowed the collocation of RSMs restricted their use to access to UNEs. RSMs were not to be used to perform switching "other than between lines served directly by the RSM, and between the RSM and its host switch located on non-Pacific premises."¹⁰

In §581 of its *Local Competition Order*, the FCC did not impose a requirement that switching equipment be collocated, since it did not appear to the FCC that such equipment was used for interconnection or access to UNEs. The FCC stated that where the functionality of a particular piece of equipment is in dispute, state commissions will determine whether the equipment at issue was actually used for interconnection or access to UNEs. The FCC reserved the right to revisit the issue, and is currently doing so in an NPRM released in August 1998.¹¹ However, ' 251(c)(6) requires ILECs to allow collocation of "equipment necessary for interconnection or access to unbundled network elements."

¹⁰ Pacific Bell Advice Letter No. 19494, June 18, 1998, Amendment No. 6 to the Local Interconnection Agreement with Brooks Fiber Properties.

¹¹ FCC, Memorandum Opinion and Order, and Notice of Proposed Rulemaking, Docket No. 98-188, released August 7, 1998.

15. Pacific Action Items to Satisfy Checklist Requirements

- Pacific should continue to allow CLECs to collocate RSMs for purposes of accessing UNEs. Pacific may ban the use of RSMs for performing switching functions.

D. INTERCONNECTION NETWORK ELEMENT REQUEST PROCESS

1. Introduction

The Interconnection Network Element Request or “INER” is Pacific’s procedure to address CLECs’ requests for new elements and services which are not provided for in their ICAs. INER is known in some ICAs as the “bona fide request” (BFR) process. The terms are used interchangeably. The INER process is designed to determine technical feasibility and associated costs of the CLECs’ requests. The INER is designed to be returned to the CLEC with the appropriate information in a defined period of time and in a uniform format. If an INER is approved, the CLEC’s ICA is amended to reflect a new service or element including pricing.

The INER process as described has not been functioning efficiently. CLECs do not have a clear and consistent understanding of its application, use, processes, inputs or outputs. The process has not produced timely results or consistent forms of notification to CLECs and has served as a barrier to effective entry to the local market. Further, CLECs have no recourse when an INER is denied except for the costly and time consuming alternate dispute resolution process of commercial arbitration or formal complaints before the Commission, depending upon their ICA.

The INER process has rarely, if ever, been successful in the adoption of a new service or element into an ICA. Also, staff is not convinced that the INER process should have to be used if an equivalent functionality exists in either Pacific’s retail or wholesale operations. Staff suggests that a functioning INER process is integral to the timely introduction of new competitive services in the local market. The process improvements for the INER, which are proposed in this section, would mitigate its effect as a barrier to entry for CLECs.

2. Initial Staff Report Summary

The following issues were included in the ISR under two separate checklist items, Interconnection and Unbundled Loops:

- Develop expeditious and nondiscriminatory process for determining which services or elements are required to be provided under the Act but are not covered by a particular ICA.
- Develop requirements for clear and consistent INER process and determine how CLECs can effectively use the INER process.

- Develop a process for CLECs to obtain technical specifications for unbundled loops, including an effective use of the INER process to request particular types of unbundled loops.

CLECs asserted that the INER process was not accomplishing the objective of a process designed for CLECs to have access to elements and services not covered under their ICAs. Pacific countered that ICAs must be amended to add new services and elements, and INER is the appropriate vehicle to accomplish this result.

3. Collaborative Process Summary

Issues raised in the ISR were discussed in detail in the collaborative process and an understanding emerged that INER was the catch-all process for CLECs to request unbundled elements and interconnection services that were not provided for in their ICAs. The collaborative process was instructive in showing that there was no clear understanding of the use of INER, and that there was inconsistent application of the INER process by Pacific. CLECs were especially frustrated by the format of the response to their INER requests. Pacific did not always respond to INERs in writing, did not always answer the question of technical feasibility, and generally did not provide any support for its conclusions. All CLECs agreed that the process as offered did not provide an effective means of securing desired network elements, was not timely, and that Pacific could manipulate the process to its own advantage.

a) Problems with the Existing INER Process

CLECs cited the following problems based upon their experiences with the INER process. The specific problems highlight the need for a well defined and consistent INER process.

- Pacific has made unilateral decisions as to whether the requested element or service is: required under the Act, technically feasible or could be provided via an alternative or existing service.
- Pacific has referred CLECs to the INER process for elements that CLECs believed were already in their ICA. CLECs assert that specifications for elements and services such as ISDN have not been provided in their ICAs forcing the use of the INER to request that service.
- CLECs are not provided with written responses within 10 days of submitting requests alerting them that Pacific is processing their INER.
- Cost support was not provided in a timely manner or in sufficient detail to allow CLECs to negotiate with Pacific.
- Pacific inappropriately told one CLEC to use the INER process to request resale services.

b) Parties' Proposals for INER Process

In response to CLECs concerns, Pacific modified the INER process by clarifying: the internal process flows, the roles and participation of the involved internal organizations and the timeframes associated with the internal processes. However, Pacific maintains its position that each CLEC must use the INER process to request elements and services that are not in its ICA, even if that element or service has been obtained by another CLEC through the INER process. With these policies in place, Pacific proposed the following:

- Pacific will create a standardized form for INER responses.
- Pacific will provide a “no” response in a shortened interval (15-20) days. For “no” responses, Pacific will provide a reason for the response, e.g., not required by law, not technically feasible, or will refer the CLEC to another process.
- Pacific will provide a “yes” response within 30 days and will include high level cost categories (labor, equipment, etc.).
- In situations where a CLEC disputes Pacific’s quoted charge for an INER, Pacific will provision the INER pending resolution of the dispute, if the CLEC pays Pacific the disputed charge. There will be a subsequent true-up if the charge changes as a result of arbitration or Commission action.

CLECs however, support a three track request process that allows the use of INER, but only in situations where the element or functionality requested does not exist in Pacific’s network. The three tracks were labeled as Track 0, A and B.

- Track 0 would not require an INER because the element or functionality already exists. Pacific would produce a list of generally available elements and services that could be adopted in an off-the-shelf ICA appendix.
- Track A requires an expedited INER where elements or functionalities exist in the Pacific network but there is 30 - 60 day response time for the INER for provision of information on ordering and provisioning.
- Track B requires the standard INER for elements and functionalities that are not in Pacific’s network with a 30 day response time for determination of technical feasibility and support for that determination. Track B would also allow Pacific to recommend alternatives to the requested element and require that Pacific make available that alternative.

No agreements were reached in the collaborative process on the format and use of the INER process. The issue of elements and services that exist in Pacific’s network being obtained through an expedited INER process was particularly contentious.

4. Discussion and Staff Recommendations

Staff recommends that Pacific develop a list of generally available elements and services for incorporation into generic appendices that CLECs can have incorporated into their ICAs. While there is room for negotiation, the generic appendix should minimize the amount of negotiation which is necessary. Also, this would obviate the necessity of INER for those defined elements and services. If this process is adopted, INER would be used only in cases where elements and services have not previously been defined. The modified process would become more “routine” and not a stumbling block or barrier to the efficient introduction of competitive offerings. If an element or service does not exist in Pacific’s network, the INER process should be used, subject to the following rules:

- That standardized forms be created and utilized for INER requests from CLECs and for responses from Pacific.
- Pacific provide a “no” response in 15 days. For “no” responses, Pacific will provide a reason for the response, e.g., not required by law, not technically feasible, or will refer the CLEC to an alternative to the UNE desired with the proviso that Pacific is able to provide that alternative.
- Pacific provide a “yes” response within 30 days and will include high level cost categories (labor, equipment, etc.) for provision. If wholesale construction is necessary cost support should be supplied in an additional 24 days. Either cost support information provided by Pacific should be in sufficient detail to allow the CLEC to negotiate for provision of the UNE.
- If disputes arise in the INER process, the recourse for parties will be either the dispute resolution process at the Commission, as described elsewhere in this report, or commercial arbitration if applicable to the individual CLEC’s ICA. Proof of good faith efforts to resolve disputes should be a necessary requisite before moving disputes to the Commission or commercial arbitration.

Staff suggests the above INER process be published in an Accessible Letter and the CLEC Handbook with the exact processes, timelines, escalation procedures and response detail parameters.

5. Summary of Recommendations for the INER Process

There must be an efficient process in place for requesting, defining, ordering and billing elements and services that CLECs need to compete in the local market. Staff recommends that the INER process be streamlined and that it only be relied on when elements and services do not exist in Pacific’s network. Staff suggests:

- That the INER process be streamlined through standardization of forms, timelines and notification procedures.

- Communications and responses between parties should provide detailed information on decision rationale and support.
- Pacific should develop a generic appendix of generally available elements and services, which would obviate the use of INER for those elements and services.
- Pacific should require use of the INER process only in cases where elements and services have not been previously defined.

E. EXPEDITED DISPUTE RESOLUTION

1. Introduction

The ISR did not include a discussion or recommendations on alternative dispute resolution processes (processes outside of the those defined in ICAs). However, certain issues presented in the ISR, including the INER process, prompted discussion of alternative dispute resolution processes in the collaborative process. Both Pacific and the competitors realize that unique disputes will arise as the local market develops. These disputes often arise as competitors develop their entrance strategies and determine how they will deploy service. To resolve disputes in a manner that does not impede development of competition, staff asserts that parties need a dispute resolution process that is administratively efficient and expeditious.

As with the INER process, disputes have not been handled expeditiously. There has not been a clear and consistent understanding and use of the designated dispute resolution processes available to CLECs in their ICAs. Staff suggests that a functioning alternative dispute resolution mechanisms will facilitate opening of the local market.

2. Collaborative Process Summary

In the collaborative process one major issue that surfaced was that the dispute resolution processes in place in individual ICAs were slow, cumbersome and sometimes undefined. As a result, competitors argued that the dispute resolution processes in ICAs were not producing satisfactory results. Parties have chosen one of two process to resolve disputes that arise from an ICA. Generally, if parties arbitrated their ICA, commercial arbitration is used to resolve disputes. Parties to voluntary agreements usually chose to have the Commission resolve disputes. Experience of the parties using commercial arbitration has been that such processes are resource intensive, time consuming, and unsuccessful. Parties using dispute resolution process at the Commission have had better experiences, but still find the processes very resource intensive.

CLECs assert that current methods of dispute resolution serve as a barrier to the efficient functioning of the local market. Primarily, CLECs are concerned with the time it takes to complete dispute resolution and are also concerned that Pacific has incentive to over use dispute resolution as the venue to solve problems that are better addressed by adjusting business practices and polices to accommodate local interconnection. As an example, CLECs cite numerous cases where they have requested unbundled elements that they believe are contained in their current ICA. Pacific responds that either the current ICA does not cover the element or Pacific does not know what it is the CLEC is requesting. CLECs next file an INER, as explained above, which is a slow and often inconclusive

process. If Pacific responds to the request, it is more often than not denied. CLECs next file for arbitration on their original request for the unbundled element. This process can take over a year before the arbitration is even filed. CLECs asserted that a more timely process was needed, and they also need assurances that Pacific will follow the process.

CLECs asserted that commercial arbitrations resulting from disputes in ICAs average 12-18 months therefore limiting the speed at which interconnection and deployment can take place. CLECs suggest that if the Commission was the venue for expedited dispute resolution (EDR), the process would be more efficient in terms of time, subject matter expertise and cost. In the collaborative process CLECs proposed an EDR that would be conducted before the Commission. The EDR would be in addition to the process in place in their individual ICAs, so that the venue for dispute resolution would be left to the complainant. The EDR process would be completed in 45 days, be binding on the parties, allows for injunctive relief and is applicable for claims arising from violation of ICAs, and federal or state or anti-trust statute. Pacific was opposed to following in the CLEC's EDR proposal because it provided CLECs with injunctive relief, would allow CLECs to venue shop for dispute resolution (potentially allowing CLECs to have multiple opportunities to litigate the issue by slightly redefining it each time), and that the appellate review process was not clearly defined.

No agreement as to the form and function of an EDR process was reached in the collaborative process. Staff believes that an effective EDR process could be designed that obviates some of the problems that Pacific describes. As explained below, one process for EDR could be based on the EDR process described in the Proposed Decision on Rights-of-Way.¹²

3. Discussion

Staff suggests that as a necessary first step in the dispute resolution process that Pacific specifically define their escalation processes for CLECs, regarding disputes. These escalation processes should have specifics regarding timing, levels of management to be involved and contacts. These processes should be reinforced in individual ICAs but also published generically for CLECs in an Accessible Letter and in the CLEC Handbook. Proof of good faith efforts to resolve disputes should be a necessary requisite before moving disputes to the Commission or commercial arbitration.

Staff suggests that a dispute resolution process can be designed that accommodates different types of disputes based upon whether the dispute will interrupt service or if the dispute involves claims for damages. Staff proposes three broad dispute resolution processes that should be able to encompass all disputes likely to arise from an ICA. For disputes that either significantly impede or threaten a CLECs ability to provide service, staff recommends an extremely expedited EDR. Other disputes that do not threaten

¹² Proposed Order on Rights-of-Way, I.95-04-043/ R.95-04-044, mailed July 7, 1998.

service of end-users should be resolved through a streamlined version of a formal complaint filed in accordance with Senate Bill (SB) 960. Finally, if the disputing carrier is seeking damages, parties should use commercial arbitration.

By using different processes to handle the wide variety of disputes that arise from ICAs, staff believes parties will be able to resolve disputes in a more timely and efficient manner. These processes are designed to address concerns raised in the collaborative meetings, but staff recommends that parties be given ample opportunity to comment on these proposed processes.

a) EDR

The EDR process is to be used for disputes that threaten service or disrupt service to a CLEC. An example of disrupted service or threatened service disruption might be Pacific making a change in spectrum management processes that cause a CLEC customer's loop to be moved among binder groups with resulting outage. A party to an ICA may invoke the EDR process if the following conditions are met:

1. A minimum of five days of good faith negotiations has occurred between parties including escalation processes,
2. a complaint is formally filed with the Commission requesting EDR,
3. full documentation of any negotiations and escalation of the dispute is provided,
4. substantial evidence that service is threatened or interrupted must be provided by the moving party, and
5. the request for EDR does not involve damages.

As with all complaints filed at the Commission, the moving party bears the burden of proof. Once the prerequisite conditions have been met staff proposes a very abbreviated resolution process be utilized. During the process either party is prevented from taking actions that would impair or threaten to impair the other carrier's ability to offer service to its end-users. The abbreviated process would have the following schedule:

1. Day 0 Filing of complaint with Commission
2. Day 10 Response is filed
3. Day 15 Hearings Begin
4. Day 17 Hearings Conclude
5. Day 32 Parties Brief Commission
6. Day 52 ALJ Issues Decision

The Commission would have the EDR conducted by the ALJ Division with support from the Telecommunications Division. Discovery would be limited and actively managed by the ALJ. There would be direct service by complainant. An ex parte ban is in place for the duration of the EDR. To expedite the process, parties not part of the dispute are discouraged from participation.

b) *Formal Complaint Process Under SB 960*

If the dispute does not threaten service with interruption, an aggrieved party may file a formal complaint with the Commission. The Commission's complaint process under SB960 contains a statutory requirement that complaints must be resolved within 12 months. Examples of disputes that could be resolved include: interpretations of ICA language, INER and UNE disputes, and amendments to ICAs including changes to Appendices. A party to an ICA may invoke the formal complaint process if the following conditions are met:

1. A minimum of five days of good faith negotiations has occurred between parties including escalation processes,
2. a complaint is formally filed with the Commission requesting resolution,
3. full documentation of any negotiations and escalation of the dispute is provided, and
4. the request for resolution does not involve damages.

If these conditions are met, the formal complaint under SB960 must be disposed of by the Commission within 12 months. Staff recommends that the Commission solicit comments on how this process could be streamlined. The Proposed Order on Rights-of-Way abbreviates the standard formal complaint process by providing model rules that ALJs can rely upon in resolving disputes. Staff believes that this tool and others could be used to streamline the process.

c) *Commercial Arbitration*

If disputes involve claims for damages, parties would best be served by invoking commercial arbitration. First, commercial arbitrators have considerable experience in awarding damages. Second, it is unclear if this Commission has the proper statutory authority to award damages. For these reasons, staff recommends that the Commission not entertain disputes that contain claims for damages. Staff also recommends that parties be able to send all disputes directly to commercial arbitration without having to invoke the EDR or formal complaint process first.

To prevent forum or venue shopping, staff recommends that parties be prohibited from seeking commercial arbitration for those issues which they have invoked either the EDR or formal complaint process. If parties invoke either process, staff believes the Commission will fully adjudicate the dispute and any further recourse should be addressed to the Commission. It is not necessary to prohibit parties from bringing arbitrated issues before the Commission. Staff believes that this Commission can readily determine if a party is trying to re-litigate an issue or is forum shopping.

4. Summary of Recommendations for EDR

Based upon the processes described above, staff suggests that alternative dispute resolution processes can be designed that accommodate different types of disputes. This range of alternatives should include processes that bring issues before the Commission as well as processes that use commercial arbitration. The type of dispute should determine the proper process:

- Disputes that threaten to interrupt service should be handled most quickly using an EDR process;
- Disputes that do not involve damages should be handled through a streamlined formal complaint process;
- Disputes that involve damages should be handled through commercial arbitration.

Staff recommends that all ICAs be modified to include these three processes for dispute resolution. It is imperative that while competition is in its nascent stage that all carriers have equivalent access to dispute resolution procedures. Staff believes that these processes could be further refined and streamlined through parties suggestions. Comments should be solicited on these process recommendations.

Staff also recommends that the Commission consider sanctions for misuse of the suggested alternative dispute resolution processes. There must be a balance of expedited dispute resolution to stimulate competition and a judicious use of the Commission's resources.

Implementing staff's recommendations for dispute resolution will require the Commission to modify ICAs. Staff appreciates that the Commission has been reluctant to modify ICAs in the past, but if the Commission expects to see competition develop rapidly, it is necessary that disputes arising from ICAs be resolved quickly and efficiently. Disputes must be resolved in a manner that places the least amount of burden on parties and regulators, but provides appropriate due process protections.

CHAPTER III: SECTION 271 CHECKLIST ITEMS

A. ITEM ONE – Interconnection

1. Trunk Provisioning

a) Initial Staff Report Summary

The ISR identified the following issues for discussion during the collaborative workshops:

- Review requirements for timely provisioning of interconnection trunks including notification and escalation procedures.
- Determine the feasibility of providing network traffic information to CLECs.

Interconnection trunks must be provided in a timely and consistent manner for CLECs to have a meaningful opportunity to compete. A number of CLECs asserted that Pacific does not provide interconnection trunks in a timely manner and does not have business practices in place that mitigate provisioning problems. While Pacific claims to have alleviated its backlog of orders for interconnection trunks, there is no process in place to ensure that, as competitive pressures increase, a backlog will not reoccur.

b) Collaborative Process Summary

Pacific provided a detailed description of its interconnection trunk provisioning process during the collaborative process. The problem areas that surfaced can be generically grouped as follows: 1) lack of joint planning including lack of consistent development, use and sharing of appropriate information for interconnection trunking between Pacific and CLECs, and 2) lack of consistent practices for trunk provisioning by Pacific. Based on the understanding developed in the collaborative process an agreement was produced, between the parties present, that addressed most of the specific problems areas identified.¹³

c) Discussion and Staff Recommendation

Parties agreed on the following relating to trunk forecasting and planning:

¹³ See Section 1.2.2 of the Staff Agreements Summary of August 24, 1998.

- CLECs will provide a new or updated forecast every January and July to Pacific, using the Pacific form, or as mutually agreed to by the parties;
- CLECs will participate in the Joint and Cooperative Planning Process (JCP) with Pacific for new CLECs and for major network changes or augments. In this process, Pacific and individual CLECs will meet to discuss specific projects, forecasting, network architecture details and or plan and initiate projects. CLECs will bring to the meeting the completed network information sheet provided in the workshop;
- Pacific and CLECs in the JCP meetings will jointly assess forecasts provided. Pacific will integrate such forecasts with other information in Pacific's construction plans;
- Major augmentation is defines as a minimum 3-4 DS3 trunks.

The forms to be used in the JCP for interconnection trunk forecasting (“Local Network Interconnection Trunk Forecast”) and network planning (“Pacific Bell CLEC Network Information Sheet”) should be published in the CLEC Handbook with descriptions and instructions for completion. They should also be included in an Accessible Letter to be sent to all CLECs. Additionally, the forms should be available electronically to all CLECs.

Parties reached agreement on the network utilization reports which are to be provided to CLECs. The Trunk Group Service Report (TGSR) is used to alert both Pacific and CLECs if interconnection trunks are either being over-utilized or under-utilized. Parties agreed to the following TGSR process:

1. The TGSR process will be used to provide notification of under- or over-utilized trunk groups. Written responses -- except in blocking situations -- will be sent within the industry standard (10-20 days). In a blocking situation, the party identifying the blockage should attempt to call the other party prior to issuing the TGSR. Subsequent written response to the TGSR is due within 48 hours.
2. Pacific will begin to enforce ICA provisions regarding under-utilized trunks as follows:
 - will not do so automatically;
 - will first consult with CLEC or issue TGSR;
 - if CLEC has adequate reason for keeping trunks operational, Pacific will accommodate;
 - CLECs will give up spare trunks where there is an immediate need, i.e., another CLEC or Pacific needs the trunks;
 - all parties will try to act reasonably and flexibly; however, Pacific reserves the right to enforce the original contract provisions.

In addition, parties agreed that Pacific should provide CLECs with four other network utilization reports, as described below:

1. Pacific will provide CLECs with the common transport data that it currently provides to the interexchange carriers. This report will be provided on a monthly basis to the CLEC via its account manager.
2. Pacific will provide TIKI reports monthly to all requesting CLECs via their account managers.
3. Pacific will provide electronic exchange data (DIXC) (on a reciprocal basis) for trunk traffic data on a weekly basis to CLECs who make electronic exchange arrangements.
4. Pacific will provide ad hoc point-to-point traffic studies for use in JCP meetings as appropriate.

The reports, in the format presented in the collaborative process, should be published in the CLEC Handbook. All CLECs should be informed of the availability of the various traffic reports via Accessible Letter.

Finally, staff recommends that the following agreements be adopted, and included in Pacific's business practices to mitigate problems associated with the timely and efficient provision of interconnection trunks:

1. Pacific will provide firm order commitments (FOCs) for trunks within 4 business days for augments, and 7 business days for establishing new trunk groups. If there is a facility or switching equipment shortage, Pacific will include a status for a relief date. "Remarks" field of FOC to be expanded to include the cause of the shortage. If no relief date is available, "further status due date" will be provided. Pacific will discontinue use of "9/9/99" as an indicator of "no relief date." (e.g. "No digital equipment available at this time.") Remarks portion of the FOC will state an expected status for the relief date and will provide a contact name and number for the CLEC to review held-order status,
2. By 5 p.m. on the day that the status is due, Pacific will re-FOC with current information.
3. Calls will be held between CLECs and Pacific on "Held order-denied," as needed.
4. MCI and Pacific will meet for an explanation Pacific's system of assigning CFA and TCIC numbers so that MCI system and Pacific system can be "mapped."
5. If one-way analog trunks are offered and accepted, the held order for digital trunks will maintain its place on the "held order" list pending completion of the switch replacement.
6. The following Accessible Letter regarding customer not ready (CNR) will be transmitted to all CLECs.

"Notification of Customer Not Ready Rescheduling or Cancellation - California"

Date: August 4, 1998

Number: **CLECC98-068**

Contact: Pacific Bell Account Team Manager

This letter is to inform you of Pacific Bell's position relating to completion of Interconnection Trunks, where the order is designated "Customer Not Ready (CNR)". Pacific Bell will identify the installation order as "Customer Not Ready" in all cases where the Local Interconnection Service Arrangement trunk(s) have passed Pacific Bell's Pre-Service Testing, and the CLEC is either unavailable or not ready to perform Acceptance Tests, or unable to accept the Local Interconnection Service Arrangement trunk(s) by the Due Date.

Procedures have been developed for those situations described above in order to equitably provide service to all Competitive Local Carriers (CLECs) ordering trunking from Pacific Bell. These procedures will be come effective August 17, 1998. These procedures are:

- If the CLEC is unable to or is not ready to perform Acceptance Tests by the plant test date, or is unable to accept the Local Interconnection Service Arrangement trunk(s) by the due date, the CLEC will provide Pacific Bell with a requested revised service due date that is no more than thirty (30) calendar days beyond the original service due date or as mutually agreed by the parties.
- If the CLEC requires a service due date more than 30 days after the original service due date, or unless mutually agreed, the ASR must be canceled by the CLEC.
- Should the CLEC fail to cancel such an ASR, Pacific Bell shall treat that ASR as though it had been canceled.

The aforementioned procedures are being implemented to reduce, if not eliminate, stranded trunks. In addition, these procedures will free up trunks for use by other CLECs that seek to interconnect with Pacific thereby reducing trunk blockage problems. These procedures will result in more efficient use of facilities and network equipment by all parties.

Please contact your account manager with any questions.

Staff believes that the agreements listed above provide significant progress in provisioning interconnection trunks. The effort of increasing the avenues for communication between the parties and the dedication to joint planning processes is a step in the right direction.

However, staff suggests that the provisioning of interconnection trunks be monitored through performance measures to ensure continued progress.

2. NXX Code Openings

a) *Initial Staff Report Summary*

Staff recommended that the following issue relating to NXX code openings be discussed in the collaborative process:

- Develop procedures for activation of CLEC NXX codes in Pacific's switches and a method to verify compliance.

CLECs asserted that Pacific has not activated CLEC's NXX codes in its switches in an efficient and timely manner. Because CLECs cannot mechanically test NXX code openings for themselves they have to rely on customer complaints about uncompleted calls to become aware of missed openings. The problem persists in spite of CLEC escalation of these complaints to Pacific management and to the FCC. Pacific did not provide evidence that the process used to activate NXX codes for CLECs is at parity with Pacific's own code opening experiences in its retail operations.

b) *Collaborative Process Summary*

The three major NXX-related issues discussed in the collaborative process were as follows: processes in place for NXX code openings, processes in place for correcting NXX code opening deficiencies, and positive testing and notification of NXX code openings.

To open NXX codes, Pacific uses the industry standard, 66-day process. The process and requirements to be used by CLECs are described in the CLEC Handbook, Section 40, which is based on best practices of the Network Interconnection and Interoperability Forum, and have been in place since September 1997. On the 66th day, if the process is error free, the newly opened NXX is published in the Local Exchange Routing Guide (LERG), allows all telecommunications carriers nationwide to route calls correctly.

Following is a description of the 66-day process:

1. Pre-NXX code opening.
 - Carriers request NXX code openings from Lockheed (California Code Administrator).

- Based on notification from Lockheed, Pacific's databases are populated for routing and billing.
 - NXX codes are programmed by the CO/tandem network translations group using recent change capabilities.
2. Testing and verification prior to NXX code openings.
 - CLECs must provide a valid test number available for Pacific to test NXX code opening.
 - Pacific performs a call-through test of the NXX code to test if the assigned end-office and tandem routing are correct and functioning. This step is redone if verification of the NXX code opening is not made.
 - After re-test, if there is no verification of the NXX code opening, Pacific contacts the appropriate CLEC and attempts to resolve the problem.
 3. Post-NXX code opening.
 - If CLECs discover problems with NXX code openings they must notify the LOC for initiation of a trouble ticket for repair of the problem.
 - In each month following an NXX code opening Pacific performs a Tru-call test which verifies that NXX code openings, and billing and network translations for all NXX codes in the network, are functioning properly.
 - If Pacific discovers problems with NXX code openings for either a CLEC or for its retail operations, a trouble ticket is initiated with the LOC.

CLECs believe that Pacific's processes for NXX code opening deficiencies are not always followed or do not functional well. CLECs assert that at a minimum there is a window of time after NXX code opening but before the monthly Tru-call verification, where customers will not receive calls if the CLEC's NXX code was not opened. CLECs assert that Pacific's process to correct these problems through the LOC is cumbersome and slow.

To address CLEC concerns Pacific plans to introduce a process in its digital switches by September 1999, that will remove the manual aspects of openings. The process would automate the process of NXX code opening via recent change technology and will allow for positive verification electronically of the results of the NXX code opening. CLECs were invited to participate in the development of external reporting capabilities for that system but were given less than two weeks to provide input. The automated process is not being implemented for Pacific's analog switches.

c) *Discussion and Staff Recommendation*

Pacific should treat problems of CLEC customers not receiving telephone calls for any period of time as a serious problem. Further, Pacific has an automated tool that can detect deficiencies in the NXX code opening process. Therefore staff recommends that for new code openings or new switch turn-ups: 1) Pacific verify all new NXX code openings with Tru-call, 2) Pacific process CLECs' requests for Tru-call, on an ad hoc basis, to test and verify that NXX codes are correctly opened. For existing NXX codes where customers

experience problems, CLECs should be allowed to request use of Tru-call on an ad-hoc basis to verify that the NXX code is open. A single trouble ticket submitted to the LOC should initiate the Tru-call testing and the repair process. CLECs are responsible for providing Pacific with functioning test call numbers with every request for new NXX codes.

Staff also recommends that CLECs' requests for positive notification of NXX opening be provided on a real-time and mechanized basis (i.e. website). Specifically staff suggests that Pacific provide notification of NXX code openings on its Website within 24 hours of opening. The website would contain information about new NXX openings at each CO with the date and time the code was opened, and also show Tru-call test results.

Staff recommends that Pacific initiate such a system of positive notification for code openings. If positive notification were provided automatically and in real-time, CLECs would not need to use the Tru-call process on an ad hoc basis. Lastly, staff suggests that NXX code openings be subject to performance measures.

Finally, in the collaborative process Pacific and CLECs agreed to exchange a single point of contact for immediate resolution of any problem that would prevent Pacific from performing complete testing in conjunction with a code opening. Pacific will notify the affected CLEC within 24 hours if it determines that the CLEC has no trunking established to a particular tandem switch. Pacific should notify all CLECs of the policy through Accessible Letters and through updating the CLEC Handbook.

3. Section 252 (i)

Section 252 (i) of the Act requires that LECs make available, to any requesting carrier, any interconnection service or network element provided under any previous agreement approved under section 252. The interconnection service or network element provided must be on the same terms and conditions as those provided in the previous agreement. The 8th Circuit has ruled against the FCC's definition that CLECs can pick and choose elements of previous interconnection agreements, and instead ruled that CLECs could adopt the entire agreements only.

a) Initial Staff Report Summary

The following issue was slated for discussion in the collaborative process:

- Review Pacific's reasons for refusing paging companies' requests under Section 252 (i).

Pacific has refused requests from paging companies to execute interconnection agreements with the same terms and conditions as Pacific's agreement with Cook Telecom, Inc.,

pursuant to Section 252 (i) of the Act. The paging companies are requesting the agreement for Cook which includes a desirable reciprocal compensation arrangement.

b) Collaborative Process Summary

The major issue in the collaborative process was the dispute between Pacific and the requesting paging companies over the interpretation of Section 252 (i) of the Act. Pacific asserted that if a paging company wanted to “252 (i)” into the Cook ICA, they must accept the exact terms and conditions of that ICA, namely the expiration date. Pacific proposed to offer this arrangement, but would not compensate the paging companies, as requested, for calls terminated before the requesting company’s new ICA is in force. No agreements were reached on the interpretation of the Section 252 (i).

c) Discussion and Staff Recommendations

Under Pacific’s interpretation of Section 252 (i), no CLEC could commence service on the same date contained in an earlier agreement, and thereby obtain the same terms and conditions set forth in an earlier agreement unless that CLEC were a party to the earlier agreement. So, as a practical matter, no CLEC seeking to 252 (i) into an earlier agreement would get the benefit of the full duration of the earlier agreement. Also, because the Commission is charged with approving ICAs, and will do so only if such agreements are deemed reasonable under the Act, staff believes that, to provide non-discriminatory treatment, it is reasonable for requesting paging companies to 252 (i) into the Cook ICA.

Pacific raises a legitimate concern that agreements could potentially extend into perpetuity if each CLEC could 252 (i) each others’ agreements. The answer to this concern may be to limit a CLEC to 252 (i) into an existing agreement only one time, or restricting the CLEC of the first agreement from extending it on the basis of a 252 (i) to a second CLEC agreement that 252 (i)’ed the first agreement. Staff suggests that the parties submit legal briefs that address Section 252 (i) generally, and address the issue of how many times a carrier should be able to use 252 (i) to obtain the terms of a particular agreement.

4. Frame Relay Network-to-Network Interconnection (NNI)

Frame Relay Network to Network Interconnection is a service that allows interconnection of networks for exchange of high-speed data traffic.

a) Initial Staff Report Summary

The following issue was included in the ISR under Checklist Item 1 Interconnection and was recommended to the collaborative process for consideration:

- Lack of clear and consistent guidelines for determining if CLECs' requests for interconnection services and elements are required under the Act, and if required, the establishment of clear and consistent guidelines for use of bona fide request processes.

For CLEC requests for NNI and other UNEs or interconnection services, Pacific has responded that it is not required under the Act to provide those services. Staff made no judgment on the individual service requests, but rather found that Pacific should have in place an expeditious and nondiscriminatory process for determining if individual services or elements are required to be provided under the Act. Staff recommended that the development of such a process be addressed in the collaborative process.

b) Collaborative Process Summary

In the collaborative process, Pacific refused to provide Frame Relay NNI through interconnection. Frame relay is tariffed service, and Pacific considers it an alternate means of providing exchange service, so to provide it as a UNE would be in violation of the Act Section 201. CLECs allege that Pacific's failure to provide it is in violation of the Act Section 251 (a failure to allow interconnection where technically feasible). No agreements were reached in the collaborative process.

c) Discussion and Staff Recommendations

Based upon the release of the FCC's Order and NPRM on Offering Advanced Telecommunications Capabilities, Pacific informed parties to the 271 proceeding that its legal position regarding NNI had been revised.¹⁴ Pacific will now negotiate with, and provide CLECs frame relay network to network interconnection under Sections 251 and 252 of the Act.

B. ITEM TWO – Unbundled Network Elements

1. Issues Selected for the Collaborative Process

¹⁴ In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability, FCC 98-188.

The following issues were identified in the ISR for discussion during the collaborative workshops:

- Pacific must present evidence that it can provision combinations of network elements.
- Pacific must prove that the five methods it proposes for accessing UNEs are adequate for combining elements.
- Pacific must present proof that the OSS it proposes for ordering, provisioning and billing of UNE combinations can adequately accommodate a significant volume of orders in an accurate and timely manner.
- Parties need to develop a list of the ancillary equipment required to provision particular UNE combinations and explore the issue of how to provide CLECs access to that ancillary equipment.
- Parties need to expedite and simplify the process for CLECs to gain access to intellectual property rights.
- Parties need to explore the issue of the number of customers which can be transferred to another carrier using manual cross connects
- Staff is concerned that Pacific's options for combining UNEs are costly, slow, and may not have equivalent reliability as Pacific's retail operations. During the collaborative process, staff will explore various options, including the use of the recent change capability, that do not require competitors to own their own facilities.

2. Overview

Issues relating to OSS systems for provisioning UNEs were addressed in the OSS portion of the workshop. Three major issues were discussed in the UNE session: methods for combining UNEs; access to intellectual property rights; and access to ancillary equipment to provision UNE combinations.

a) Methods for combining UNEs

CLECs emphasized the critical importance of the UNE combination issue. They see the availability of UNE combinations at cost based prices as the only hope for bringing broad-based local competition to residential and small business customers in California at any time in the near future. Staff agrees that the ability of CLECs to purchase and use UNEs in a cost effective manner is one of the single most important factors to enhance the growth of the local market. The FCC and DOJ have both been critical in previous 271 filings about methods which CLECs can use to gain access to combinations. And in its most recent 271 opinion, the DOJ recommended denial of Bell South's Louisiana application in part because Bell South was relying on collocation as the means to combine UNEs.

During the collaborative process, parties presented widely divergent methods for combining UNEs to replicate a service, most of which focused on the loop/port combination. Pacific indicated that under the terms of the 8th Circuit decision, Pacific is not required to combine UNEs on behalf of CLECs. Rather, CLECs have to combine UNEs themselves. Pacific presented its five methods which CLECs can use for combining UNEs, while CLECs proposed other methods less manual in nature. CLECs stated their preference for not taking the UNEs apart in the first place, which they indicated could be done under state law.

Pacific's five methods involve collocation or a process similar to collocation, and the use of a POT frame. In order for CLECs to do the combining of elements, Pacific established Points of Access (POAs) where the CLEC would cross connect various UNEs. According to Pacific, to date no CLEC has requested access to UNEs via the five methods, although some CLECs are using their collocation arrangements to access UNEs.

CLECs raised eight major problem with Pacific's proposal for accessing UNEs and Pacific responded to each of these points. Major points raised by CLECs included: unnecessary cost to establish collocation arrangements; costs not yet established for some methods; additional points of failure; customer service outage during conversion; space requirements; gating resulting from capacity constraints due to manual work required, and; lack of a detailed procedure in place for use of the five methods. Following the end of the workshop, Pacific did provide staff with Methods and Procedures (M&Ps) for the five methods and a Product Description which explain in detail how Pacific will offer access via the five methods. Pacific stated that engineering design and provisioning requirements would be completed by September 30, 1998, at which time additional M&P would be issued. Pacific indicated that the rates for the five methods would be set forth in the Pricing Appendix of the company's generic interconnection agreement.

CompTel made a presentation about how the Recent Change functionality of the switch could be used by CLECs to recombine elements which are already physically connected. Use of the recent change capability in the switch allows CLECs to electronically reconnect elements which have not been physically disconnected. For example, if a residential customer moves and disconnects their service, Pacific does not generally physically disconnect the loop and port. Instead, Pacific uses the Recent Change capability in the switch to disable the line so that the new resident can only use the telephone to make 611 or 911 calls.

AT&T has contracted with a software vendor to develop the firewall so that Recent Change can be used by CLECs, while addressing security issues raised by ILECs.

While a significant amount of time at the workshop was spent discussing Recent Change, CLECs involved in the session indicated that Recent Change was not their preferred method of recombining UNEs. CLECs propose that when UNEs are ordered in

combinations for an existing service, the service be left intact and not disrupted. The physical plant should be configured the same way it is for Pacific.

Staff is concerned about various aspects of Pacific's proposal. First, two of the alternatives require collocation in Pacific's COs. Collocation space in some key COs is exhausted, and Pacific is still receiving significant numbers of applications. According to Pacific, the company received 60 physical collocation requests in the single month of April 1998. Collocation is an essential element for some CLECs, especially those which need to purchase unbundled loops from Pacific. Other carriers with different business plans do not need the collocation capability, unless collocation is necessary for combining UNEs. In that case, collocation could become an even scarcer resource and lack of collocation space could have a gating effect.

CLECs also raised the issue of combining elements other than simple loop/port combinations. One example involves a link consisting of various elements (multiplexing - interoffice dedicated transport - EISCC or Entrance Facility). That scenario is used if the CLEC is not collocated in a wire center where it wants to serve a customer. The loop is taken to a CO where the company is collocated.

Pacific indicated that its five methods for providing the cable and frame will accommodate combining UNEs, as in the example above.

With the manual cross connects involved in each, staff has serious doubts about whether the five methods Pacific proposed could manage the volumes necessary to foster broad-based competition. However, while expressing concern about Pacific's proposal, staff will not make a formal recommendation to the Commission on the method for combining UNEs. Instead, staff expect this issue to be addressed in the current pricing phase of the OANAD proceeding, and the Commission should have a draft decision for consideration by the end of the year. An issue of this importance and impact is best addressed in a generic proceeding where a substantial record has been developed. Staff will defer to the outcome in this generic proceeding, where the issue can be examined in a much broader context than was possible in the instant 271 proceeding.

However, if Pacific's five methods are approved in OANAD, in its 271 compliance filing, Pacific should provide a rigorous independent test that demonstrates how well each of the five methods performs. For more information, see the OSS Testing section.

b) Access to Intellectual Property

Intellectual property (IP) is the software programs which are part of a UNE which a CLEC leases. Pacific indicated that it is the CLEC's responsibility to obtain any necessary Right To Use (RTU) agreements, although during the course of the workshop Pacific did agree to negotiate with software vendors on behalf of a CLEC. Pacific also indicated that it would provide a list of licensees and use its best efforts to facilitate the obtaining of any

licenses. Pacific stated that the company only intends to recover the costs of negotiating on CLECs' behalf, including any RTU specific to the CLEC's use of the UNE.

CLECs countered that Pacific should negotiate a master agreement with vendors on behalf of all CLECs using the intellectual property. When a CLEC orders a UNE that requires the use of intellectual property, Pacific is in the best position to know which rights are implicated.

The workshop participants discussed whether the software vendors are interested in having agreements with the CLECs. Pacific provided copies of documents filed at the FCC by Bellcore, Lucent Technologies, Northern Telecom, et. al. in April 1997 in CC Docket No. 96-98, in response to MCI's petition for declaratory ruling concerning provision in Southwestern Bell's Oklahoma and Kansas Statement of Generally Available Terms (SGAT). The SGAT provision made it clear that the CLEC, not the ILEC, was to negotiate agreements to use any intellectual property belonging to a party other than the ILEC which is embedded in an unbundled network element to be used by a CLEC. MCI asked the FCC to hold that TA 96 requires the ILEC to negotiate the CLEC's use agreement. The FCC has not yet acted on this issue.

Lucent made the following statement in its FCC filing on this issue:

(T)he Commission must preserve Lucent's right to protect its intellectual property against use by any entity, whether a CLEC or incumbent LEC, in a manner which exceeds the scope of the originally issued license grant, without due and just remuneration. This protection may include, but is not limited to, additional license terms, additional license fees and non-disclosure terms, as appropriate.

Lucent described cases where the scope of a license would have to be expanded. For example, its software licenses may contain provisions limiting the use of the software beyond a certain capacity (i.e., number of users or number of minutes). Another example Lucent raised involves its software development platforms licensed to customers for use in developing telecommunications applications. Use of the platform by a CLEC to develop its own applications would be outside the original license granted to the ILEC.

In its comments, Northern Telecom (Nortel) raised similar concerns, stating that if the UNE allows a carrier to access the vendor's equipment, software and/or proprietary information, or permits such carrier to modify the equipment or software, "significant vendor rights are likely to be implicated." Nortel also states that quality and performance specifications and indemnities made by Nortel to its customer may become void if the access provided to the requesting carrier results in the equipment or software being used in a manner not contemplated by the contract.

While Nortel's contracts may grant an ILEC or CLEC the right to make modifications to its software, Nortel states that it should not be liable for any claims that may be brought

against the company arising out of such modifications. Either or both carriers should affirmatively indemnify Nortel against any claims brought by third parties against Nortel because of such modifications.

Even though the FCC has not yet acted on MCI's declaratory ruling, staff determined that the views expressed by the major switch vendors have merit, and will be taken into account. Software is a valuable commodity, and the rights of the developers of such intellectual property must be maintained.

At the time that a CLEC first orders a UNE involving the use of intellectual property, Pacific should give the CLEC two things: (1) a list of all software licenses associated with the UNE and (2) a description of the specific uses allowable under its own license agreement with the vendor.

Other issues to address include who should negotiate with the vendor, and who should pay the RTU fee. Decision 98-02-106 in the Commission's OANAD proceeding adopted Pacific's cost studies for UNEs, with some modifications which are discussed in the decision. The decision states as follows:

Pacific's January 13 cost studies reflect the reassignment of approximately \$500 million of "shared family" costs approved in D.96-08-021 directly to unbundled network elements, as required by TELRIC principles. Of this \$500 million, Pacific determined that approximately \$110 million should be assigned to switching elements, such as call set-up, usage, line ports, trunk ports and vertical features. Approximately three-quarter's of the reassigned \$110 million represents Right to Use (RTU) fees, i.e., license fees that Pacific pays for the use of switching software.

In other words, CLECs are already paying over \$80 million in RTU fees which has been embedded in the cost of the switching UNE. While Pacific's position in the 271 proceeding is that the RTU for individual CLECs is not included in UNE prices,¹⁵ that does not square with Pacific's cost study for the switching UNE. RTU fees have been included in the cost studies that Pacific filed with the Commission. Since Pacific is assessing this cost on CLECs, Pacific has the obligation to obtain any necessary RTU agreements on behalf of CLECs, at least for all instances in which the CLEC's usage of the intellectual property is the same as Pacific's. This must be done at no charge to the CLEC for either the negotiations or for the RTU fees themselves, since Pacific is already recovering those costs in the price of the UNE. However, in those cases where the CLEC seeks to use the software in a different manner, or to modify that software, the CLEC has an obligation to negotiate an RTU directly with the vendor and pay any RTU fees set by the vendor. Pacific should be indemnified and held harmless if the CLEC does not negotiate RTU agreements in those cases where it is using the software in a different

¹⁵ Pacific's comments on Staff Notes, Subject: UNEs: Access to Intellectual Property, July 23, 1998.

manner from Pacific, or is modifying the software. Likewise, the software vendor should be indemnified and held harmless for any modifications to its software.

Staff recommends that Pacific perform the following steps relating to CLEC access to intellectual property in order to satisfy checklist requirements:

- At the time that a CLEC purchases a UNE involving access to intellectual property, Pacific should provide the following:
 - A list of the software vendors
 - A description of the specific license agreements for each type of software, i.e., specific uses, limits on number of users, or number of minutes.
- Pacific should negotiate any necessary RTU agreements for use of the software which parallels that in its own agreement with the vendor. Since Pacific is already recovering this element in its UNE prices, Pacific should not charge CLECs for negotiations or the RTU fees.

c) Access to Ancillary Equipment

In its March 31, 1998, filing AT&T stated that Pacific refuses to provide ancillary equipment (i.e., amplifiers, pads, equalizers, and signaling units) necessary for AT&T to be able to provide service through UNEs. Ancillary equipment is needed to interconnect UNEs or to make a UNE function properly. Without this equipment, many of the individual UNEs cannot be made to work together. UNEs such as the loop often require ancillary equipment for conditioning and/or signaling capabilities. AT&T gave a specific example of trying to order combinations to provide a multi-point private line service to a customer. According to MCI, Pacific denied AT&T's request, stating that the common bridging equipment, which simply ties two private lines together, was not a UNE and not available.

Neither the Act nor the FCC's *Local Competition Order* specifically identified the various types of interface equipment used in the network to provision services. According to AT&T, Pacific has been unwilling to provide a list of the types of ancillary equipment that are included with each UNE; instead, says AT&T, Pacific believes CLECs should request all ancillary equipment separately. AT&T states that it therefore must guess which types of equipment Pacific includes with each UNE. According to AT&T, Pacific's requirement to institute a separate request for each piece of ancillary equipment is anti-competitive and discriminatory.

This issue was discussed at length during the collaborative workshop. Pacific offered to identify UNEs and equipment used to provide a typical configuration of up to 40 clearly defined services. Pacific stated that if a clearly identified list of ancillary equipment could be provided by the parties, Pacific would consider preparing a contract appendix to offer such equipment. However, when AT&T provided its list of services and equipment during

the workshop, Pacific stated that AT&T had produced a list of categories of services rather than specific services and also a list of categories of ancillary equipment. Pacific felt that the list was onerous and well beyond the offer, but still agreed to meet with CLEC engineers on September 3, 1998, to discuss the ancillary equipment list developed by AT&T so that both sides could understand the items on the list. Item 26 on the list (Digital Loop Carrier) would not be included, however, said Pacific, to the extent it constitutes subloop unbundling. Pacific agreed to identify the ancillary equipment on the list that is used in Pacific's network for the provision of telecommunications services within 30 days of the initial meeting.

The meeting was held in September 3, 1998, and both Pacific and CLECs provided staff with summaries of the meeting. The parties discussed both the lists of ancillary equipment and lists of Pacific Bell services (provided by CLECs during the workshop). Pacific provided staff with a list of equipment and services but no narrative summary of what transpired.

The CLECs' version of the meeting is as follows: Pacific's representative indicated that some of the equipment is no longer used in Pacific's network, and he identified alternatives to specified equipment. He agreed to review the CLEC-provided list of equipment with Pacific's engineering staff, confirming which equipment Pacific uses, and adding to the list any replacement equipment available in Pacific's network that was not on the CLECs' list. Pacific is to provide this list to the CLECs by October 3, 1998.

According to the CLECs, Pacific's next steps are to define the ancillary equipment that comes with UNEs when ordering combinations and to identify any instances where the ancillary equipment needs to be "called out" separately. CLECs need to know the ancillary equipment that comes with a UNE combination and which ancillary equipment it must order as a separate item, at the time it order the UNE combination to ensure that the ordered combination will work.¹⁶

Section 251(c)(3) requires an ILEC to provide UNEs in a manner that allows requesting carriers to combine such elements in order to provide a telecommunications service. In referring to that section, the FCC stated that it "agree(s) with the Illinois Commission, the Texas Public Utility Counsel, and others that this language bars incumbent LECs from imposing limitations, restrictions, or requirements on requests for, or the sale or use of, unbundled elements that would impair the ability of requesting carriers to offer telecommunications service in the manner they intend."¹⁷ The FCC further states that it will not always be possible for new entrants to specify the specific ILEC network elements it seeks because new entrants "will likely lack knowledge about the facilities and capabilities of a particular incumbent LEC's network." (&297) The FCC closes with the statement that ILECs must work with new entrants to identify the elements new entrants will need to offer a particular service in the manner the CLECs intend.

¹⁶ Letter from Stephen Vivien in behalf of MCI, AT&T and Sprint to Karen Jones, California Public Utilities Commission, September 16, 1998.

¹⁷ FCC, First Report and Order on Local Competition, released August 8, 1996, &292.

While Pacific's agreement to meet with CLECs to define a list of ancillary equipment is a step in the right direction, staff would like to see a clear resolution of this issue. As stated earlier, staff is concerned that lack of access to the ancillary equipment needed to provision certain telecommunications services impacts the use of UNE combinations as an entrance strategy. Therefore, anything which precludes use of UNEs will serve to deter the growth of the competitive marketplace.

The FCC put the burden on making the combined UNEs work squarely on the shoulders of the incumbent LEC. On their own, CLECs can only guess at what pieces of equipment Pacific has deployed throughout its network. From what staff heard in the collaborative workshops, up to the present time, California CLECs have been playing that guessing game with Pacific, with the result that there has been little provisioning of UNE combinations.

As the FCC stated in the quote above, only the LEC knows its own network. That one-sided knowledge must not be allowed as a barrier to thwart the provisioning of UNE combinations. The CLECs' letter mentioned above is a step in the right direction.

According to the CLECs, Pacific made a commitment to provide CLECs with an updated list of the equipment currently available in Pacific's network by October 3, 1998. The next step is to define the particular equipment that comes with UNEs when ordering combinations and that which must be ordered separately. Pacific must develop a generic ICA amendment available to any CLEC, which shows the list of equipment, and which lists which equipment is included with particular UNEs and which equipment must be ordered separately. Pacific must develop a process for ordering both types of equipment and make that ordering process available to CLECs. When Pacific makes its 271 compliance filing, Pacific needs to demonstrate that the generic appendix is readily available for CLECs and can be used by CLECs for purchasing UNEs and UNE combinations that are able to function as services.

The other issue that warrants discussion is the cost of the pieces of ancillary equipment on the list. Much of this equipment (especially that related to loops) was not included in Pacific's forward looking cost studies filed in the OANAD proceeding. The reason for this is that Pacific modeled a forward looking network, which showed a significant deployment in IDLC technology, as opposed to the copper twisted pair that makes up most of Pacific's current loop plant. If Pacific were to model its current network, it would include the cost of load coils and bridge taps, etc. in the average cost of a loop, since those pieces of equipment are required in certain circumstances to provide a functioning loop.

Any pieces of equipment which are normally part of Pacific's network and used to provide retail services should be available to CLECs at no charge because the price of the UNE includes the full cost of providing the service on a forward looking basis. The cost of any ancillary equipment necessary to provide a UNE using Pacific's existing network is

irrelevant. However, CLECs should pay for other equipment, which is not a part of Pacific's network, or which CLECs want to use to provide a unique service.

There may be some pieces of equipment which are separate pieces of equipment, not adjuncts to existing UNEs and those may warrant a separate charge. Pacific and CLECs should take the next 40 days to negotiate any pricing issues relating to the equipment list. Any outstanding issues they cannot resolve should be brought to the Commission, using the dispute resolution process proposed in this report.

If Pacific disputes the availability of any of the ancillary equipment on the CLEC-generated list, Pacific may use the dispute resolution processes proposed in this report to bring the matter before the Commission. In such proceeding, the burden will be on Pacific to prove that the equipment requested is either not available or in some manner inappropriate.

3. Summary of Staff Recommendations for UNEs

For UNEs, staff recommends the following:

- When a CLEC purchases a UNE involving access to intellectual property, Pacific should provide:
 - A list of the software vendors
 - A description of the specific license agreements for each type of software, i.e., specific uses, limits on number of users, or number of minutes.
- Pacific should negotiate any necessary RTU agreements for use of the software which parallels that in its own agreement with the vendor. Since Pacific is already recovering this element in its UNE prices, Pacific should not charge CLECs for negotiations or the RTU fees.
- Pacific should demonstrate that it has developed a list of the ancillary equipment necessary for CLECs to provide certain UNE combinations. Pacific should also demonstrate that CLECs are able to order and obtain use of the ancillary equipment.

C. ITEM THREE – Rights-of-Way

In the *Initial Staff Report*, staff determined that Pacific proved compliance with this checklist item.

D. ITEM FOUR – Unbundled Local Loop

1. The K1023 Process

a) Collaborative Process Summary

Pacific's K1023 process allows CLECs to access information on loop characteristics on a pre-ordering basis. This information is necessary to facilitate the provision of high speed digital services such as xDSL. The specific loop characteristics available in the K1023 query process are: media (copper or pair gain), length (range of less than 12,000 feet or greater than 17,500 feet), presence of conditioning devices (load coils, repeaters or bridge taps) and equivalency (gauge). The K1023 process was put into place in March 1998 and is included in the CLEC Handbook, chapter 16.2. The query process is done on a manual basis for CLECs.

b) Discussion and Staff Recommendations

Staff believes that an effective pre-ordering process would help in eliminating jeopardy and held orders for loops because, if facilities are not available, CLECs would be notified before a FOC is issued. Upon receiving a response, CLECs can proceed by reserving the loop facilities, if facilities are available, or explore construction of loop facilities if none exist.

Staff recommends that the K1023 process be provided at parity for Pacific and CLECs for determining loop characteristics for the marketing of advanced services such as xDSL. Specifically CLECs should be provided with: equivalent access to loop specifications, the equivalent ability to reserve loop facilities, and be provided responses in a manner equivalent to Pacific's retail operations. A detailed recommendation for the K1023 process is presented in the OSS pre-ordering section.

2. Integrated Digital Loop Carrier (IDLC)

a) Initial Staff Report Summary

The following issues relating to IDLC was included for discussion in the collaborative process:

- Outline requirements for how Pacific provisions IDLC and equivalent loops.

Integrated Digital Loop Carrier or IDLC is a specialized case of Digital Loop Carrier (DLC) systems. DLCs allow loops to be aggregated remotely from the central office and transported to the switch in a digital format. This produces efficiencies in the network by reducing the number of physical loops that must be carried to the central office. Pacific contends that with IDLC technology, the loop and switch are not separable but rather integrated to provide functionality (the loop cannot be unbundled from the switch). CLECs contend that to compete they must have the ability to use IDLC loops to enjoy the same efficiencies that Pacific does.

b) Collaborative Process Summary

Pacific asserted that the loop and switch are not separable but offers an alternative method of providing service in parallel to IDLC. Pacific can move the customer to the alternative service, e.g. copper wire using Universal Digital Loop Carrier or UDLC. UDLC allows CLECs to take advantage of DLC efficiencies and can be provided as an unbundled loop. UDLC is designed to cross connect at the switch as opposed to IDLC where the loop and switch are not separable. If such UDLC facilities are not available, CLECs are directed to use the INER process to request those facilities and are responsible for paying the concomitant construction costs.¹⁸

CLECs want IDLC service so as to be at parity with Pacific's retail loop offerings. If CLECs are forced to use the UDLC for loops they will suffer higher cost and degradation of service because signaling must undergo a conversion from digital to analog prior to being switched. This type of conversion will not allow CLECs to compete in the market for high capacity data loops because the use of high speed modems would be limited for customers on UDLC systems.

CLECs proposed a number of technical solutions that would allow their use of IDLC. These included: allowing CLECs access to the loop from Pacific's remote terminal locations using DSLAMs, or using TR 303 capabilities or digital cross-connects at the switch. Pacific labeled those solutions either subloop unbundling or infeasible, based upon the equipment deployed in their network. Pacific stated that the CPUC denied requests for subloop unbundling in various arbitration cases.

c) Discussion and Staff Recommendations

No agreements were reached in the collaborative process. However, it is clear from the collaborative process that efficiencies introduced by using IDLC technology should be enjoyed by both by Pacific and the CLECs. In its Order and NPRM on Offering Advanced

¹⁸ Pacific's suggested alternatives are based on the FCC's First Report and Order on Interconnection, FCC 96-325, paragraphs 383-84.

Telecommunications Capabilities the FCC asserted this as well.¹⁹ In its Notice of Proposed Rulemaking, the FCC concludes that:

- It is technically feasible to unbundle a DLC high-speed data compatible loop if the ILEC is capable of providing xDSL services over that loop. (paragraph 167)
- If ILECs use an alternative method to provide xDSL service, that is presently carried over a DLC loop, such as bypass by copper facilities or via a DSLAM at remote terminals the ILEC must offer the CLEC the same opportunity. (paragraph 172)
- ILECs must provide sub-loop unbundling of the local loop and permit CLECs to collocate at remote terminals unless they prove that it is not technically feasible or that there is no space at the remote terminal. (paragraph 174)

Given the limited deployment of IDLC (0.7% of loops in California)²⁰, the pending proceeding before the FCC that addresses IDLC and the Commission's policy on no sub loop unbundling, staff suggests that Commission action on this issue would be premature. However, staff does recommend that Pacific be required to provide UDLC to CLECs where customers must be moved from IDLC loops and that Pacific be required to provide UDLC to CLECs without requiring that an INER be filed, since the UDLC technology already exists in the network. Further, Pacific should be required to provide quarterly to the Director, Telecommunications Division on its deployment of IDLC loops so that the Commission can monitor IDLC penetration in Pacific's network.

3. Digital Subscriber Lines and Spectrum Management

a) Initial Staff Report Summary

The following issues were included in the ISR for discussion in the collaborative process:

- Address the implications regarding the use of Pacific's specifications, as opposed to industry standards, for xDSL loop provisioning.
- Review Pacific's Spectrum Management program to determine if it is competitively neutral.

¹⁹ In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability, FCC 98-188.

²⁰ Pacific asserts that the percentage of loops that are on IDLC is decreasing due to the offering of xDSL services. xDSL services require a "clean" copper loop that is free of load coils and excessive bridge taps, and is copper end-to-end from the customer premises to the central office and are therefore incompatible with IDLC.

Various CLECs have ordered Digital Subscriber Line or “xDSL” capable unbundled loops from Pacific. xDSL is a loop technology that allows voice and high speed data to travel over the existing copper loop. In order to provision xDSL, carriers need a “clean” copper loop that is free of load coils and excessive bridge taps, and is copper end-to-end from the customer premises to the central office.

Pacific’s xDSL offering is ADSL; to compete, CLECs would like to offer other variations of the xDSL service. CLECs assert that Pacific requires all xDSL loops to comport with the company’s specifications rather than industry standards which advantages Pacific. Pacific asserts that its network must have standards that both protect the integrity of the network and apply to the widest possible array of services. Additionally, Pacific has adopted a Spectrum Management Program that may exclude certain services from being provided by CLECs if they do not comply with Pacific’s spectral interference requirements. With limited knowledge of the program and its development, staff could not determine if the program was competitively neutral.

b) Collaborative Process Summary

CLECs assert that Pacific’s Technical Publication TP76730 for provision of xDSL does not comport with developing national standards (American National Standards Institute, ANSI Subcommittee T1E1.4). CLECs assert that Pacific’s adoption of standards for provision of ADSL limits their competitive choices because the technology for spectral power masks, which are necessary to protect services from interfering with each other, do not allow for alternative technologies that may be supported by national standards. Pacific responds that the task of managing the loop network (both retail and wholesale) with various versions of xDSL is their responsibility. The standards chosen for xDSL provisioning provide the proper balance necessary to manage total loop demand on the network.

Pacific’s presentation on ADSL Spectrum Management detailed its use of dedicated binder groups to limit spectral interference. If binder groups are used to separate services that may have spectral interference, there is a greater probability that service can be provisioned. Binder groups are segmentations of the cables that aggregate loops as they progress toward COs. The method Pacific has chosen allows ADSL loops to be placed in separate binder groups to mitigate interference and is being implemented in approximately 87 central offices.

CLECs assert that Pacific’s use of separate binder groups as its Spectrum Management Program is not competitively neutral because it favors the ADSL technology which Pacific has chosen for its own deployment, and does not fully consider the process as it relates to other forms of xDSL. CLECs believe that this may be a barrier to efficient entry for those that plan to offer alternative versions of xDSL because potential spectral interference

between xDSL ADSL would cause Pacific to delays xDSL provision until separate binder groups became available.

To provide a better understanding of its xDSL provisioning and Spectrum Management programs, Pacific agreed to meet with industry participants. The first meeting, held on September 22, 1998 addressed Pacific's plans for using binder group management to limit spectral interference in the provision of xDSL services. The meeting also covered the ordering, provisioning and maintenance issues for ISDN/xDSL services with emphasis on ordering procedures for xDSL services. There were no agreements reached at this meeting according to reports from Pacific and CLECs. The second meeting, not yet scheduled, will be an industry forum to address xDSL technology with an emphasis on spectral power masks and empirical testing.

c) Discussion and Staff Recommendations

It is clear from the collaborative process that the national standards body is the most efficient venue to determine the minimum standards. Successful solutions to xDSL provisioning require that carriers interact to develop the most effective means of deployment of services based on national standards. Staff recommends that Pacific be required to adopt and update national standards, as proposed by ANSI, for the provision of xDSL services.

Based upon the meetings planned for industry participants on xDSL provisioning and Spectrum Management, and the pending proceeding before the FCC that addresses xDSL and Spectrum Management,²¹ staff suggests that Commission action on this issue would be premature. However, staff does suggest that Pacific and CLECs be required to report to the Director, Telecommunications Division, by the end of 1998 on the progress regarding the success of xDSL deployment and binder group management as Pacific's chosen Spectrum Management program. If progress is not made in the deployment of xDSL technology, staff recommends that the Commission take appropriate action by opening a proceeding to investigate Pacific's practices regarding spectrum management.

If disputes arise regarding the results of binder group management in the deployment of xDSL technology, CLECs have recourse to the dispute resolution process described in this report. Finally, staff recommends that Pacific alert all CLECs, via Accessible Letter, of the update to its technical publication on xDSL standards (TP 76730 at p. 12).

²¹ In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability, FCC 98-188, the FCC solicits information on the affect of minimum national standards on Spectrum Management and xDSL provision with emphasis on the approach for grandfathering existing services.

4. Loop Installation Problems

a) Initial Staff Report Summary

The following issue was recommended for inclusion in the collaborative process:

- Determine how loops which are not functioning following installation should be treated.

CLECs assert that loops which have been provisioned incorrectly and are not functional are referred to Pacific's repair process as opposed to being corrected within the provisioning process.

b) Collaborative Process Summary and Staff Recommendations

To provide greater understanding of issues surrounding loop cutovers, the loop provisioning process was discussed in detail in the collaborative workshops. Because of the interrelationship with number portability, most problems associated with provision of unbundled loops are discussed in the number portability section of this report. This section discusses a remaining issue: how Pacific responds to reports of a non-functioning loop.

In the past, Pacific referred CLECs to its repair process through the LOC for unbundled loops that are not functioning during or at the completion of the installation process. The repair process requires the initiation of a trouble ticket and possible delay in solving the problem. Rather than dispute the meaning of a functioning loop and the issue of who is responsible, parties reached agreement on this issue in the collaborative process:²²

- Pacific will implement a new process in the LOC to resolve and track problems associated with the initial installations as provisioning, not maintenance problems. This process is to be put in place August 15, 1998.

Staff recommends that this agreement be adopted and that the methods and procedures that define this process be published in the CLEC Handbook with descriptions and instructions for referring loop installation problems to the LOC. All CLECs should be notified of these changes through an Accessible Letter.

The methods and procedures put into place by Pacific under the above agreement should include the following:

²² See Section 2.2.3 of the Staff Agreements Summary of August 24, 1998.

- Pacific initiate a split between the maintenance and provisioning groups in the LOC, with the latter handling loop installation process,
- If the loop never worked, it is referred to the LOC provisioning process for resolution,
- If the loop is functional during CLEC testing but is non-functional after the testing technician leaves, the problem is referred to the LOC provisioning process if problem identified on the due date, otherwise it is referred to the LOC repair process.
- An 800 number for the LOC provisioning process for non-functioning loops at installation is provided and published, and
- A 4-hour commitment to resolution through the LOC provisioning process is guaranteed.

Staff recommends that the agreements reached by parties should govern the process by which non-functioning loops are referred to the LOC for expeditious resolution. With a separate team at the LOC to deal with nonfunctioning loops, the problems surrounding delivery of functioning loops to CLECs will be mitigated. The effort of increasing the avenues for communication between the parties is a step in the right direction. However, staff suggests that the provisioning of loops and accompanying installation problems be monitored through performance measures to ensure continued progress.

5. Loop Technical Specifications

a) *Initial Staff Report Summary*

The following issue was included in the *Initial Staff Report* for consideration in the collaborative process:

- Develop a process for CLECs to obtain technical specifications for unbundled loops, including an effective use of the INER process to request particular types of unbundled loops.

CLECs complain that, with the exception of POTS service, Pacific has not made technical specifications for loops available, including the specifications for conditioning loops to have the ability for high speed data transmission.

b) *Collaborative Process Summary*

In the collaborative process the major issue that surfaced was CLECs inability to get the technical specifications, as opposed to generic product descriptions, for loops that are defined in their individual ICAs. Pacific asserts that the technical specification for 2-wire

analog, 4-wire analog, 2-wire ISDN digital and 4-wire DS1 digital loops are available, per ICAs, in the CLEC Handbook, section 16.2 and that NCI codes for ordering the products exist. Further, Pacific's NCI codes that are to be used to order UNEs are not reflective of the physical loops as described in the technical publications referred to in the CLEC Handbook. The collaborative process for a particular type of loop. Pacific referred to the INER process as the CLECs' recourse for obtaining the desired loop specifications.

c) Discussion and Staff Recommendations

The dispute revolves around CLECs inability to secure consistent definitions, technical specifications and ordering specifications for loop types provided for in ICAs. This is a subset of the larger problem addressed in the UNE checklist section of this report regarding specifications and equipment necessary to provide UNEs. This problem is also addressed in the section of the report on the K1023 process, where certain loop technical specifications can be previewed prior to ordering high speed data capable loops.

Staff suggests it is Pacific's responsibility to provide a clear understanding of the use of NCI codes for ordering unbundled loops. Toward that end, Pacific should conduct meetings with industry participants for the purpose of defining loop technical specifications using NCI codes and report the results to the Commission. If this effort is unsuccessful, staff suggests that technical workshops be ordered to create the technical and ordering specifications using NCI codes.

E. ITEM FIVE –Local Transport

1. Collaborative Process Summary

The following issues were identified in the ISR for discussion in the collaborative workshop:

- MCI claims that Pacific does not make unbundled dedicated transport available. Pacific responds that this is not true.
- AT&T claims that Pacific does not cooperate in providing dedicated transport facilities to a point of access designated by CLECs. Pacific refutes this claim, saying it provides the necessary cross-connects.
- AT&T states that it must pay non-cost-based access rates for the use of Special Access trunk groups for trunks that Pacific provides to CLECs outside of Pacific's service territory. Pacific responds that "(t)he trunks that AT&T complains of are not ... local trunks, and therefore are not subject to the unbundling requirements of Sections 251 and 252 of the Act. Under the Act,

Pacific is only required to provide interconnection for local transport, not interexchange transport for access traffic.” (Pacific 5/20/98 Response, p 60.)

In the ISR, staff stated that further information was needed to evaluate Pacific’s compliance with this checklist item. The issues listed below were identified by parties.

Some local transport issues raised by parties will not be discussed in this section. Issues relating to Pacific’s implementation of 2-PIC software were raised in the transport workshop but were discussed in the context of the switching workshop since the routing of calls depends on the capabilities of software resident in the switch. The availability of unbundled dedicated transport as part of unbundled switching Option C is discussed in the switching section of this report, as is the issue of Pacific’s refusal to route overflow traffic from Option C high usage dedicated trunks to its own shared transport network. While those issues are addressed in the switching section of this report, there is an overlap between switching and transport so that compliance (or lack of compliance) with those issues, addressed in the switching section, would also impact compliance with the transport checklist item.

Issues relating to ordering and provisioning of local transport are addressed in the OSS section.

2. Availability of unbundled dedicated transport.

Parties differed as to the availability of the dedicated transport UNE. MCI raised the issue of lack of availability based on its inability to obtain unbundled transport as part of its unbundled local switching Option C request. That particular aspect of availability of unbundled transport will be discussed in the switching section, in conjunction with the discussion of switching Option C.

Pacific described its shared/common and dedicated transport service offerings. It offers local dedicated transport between its end office switches and tandems and between its end office switches/tandems and CLEC switches. Local shared transport is offered between its end office switches, and common transport is offered between its end office switches and its tandems. Pacific says it has provisioned dedicated transport to several CLECs.

Pacific has made the transport UNE available to CLECs, although not on any sort of commercial basis. The ordering and provisioning system is not in place to accommodate large volumes of orders. (See OSS section) Also, Pacific needs to address the billing problems described below.

3. Meet point trunking arrangements.

Parties clarified the issues surrounding meet-point provisioning of dedicated transport facilities between Pacific's territory and GTEC's territory. Pacific has provided this arrangement for some smaller CLECs, and as part of the process, required that a joint meeting be held with Pacific, GTEC and the CLEC involved. CLECs who are also IXCs objected to the meeting, stating that the provisioning was no different from what they are used to as IXCs. Pacific agreed that the three party meeting was optional for meet-point dedicated transport if the CLEC provided written confirmation that GTEC was prepared to provision the meet point dedicated transport and to meet with Pacific without the CLEC present. Pacific requires the CLEC to provide the GTEC contact name and number. Pacific committed to amend the CLEC Handbook to reflect this change and to provide a summary of its M&P for meet-point dedicated transport.

Pacific provided its 70-page M&P to staff after the close of the collaborative workshop under GO66-C, and provided parties with a summary of the M&P. Pacific's summary of its procedures for multi-exchange carrier (MEC) unbundled transport (TUBA) states that if the CLEC does not have the MEC TUBA pricing structure in its ICA, the CLEC must obtain it through the INER process. AT&T responded that it did not understand why it would need to amend its ICA since AT&T is only asking for unbundled transport from one location to the meet point. AT&T already has unbundled transport in its ICA so Pacific should just apply the mileage component, says AT&T.

Staff is not in a position to evaluate the components of the 70-page M&P document to determine the necessity of amending AT&T's ICA which already includes mileage rates for voice grade, DS1 and DS3 dedicated transport. Staff recommends that Pacific be prepared to make a showing as part of the company's compliance filing in this 271 proceeding of the specific circumstances in which its MEC TUBA would require a CLEC to negotiate an amendment to its ICA.

4. Availability of higher speed unbundled dedicated transport.

CLECs raised the issue of access to higher transmission speeds for unbundled transport, primarily the Optical Level bandwidths such as OC-3, OC-12, and OC-48. One CLEC, ICG, has a limited list of transport options listed in its ICA, while MCI has the OC transmission levels listed, but with "To be determined" (TBD) prices. MCI made a formal request to Pacific on August 18, 1998, to file an addendum to its ICA for all UNEs which currently have TBD prices.

Pacific responded to ICG's request in a follow-up document filed after the conclusion of the collaborative workshop. Pacific responded that off the shelf rates for Optical Level bandwidths cannot be established at this time; those services should be priced on an ICB basis using the INER process because the prices are based on location-specific availability and the arrangement/configuration that a specific CLEC requests. Pacific says that demand for the services is not high, and that as demand increases for those bandwidths, Pacific will be able to develop generally available prices, just as Pacific did with DS3s.

Pacific agreed to negotiate interim prices with MCI. If agreement is reached, the agreed to prices would be filed as an addendum to the Pacific/MCI interconnection agreement for all unbundled network elements where “TBD” prices currently exist.

Staff recommends that Pacific prove that it has taken the steps to make higher bandwidths available to CLECs. Also, the Commission should review carefully any rates Pacific develops for particular CLECs for its Optical Level bandwidths to determine that they are priced using TELRIC principles, as required for UNEs.

5. Billing issues associated with unbundled transport.

MCI raised two billing issues associated with unbundled transport. The first relates to Pacific’s inability to invoice for MCI’s purchase of UNE transport. MCI first placed orders for Option A switching (including shared transport) in July 1997, but Pacific didn’t invoice MCI until March 1998. The March bill contained errors. MCI is concerned with timeliness and accuracy, and wants to receive bills that reflect the rate specified in its ICA. Pacific indicated that the billing problems have been fixed; it planned to meet with MCI on August 25, 1998 to discuss a revised bill.

The second issue relates to the CLEC obtaining access records. MCI indicated that it is not getting access records needed to bill IXCs. In the course of the collaborative workshop, Pacific proposed a factor, based on various assumptions about relative traffic volumes, to use for estimation. Pacific and AT&T agreed that they would have their respective billing experts meet off-line to work on the development of terminating bill factors for calls terminating on the UNE. Staff sees this as an important item since the CLEC does not have full use of the UNE unless it can bill IXCs for access charges associated with the UNE.

6. Summary of Staff Recommendations for Unbundled Transport

- Pacific should make a showing that CLECs are able to obtain meet point unbundled transport;
- Pacific should demonstrate the specific circumstances in which a CLEC would be required to negotiate an amendment to its ICA in order to implement meet point unbundled transport;
- Pacific should demonstrate that it has made higher bandwidth transport services such as Optical Level bandwidths available to CLECs. Even if only available on an Individual Case Basis (ICB), pricing for these services should be based on TELRIC principles, as required for UNEs.
- Pacific should demonstrate that it can produce timely, accurate bills for the transport UNE;

- Pacific should demonstrate that parties have developed a factor for estimating terminating access volumes;

F. ITEM SIX –Unbundled Switching

1. Initial Staff Report Summary.

In the ISR the following issues were slated for discussion in the collaborative workshop:

- Pacific must demonstrate that unbundled switching is available as a legal and practical matter.
- Pacific must demonstrate that its OSS can accommodate a significant volume of Option A service requests.
- Pacific must demonstrate that it can provide CLECs which purchase the unbundled switching element with the necessary information to bill IXCs for originating or terminating access.
- Review Pacific’s practices regarding Option B and Option C, to determine how to ensure that CLECs are able to implement in a timely manner.
- Determine if Option B ROAR has been implemented, and if it is in operation, determine how to evaluate the implementation.
- Establish technical trials for Options B and C and use those trials to verify that these switching options are available as a legal and practical matter.

Issues relating to ordering and provisioning of unbundled switching are addressed in the OSS section of the report. The issue of the use of unbundled transport to carry intraLATA toll calls in a post-2 PIC environment was originally discussed in the transport section of the workshop, but since use of the UNE in that manner relates to functionality resident in the switch, the issue was shifted over to the switching portion of the workshop and is addressed below. The issue of how to address collapsing switches arose in the discussion relating to custom routing options B and C. That issue will be discussed in this portion of the report. Billing issues associated with unbundled switching and transport are discussed in the transport section.

2. As a practical and legal matter, has Pacific made unbundled switching available?

This was the first point raised for discussion in the collaborative process. While the status of switching options A, B, and C are discussed below, there are some general issues relating to Pacific’s compliance with this particular checklist item. In Option A switching, the CLEC purchases unbundled switching from Pacific, and all traffic is carried over the same local transport facilities as for Pacific’s customers. Option B switching involves customized routing of 0+, 0-, and directory assistance calls to the CLEC’s operator platform. Option C allows the

CLEC to design its own switch-level routing scheme; therefore, Option C may differ for each CLEC.

The unbundled switching element is not being used by CLECs on a commercial basis, although MCI and AT&T have ordered combinations under Option A for test purposes. Staff sees the ubiquitous availability of unbundled switching as critical to the development of competition in the local exchange market and required by the Act. UNE switching is a necessary element for CLECs who want to provide service using UNE combinations. If unbundled switching is not readily available, CLECs will not be able to offer service using UNE combinations. Pacific's implementation strategy appears to be to delay and erect roadblocks for CLECs which seek to use UNE switching. Pacific has been slow to respond to requests under the INER process, and the usual response is to refuse the CLEC's request. It is not enough for Pacific to say that the three switching options are available to CLECs; it needs to make that supposed availability a reality. To date, that has not happened.

While the ISR reviewed FCC statements relating to UNE switching in prior 271 filings, it did not review the FCC's *Local Competition Order*. The Local Competition Order made it clear that carriers that purchase access to the unbundled local switch may obtain customized routing, *unless it is not technically feasible to provide customized routing from that switch*. The FCC concluded that a requesting carrier's ability to order local exchange service would be "impaired, if not thwarted," without access to the unbundled local switch.²³

The FCC determined that ILECs must offer customized routing unless they prove to the relevant state commission that doing so would not be technically feasible in a particular switch. (&418) In other words, technical infeasibility is the only acceptable reason for denying a particular request for custom routing, according to the FCC. Since the collaborative workshop explored a number of carrier disputes about implementation of various custom routing options, staff will keep this FCC dictate in mind in exploring each disputed item in the sections below. Staff will also explore how Pacific should bring issues of supposed technical infeasibility to the Commission for its determination, something which Pacific has not yet done.

Those issues will be taken into account in the discussions below relating to Switching Options A, B and C. The focus will be on the status of deployment of each option.

3. Option A Switching

According to Pacific, three carriers are using Option A. However, MCI reported that its purchase has been for purposes of a test involving only company employees, not for commercial deployment. AT&T stated it also was using employees for testing purposes and had placed "fewer than 10 orders to date." Therefore, staff concludes that Option A is not available on a commercial basis.

²³ FCC, Local Competition Order, &420.

4. Option B Switching

AT&T has had an Option B footprint installed in six offices and is testing the routing for operator services. MCI originally placed a request for Option B, but when it became apparent that Option C was needed, MCI began to pursue that option.

Both MCI and AT&T ran into hurdles when they attempted to work with Pacific to implement some version of Option B switching. MCI attempted to get Feature Group D (FGD) signaling installed instead of MOSS, which is what Pacific uses to access its operator platform. According to MCI, MOSS is a pre-divestiture signaling system which MCI has never had access to since it was never a Bell company. MCI first made the request for FGD signaling to Pacific in June 1997. Pacific required MCI to submit an INER for FGD signaling, which MCI did. Pacific rejected the INER on August 14, 1998.

MCI says it is technically feasible for Pacific to provide FGD signaling, but Pacific says its switch vendors say MCI's request would require Pacific to change signaling for its entire network; signaling cannot be changed for just MCI, states Pacific. MCI pointed out that Pacific has refused to share the information received from third-party switch vendors regarding FGD signaling, citing confidentiality. AT&T said it has modified its own switches to accept both MOSS and FGD signaling but admits those were not end office switches. This is one area where the factual dispute of technical feasibility requires vendor input to settle.

AT&T ran into a dispute with Pacific over the types of calls which would be routed to AT&T's operator platform. Pacific agreed to route 411 calls but not foreign NPA 555-1212 calls. While the issue is currently in commercial arbitration between the parties, and in Pacific's view, not an issue for 271, the Commission has an obligation to examine any roadblocks to implementation of the switching UNE. According to Pacific, foreign NPA calls are not local DA calls and should not be included. There is no issue of technical feasibility, rather a definitional dispute which relates back to the ICA between AT&T and Pacific. In its Implementation Rate Design decision, the Commission included the statement that Pacific agreed that directory assistance calls to other area codes within a LATA would be assessed the same charges as local directory assistance calls. In other words, all calls to Pacific's directory assistance within a LATA would be treated the same, and subject to the same free allowance and charges.²⁴ The ruling in the IRD decision points to the obligation Pacific has to treat all directory assistance calls within a LATA in the same manner, as local in nature.

According to AT&T they have completed trials and determined that the FNPA 555-1212 routing is technically feasible. Pacific stated that it does not agree that it works. The specific issues relating to technical feasibility were not presented at the collaborative workshop.

As part of its Option B request, AT&T asked to have 411 calls converted to a 900 number by Pacific and routed to AT&T's operator platform. According to Pacific, during testing of the 411 to 900 conversion, there were AMA record anomalies, and Nortel and Lucent, Pacific's switch

²⁴ CPUC, D.94-09-065, mimeo. P. 63.

vendors, would not support the translations needed to support the configuration requested by AT&T. AT&T responded that the only billing problem addressed in the technical testing was a minor billing problem which does not fit under the FCC's definition of technical feasibility. AT&T suggested alternatives to capture the billing information.

Apparently one ILEC, Southern New England Telephone (SNET) has implemented the 411 to 900 conversion for CLECs. Pacific expressed concern that the configuration of SNET's switches could be different than Pacific's, thus allowing SNET to implement the conversion while Pacific cannot.

Again in this case, the Commission is faced with inadequate information to make a determination about whether the conversion CLECs requested is technically feasible.

5. Option C Switching

While parties to the workshop could not agree on a definition of Option C routing, they did agree that there could be variations in how carriers would choose to implement Option C. Pacific stated that no CLEC has ordered Option C, although MCI indicates that it has been actively working with Pacific to obtain Option C.

MCI requested the same type of code conversion as AT&T did under Option B (converting 411 to a 900 number). Pacific said that it denied MCI's request in November 1997. According to Pacific, Option C is for routing options available in the network today. Requests for functions that are not currently available in Pacific's network will be handled in accordance with ICA provisions. Pacific's response is not particularly helpful in light of MCI's query at the workshop about what process they should use to make the request. Should MCI have called their previous request an INER? Since Pacific already denied MCI's request, was that denial based on the fact that MCI did not follow the proper process or for some other reason? It is not clear to staff whether using some other process would have netted MCI an affirmative answer. However, Pacific indicates, in the context of MCI's special requests, that the 8th Circuit stated that Pacific does not have to provide a "superior network to satisfy CLEC requests." Staff does not agree with Pacific's conclusion that the 8th Circuit's decision covers requests for custom routing under Option C. By definition, Option C switching is defined by the CLEC, and it can include any sort of custom routing, not just those routing options Pacific is willing to provide.

CLECs which use dedicated unbundled transport to carry calls to a particular NPA-NXX as part of Option C want to be able to send overflow traffic to Pacific's shared transport network. Pacific refuses, stating that carrying CLECs' overflow traffic could impact Pacific's network and also impact LNP and the ability to default query. CLECs responded that Pacific is required to carry such traffic under the FCC's Third Order on Reconsideration.

Staff reviewed the FCC's order and found the following statement, which appears to bolster the CLECs' argument: "...the *Local Competition Order* requires incumbent LECs to offer requesting carriers access, on a shared basis, to the same interoffice transport facilities that the

incumbent uses for its own traffic.”²⁵ The FCC notes that the failure of an ILEC to provide access to its shared transport facilities would significantly increase competing carriers’ costs of providing local exchange service. The FCC quoted from its own *Local Competition Order*: “By unbundling various dedicated and shared interoffice facilities, a new entrant can purchase all interoffice facilities on an unbundled basis as part of a competing local network, or it can combine its own interoffice facilities with those of the incumbent LEC.”²⁶ The FCC recognized the costs associated with building a local exchange network and therefore ordered that the ILEC network be unbundled and available to requesting CLECs. The FCC concludes its discussion stating that access to ILEC transport facilities on a shared basis is particularly important in stimulating competitive entry because new entrants have not had an opportunity to study traffic volumes and routing patterns. The FCC sees this as a temporary phenomenon and that CLEC need for access to shared facilities may decrease as carriers expand their customer base. The FCC determined that it may revisit the issue later.

Staff has reviewed the relevant FCC rules and determined that Pacific must allow CLECs to use Pacific’s shared transport facilities for overflow traffic from the CLEC’s dedicated transport facility, unless Pacific can demonstrate that there is a technical feasibility issue. The FCC puts no limits on the CLECs’ usage of shared transport as the competitive market develops, and sees that limits on usage would have a detrimental effect on the development of competition.

Parties and staff need to work with switch vendors to determine if the routing of overflow traffic to Pacific’s shared transport network would impact LNP and the ability to default query.

6. 2-PIC Implementation

One of the issues that surfaced in the course of the workshop involved the routing of intraLATA traffic in a post-2 PIC environment, in cases where CLECs are using unbundled dedicated transport to route calls from a Pacific end office to a particular NPA-NXX. In a pre-2 PIC environment, Pacific stated that intraLATA toll traffic could be carried (along with other types of traffic) over the dedicated transport UNE leased by the CLEC. However, Pacific said that in a post-2 PIC environment, that custom routing feature would be overridden by the 2 PIC software in its switches so that all intraLATA traffic would be directed to the customer’s PIC 2 carrier. With intraLATA presubscription, neither Pacific nor the CLEC automatically carries the customer’s intraLATA calls. Instead those calls would be carried by the 2 PIC carrier chosen by the customer, says Pacific.

Pacific states (and the CLECs do not refute) that CLECs seek to avoid paying access charges by routing the intraLATA toll traffic over Pacific’s intraLATA toll network at UNE rates. To the extent that the CLEC is exempt from paying access charges for traffic over UNE transport, the CLEC would also be exempt from paying the costs of implementing presubscription, which the Commission established as a switched access rate element.

²⁵ FCC, Third Order on Reconsideration, 97-295, released August 18, 1997, ¶22.

²⁶ FCC, Third Order on Reconsideration, ¶34, quoting *Local Competition Order*, ¶441.

According to Pacific, it has implemented the industry standard. Since it is the IXC's instructions that control how the traffic is routed, the end office switch cannot send intraLATA calls from two different customers which are dialed the same way to two different dedicated paths, with one CIC. AT&T agreed with Pacific that it is not feasible to do the routing with only one CIC code, but that it is feasible if two different CIC codes are assigned to the two groups of customers, one for those customers which select AT&T as both their local and their intraLATA toll provider, and another for those customers who select AT&T only as their intraLATA toll provider.

The technical feasibility of having two call paths in a post-2 PIC environment was discussed at length in the course of the switching workshop. Since parties did not agree on the technical feasibility issue, staff determined that the issue should be raised with Pacific's two major switch vendors: Nortel and Lucent. Parties developed a series of questions which were transmitted to the two switch vendors. After signing nondisclosure agreements with both companies, staff received written answers to the questions developed by the workshop participants and discussed the responses with 2 PIC implementation experts for both switch vendors.

Analysis of the information provided by switch vendors and subsequent discussions staff had with technical experts from the switch vendors netted the information that there is currently at least one area of technical infeasibility which would preclude alternate routing of intraLATA toll calls at the present time. Since staff signed nondisclosure agreements with both vendors, specific information cannot be included in this report.²⁷ It was not clear to staff how difficult or expensive it would be to overcome the technical infeasibility issue.

The Commission does not want to order Pacific to implement something that is not technically feasible on its network. At the same time, it is clear that issues of technical feasibility can be used by Pacific to thwart the development of competition. There needs to be an open process where all parties and Commission staff hear the same information from the switch vendors and have the same opportunity to evaluate whether a particular proposal is technically feasible. A process needs to be developed to bring issues before the Commission to make a determination as to technical feasibility, as required by the FCC.

What governs Pacific's implementation of 2-PIC? The CPUC's decision on intraLATA presubscription or the FCC's Third Report on Reconsideration? The CPUC decision set some rules for ILECs to follow, especially in the area of cost recovery, but the issue of cost recovery should not govern how 2-PIC is implemented. The Commission never addressed that issue in its presubscription decision. It is true, as Pacific states, that calls carried over the dedicated transport UNE would be exempt from any and all access charges, including the Commission's temporary cost recovery mechanism for recouping the costs of implementing intraLATA presubscription. However, that temporary access charge rate element is of short duration, and CLECs would be able to avoid the charge only in those cases where their traffic volumes between COs warranted use of dedicated transport. Most intraLATA toll traffic will be subject

²⁷ Parties which want to obtain the written information provided by the switch vendors should contact the Telecommunications Division to arrange to sign the nondisclosure agreement. Staff will then provide copies of the vendors' submittals.

to the cost recovery rate element. If Pacific were to find that significant inequities developed in paying the cost recovery surcharge, Pacific should raise that with the Commission by filing a Petition to Modify the presubscription decision, D.97-04-083.

Review of the FCC's Third Order on Reconsideration provides guidance on the FCC's thinking underlying use of unbundled transport by CLECs. In §38, the FCC set forth a general principle:

[W]e clarify that requesting carriers that take shared or dedicated transport as an unbundled network element may use such transport to provide interstate exchange access services to customers to whom it provides local exchange service.²⁸

Pacific found it significant that the FCC focused only on interstate access,²⁹ stating that the FCC order did not dictate the permitted intrastate uses of unbundled transport, especially in a post-2 PIC environment. Instead the CPUC has the authority to decide how intraLATA presubscription will be provided, says Pacific.

Staff finds Pacific's reading of the FCC's Order to be unnecessarily narrow. In §52, the FCC further refined its general rule:

We therefore find that requesting carriers that provide exchange access using shared transport facilities to originate and terminate local exchange calls may also use those same facilities to provide exchange access service to the same customers to whom the requesting carrier is providing local exchange service.³⁰

Plainly the FCC intended that carriers using shared transport to provide local exchange service should also be allowed to use that very same network configuration to provide access to the local exchange for the same end users taking the carrier's local exchange service. In its analysis, Pacific argues that the FCC limited its rule to the provision of "interstate" exchange access services. That is correct for the quote from ¶ 38, above, in which the FCC used the phrase "to provide interstate exchange access services to customers". That limiting language, however, does not appear in the quote from ¶ 52, in which the FCC says simply "to provide exchange access service to the same customers." Thus, it is not entirely clear whether the FCC intended its rule to apply only to interstate exchange access service, or to all exchange access services. While §52 applies specifically to shared transport, staff believes that the FCC did not intend its language to limit the uses of dedicated transport.

Pacific's argument regarding its ability to recover implementation costs for intraLATA presubscription is misplaced. It is correct that the CPUC ordered implementation cost

²⁸ FCC, Shared Transport Order, Third Order on Reconsideration, released August 18, 1997.

²⁹ Pacific Bell Response to CPUC Response for Analysis of Legal Issues Regarding the Use of the Transport UNE after Implementation of IntraLATA Presubscription, August 24, 1998, pp 4-5.

³⁰ *Ibid.*

recovery for intraLATA presubscription via a component of access charges. It follows then, that if a carrier uses a network configuration based on purchase of UNE transport, against which access charges cannot be assessed, the carrier would not be contributing to the recovery process the CPUC established for intraLATA presubscription implementation costs. The avoidance of the cost recovery mechanism, however, is another issue. More specifically, it is a policy issue. The CPUC's order on intraLATA presubscription did not contemplate that a carrier might use dedicated transport to provide local exchange and intraLATA toll services, so it did not address how the cost recovery mechanism would need to be adjusted if that were to occur. Certainly, the CPUC may wish to revisit the recovery mechanism should a significant amount of intraLATA traffic be carried over dedicated transport facilities, and reduce significantly the cost amount recovered through the access charge component.

Pacific states that the FCC's Order is limited to interstate uses of the transport UNE, and that the CPUC has the authority "to decide on method(s), manner(s), or architecture(s) on how intraLATA presubscription will be provided, including any limitations on the use of shared transport..."³¹ While staff believes that the FCC order does govern the use of the transport UNE, if, as Pacific asserts, the state has the authority to make that determination, staff recommends that the Commission find that CLECs should be able to carry any and all types of traffic from their local customers across the transport UNE. Only if technical infeasibility can be proven to be a surmountable obstacle, should CLECs be precluded from using unbundled transport to route intraLATA traffic. While staff notes that preliminary conversations with the switch vendors disclosed an issue of technical infeasibility, staff believes that the issue warrants further examination as to the extent of that infeasibility and the development of mitigating measures.

7. Technical Trials

In its ISR staff cited the need to establish technical trials for Options B and C and to use those trials to verify that the switching options are available to CLECs. The issue was not discussed extensively in the collaborative workshops, although reference was made to some trials that had previously been performed on various functions. MCI and AT&T both cited the need for technical trials to provide an opportunity for CLECs to prove that particular forms of custom routing will work.

Given the technical feasibility disagreements over various routing functions, staff agrees that technical trials are the best method to establish whether a function is feasible or not. Staff recommends that a technical workshop be convened to review the custom routing requests which Pacific has denied on the basis of technical infeasibility. The results of the trials must be available to staff and any interested parties as well as to Pacific, subject to signing nondisclosure agreements with the vendors.

³¹ *Ibid.*

8. Collapsing Switches

In the context of implementation of switching options B and C, AT&T raised the issue of how Pacific treats a switch collapse. Pacific has a switch modernization program, with plans to replace its outmoded 1A analog switches with digital switches. In some cases the switch is replaced (known as a replacement or “dial-with-dial”). In other cases, Pacific installs a small digital switch to augment the 1A, with the intention of “collapsing” the 1A into the digital switch at some future time. In the meantime, both switches are operational and treated as separate central offices, with different NXX codes resident in each.

Whenever a carrier implements either Option B or C, a virtual telephone exchange (VTE) is created within the switch. There is a charge to establish this VTE in the switch. According to Pacific, in a “dial-with-dial” situation, there is no charge when Pacific moves all customers and establishes the CLEC’s VTEs in the new digital switch. However, in the collapsing switch scenario, the CLEC has to pay for footprints in both switches. AT&T objects to paying for footprints in both because Pacific makes the unilateral decision to have two switches operating.

Pacific offered that when the collapse of an analog switch occurs and space is available in the existing digital switch, Pacific would move the CLEC to the existing digital switch without imposing a new footprint charge. AT&T believes space should be guaranteed in the new digital switch when a CLEC wants to move over to that switch. Pacific replied that it cannot guarantee space in a digital switch if other CLECs have already purchased all the available capacity for footprints in the new digital switch.

Also, AT&T complained about a letter received from Pacific dated August 21, 1997, which stated conditions for switch collapse which AT&T felt were onerous. Those conditions included: waiving the right to appeal to the FCC/ CPUC; Pacific reserving the right to change with 60 days notice; and AT&T having to pay for conditioning in both switches. During the course of the workshop, Pacific withdrew its 8/21/97 conditions for switch collapse.

It appears to staff that this issue will affect only the larger carriers, those with a large enough customer base to warrant custom routing. For that reason, the limited number of VTEs available in a switch should not adversely impact CLECs. However, to the extent possible, Pacific should accommodate the wishes of CLECs with a VTE in the older analog switch to be assured a place in the new digital switch. Pacific should allow the CLEC to reserve VTE capacity in the digital switch, until such time as other CLECs request the VTE. If it appears that other CLECs will use all the VTEs in the new digital switch, the CLEC with a VTE in the analog switch should be given the opportunity to obtain a VTE in the new digital switch. If the CLEC chooses to install its VTE in the digital switch while the analog switch is still operational, the CLEC must pay for the footprint in the digital switch.

9. Summary of Staff Recommendations

- Pacific must demonstrate as a legal and practical matter that it has made unbundled switching available to CLECs;
- Pacific should provide custom routing functions which CLECs have requested which are technically feasible, as required by the FCC.
- In their comments on this report, Pacific, and other parties to this 271 proceeding, should propose a process the Commission could adopt for parties and staff to examine technical feasibility of particular custom routing options, including use of dedicated transport in a post-2 PIC environment;
- Pacific should allow CLECs' traffic from dedicated transport facilities to overflow to Pacific's shared transport network;
- Following a technical workshop, Pacific should conduct technical trials of Switching Options B and C, in conjunction with staff and CLECs and provide the results of those technical trials to the Director, Telecommunications Division.
- Pacific should not re-institute the onerous conditions in its 8/21/97 letter for instances involving collapsing switches;
- In cases where a CLEC retains its VTE in the analog switch, when the new digital switch is installed, Pacific should inform that CLEC of the number of VTEs available to CLECs in the new switch;
- Pacific should allow CLECs with VTEs in the analog switch to reserve a VTE in the new digital switch, at no charge. If VTEs are in short supply in the digital switch, the CLEC will have the option of installing its footprint in the digital switch before the VTE is given to another CLEC. The CLEC will be responsible for paying for the cost of the footprint, as long as both switches are operational.
- CLECs should not pay the cost of the footprint in a dial-with-dial switch replacement.
- Pacific should develop M&Ps for ordering and provisioning unbundled switching, on a standalone basis or in combination with other UNEs.

G. ITEM SEVEN – Nondiscriminatory Access to 911 and E911, Directory Assistance Services, and Operator Call Completion Services.

Prior to the collaborative workshops, staff determined that the issues identified in E911 and directory assistance were related to pre-ordering. Issues related to this checklist item are, therefore, addressed in the OSS pre-ordering section of this report.

H. ITEM EIGHT – White Pages

Prior to the collaborative workshops, staff determined that white page issues were related to pre-ordering. Issues related to this checklist item are, therefore, addressed in the OSS pre-ordering section of this report.

I. ITEM NINE – Access to Telephone Numbers

In the *Initial Staff Report*, staff determined that Pacific proved compliance with this checklist item.

J. ITEM TEN – Access to Databases

1. Initial Staff Report Summary

The ISR determined that access to call-related databases which are part of Pacific's Advanced Intelligent Network (AIN) are critical to competition in the local market. The FCC found access to AIN to be technically feasible either through the use of the incumbent's unbundled switching element, or through the new entrant's own switch. Staff also expressed concern about problems CLECs had experienced with deployment of Signaling System 7 (SS7).

The following issues relating to AIN and SS7 were slated for the collaborative process:

- review Pacific's deployment of AIN capabilities to determine if it is providing access to CLECs as required by the FCC;
- review how maintenance/trouble reports regarding SS7 are processed by the LOC.

2. CLEC access to Advanced Intelligent Network (AIN) databases.

The *Initial Staff Report* stressed the importance of CLEC access to AIN capabilities and sought to use the collaborative workshop to assess the status of Pacific's provision of AIN access to CLECs.

In preparation for this workshop session, Pacific provided copies of various documents relating to AIN:

- Section 26.0 from the CLEC Handbook entitled *CLEC Access to Advanced Intelligent Network (AIN) Service Creation and Management*;
- A Technical Reference Manual on AIN and other technical reference materials on AIN which are referenced in the CLEC Handbook;
- A document which outlines the application process CLECs should use to gain access to Pacific's AIN service creation and service management environments.

Pacific indicated that information on the process for obtaining access to AIN has been in the CLEC Handbook since April 1997, and since then no CLEC has made an application for access to Pacific's AIN. AT&T responded that it had never seen the information before and was not aware that Pacific had added a section on AIN to its CLEC Handbook.

According to AT&T, Pacific was aware that AT&T wanted to pursue the use of AIN. AT&T stated that it negotiated access to AIN in its ICA with Pacific, and since then has sent letters, asked for an AIN trial, and had frequent meetings on AIN with Pacific. CLECs need to stay abreast of changes to the CLEC Handbook by checking Pacific's Handbook website on a regular basis. However, Pacific also has an obligation to treat CLECs as valued customers rather than competitors. A wholesaler which is aware that a customer wants to purchase a product that is not yet available, would certainly make every effort to notify that customer when the product is finally available and carefully explain the ordering process. Changes to the CLEC Handbook must be better communicated to CLECs by Pacific, both through Accessible Letters and through Account Manager contacts.

In its 271 compliance filing, Pacific needs to demonstrate that the AIN capabilities described in the CLEC Handbook are available as a legal and practical matter. AT&T and other carriers are now aware of the process to follow to secure AIN functionality and should be able to pursue access.

According to AT&T, the AIN process is cumbersome. Staff's review of AIN-related documents Pacific provided raised some similar concerns about the complexity of the process. Staff recognizes that since AIN infrastructure becomes a shared resource, certain requirements and guidelines must be put in place to ensure correct operation, sufficient security and acceptable performance of AIN capabilities. However, the process should not be so cumbersome to preclude AIN usage by CLECs.

AT&T states that there is no agreement on prices of any AIN elements, including pre-defined feature packages. Pacific's technical documents make it clear that CLECs and Pacific will need to reach final agreement on pricing and other applicable terms and conditions to provide AIN capabilities. In its technical publication: *Access to Advanced Intelligent Network (AIN) Service Creation and Management*, Pacific indicates that rates for network functionalities will have to be approved by the CPUC, and that work associated with securing regulatory approval will be billed to CLECs on a monthly basis.

Staff is not aware of any instance where regulatory overhead is charged to customers purchasing a particular functionality, and it should not be done in the case of AIN or any other functionality requested by CLECs.

The three Service Creation Environment (SCE) options that Pacific presents in the CLEC Handbook and Technical reference documents mirror the three options in AT&T's ICA. However, in this 271 proceeding AT&T indicated that Pacific has not yet partitioned the SCE database to enable Option 2 provisioning. Pacific's Homework response stated that Option 2 is available to CLECs so presumably any required partitioning has been completed, although Pacific does not specifically address that issue. There is an inconsistency in the materials Pacific provided regarding the availability of Option 2. Section 26.3.2 in the CLEC Handbook indicates that Option 2 is available. However, one of the technical reference manuals referenced in the Handbook, *AIN Unbundling: Service Certification Process for Access to AIN Capabilities*, says something different. Section 3.4.3 states the following relating to Option 2: "This option will be offered when the SPACE stand-alone option is available and will be on a case-by-case contract basis." Pacific needs to clarify the availability of Option 2 and the status of partitioning.

There was inadequate time in the collaborative workshop to review the Handbook and technical reference materials in depth. If CLECs find the process to be overly cumbersome or discriminatory, it can file with the Commission under the EDR process described elsewhere in this report.

During the workshop, AT&T asked for a list of Bellcore standard feature packages which it could use for ordering. Pacific agreed that use of canned services would shorten the time for implementing a project. After the close of the workshop, Pacific provided a list of Bellcore's "canned" Call Processing Records (CPR) for AIN services. The list concludes with a note that not all of the services may be compatible with Pacific's AIN infrastructure. To make the information provided meaningful for CLECs, Pacific should indicate which canned CPRs are compatible with Pacific's AIN infrastructure.

a) Summary of staff recommendations for AIN.

Regarding access to AIN information, staff believes that:

- Pacific needs to demonstrate that AIN is available as a legal and practical matter;
- Pacific must clarify whether its Option 2 SCE access is currently available and the status of any necessary partitioning;
- Unless no CLEC follows through with ordering AIN SCE functionality, Pacific must prove that the processes it has developed for AIN deployment are fair and nondiscriminatory. The best method of proof is to be able to chronicle the process used to provide particular CLECs with the functionalities they want;

- Pacific needs to demonstrate that it has improved its communication with CLECs so that CLECs are fully informed about changes in Pacific's service offerings;
- Pacific should not charge CLECs for regulatory costs associated with making AIN capabilities available.

3. Handling of SS7 maintenance/trouble reports.

The ISR describes the SS7 problems of two carriers. While both problems had already been resolved, staff was concerned that, without proper safeguards in place, the problems could reoccur.

In its Homework, Pacific provided its *SS7 Operations Handbook*, which staff determined was included in the CLEC Handbook, Section 25.0 Signaling System 7 (SS7). The Handbook was dated 8/19/98 so had either recently been created or updated. Pacific described the problems that had occurred and explained the root cause of each. Pacific implemented process improvements effective August 31, 1998, to prevent reoccurrence of the problems. Pacific stated that in one case, the CLEC's Hub Provider and Pacific both had the wrong translations in their network. Many CLECs interconnect to Pacific's signaling network via a third party Hub Provider; Pacific has found that one major impeding factor in resolving CLEC trouble reported to Pacific is unavailability or delayed responses from the Hub Provider for cooperative testing.

The improvements Pacific instituted to the existing end office process were to move to a more automated order distribution process; to complete all end office translations by the plant test date (compared to the due date as was done previously); and to establish an auditing procedure that will monitor the effectiveness of the recommended steps, and to make any further refinements to the process as required. The 12 specific process improvements were listed in Pacific's homework and will not be repeated here.

a) Summary of staff recommendations for SS7.

- Pacific must demonstrate that the process improvements it implemented have prevented similar SS7 problems from occurring.
- Pacific shall maintain the process improvements in place and make any further improvements needed to prevent reoccurrence of SS7 problems.

K. ITEM ELEVEN – Number Portability

1. *Initial Staff Report Summary*

In the ISR, staff recommended that 271 collaborative process participants discuss the following:

1. review, in general, how to improve coordination in provisioning INP, and potentially, LNP;
2. review the process used to install DNCF and determine how to minimize service disruptions for customers and administrative problems experienced by CLECs;
3. determine a way to evaluate Pacific's deployment of LNP;
4. determine how to evaluate Pacific's processes for transferring customers from INP to LNP.

2. *How to Minimize Service Disruptions in the DNCF Provisioning Process.*

a) Background and Collaborative Process Summary

The initial record, as well as collaborative process participants, identified Directory Number Call Forwarding (DNCF) problems as largely the result of problems with the processes used for cutovers.³² The cutover processes in question are To Be Called Cut (TBCC) and Frame Due Time (FDT).

TBCC is a manual process in which a company requesting a DNCF cutover (the CLEC) can coordinate that cut with the company doing the cutover (Pacific). Coordination is through a phone call from the CLEC to Pacific; Pacific waits for the phone call from the CLEC indicating that the CLEC is prepared for Pacific to make the cut. Because it is labor intensive, TBCC is time consuming and costly for both sides. TBCC helps to ensure that the cut goes smoothly and that there is no disruption in the customer's service.³³

While TBCC is a manual process, Frame Due Time (FDT) provides a less manually intensive process for DNCF cutover orders and loop cutovers. FDT predates TBCC; however, because of problems with the FDT system, the manual TBCC process is generally preferred by CLECs (as outlined below). FDT processes orders by using the recent change capability in the switch, and assumes that both companies follow certain procedures and respond to particular due times.

³² Problems with cutovers also impact provisioning of loops, and the conclusions reached in this section can therefore be applied to loop provisioning as well.

³³ It should be noted that collaborative workshop participants complained of significant problems with TBCC. For example, MCI claims that Pacific chronically cuts customers over without waiting for an "all clear" call from the CLEC.

FDT is associated primarily with the interim number portability (INP) environment -- in other words, it is the process used to do cutovers in the INP environment because INP has particular characteristics. DNCF (the INP method generally used in California) uses a forwarding number that routes calls to the ported customer away from Pacific's service to the service of the new provider, while in the LNP environment switches are permanently modified to perform a database look up. The database is a regional database prepared by a third party vendor; the database and attendant services is called the Number Portability Administration Center (NPAC).

Currently, interim number portability is being phased out, and permanent number portability is being phased in. Different processes are used under each system. Under permanent number portability, the customer's number is routed via the CLEC's switch, and the CLEC is responsible to input any necessary translations into their own switch. The CLEC notifies the NPAC of the port and the NPAC broadcasts to all network services providers (SMSs) that the line in question has been ported. In general, this database transaction is done instantaneously, as soon as the new service provider broadcasts to the NPAC. Unlike processes for INP, Pacific's sole responsibility in the LNP environment is to put in a 10-digit trigger that bounces the customer's number towards the CLEC's switch. Pacific has indicated that the trigger is put in place the day before the port is scheduled; therefore all is ready in advance of the actual conversion. The day of the port -- after 10 p.m., the NPAC download, and the switch from INP to LNP -- Pacific removes the telephone number from its switch. In other words, when LNP is implemented, and in most cases, FDT is replaced by the 10-digit trigger process. Participants noted that the 10-digit trigger has some limitations, namely with trunk-related services (e.g. DID).

While both CLECs and Pacific recognize that the mechanized FDT process could be much more efficient than TBCC, CLECs complained of chronic problems with cuts not being made at the due time. The root cause of FDT problems is based on inherent process structures: All orders -- CLEC and ILEC, INP and loop orders -- sit in a mechanized queue, waiting to flow through based on a certain hierarchy (new connects first, then change orders, then disconnects). At certain peak times (for example, 5 p.m. on Friday) the queue can become long and orders can sit for longer than an hour. According to some CLECs, problems ensue if the CLEC does the cut at the appointed frame due time but the order is still sitting in the queue on Pacific's side. In this circumstance, the customer's service will be disrupted for the amount of time both sides are out of sync.

In the collaborative process, Pacific asserted that, while there were initial problems, FDT had been improved. Further, Pacific indicated that the process is at parity because FDT orders sit in the same queue as its own retail orders. To support its assertion that FDT had been significantly improved, Pacific provided data from April-June 1998 that, it said, showed improved performance. However, the data provided to workshop participants indicated that a significant percentage of orders (8%) flow-through more than an hour from due time. CLECs requested an analysis of the 8% failure rate. In general, CLECs cited significant, on-going problems with FDT. Specifically, CLECs report problems with

orders being cut early, or being cut even if a supplemental order had been issued by the CLEC revising the due time.

Whatever the cause of FDT's performance problems – inherent flaws in the process or human error – almost all CLECs participating in the 271 collaborative process indicated that they often feel compelled to use the more reliable TBCC process, even though a charge is levied for that service. Unfortunately, several CLECs also complained of problems with TBCC. The main problem appeared to be that orders that were not supposed to cut-over (i.e. when the CLEC had not called Pacific yet to give the “green light” for a cut) had, in fact, cut over. MCI, for example, asserted that these types of errors with TBCC happen often. MCI also asserted that these errors did not appear in reports as errors, but rather as a completed (and therefore recorded “successful”) cuts.

3. DNCF/ LNP Loop Provisioning Agreements Reached in the Collaborative Process

a) Frame Due Time

Within the collaborative process, Pacific provided statistics from April-June, 1998, citing that approximately 92% of FDT orders submitted by CLECs flowed through within one hour of the scheduled due time. According to analysis of this data performed by CLEC participants, Pacific's report misstated its actual performance. According to Cox and the California Cable Television Association (CCTA), “Pacific's reported statistics did not measure FDT orders based on the “scheduled due time” but rather measured the difference between the processing time of the ‘Out Order’ and the ‘In Order.’ Based on Pacific's measurement, an order could be hours later than the scheduled FDT (the time at which the CLEC replaces Pacific's loop with its own) but not counted as late because the Out Order and In Order flowed within minutes of each other.”³⁴

Cox stated that its preliminary analysis of Pacific's FDT data showed continued and severe problems due to Pacific's lateness in cutting orders. To add further clarity, CLECs requested a root cause analysis of the remaining 8% failure rate (those cut more than an hour from due time). The logic behind several FDT-related agreements reached in the collaborative process is that two actions – 1) reports on root causes and 2) fixes for any identified problems – will ensure an adequate level of performance in the mechanized cut-over process, and ensure on-going process improvements.

As a result of providing the root cause analysis, and CLECs' concerns with a high problem rate, Pacific agreed to the following:

³⁴ COX/ CCTA response to staff notes, 8/14/98.

- Pacific will provide a monthly Excel spreadsheet on FDT analysis reports for the CLECs in the aggregate and CLEC specific data (if requested), showing flow-through in the manner requested by CLECs i.e. lapse time between order and actual FDT, (0 to 30, 31 to 60, and over 60 minutes). Spreadsheets will be provided via e-mail by the 21st of the following month.
- Pacific will provide a monthly report of root cause analysis in response to FDT orders that flowed more than 60 minutes after the time specified on the order and provide information to CLECs on steps taken to improve processes identified as problems. Reports will be provided via e-mail by the 21st of the following month. Information will be provided on a CLEC-specific basis as well as in the aggregate.
- Pacific will provide a monthly report on Local Operations Center (LOC) migration trouble report logs, perform a root cause analysis of troubles and provide information to CLECs on steps taken to improve processes identified on problems. Reports will be provided via e-mail by the 21st of the following month. Information will be provided on a CLEC-specific basis as well as in the aggregate.

b) TBCC Charges

In the collaborative discussions, Pacific's policy of when TBCC charges would apply underwent some revision and negotiation. Preliminarily, several CLECs expressed confusion, indicating that their Pacific account reps told them to use TBCC because FDT did not work, and the CLEC was not charged for using TBCC. Aside from this, the CLECs' fundamental position is that they should not have to pay for TBCC since they are using it because FDT does not work. If they do need to pay for TBCC, CLECs assert that charges should be cost-based, and should apply in limited circumstances. Pacific stated that outside of normal business hours TBCC will be charged based on its 175-T tariff rate, with a ½ hour minimum labor charge. Pacific also stated that it would be willing to consider 15 minute increments if the rates are updated from the tariff rates which date back to 1983. AT&T responded that, to be cost based, actual time should be billed, not ½ or even ¼ hour increments.

In terms of how charges should be calculated, the following was decided in the collaborative process:

- Pacific agreed to negotiate updated charges on 15-minute increments based on current loaded labor rates.

In addition, while not either side's ideal, participants developed the following fee schedule was developed during the workshop; it indicates when TBCC charges apply. As stated previously, CLECs made it clear that they do not think they should be charged for a process (TBCC) that they feel forced to use because another process (FDT) does not perform adequately.

	<u>No TBCC Charges - During Normal Business Hours</u>	<u>175-T TBCC Charge Applies During Normal Business Hours</u>	<u>175-T Out of Hours TBCC Charges Apply Outside Normal Business Hours (NOTE 3)</u>
LNP Standalone with 10 Digit Trigger	TBCC charge always applies	1+	1+
LNP Standalone without 10 Digit Trigger (NOTE 2)	1+	No TBCC charge during normal business hours	1+
LNP Standalone where existing service is DID	1+	No TBCC charge during normal business hours	1+
LNP with Unbundled Loop	20+	1 - 19	1+
INP Standalone	20+	1 - 19	1+
INP with Unbundled Loop	20+	1 - 19	1+
INP - LNP with 10 Digit Trigger	TBCC charge always applies	1+	1+
INP-LNP without 10 Digit Trigger (NOTE 2)	1+	No TBCC charge during normal business hours	1+
INP-LNP where existing INP service is DNRI or Flex DID	1+	No TBCC charge during normal business hours	1+

NOTE 1: This is not intended to unilaterally replace TBCC language in existing interconnection agreements (ICA). Where there is disparity between this offer and existing ICA language, and the ICA provides for TBCC on a different quantity or price, Pacific will honor the ICA language as a whole. CLECs should contact their account manager to negotiate an amendment to their ICA to incorporate this matrix, as a whole, into their ICA. CLECs must accept this matrix as a whole or retain their existing contract language.

NOTE 2: A list of services where 10 digit trigger is not currently available but Pacific will provide such a list to the CLECs via their account teams when it is available.

NOTE 3: 175-T TBCC out of hours charges will apply to all TBCCs requested outside normal business hours.

c) *Providing Saturday FDT & TBCC*

In the collaborative sessions there was significant discussion about the CLECs' need for cuts on Saturdays (especially business customers who cannot afford a service disruption during business hours). While Pacific agreed to perform Saturday cutovers, it would not agree to process complex cutovers on Saturday. Pacific also asserted that any applicable charges would apply for work done outside of normal business hours.

With regards to Saturday cutovers, Pacific agreed that – with an attendant charge – it will process cutover orders on Saturday, as follows:

- Pacific will provision simple business and residence LNP FDT & TBCC orders on Saturday. Pacific will apply tariff (175-T) charges for TBCC Saturday orders.

d) *PM Default*

During the collaborative sessions, and for INP to LNP cutovers, participants discussed a need for a FDT disconnect time different than Pacific's default of 10 p.m. Pacific agreed to the following:

- CLECs can specify a disconnect time other than Pacific's 10 p.m. default.

Staff agrees with Pacific's proposal.

4. **DNCF/ LNP Loop Provisioning Issues Referred to the Operations/ Implementation Subcommittee of the West Coast Region Number Portability Taskforce**

Participants in the 271 collaborative workshop took advantage of the West Coast Region Number Portability Taskforce, the recognized industry body for LNP implementation in California. A subcommittee of that taskforce, Operations/ Implementation (OP/I), is a body of industry experts that has been addressing technical issues of LNP implementation. Workshop participants referred the following issues to OP/I, with outcomes as indicated.

- a) *Amount of time needed to call off a cut, and/ or other options to attempt to minimize service disruptions resulting from either party missing a scheduled cut.*

During the collaborative process and OP/I discussions, Pacific stated that it requires four business hours' notice if a FDT cutover cannot proceed. A notice of four business hours means that CLECs must call off any after hour cut by 1 p.m.

Pacific also stated its policy with regard to calling off a TBCC. The difference, according to Pacific, between calling off a TBCC and calling of an FDT is that, because it is coordinated, a CLEC can call off a TBCC at any time. However, for both TBCC and FDT, if Pacific is not given four business hours notice, charges may apply.

After much discussion, the OP/I subcommittee could not reach consensus on the amount of notice time that should be required to stop a cut. Pacific maintained its position requiring four business hours' notice for an after-business-hours cut (meaning a cut must be called off by 1 p.m. the day of the cut). Pacific did stress, however, that it would make a best effort to stop the cut, even without four hours notice; however, it will not make any guarantees.

CLECs generally found Pacific's position to be unacceptable. However, OP/I participants did agree that both Pacific and competitors have an obligation to provide a reliable method to prevent customers from being disconnected by their current LEC when the winning LEC is unable to port them on the due date. Because they could not agree on a universal policy, parties agreed to prepare a matrix outlining each company's policy; this matrix will be available via the NPAC web site. Participants agree that the matrix will help companies keep abreast of the cutover policies of all companies. The areas where there was consensus include: an LSR is required; phone calls will be accepted to stop the cut; and all companies will take a call ½ hour before the cut, but, like Pacific, several CLECs could not guarantee that the cuts will be stopped.

While OP/I provided some clarity on different companies' requirements for calling off cuts, it could not agree on specific time frames. Staff, therefore, recommends the following solution:

- To call off a cut, Pacific currently requires notification by 1 p.m. the day of the cut. Staff believes that, in order to accommodate the needs of CLECs making cuts after business hours, a compromise time should be adopted. Staff recommends that CLECs should be able to call off cuts, with no attendant charges, until 3 p.m. the day of the cut. Staff believes that Pacific can accommodate this process change; Pacific will have two business hours to amend or cancel any after-hours preparations made. CLECs, on the other hand, will have an extra two hours to make sure they are prepared for the after-hours cut. Each side should make a best faith effort to be prepared to make a cut, with minimal disruption to customers.

b) *How does Pacific process trunk-related services like DID where the 10-digit trigger is not available?*

The OP/I recommends that the process should be a coordinated cut (e.g. TBCC). Staff agrees with OP/I's recommendation.

c) *Disconnect order linked to the NPAC download – is this possible?*

Several parties suggested that for INP to LNP conversion orders, the best indicator of whether both sides have completed their work is when the NPAC receives notification and, per that notification, broadcasts the new port information for that line. There, according to some, the cutover should be linked in some way to the NPAC download. AT&T, which sponsored this idea in the 271 workshop, asked for the opportunity to review the idea internally before the issue is considered by OP/I. AT&T agreed to provide the results of its internal review; as of the writing of this report, AT&T's response has not been issued. Pacific does not support this option, stating that it will be a lengthy and expensive process change. Some CLECs also indicated that this option may not be technically feasible, but still others asserted that – while the cutover may not be able to be tied directly to the NPAC broadcast, the NPAC broadcast should in fact be monitored and cuts should be done after it is complete. In any case, this issue is still open, and OP/I needs to continue its investigation.

Because the notice required to call off a cut is such a contentious item, and because it may have significant customer service impacts, staff believes the Commission should be involved in any policy evaluation. Staff therefore recommends that any recommendations issued by OP/I be reviewed by the Commission before it is adopted.

d) *Destination Point Codes – routing traffic.*

OP/I reviewed the issues associated with Destination Point Codes (DPCs), including the need to have signaling arrangements with all companies, the need to provide valid DPCs for ported numbers, and the need to respond quickly to ensure that customers get calls. Participating companies agreed: 1) each company will provide to OP/I by Friday, August 14, 1998, a live 24-hour/ 7-day telephone contact to address DPC issues (these contact numbers will be circulated to all OPI participants), and 2) all carriers will provide DPC information to OPI no later than noon, Friday, August 21, 1998. OPI will circulate that information to all member companies. Staff agrees with OP/I's recommendation.

- e) ***What are Lockheed Martin's limitations for converting from INP to LNP? It was unclear in the 271 collaborative workshops whether the NPAC vendor (Lockheed) can handle the expected INP to LNP conversion workload.***

The OPI reviewed NPAC performance with Lockheed Martin's representative. Lockheed Martin stated that NPAC is fulfilling the NPAC performance benchmark of three telephone numbers per second (3 TN/sec), which would accommodate approximately 250,000 ports a day, which OPI found to be far more than what is necessary to handle INP to LNP conversions. Staff agrees with OP/I's analysis.

5. The relative importance of FDT.

As discussed in the sections above, participants expended significant time and effort in the collaborative process attempting to clarify a) what is wrong with the FDT process and b) how to fix the FDT process. This was a worthwhile discussion in that FDT is the process that will be used until the end of the INP/ LNP conversion process.³⁵

Staff notes, however, that there are inherent problems with focusing on fixing the FDT process. In the long term, the FDT process will become obsolete. In other words, after California is converted to LNP, FDT will no longer be used in those MSAs that converted to LNP (94% of the phone lines in California). For uncoordinated cuts, the FDT process will be replaced by a process based on the 10-digit trigger. Therefore, for the long-term, Staff believes that – while FDT should be adequate to work until LNP is in place, and to move CLECs from INP to LNP – the emphasis should be placed on other processes that will be in place much longer. Therefore, for uncoordinated cuts, Pacific should prove that the 10-digit trigger process is adequate. Because the 10-digit trigger cut-over process is not yet in place (because LNP is not yet fully in place) sufficient data for this process must be gathered and analyzed after LNP implementation.

In the long-term TBCC will continue to be the method in place for coordinated cuts, either for orders with large numbers of lines, DID orders, orders where the CLEC would like to pay for the extra protection TBCC affords, lines where no 10-digit trigger is available, etc. Therefore, emphasis should be placed on quality improvements to TBCC, particularly the assurance that cuts are not done without the CLEC phone call.

With an effective 10-digit trigger process and an effective coordinated cut process, staff believes that, in the long-term, CLECs should be assured of both mechanized and

³⁵ The final LNP phase is scheduled to be complete by December 31, 1998. Given that CLECs have 90 days to migrate from INP to LNP, FDT will therefore be used until April, 1999 – approximately six months from the issuance of this report. Further, after LNP conversion only (approximately) 6% of the lines in California will still be on INP, and therefore still using FDT.

coordinated cutover methods, and there should be improvements to the long-term solutions.

6. Determining a way to evaluate Pacific's deployment of LNP.

In the ISR, staff explains the necessity of evaluating both interim number portability as well as permanent portability. In terms of evaluating permanent number portability, staff requested that workshop participants suggest methods for evaluation. Pacific's response was that conversion is currently on schedule, and will be completed by December 31, 1998. Therefore, reasons Pacific, the best way to evaluate LNP is to simply recognize the fact that LNP is happening now. CLECs also recognized that data is not yet available. However, because interim number portability was such a negative experience, many CLECs felt strongly that process for permanent should be closely monitored.

No agreements were reached regarding evaluation of the current deployment of permanent number portability. Participants did, however, generally agree that there not enough information available to allow a thorough analysis of LNP deployment.

Staff believes that the most obvious and best way to evaluated LNP is to examine data available after implementation. After completion of the phase V (December 31, 1998) three months of permanent number portability data should be gathered. Staff believes that adequate performance measures are created through 1) the suggestions outlined in this section; and; 2) any LNP-related performance measures that will be developed in the OSS OII. As noted above, staff believes particular attention should be given to the performance of the post-LNP uncoordinated cut process (10-digit trigger). In responding to performance measures, Pacific should provide three months of data as part of its 271 compliance filing.

7. Determining how to evaluate Pacific's processes for transferring customers from INP to LNP.

During collaborative discussions regarding the conversion from INP to LNP, participants identified one major issue area: Pacific's policy of charging Remote Call Forwarding (RCF) tariff rates for CLEC lines that are not converted to LNP within 90 days. CLECs felt the imposition of charges to be unfounded and onerous. While no agreements were reached in the collaborative process, Pacific did offer to "negotiate" with individual CLECs regarding the time needed to move lines off of INP.³⁶

³⁶ The language crafted in the workshops is that "Pacific agreed that it would remain open to individual negotiation with CLECs -- based on individual volumes and CLEC needs -- regarding the 90-day INP to LNP conversion window."

Staff has several concerns about Pacific's policy of imposing charges. First, it does not appear to staff that charges are necessary. Staff understands Pacific's eagerness to move CLEC lines off of the relatively cumbersome, interim DNCF process. In fact, staff notes that both sides – CLEC and ILEC – are eager to move away from the less-than-perfect interim number portability method. Any reluctance to move off of INP could be CLECs' initial reluctance to move to a permanent process that has not yet been proven reliable. However, staff believes it is unlikely that CLECs will "sit" on INP, not moving to LNP when it becomes available.

Second, staff is concerned with the appropriateness of Pacific's stated policy that it will charge RCF tariff rates after 90 days. This policy is not explicitly codified in Pacific's existing state tariff. Pacific is basing its policy on an interpretation of limited language within the FCC's *First Report and Order* on number portability: "All LECs shall provide transitional measures, which may consist of Remote Call Forwarding (RCF), Flexible Direct Inward Dialing (DID), or any other comparable and technically feasible method, as soon as reasonably possible upon receipt of a specific request from another telecommunications carrier, until such time as the LEC implements a long-term data base method for number portability in that area."³⁷ Pacific also points towards similar language in its DNCF "A" tariff, section 20.1(B)(1)(I): "Directory Number Call Forwarding is an intermin (sic) number portability service, provided on an interim baiss (sic) until permanent number portability service is implemented."

Pacific believes that FCC language as well as language in its state tariff (both outlined above) indicate that after LNP is available, INP goes away. Pacific then reasons that if INP does not exist, CLECs must be moved to the closest tarriffed approximation – in this case, RCF. Staff does not agree with Pacific's logic. Nothing in Pacific's existing tariff indicates RCF charges will ensue 90 days after LNP is available. Further, Pacific's DNCF/INP tariff is still in place, and should therefore be applied when CLECs are using INP.

In summary, the threat of CLECs refusing to move off of INP does not appear to be a relatively major threat: there are inherent incentives for CLECs to move towards a more effective number portability process. Further, Pacific should not be allowed to create an onerous incentive of charging RCF tariff rates after 90 days. Instead, staff recommends that – if there is a problem with a CLEC not converting their customers to LNP -- Pacific should ask the Director of the CPUC's Telecommunications Division to work with the CLEC in question to develop an expedient transition plan. Finally, staff notes that while a 90-day time frame was discussed and agreed upon by the LNP Taskforce, the Taskforce did not discuss any attendant charges.

8. Staff Recommendations

³⁷ FCC regulation 47 CFR section 52.27.

In addition to number portability-related agreements reached in the collaborative workshops, staff recommends the following:

- Pacific should adhere to any adopted LNP-related performance measures.
- For after hour cuts, CLECs should be allowed to call off a cut, without charges, until 3 p.m. the day of the cut.
- Until three months after California's largest MSAs are converted to LNP (March/April, 1999), FDT should be monitored, and Pacific should prove that it performs adequately.
- Because the (more automated) FDT process will be replaced with the 10-digit trigger process, Pacific should prove that the 10-digit trigger is effective. As soon as LNP is in place, Pacific should start proving substantive data that 10-digit trigger is functional and providing parity treatment.
- Since it will remain in use after LNP implementation, focus should remain on the TBCC process. Pacific should prove – with three months of data and on-going performance measures -- that TBCC performs adequately and will continue to perform adequately. Specifically, CLECs should be assured that Pacific does not make the cut without waiting for the CLEC's "all clear" phone call.
- Pacific should not be allowed to charge RCF tariff rates for CLECs remaining on INP longer than 90 days.

L. ITEM TWELVE – Dialing Parity

In the *Initial Staff Report*, staff determined that Pacific proved compliance with this checklist item.

M. ITEM THIRTEEN – Reciprocal Compensation

1. Issues identified in the *Initial Staff Report*.

In the *Initial Staff Report*, staff recommended that collaborative process participants discuss the following:

- review the traffic data needs of CLECs, determine whether Pacific is providing parity treatment, and, if not, how it can provide adequate reports.

Staff's analysis in the ISR stemmed largely from reports of CLECs not receiving the billing reports they felt were necessary for them to complete accurate reciprocal compensation transactions. Based on these allegations, staff wanted to explore, in the collaborative process, reciprocal compensation arrangements in general, and necessary reports in particular.

In the ISR, staff indicated that it would address reports of CLECs not receiving adequate billing data. Staff noted, however, that issues related to internet service provider (ISP) traffic is being addressed in another Commission proceeding, and would not, therefore, be address in the 271 proceeding. Staff restated this position in the collaborative workshops, and, therefore, ISP issues were not discussed. Also in the collaborative sessions, staff stated that issues related to unbundled switching were addressed in the switching sessions.

2. Disposition

Competitors reported two on-going problems with data exchange related to inter-company billing -- 1) an inability to get timely and correct billing data (AT&T), and 2) an inability to be receive compensation for certain transactions (TCG).

After the collaborative workshops, it became apparent that the issues identified as reciprocal compensation issues (i.e. AT&T's billing report issue, and TCG's problems of not receiving compensation) were not, in fact, reciprocal compensation issues.

Staff bases this determination on the FCC's definition of reciprocal compensation. In its First Report and Order on Interconnection, the FCC states that "reciprocal compensation obligations should apply only to traffic that originates and terminates within a local area." (Section XI(A)2(c)1, paragraph 1034.) Further, "(t) Act preserves the legal distinctions between charges for transport and termination of local traffic and interstate and intrastate charges for terminating long-distance traffic." (Paragraph 1033.)

Based on the FCC's definition,³⁸ staff believes that AT&T's issue is not a reciprocal compensation issue. The traffic in question is switched access traffic; switched access traffic is not local traffic. Therefore, the issue is not, by definition, a reciprocal compensation issue.

TCG's complaint also involves switched access (non-local) traffic; again, definitionally it is therefore not a reciprocal compensation issue.

Staff believes that the issues raised by AT&T and TCG are OSS billing issues. Each issue is therefore addressed in the OSS chapter of this report, in the billing section. Because none of the issues raised by parties were, by definition, reciprocal compensation issues, staff has determined that Pacific has complied with this checklist item.

N. ITEM FOURTEEN – Resale

1. Issues Identified in the Initial Staff Report

The following issues were slated to be discussed in the collaborative workshop:

- Pacific should demonstrate that the OSS systems it develops for resale comply with the Act and FCC rules.
- Review additional information provided by Pacific to determine if the company is in compliance with ' 51.613(a)(2) regarding promotional offerings.

OSS issues were addressed in the OSS portion of the workshop, and staff determined that it would be able to make a determination on the second bullet point by reviewing the Advice Letter (AL) information Pacific supplied, as required in the ISR.

Staff reviewed Pacific's advice letters for promotional offerings from August 8, 1996, to the present and found cases where Pacific did violate the FCC's ' 51.613 which states as follows:

³⁸ In its homework provided for the reciprocal compensation session, Pacific also noted that the issues in question were not, in fact, reciprocal compensation issues: "Pacific provides three different types of records to CLECs which contain the originating and terminating data required by a CLEC to bill other carriers that are providing some portion of transport on the CLEC's end-user calls (i.e., IXCs, LECs, CMRS). This is not a reciprocal compensation issue per se, but instead a process to exchange the data records necessary to allow each party to bill switched access customers when two or more carriers are involved in providing a service. The more accurate term is 'data exchange.'" (p 2)

“The incumbent LEC does not use such promotional offerings to evade the wholesale rate obligation, for example by making available a sequential series of 90-day promotional rates.”

Following are examples of Pacific’s violations of the above FCC rule and samples of cases where Pacific’s tariff filings for promotional offerings are unclear, which disadvantages resellers:

1. Pacific filed Advice Letter No. 18411 on August 8, 1996 offering a promotion to waive non-recurring charges for Remote Call Forwarding Service. The promotion was in effect from August 15, 1996 through October 15, 1996. On October 11, 1996, Pacific filed Memorandum Notice No. 33 to extend the RCF promotion for an additional 90 days. The promotional offering was not offered for resale.
2. Pacific filed Advice Letter No. 18501 on September 26, 1996, for 20 new promotions. One of those promotions, Call Center Management with Custom 8, was in effect from August 29, 1996 through December 27, 1996. While the promotion was in effect for more than 90 days, it was not offered for resale.
3. Pacific filed Advice Letter No. 18614 on December 13, 1996, for a Pacific Bell Saver Pack promotion, which was in effect from December 20, 1996, to March 19, 1997. On March 14, 1997, Pacific filed Memorandum Notice No. 40 to extend the Saver Pack Promotion for an additional 90 days. The promotional offering, which included certain custom calling features and Pacific’s Inside Wire Repair Plan, was not available for resale. On June 12, 1997, Pacific filed Memorandum Notice No. 41 to extend the Saver Pack Promotion for an additional 60 days. The second Memorandum Notice indicated that the promotional offering was available to CLECs at a wholesale rate. However, the AL included a tariff sheet from its retail A5 tariff, but no tariff sheet from its 175-T wholesale tariff with the price that the CLEC would pay.
4. Pacific filed Advice Letter No. 19000 on August 29, 1997, to introduce a new promotion for Caller ID service. The promotion was in effect from September 3, 1997, to December 1, 1997. In Memorandum Notice No. 44 dated November 24, 1997, Pacific filed to extend the promotion for an additional 19 days. The AL and the retail tariff sheet indicated that the promotion was available to resellers, but the AL did not include an amendment to Pacific’s 175-T wholesale tariff.
5. Pacific filed Advice Letter No. 19159 on December 12, 1997, to introduce a term toll discount plan for direct dial and credit card calls called Advantage 25. The AL and the retail tariff sheet both indicate that the plan is available for resale, but no 175-T tariff sheet is included with the filing. On April 9, 1998, Pacific filed Memorandum Notice No. 49 extending the Advantage 25 promotion until August 13, 1998. The Memo Notice did not indicate that the promotion was available for

resale, but the individual retail tariff sheets did. However, no 175-T tariff was included.

As indicated, there have been a few cases, none of them recent, where Pacific offered a promotion for longer than 90 days without making the promotion available for resale. In other cases, the manner in which Pacific indicated that a particular promotion was available for resale was confusing and inconsistent. In some cases the Advice Letters contain the information, and in other cases, only the tariff sheets showed that the promotion was available to resellers. In no case did Pacific amend its wholesale tariff to offer the promotions there, where they would be readily seen by CLECs.

2. Staff Recommendations

- Pacific should provide evidence that, from the date of this report, that it has not violated the FCC's and the CPUC's rules regarding promotional offerings;
- Pacific should state clearly in the text of each Advice Letter or Memorandum Notice whether the particular promotion is available to resellers;
- For promotions in effect for more than 90 days, Pacific should state clearly on each of its retail tariff sheets whether the promotion is available for resale;
- For promotions in effect for more than 90 days, Pacific should include the appropriate 175-T tariff sheet in each advice letter covering a promotional offering for resellers;
- Pacific should indicate on the 175-T tariff sheet the specific rate(s) or charge(s) that resellers will pay.
- In cases involving bundles of both telecommunications and non-telecommunications services, Pacific should offer the telecommunications portion for resale and clearly specify which components of the retail offering are available for resale.
- In cases where Pacific extends a promotion, the Memorandum Notice should specify the total length of time the promotion will have been in effect, including the extension.

CHAPTER IV: OTHER TELECOMMUNICATIONS ACT REQUIREMENTS

A. SECTION 272

1. Background

In its ISR, staff identified four principal issues related to Pacific's compliance with Section 271(d)(3)(B) of TA96 for which staff believed that further information was necessary to determine Pacific's compliance. TA96 Section 271(d)(3)(B) requires that a BOC's request for interLATA authority be carried out in accordance with Section 272 (Separate Affiliate Safeguards), and therefore, the following discussion regarding Section 271 compliance refers to Section 272, and consequently, uses the terms 271 affiliate and 272 affiliate interchangeably.

Prior to the merger of Pacific Telesis and SBC, Pacific Bell's 271 long distance affiliate's name was Pacific Bell Communications (PB Com). Since the merger, Pacific has proposed to the Commission that Southwestern Bell Communications Services (SBCS) be the SBC affiliate to provide long distance services within SBC's seven in-region states, including California. The Commission has not yet acted on Pacific's request.

2. Initial Staff Report Summary

The four issues identified in the ISR to be addressed in the collaborative process were:

- access and dissemination of competitive carrier CPNI and other proprietary information,
- demonstration of separate officers for Pacific and its long distance affiliate,
- the level of disclosure of transactions between Pacific and its long distance affiliate, and
- the potential for Pacific to disclose central office information to its long distance affiliate that is not available to third party competitors.

3. Access To and Dissemination of Competitive Carrier CPNI and Other Proprietary Information

a) *Initial Staff Report Summary*

In the ISR, staff recommended that Pacific provide documentation of its policies and procedures related to the access and dissemination between affiliates and LEC operations of competitive carrier CPNI and other proprietary information, and also prove that it is not using competitors' proprietary information for its own purposes. An example that staff used to illustrate its concern was an allegation made by AT&T in the affidavit of its witness Olsen. AT&T asserted that Pacific misappropriated interexchange carrier (IXC) trade secrets by using (for its own marketing purposes or by passing on to its 271 affiliate, PB Com) exchange access data provided to Pacific by IXCs for the purpose of providing billing services.

In this section of the report, staff addresses the use by Pacific and its 271 affiliate of carrier CPNI and other carrier proprietary information, as distinguished from end user CPNI. Staff's discussion of end user CPNI, and recommendations thereto, are contained in a separate section of this chapter.

b) *Discussion and Staff Recommendations*

AT&T, MCI, and Sprint (IXCs) alleged that Pacific misappropriated for its own use and its Section 272 affiliate's use, through the Pacific Bell Awards Program, certain IXC proprietary information that was provided by the IXCs to Pacific pursuant to contract for the sole purpose of billing the IXCs' customers. The United States District Court for the Northern District of California found that Pacific had in fact misappropriated said information. The Court issued an injunction ordering Pacific to cease such activities. Due to concerns raised by Pacific and the IXCs regarding confidentiality and legal restrictions on public discussion in the workshops of the specifics of the case, only a high level discussion of the matter took place.

In the workshops, Pacific stated that its interpretation of the injunction was that it relates only to IXC billing data that is in electronic format, and that internal company methods and procedures (M&Ps) have been modified to comply with the court ruling. AT&T, MCI and Sprint (hereafter referred to as the Joint Presenters) disagree with Pacific's interpretation of the court injunction, and maintain that the court ruling precludes Pacific from using carrier billing information that it has acquired through its IXC billing contracts for any purposes other than billing. The Joint Presenters identified data that they considered carrier-proprietary, and asked that Pacific agree not to use said information for marketing purposes. Following is the specific information identified by the Joint Presenters:

- IXC billing data and data derived from such billing data (e.g. Total Billed Revenue);
- data derived from Pacific's provision of switched access services to IXCs;
- data derived from Pacific's provision of resale, UNE or interconnection services to a CLEC;
- data derived from Pacific's provision of INP or LNP services provided to a CLEC;
- data derived from Pacific's provision of collocation services to CLECs;
- PIC and PLOC change requests from end users or CLECs.

During the workshops, Pacific and the Joint Presenters disagreed about the information that the Joint Presenters proposed be restricted, and no agreement was reached. Subsequent to the 272 workshop, Pacific provided staff with a revised proposal, dated August 24, 1998, which set forth specific modifications to the Joint Presenters' proposed restrictions on Pacific's use of IXC/CLEC data for marketing purposes.

Due to the restricted nature of the discussion of this subject in the workshops and the inability of Pacific and the Joint Presenters to reach agreement, staff is unable to suggest any agreement for consideration, nor provide specific recommendations on the specific types of data that should be restricted. However, staff proposes the following two general principles for governing the treatment of carrier CPNI and other proprietary information. These guidelines should be used until such time that further legal and/or specific regulatory rulings are made adopting standards for BOC use of such information that is provided by IXCs and CLECs for specific purposes (e.g. billing services):

- Pacific's use should be consistent with and limited to the specific conditions of the contract(s) entered into between Pacific and the IXC/CLEC;
- if the respective contracts are silent as to allowable Pacific uses of the IXC/CLEC CPNI and other proprietary information, such uses should be restricted to that of the intended purpose for which the information is provided (e.g. billing services). The information, regardless of format, should not be used for the benefit of Pacific or any of its affiliates.

4. Separate Officers Between Pacific and its 271 Affiliate

a) Initial Staff Report Summary

In the ISR, staff stated that there was not enough information on the record to determine whether there were separate officers, directors and employees between Pacific and the 271 affiliate (SBCS), as required by Section 272 (b)(3). Accordingly, staff recommended that the record be further developed and clarified so that a determination could be made as to whether Pacific and SBCS have separate officers, directors, and employees.

b) Discussion

In evaluating whether, or to what extent, there are separate officers and directors between Pacific and SBCS, staff relied on information provided by Pacific in response to staff requests, additional information provided by various parties prior to the workshops, and responses to staff's homework assignments. Additionally, staff looked to FCC orders for guidance in evaluating the organizational structure that exists between Pacific and SBCS.

Specifically, for guidance regarding affiliate safeguards, staff relied on the FCC's *Ameritech* order.³⁹ First, as a general guideline, staff examined past and present reporting structures – in evaluating Pacific's affiliate safeguard compliance. The *Ameritech* decision defines the evaluation of a Bell company's 272 status as a “predictive judgement regarding the future behavior of the BOC.”⁴⁰ The FCC notes that it will therefore evaluate the “past and present behavior as the best indicator” of whether a BOC meets Section 272 compliance.⁴¹

Specific to reporting relationships, staff finds that Pacific has not proven it has separate directors and/ or decision-makers: in fact, it appears there is evidence to the contrary. FCC defined – in *Ameritech* – the types of entities that are subject to Section 272(b)(3) restrictions. In spite of the fact the Act uses the word “director”, the FCC believes that Congress, in fact, intended reporting relationship restrictions to result in independent management, not simply independent directors.⁴² The FCC specifically states that “(b)y requiring that the BOC and interLATA affiliate have ‘separate’ directors, Congress required that there be some form of independent management and control” between entities.⁴³ Staff therefore believes that, for a positive evaluation, the FCC will want to see broad proof of independent management, including – but not limited to -- separate officers and directors.

The Joint Presenters and ICG agreed with the ISR that the record should be further developed to determine whether Pacific's and the 271 affiliate's directors, officers, and employees are truly separate. The Joint Presenters' position is that while Pacific's application for 271 authority included a list of the officers and directors of PB Com and their associated responsibilities and reporting structure (*Affidavit of Leone Lea Jones*), an essential piece of information that is necessary to evaluate compliance with 272, a list of Pacific's officers and directors, and their respective reporting relationships, was missing. Additionally, in the workshops, the Joint Presenters questioned the separation of officers between Pacific and its 271 affiliate and illustrated their concern by pointing out that the

³⁹ Memorandum Opinion and Order re: the Application of Ameritech Michigan to provide interLATA service in Michigan. CC Docket No. 97-137. August 19, 1997.

⁴⁰ Ameritech, paragraph 347.

⁴¹ Paragraph 347.

⁴² Paragraph 353.

⁴³ Paragraph 360.

Chairman for long distance operations [Turner] is responsible for strategic planning for SBC's BOC operations, including Pacific. Also, the Vice President of strategic marketing for SBC's long distance operations [Gallemore] is also responsible for developing competitive strategy for SBC's BOC operations, including Pacific.

Pacific maintains that its management and that of SBCS are separate and therefore meet the requirements of Section 272(b)(3). Pacific provided additional organizational structure information to demonstrate the separation of the Pacific and SBCS directors and officers. The information reflects the organizational structure that currently exists, and contains an organization chart for SBCS and its operating subsidiaries showing SBCS's relationship with its parent company, SBC, as well as Pacific, and the SBC telco operations discussed below. Pacific also identified the directors and officers of SBCS, Pacific Bell, Nevada Bell, Southwestern Bell Telephone Company, and the officers of SBCS, SBCS-Texas, or PB Com who also report to SBC or a Services Affiliate. Pacific also gave a brief description of the responsibilities of the directors and officers of the respective entities.

While the information provided additional insight into the organizational structure of the various entities, it did not identify the reporting relationships for each of the directors and officers of Pacific and SBCS. Reporting relationship information is critical in understanding the extent of operational interrelationship between the BOC and the 271 affiliates for purposes of evaluating compliance with the separate directors and officers requirement of 272. Staff mentioned in the collaborative workshops that it would be helpful for its analysis if Pacific would identify the respective reporting relationships for each of the directors and officers of Pacific, the 271 affiliate, and the Pacific Telesis Group. Subsequent to the workshop, Pacific provided information on the reporting relationships for the current organizational structure.

The information Pacific provided indicates that there are two SBCS officers (Stephens and Wagner) that directly report to directors/officers of Pacific Bell [Keirnan and Wohert] that hold director/officer positions at other SBC affiliates. There are also three SBCS directors (Turner, Glotzbach, and Robertson) that report directly to Pacific Bell directors (Caldwell, Foster, and Dreyer).

The above-mentioned information also indicates that two directors of SBCS hold high level executive positions at SBC Operations, Inc. (SBCO). SBCO is a centralized service affiliate of SBC that provides services to the other SBC affiliates. The services provided include: capital management, strategic planning, network planning and engineering, technology development, procurement, long distance, and Internet services from a corporate perspective for SBC's seven in-region states. Staff understands the reference to "SBC's seven in-region states" to include all BOC operations related to Pacific Bell's application before the California Public Utilities Commission [(A.)98-06-050, Exhibit A - Declaration of Kathleen Larkin]. Specifically, one of the SBCS directors (Gallemore) is the Executive Vice President in charge of Strategic Marketing for SBCO, and the other SBCS director (Turner) is the Executive Vice President of Corporate Planning and Capital

Management for SBCO. Additionally, Mr. Turner is also the Vice President of Strategic Planning for SBC Management Services, Inc., (SBCMS) which provides strategic planning, governance, financial, policy, and executive support for all SBC companies.

Staff believes that the existing organizational structures, director and officer reporting relationships raise significant questions about the separation of the directors and officers of the local exchange and long distance operations. Staff believes that the organizational structure and the reporting relationships of various SBCS and Pacific officers and directors do not meet the requirements of Section 272. Having SBCS directors and/or officers directly reporting to Pacific Bell directors and/or officers cannot reasonably be viewed as having separate directors and officers.

Also, the existence of central service organizations which provide strategic planning and strategic marketing services to both SBCS and Pacific Bell essentially results in having common management between the two entities. In formulating its position, staff recognizes that in a holding company organizational structure, as is present at SBC, there will be directors and officers at the parent company level with responsibility for many or all of the affiliated companies. However, as stated above, staff's position is based on the understanding that by requiring that a BOC and its 271 affiliate have separate directors and officers, Congress intended that there be some degree of independent management and control between the two entities. Because Pacific's organization has central service affiliates (SBCO and SBCMS) participating in fundamental day-to-day business activities as strategic planning and strategic marketing for both long distance and local exchange operations, staff cannot reasonably conclude that there is operational independence.

c) *Staff Recommendations*

Staff believes that Pacific has not met the requirement of Section 272(b)(3) for separate officers and directors between the BOC and the long distance affiliate. Staff recommends that SBC take the necessary steps to ensure that the organizational structures, and the related director and officer reporting relationships, fully comply with the intent of Congress in imposing the separate director, officer and employee restriction in TA96.

To achieve the level of separation of officers and directors that is being required by the Act, staff recommends the following:

1. No SBCS officer or director should report to a Pacific Bell officer or director, and no Pacific Bell officer or director should report to an SBCS officer or director.
2. The officers and directors of Pacific Bell and SBCS should report separately to officers and/or directors at the SBC Communications holding company level. Holding company officers and directors should not hold officer or director positions at either Pacific Bell or SBCS, and should not be directly involved in

the day-to-day operations of Pacific Bell or SBCS, or be directors or officers at Pacific Bell or SBCS.

3. Day-to-day operational activities, such as strategic planning and strategic marketing, should be conducted within the respective entity, and should not be provided by a central service affiliate. In formulating this recommendation, staff considered the FCC's ruling in the Non-Accounting Safeguards NPRM (CC Docket No. 96-149) and recognizes that the FCC found that it is allowable for the BOC and the 271 affiliate to engage in joint marketing activities and in the sharing of marketing services [paragraph 183 infra], as long as those activities comply with the applicable affiliate transaction and cost allocation rules. Staff interprets the phrases "joint marketing activities" and "marketing services" to refer to activities engaged in to promote or sell products and services to an end user. Staff does not believe that the FCC intended to allow a BOC and its 271 affiliate to jointly conduct coordinated strategic marketing and strategic planning at what is essentially the operating level. Allowing such coordinated planning efforts through organizational configurations and reporting relationships between the two entities at the operating company level would essentially eviscerate the separate officer and director requirement of Section 272, and render the restriction meaningless.
4. Services provided by the central service affiliate to the BOC and 271 affiliate operations should be restricted solely to support functions that are not reasonably considered to be day-to-day operational or management functions conducted for the purposes of developing and providing new and existing products and services to end users.

5. Level of Disclosure of Transactions Between Pacific Bell and its 271 Affiliate

a) *Initial Staff Report Summary and Overview*

In the ISR, staff stated that it was necessary to determine what level of detail is necessary regarding the disclosure of transactions between Pacific and its 271 affiliate to comply with TA96 Section 272(b)(5), which requires that the affiliate conduct all transactions with its BOC affiliate, on an arm's-length basis, with any such transactions reduced to writing and available for public inspection. As subcomponents of this issue, the staff report identified the following items for discussion in the workshops:

1. Transaction valuation and compliance with applicable standards,
2. Internet posting of asset or service transfers;
3. Identification of all transactions between Pacific and its 271 affiliates between the effective date of TA96 and August 12, 1997;

4. Additional information, as considered necessary by staff, to enable the Commission to evaluate if transactions are arms-length between the affiliates;
5. Verification of arms-length transactions between the affiliates;
6. Develop record regarding FCC requirements for use of confidential and proprietary classifications;
7. Develop criteria, procedures, and procedures to fully demonstrate that the 271 affiliate is treated on an arms-length basis, with no favorable treatment over non-affiliated carriers, and;
8. Explore the need for periodic Pacific internal audits to evaluate compliance with Section 272 requirements.

The responses provided by Pacific and the Joint Presenters did not address each of the issues identified in the ISR. The following discussion reflects the respondents' comments or solutions that were received by staff, as well as the comments made in the workshop.

In their response to the ISR, the Joint Presenters submit that in order to determine whether Pacific and SBCS are in compliance with TA96 and the FCC's requirements regarding the valuation of transactions, posting of transactions on Pacific's Internet site, and the identification of all transactions between Pacific and its 271 affiliate, the Commission needs details regarding transactions between the companies in three specific areas:

1. the rates and charges used in each transaction,
2. documentation of transaction valuation methods, and
3. posting of data related to transactions between Pacific and SBCS on its Internet site.

Following is a discussion of each of the items identified in the ISR and discussed in the workshops.

6. Transaction Valuation Discussion and Staff Recommendations

In response to staff's concern as to whether transactions with PB Com are fairly and accurately valued, Pacific stated that it values transactions for interstate purposes consistent with FCC affiliate transaction and cost allocation rules, and follows CPUC affiliate transaction and cost allocation rules for intrastate purposes. Pacific indicated that it constructed a central file of the affiliate contracts between Pacific and SBCS for staff and third party review at Pacific's headquarters in San Francisco, California, at its Washington, D.C. office, and at the headquarters buildings of Southwestern Bell and Nevada Bell. Pacific represented that these contracts provide the detailed terms and conditions for the services or assets, and the related price that Pacific charges. Additionally, Pacific has annotated the centrally filed contract index to show the basis for pricing to demonstrate that the rates contained in the respective contracts reflect the specific FCC pricing requirements for the service or asset.

Staff recommends that Pacific track and report to the Telecommunications Division Director on its performance for functions or service that it provides to both affiliated and unaffiliated carriers. This information will demonstrate that the 271 affiliate is not given preferential treatment in its contracts with Pacific.

7. Internet Posting Discussion and Staff Recommendations

The Joint Presenters recommend that the posting include what was referred to as “debit and credit level of detail” under each contract to be able to determine whether the affiliates’ contracts contain more favorable terms and conditions than those contained in third party contracts, by disclosing any rebates, refunds, discounts, etc., that affiliates may receive that are not part of the respective contract or agreement.

Pacific disagrees that detailed debit and credit (what Pacific refers to as audit level) information is appropriate for posting on its Internet site, maintaining that the written contract or agreement represents a transaction, as referred to in Section 272(b)(5), and represents the level of detail necessary to comply with posting requirements. Pacific maintains that disclosing audit level details of contracts on the web site would give competitors too much of a competitive advantage. Pacific stated in the workshops that the contract or agreement provides a level of detail that reflects volume discounts, however, Pacific made no representation that the transaction level of detail would reflect refunds or rebates.

Staff recommends that the Internet postings reflect refunds and rebates, and any other form of consideration that impacts the amount that is ultimately paid by the affiliate for goods and services provided by Pacific under contract.

Staff believes that Pacific’s recommendations regarding the type of information that Pacific must display in its Internet site, and the associated level of detail, provide sufficient information for staff and third parties to review and analyze whether transactions between Pacific and SBCS are conducted on an arms-length basis.

8. Transaction Identification Discussion and Staff Recommendations

In response to a recommendation contained in the ISR concerning the identification of all transactions between Pacific and its 272 affiliates between the effective date of TA96 and August 12, 1997, for staff review, Pacific stated that contracts entered into subsequent to August 12, 1997, are posted on its Internet site. Pacific believes that contracts entered into before the August 12 date are not required to be posted on its Internet site, and therefore the company maintains those contracts in the contract central file, previously

referred to. Pacific bases its position on its belief that an Accounting Safeguards Errata to CC Docket 96-150 amended paragraph 268 of said Order to make the effective date for the revised rules based on approval by the Office of Management and Budget of the new information collection requirements adopted in the rules, but no sooner than six months after publication in the Federal Register. Accordingly, the resultant effective date was August 12, 1997. Additionally, Pacific relied on the FCC's Ameritech Order at paragraph 371, "...BOCs need not comply with the requirements we adopted in the Accounting Safeguards Order prior to the effective date of that order...".

a) *Transaction Identification Solution*

Staff agrees with Pacific that it is not necessary to post on its Internet site those agreements and contracts between Pacific and its 271 affiliate that were entered into between February 8, 1996, and August 12, 1997.

b) *Additional Information Needed To Assess Arms-Length Treatment Discussion*

In response to staff's recommendation that Pacific provide additional information to enable the Commission to evaluate if transactions are arms-length between the affiliates, Pacific submits that in CC Docket No. 96-150, the FCC concluded that the Computer III decision retained the concept of compensatory pricing in Part 32 and 64 of its rules, and that the existing Computer III affiliate transaction rules, which the company maintains that it complies with, already ensure that affiliate transactions are conducted at compensatory prices. This provides assurance of compliance with the arms-length requirement of Section 272(b)(5). Pacific further maintains that it has been in compliance with the CPUC and the FCC affiliate transaction rules, which value transactions on a compensatory basis, and therefore, met the arms-length requirement.

To further assist staff in its review process and to promote a better understanding of the affiliate relationship between Pacific and its 271 affiliate, Pacific offered to conduct a survey review of the affiliate transactions and provide staff with a presentation on the review. The review would cover the contract process for affiliate services, review how Pacific develops fully distributed costs for non-tariffed affiliate services, review the process of establishing fair market value for non-tariffed affiliate services, review the billing process for affiliate service transactions, and answer staff questions regarding affiliate accounting safeguards. Staff has determined that it does not need additional information on this issue and declines Pacific's offer to provide a survey review of its affiliate transactions.

9. Use of CONFIDENTIAL and PROPRIETARY Designations Discussion and Staff Recommendation

The issue staff raised regarding FCC guidelines relating to Pacific's use of the terms CONFIDENTIAL and PROPRIETARY was discussed in the workshop. Workshop participants did not provide any insight as to FCC requirements or guidelines regarding the use of the terms CONFIDENTIAL and PROPRIETARY. Pacific Bell provided information on its internal guidelines, and referred to its Operating Practice/Standard Instruction (OP/SI) 181 for providing company policies as to the use of CONFIDENTIAL and PROPRIETARY designations, however, a copy of OP/SI 181 was not provided by the company, nor were any specific references made to relevant sections of the document to illustrate the specific company standards and procedures.

Staff commented that the CPUC's working standard for claiming CONFIDENTIAL or PROPRIETARY treatment requires a showing by the party claiming such protection that disclosure of the information in question would place the party at a competitive disadvantage, and cited business plans and strategic plans as examples of the types of document that are afforded CONFIDENTIAL or PROPRIETARY treatment. The company submitted that OP/SI 181 applies the same standard as the Commission. Additionally, Pacific stated in its written comments that it will not classify affiliate transaction contract documents with its 271 affiliate as proprietary or confidential, and that existing contracts so designated will no longer be afforded such protections.

Finally, Staff agrees with Pacific's recommendation not to classify any affiliate transaction contract documents as proprietary or confidential.

10. Demonstration of Arms-Length Treatment Discussion and Staff Recommendations

Regarding the issue of developing criteria, procedures, and processes to provide data to demonstrate that transactions between Pacific and its 271 affiliate are conducted on an arms-length basis and that non-affiliated carriers are treated the same as, and under the same terms and conditions, as Section 272 affiliates, Pacific identified measures that SBC has taken to ensure that employees understand the requirements and importance of Section 272 and to ensure compliance with Section 272. These measures include distribution within the company of letters by officers emphasizing the importance of 272 requirements and SBC's compliance with TA96's requirements and the FCC's related regulations, training on 272 issues, the formation of a 272 Oversight Team to address issues which arise regarding the relationship between Pacific and its 272 affiliate, creation of a Compliance Booklet which will be distributed to employees prior to the long distance company's provision of in-region service, and the establishment of an Account Team for the long distance affiliate to handle its requests in the same manner that Pacific handles requests from other IXCs. This account team will act as the funnel for requests from the

long distance company to Pacific and will deal with the 272 Oversight Team to ensure compliance with Section 272.

According to the Joint Presenters, in order for Pacific to demonstrate that it treats competitors and the long distance affiliate equally, Pacific should track and report its performance for functions or services that it provides to both sets of carriers. The Joint Presenters offer as an example the instance where Pacific will be processing inter- and intraLATA PIC change requests for the long distance affiliate and for unaffiliated IXCs. Under a settlement agreement that was approved as part of the Commission's intraLATA presubscription decision (D.97-04-043), Pacific is required to track and report its performance in implementing PIC change requests to demonstrate that its long distance affiliate does not receive any preferential treatment. Accordingly, the Joint Presenters recommend that Pacific should similarly track and report any other functions that it performs for both its affiliate and competing carriers such as access service and collocation provisioning.

Staff believes that the steps Pacific and its parent company have taken to educate employees provide a good starting point. Accordingly, staff endorses the internal processes for training and education which Pacific has established. Staff agrees that Pacific should track functions, other than PIC changes which are already required to be tracked, which it performs for both affiliates and competing carriers to enable staff to determine whether the affiliate is granted preferential treatment.

11. Need For Internal Audit: Discussion and Staff Recommendations

In response to the suggestion in the staff report to determine the need for periodic internal audits to be conducted for ongoing evaluation of Pacific's compliance with all of the requirements of Section 272, Pacific states that pursuant to FCC rules, it already has an obligation to have an annual attestation audit of affiliate transactions conducted by an independent auditor. Also, Pacific conducts internal audits, as deemed appropriate, of affiliate transactions. Additionally, Pacific points out that Section 271 requires that biennial audits be conducted by an internal auditor, once 271 authority is granted.

Based on Pacific's representation of the various types of internal audits addressing affiliate transactions that will be conducted, staff does not see the need to order further audits.

12. Disclosure of Central Office Information to the 271 Affiliate Not Available to Third Party Competitors

a) *Initial Staff report Summary*

In its initial report, staff raised the concern that Pacific could provide central office information to its affiliates that is not made available to third party competitors. In particular, staff was concerned that the 271 affiliate may not be required to adhere to the same collocation request process(es) as are required of CLECs.

b) *Discussion and Staff Recommendations*

The workshop participants did not address this issue in their homework, and the issue was not a topic of discussion in the workshops. However, staff believes that this issue is closely related to the separation of officers and directors between the BOC and its 271 affiliate, discussed previously. Consistent with the concerns staff raised regarding SBCS officers/directors reporting to Pacific officers/directors, and having a central service affiliate, SBCO, providing strategic planning services to both Pacific and the 271 affiliate, staff questions whether there is sufficient separation between the two affiliates to allow for the existence of adequate safeguards to protect against the 271 affiliate receiving information regarding central offices, such as strategic technology deployment plans, that is not available to unaffiliated third parties, or is not made available to the unaffiliated third parties at the same time as the 271 affiliate.

Staff submits that the adoption and implementation of staff's recommendations regarding the separation of officers and directors should provide measures to mitigate against the 271 affiliate receiving information on facilities that is not available to third parties, or is provided to the affiliate in advance of being made available to unaffiliated third parties. Staff also believes that staff's agreement—as stated previously—to Pacific's suggestion of an internal audit (tracking functions, other than PIC changes, which is performed for both affiliates and competing carriers) is necessary, and will also help with tracking the disclosure of facilities information. Staff recommends that Pacific also track and report any facilities information, not just transactions, provided to affiliates. Any information on facilities provided to affiliates should be 1) tracked and reported, and; 2) provided to CLECs in the same manner and the same timeframe that it is provided to the affiliate.

Appendix A

CHARTER FOR ROOT CAUSE ANALYSIS/FIX-IT TEAM 911/Directory Assistance (411)/Directory Listings

Purpose:

Convene an intercompany team of Subject Matter Experts from Pacific Bell and any interested CLEC to review and analyze perceived gaps, and to prioritize and implement corrective actions for 911, Directory Assistance and Directory Listing rejects, errors and “fall-out”.

Team Objectives:

- _ Gather data on rejects, errors and “fall-out”
- Prioritize problems based on impact (# of orders, impact on end user, etc.)
- Identify root causes of high-priority problems
- Determine specific corrective action (within Pacific Bell and/or CLEC processes or systems)
- Gain commitment from appropriate organizations/people to implement fixes
- Track and follow-through until corrective action is implemented and problem has been eliminated or significantly decreased

Working Team Members:

T/B/D

Extended Team Members:

T/B/D

Steering Team Sponsors:

T/B/D

Desired Outputs:

In addition to the above deliverables (i.e. implemented corrective action on high-priority problems) the team will document its activities on a routine basis. Specifically, the periodic report will include the following:

- Pertinent measurement data (as determined by the team)
- Specific high-priority problems being analyzed by the team (include estimated impact of each)
- Summary of business rule/process assumptions and root cause identified to-date

- Corrective actions identified to-date (include owners, due dates, and barriers)
- Corrective actions implemented to-date (include specific action, owners, and complete dates)

Key Working Assumptions:

Determination of root cause for each problem should be based on internal Pacific Bell business rules and processes as well as the business rules that have been documented and implemented for CLEC interfaces.

Recommendations for changes to the documented business rules will be handled per Change Management Process.

Appendix B

271 Workshops

OSS Flow-Through Principles

Agreement	Principle
For flow-through improvements that will have an effect on CLEC interfaces CAT1 process developed for change management will be used. For changes that are internal to PB and do not effect the CLEC, notice is required. Change management process group can be used to further detail on the “notice”.	1
PB will explore sourcing requirements that allow flow-through with CLECs when those requirements are not contained in industry guidelines.	2
For purpose of today’s discussion “flow-through” refers to service order generation.	3
Resolving disagreements surrounding implementation issues re: flow-through will utilize the process developed for Cat 1 outstanding issues resolution developed in the Change Management process.	4
Objective of flow-through is to mechanize process of going from LSR to existing SORD order without disrupting downstream processes.	5 & 6
In developing incremental flow-through efficiencies and improvements (not requirements) certain information requirements must be included. Some of this information is addressed by OBF. There should be a dialog to agree on how to supply information which is not addressed by OBF.	7
When identifying and prioritizing flow through, these factors will be considered: <ul style="list-style-type: none">• volumes (real and forecasted)• cost effectiveness• inherent manual nature of the process• efficiency - balance (will CLEC be manual still)• factors affecting ability to compete and equivalent access• other factors The above factors will be discussed at Quarterly Meetings.	8 & 10
There are some products that will never have flow-through	9

Appendix C

7/31

Principles surrounding development of CLEC OSS interface.

- During design and development , dialogue should occur about:
 - user requirements
 - PB internal constraints
- Design decisions that will affect users need to be discussed with users
- Gap analysis
 - should be performed against applicable terms and conditions for any specific OSS interface which resides in interconnection agreements.
- Impact analysis should be performed on CLECs to which that OSS interface is not applicable
 - Build in lead time and notification time.
- Neutral mechanism to resolve disputes.
- PB wants input from committed users.
- Any new OSS interface is a UNE. Need to consider:
 - Financial component
 - ICA
 - Terms and Conditions
 - Open issue is whether access to an OSS interface requires an ICA
- Pacific is ultimately responsible for designing and implementing the systems that provide the required OSS functionality, including non-discriminatory access (CLEC to CLEC; CLEC to PB).
- Test prototype must be provided to requesting CLECs x days before implementation.
Open Issues: Whether prototype must be offered? Principle above implies that PB has ultimate responsibility and therefore should have control over testing. CLECs are concerned about impacts on end-users and business process.
- Early in this process, a broad range of users should be notified.
- Dialog should occur on prioritization.

Appendix D

APPENDIX OSS - RESALE & UNE

ACCESS TO OPERATIONS SUPPORT SYSTEMS

1. General Conditions

1.1 This Appendix sets forth the terms and conditions under which PACIFIC provides access to PACIFIC'S operations support systems (OSS) "functions" to CLEC for pre-ordering, ordering, provisioning, maintenance/repair and billing.

1.2 Resale and Unbundled Network Elements (UNE) functions will be accessible via electronic interface, as described here, where such functions are available. Manual access is available for all pre-ordering, ordering, provisioning, and billing functions via the Local Service Center (LSC). Repair and maintenance functions are available in a manual mode through the Local Operations Center (LOC). In areas where Resale and UNE order functions are not available via an electronic interface for the pre-order, ordering and provisioning processes, PACIFIC and CLEC will use manual processes. Should PACIFIC develop electronic interfaces for these functions for itself, PACIFIC will offer electronic access to CLEC.

1.3 CLEC agrees to utilize PACIFIC electronic interfaces, as described herein, only for the purposes of establishing and maintaining Resale services or UNEs through PACIFIC. CLEC agrees that the ordering interface will only support those Resale and UNE services for which industry standard ordering conventions have been adopted by the OBF, and implemented by PACIFIC. In addition, CLEC agrees that such use will comply with the summary of SBC's Operating Practice 113, as attached to the User ID request form. *[If ADR in InterConnection Agreement (ICA): The Alternative Dispute Resolution (ADR) process set forth in the ICA shall apply to any issues which arise under this Appendix, including any alleged non-compliance with these security guidelines. If no ICA with ADR provision: Failure to comply with such security guidelines may result in forfeiture of electronic access to OSS functionality.]*

1.4 CLEC's access to pre-order functions described in 2.2.2 and 2.3.2 will only be used to view Customer Proprietary Network Information (CPNI) of another carrier's end-user where CLEC has obtained an authorization for release of CPNI from the end user and has obtained an authorization to become the end user's local service provider.

CPNI, includes customer name, billing and residence address, billing telephone number(s), current participation in Voluntary Federal Customer Financial Assistance Program, services subscribed to by customer. The following additional terms shall apply to CLECs access:

For business customers, prior to accessing such information, CLEC shall provide PB/NB with a written or electronic statement indicating that it has obtained such information via an electronic interface, CLEC shall have obtained an authorization to become the end user's local service provider. CLEC shall receive and retain such decisions thereunder).

1.4.2

CLEC shall, on its own behalf and on behalf of PACIFIC, comply with all applicable requirements of Section 2891 of the California Public Utilities Code and 47 USC 222 (and electronic interface, CLEC shall have obtained an authorization to become the end user's local service provider. Accessing such information by CLEC shall constitute certification (and implementing FCC decisions thereunder) and has complied with the prior sentence. CLEC shall receive and retain such information in conformance with the requirements of defend and hold harmless PACIFIC against any claim made by a residence customer or governmental entity against PACIFIC or CLEC under Section 2891 or Section 222 (and

1.4.3 CLEC's obligation to obtain authority prior to accessing CPNI

accordance with any governing regulatory decisions expressly addressing this subject matter.

By utilizing the electronic interfaces described herein to access OSS functions, where CLEC has direct ordering capability, CLEC agrees not to knowingly Agreement and applicable PACIFIC tariffs or PACIFIC UNE rates and charges per the terms of this Agreement. CLEC agrees to use reasonable business efforts to submit reject for processing CLEC orders which are not correct and complete. The Parties agree to conduct internal and independent reviews for accuracy.

The Information Services (I.S.) Call Center provides a technical support function for the OSS interfaces described in this Appendix. CLEC will also provide a

1.7 PACIFIC and CLEC will establish interface contingency plans and disaster recovery plans for the pre-ordering, ordering and provisioning of Resale and UNE.

1.8 The Parties will follow the final adopted guidelines of Change Management as established in the OSS OII proceedings, as may be modified from time to time in accordance with the Change Management principles.

1.9 If CLEC elects to utilize electronic interfaces based upon industry guidelines for Resale or UNE, PACIFIC and CLEC agree to participate in or abide by resolutions of the Order and Billing Forum (OBF) and the Telecommunications Industry Forum (TCIF) to establish and conform to uniform industry guidelines for electronic interfaces for pre-order, ordering, and provisioning. Neither Party waives its rights as participants in such forums or in the implementation of the guidelines. To achieve system functionality as quickly as possible, the Parties acknowledge that PACIFIC may deploy these interfaces with requirements developed in advance of industry guidelines. Thus, subsequent modifications may be necessary to comply with emerging guidelines, consistent with Section 1.9 of this Appendix. CLEC and PACIFIC are individually responsible for evaluating the risk of developing their respective systems in advance of guidelines and agree to support their own system modifications to comply with new requirements. In addition, PACIFIC has the right to define LSR Usage requirements according to the General Section 1.0, paragraph 1.4 of the practices in the OBF Local Service Ordering Guidelines (LSOG), which states: "Options described in this practice may not be applicable to individual providers tariffs; therefore, use of either the field or valid entries within the field is based on the providers tariffs/practices."

2. Pre-Order

2.1 PACIFIC will provide real time access to pre-order functions to support CLEC ordering of Resale services and UNE via the electronic interfaces described herein. The Parties acknowledge that ordering requirements necessitate the use of current, real time pre-order information to accurately build service orders. The following lists represent pre-order functions that are available to CLEC:

2.2 Pre-ordering functions for Resale include:

2.2.1 features and services available at a valid service address (as applicable);

2.2.2 access to customer proprietary network information (CPNI) for PACIFIC retail or resold services for pre-ordering will include: billing name, service address, billing address, service and feature subscription, directory listing information, long distance carrier identity, and pending service order activity. CLEC agrees to comply with the conditions as described in Section 1.4 of this Agreement;

2.2.3

assigned) with the end user on-line;

2.2.4

2.2.5 informati

2.2.6 Primary Interexchange Carrier (PIC) options for intraLATA toll

2.2.7 service address verification.

Pre-ordering functions for UNE include:

2.3.1

applicable);

2.3.2

PACIFIC retail or resold services for pre-ordering will include: billing name, service address, billing address, service and feature subscription, directory listing information,

with the conditions as described in Section 1.4 of this Agreement;

2.3.3

assigned) with the end user on-line;

2.3.4

2.3.5 information regarding whether dispatch is required;

Primary Interexchange Carrier (PIC) options for intraLATA toll (when available) and interLATA toll;

service address verification.

2.4.

access to the following system:

2.4.1

2.4.1.1 Service Order Retrieval and Distribution (SORD) is available for the pre-order function of viewing the CPNI, when SORD is used to order PACIFIC resale service.

2.4.1.2 StarWriter is available for the pre-ordering functions listed in section 2.2 when StarWriter is used to order PACIFIC single line, basic exchange, residential resale services.

2.4.2 Resale and UNE Pre-order System Availability:

2.4.2.1 DataGate is a transaction-based data query system through which PACIFIC provides CLEC access to pre-ordering functions. This gateway is a Transmission Control Protocol/Internet Protocol (TCP/IP) gateway and allows CLEC to access the pre-order functions for Resale services and UNE by CLEC developing its own end-user interface. PACIFIC and CLEC agree to cooperate in developing and implementing an electronic communication interface that will be consistent with industry guidelines developed by the OBF and the TCIF, assuming they are different from that which PACIFIC is providing.

2.4.2.2 VeriGate is an end-user interface developed by PACIFIC that provides access to the pre-ordering functions for Resale Services and UNE. VeriGate may be used in connection with electronic or manual ordering. VeriGate is accessible via Toolbar.

2.4.2.3 CLEO is a PACIFIC system which is available to provide the CLEC with pre-order functions for Resale Service and UNE, with the exception of viewing CPNI. CLEO will be replaced by VeriGate.

2.5 Other Pre-order Function Availability:

2.5.1 Where pre-ordering functions are not available electronically CLEC will manually request this information from PACIFIC'S LSC for inclusion on the service order request.

3. Ordering/Provisioning

3.1 PACIFIC will provide access to ordering functions to support CLEC provisioning of Resale services and UNEs via the OSS interface described below. To order Resale services and UNEs, CLEC will format the service request to identify what features, services, or elements it wishes PACIFIC to provision in accordance with PACIFIC LSOR and other ordering requirements which have been reviewed and discussed by both parties. PACIFIC will provide CLEC access to the following interface:

3.2 Resale Services Order Request System Availability:

3.2.1
Centrex and ISDN Resale Services.

ring

Service Order Retrieval and Distribution (SORD) system supports the ordering of all Resale Services.

StarWriter supports the order generation of single line, basic exchange, residential resale services.

Resale and UNE Service Order Request Ordering System Availability:

3.3.1
(EDI) interface for transmission of PACIFIC ordering requirements via formats provided on the Local Service Request (LSR) as defined by the Ordering and Billing Forum (OBF)

PACIFIC will utilize industry guidelines developed by OBF and TCIF EDI to transmit data based upon PACIFIC'S Resale ordering requirements. In ordering and provisioning

EDI to transmit data based upon PACIFIC'S UNE ordering requirements. In addition, Number Portability will be ordered consistent with the OBF LSR and EDI process. EDI acceptable to PACIFIC and CLEC.

3.3.2
and local interconnection trunks. In ordering and provisioning unbundled dedicated transport and local interconnection trunks, CLEC and PACIFIC will utilize industry

3.3.3 LSR Exchange (LEX) is a graphical user interface provided by

3.4 Provisioning for Resale services and UNE:

PACIFIC will provision Resale Services and UNE as detailed in CLEC order requests. Access to status on such orders is provided via the following electronic interfaces:

DataGate allows CLEC to check status of basic exchange service orders that require field work.

In cases of EDI ordering, PACIFIC provides CLEC with an EDI interface for transferring and receiving orders, Firm Order Confirmation (FOC), will provide CLEC with a FOC for each Resale and UNE service request. The FOC will

include: purchase order number, telephone number, Local Service Request number, due date, Service Order number, and completion date. Upon work completion, PACIFIC will provide CLEC with an 855 EDI transaction-based Order Completion that states when that order was completed. CLEC may submit supplement requests via the 860 EDI transaction, and, where available, PACIFIC will provide CLEC an 865 EDI transaction-based Completion notice.

4. Maintenance/Repair

4.1 Two real time electronic interfaces are accessible to place and check the status of trouble reports for both Resale and UNE. CLEC may access these functions via the following methods:

4.1.1 Pacific Bell Service Manager (PBSM) allows CLECs to perform MLT, issue trouble tickets, view status, and view trouble history on-line.

4.1.2 Electronic Bonding Interface (EBI) is an interface that is available for trouble report submission and status updates. This EBI conforms to ANSI guidelines T1.227:1995 and T1.228:1995, Electronic Communications Implementation Committee (ECIC) Trouble Report Format Definition (TFRD) Number 1 as defined in ECIC document ECIC/TRA/95-003, and all guidelines referenced within those documents, as mutually agreed upon by CLEC and PACIFIC. Functions currently implemented will include Enter Trouble, Request Trouble Report Status, Add Trouble Information, Modify Trouble Report Attributes, Trouble Report Attribute Value Change Notification, and Cancel Trouble Report, as explained in 6 and 9 of ANSI T1.228:1995. CLEC and PACIFIC will exchange requests over a mutually agreeable X.25-based network.

5. Billing

5.1 PACIFIC shall bill CLEC for resold services and UNE. PACIFIC shall send associated billing information to CLEC as necessary to allow CLEC to perform billing functions. At minimum PACIFIC will provide CLEC billing information in a paper format or via magnetic tape, as agreed to between CLEC and PACIFIC.

5.1.1 For Resale Services, CLEC may elect to receive Custom Billing Disk/ CD Bill. Custom Billing Disk/ CD Bill provides an electronic bill with the same information as a paper bill along with various reporting options. (Charges will be provided to interested carriers via their Account Manager.)

5.2 Electronic access to billing information for Resale Services will also be available via the following interfaces:

5.2.1 CLEC may receive a mechanized bill format via the EDI 811 transaction set.

5.2.2 PACIFIC shall provide CLECs a Usage Extract Feed electronically, on a daily basis, with information on the usage billed to its accounts for resale services in the industry standardized Exchange Message Record (EMR) format.

5.2.3 CLEC may receive Local Disconnect Report records (via CARE records) electronically that indicate when CLEC's customers change their Competitive Local Exchange Carrier.

5.3 Electronic access to billing information for UNE will also be available the following interfaces:

5.3.1 PACIFIC makes available to CLECs a local Bill Data Tape to receive data in an electronic format from its CABS database, the same information that would appear on its paper bill.

5.3.2 PACIFIC shall provide CLECs a Usage Extract Feed electronically, on a daily basis, with information on the usage billed to its accounts for UNE in the industry standardized Exchange Message Record (EMR) format.

5.3.3 CLEC may receive Local Disconnect Report records (via CARE records) electronically that indicate when CLEC's customers, utilizing PACIFIC ports, change their Competitive Local Exchange Carrier.

6. Remote Access Facility

6.1 CLEC must access the PACIFIC OSS interfaces, described herein, via the Pacific Remote Access Facility (PRAF). Connection to the PRAF will be established via a "port" either through dial-up or direct connection. CLEC may utilize a single port to access these interfaces to perform the supported functions in PACIFIC where CLEC has executed this Appendix and purchases System Access.

7. Operational Readiness Test (ORT) for Ordering/Provisioning

7.1 Prior to initial live access to interface functionality, the Parties shall conduct Operational Readiness Testing (ORT) which will allow for the testing of the systems, interfaces, and processes for the OSS functions.

7.2 Prior to live system usage, CLEC must complete user education classes for PACIFIC-provided interfaces that affect the PACIFIC network. Classes are train-the-trainer format to enable CLEC to devise its own course work for its own employees. Charges will apply for each class. Classes will be available for and required for PBSM, CESAR, LEX, StarWriter and SORD. Optional classes will be available for VeriGate and CLEO. Schedules will be made available upon request and are subject to change. The length of classes varies; the following table presents the applicable rates. Ongoing class schedules may be requested from CLEC's account manager.

Training Rates	5 day class	4.5 day class	4 day class	3.5 day class	3 day class	2.5 day class	2 day class	1.5 day class	1 day class	1/2 day class
1 to 5 students	\$4,050	\$3,650	\$3,240	\$2,835	\$2,430	\$2,025	\$1,620	\$1,215	\$810	\$405
6 students	\$4,860	\$4,380	\$3,890	\$3,402	\$2,915	\$2,430	\$1,945	\$1,455	\$970	\$490
7 students	\$5,670	\$5,100	\$4,535	\$3,969	\$3,400	\$2,835	\$2,270	\$1,705	\$1,135	\$570
8 students	\$6,480	\$5,830	\$5,185	\$4,536	\$3,890	\$3,240	\$2,590	\$1,950	\$1,300	\$650
9 students	\$7,290	\$6,570	\$5,830	\$5,103	\$4,375	\$3,645	\$2,915	\$2,190	\$1,460	\$730
10 students	\$8,100	\$7,300	\$6,480	\$5,670	\$4,860	\$4,050	\$3,240	\$2,430	\$1,620	\$810
11 students	\$8,910	\$8,030	\$7,130	\$6,237	\$5,345	\$4,455	\$3,565	\$2,670	\$1,780	\$890
12 students	\$9,720	\$8,760	\$7,780	\$6,804	\$5,830	\$4,860	\$3,890	\$2,920	\$1,945	\$970

7.3 A separate agreement will be required as a commitment to pay for a specific number of CLEC students in each class. CLEC agrees that charges will be billed by PACIFIC and CLEC payment is due 30 days later. CLEC agrees that personnel from other competitive Local Service Providers may be scheduled into any class to fill any seats for which CLEC has not contracted. Class availability is first-come, first served with priority given to CLECs who have not yet attended the specific class.

7.4 Class dates will based upon CLEC requests and PACIFIC availability.

7.5 CLEC agrees to pay a cancellation fee of the full price noted in the separate agreement if CLEC cancels scheduled classes less than two weeks prior to the scheduled start date. Should PACIFIC cancel a class for which CLEC is registered less than two weeks prior to the schedule start date of that class, Pacific will waive the charges for the reschedule class for the registered students. CLEC agrees to provide to PACIFIC completed registration forms for each student no later than one week prior to the scheduled training class.

7.6 CLEC agrees that CLEC personnel attending classes are to utilize only training databases and training presented to them in class. Attempts to access any other PACIFIC or SBC system are strictly prohibited.

7.7 CLEC further agrees that training material, manuals and instructor guides are Confidential Information as that term is defined in the Interconnection Agreement [If no ICA: *negotiate specific language*] and can be duplicated only for use internally for the purpose of training employees to utilize capabilities of PACIFIC's OSSs in accordance with this Appendix.

8. Rates

8.1 CLEC will pay PACIFIC the OSS rate(s) set forth in California Public Utilities Commission's first rulemaking in the Open Access and Network Architecture Development (OANAD) proceeding or as otherwise determined by the California Public

Utilities Commission. Should an OSS rate(s) not be established in OANAD by September 30, 1998, CLEC will either 1) pay Pacific the OSS rate(s) Pacific proposes in OANAD under protest or 2) terminate its access to that OSS function . Should CLEC elect option 1, the rates paid will be subject to true-up should the final outcome of OANAD establish a higher or lower rate. This rate waiver is solely for OSS functions and not applicable to any other product, unless expressly documented in this Agreement. Neither party waives its rights pursuant to OSS or any other product in the OANAD proceeding, nor rights in any other product cost proceeding. In the case of rates for interfaces not covered by the OANAD proceeding, PACIFIC will charge proposed rates filed with the California Public Utilities Commission in the interim, subject to true-up.

9. Effective Date

7.1 This Appendix will be effective 30 days after filing with the California Public Utilities Commission unless suspended or otherwise rejected by the Commission.

Appendix E

PRE-OSS Class registration on a STAND-BY BASIS

This Memo of Agreement is entered into this ____ day of ____, 199_ between Pacific Bell and/or Nevada Bell Telephone Company (hereinafter referred to as "PB/NB") and _____ hereinafter referred to as (CLEC) regarding training classes on operations support systems (OSSs) or workshops.

CLEC acknowledges and agrees that it will not have access to, and may not access, OSS interfaces on a live production basis until it has executed an Interconnection or Resale Agreement that includes language supporting the availability of the specific interfaces desired and the rates for access to such interfaces. Failure to enter into an Interconnection or Resale Agreement or to use any OSS on a live production basis does not excuse payment for classes or workshops.

CLEC acknowledges that user education of additional CLEC personnel will be required when the classes requested below occurred more than 90 days prior to the date of live OSS implementation or if classes were not attended by the CLEC's training and/or operational personnel.

CLEC hereby requests the following OSS class or workshop:

PB OSS classes:

__LEX-Resale* (1 day)	_____ date
_____ # students	
__LEX-UNE** (1 day)	_____ date
_____ #students	
__CESAR (News, DLR, CBIS, MAPS) (1 day)	_____ date
_____ # students	
__CESAR (ASR for Interconnection) (2days)	_____ date
_____ # students	
__CESAR (Access to Information) (1 day)	_____ date
_____ # students	
__Pacific Bell Service Manager-Trouble Testing (1 day)	_____ date
_____ # students	
__Pacific Bell Service Manager-ISDN ordering (1 day)	_____ date
_____ # students	
__Pacific Bell Service Manager-Centrex (2 days)	_____ date
_____ # students	
__Starwriter (Resale) (3 days)	_____ date
_____ # students	
__SORD-basic consumer orders (5 days)	_____ date
_____ # students	

__SORD-basic business orders (5 days) _____ date
 _____ # students
 __SORD-complex orders (10 days) _____ date _____ #
 students
 __SORD-Centrex orders (5 days) _____ date
 _____ # students
 __SORD-ISDN orders (5 days) _____ date
 _____ # students

PB Workshops:
 __LSR for Resale Workshop* _____ date
 _____ # students
 __UNE Workshop** _____ date
 _____ # students
 __Interconnection Workshop*** _____ date
 _____ # students

Dates to be coordinated between CLEC and Account Manager utilizing the published schedule of classes.

- *LSR for Resale Workshop is prerequisite for LEX-Resale and resale ordering via EDI
- **UNE Workshop is prerequisite for LEX-UNE and UNE ordering via EDI
- ***Interconnection Workshop is prerequisite for CESAR for interconnection trunks

CLEC agrees to pay the following for OSS classes. If CLEC does not have an effective Interconnection Agreement with PB or NB, CLEC also agrees to pay the following for workshops (CLEC acknowledges that workshop participation is free of charge for six CLEC employees if CLEC has an effective Interconnection Agreement with PB or NB; per-student charges apply for any workshop participation over six students). In addition, CLEC agrees to pay the following for any OSS or workshop participation canceled by CLEC less than two weeks prior to the scheduled start date(s) noted above. CLEC agrees to provide completed registration forms (attached) for each student to PB/NB no later than one week prior to the scheduled class or workshop.

Training Rates	5 day class	4.5 day class	4 day class	3.5 day class	3 day class	2.5 day class	2 day class	1.5 day class	1 day class	1/2 day class
1 to 5 students	__\$4,050	__\$3,650	__\$3,240	__\$2,835	__\$2,430	__\$2,025	__\$1,620	__\$1,215	__\$810	__\$405
6 students	__\$4,860	__\$4,380	__\$3,890	__\$3,402	__\$2,915	__\$2,430	__\$1,945	__\$1,455	__\$970	__\$490
7 students	__\$5,670	__\$5,100	__\$4,535	__\$3,969	__\$3,400	__\$2,835	__\$2,270	__\$1,705	__\$1,135	__\$570
8 students	__\$6,480	__\$5,830	__\$5,185	__\$4,536	__\$3,890	__\$3,240	__\$2,590	__\$1,950	__\$1,300	__\$650
9 students	__\$7,290	__\$6,570	__\$5,830	__\$5,103	__\$4,375	__\$3,645	__\$2,915	__\$2,190	__\$1,460	__\$730
10 students	__\$8,100	__\$7,300	__\$6,480	__\$5,670	__\$4,860	__\$4,050	__\$3,240	__\$2,430	__\$1,620	__\$810
11 students	__\$8,910	__\$8,030	__\$7,130	__\$6,237	__\$5,345	__\$4,455	__\$3,565	__\$2,670	__\$1,780	__\$890
12 students	__\$9,720	__\$8,760	__\$7,780	__\$6,804	__\$5,830	__\$4,860	__\$3,890	__\$2,920	__\$1,945	__\$970

CLEC agrees that charges will be billed by PB/NB and CLEC payment is due 30 days later. CLEC agrees that any charges for access to and/or usage of the OSSs are separate

and not included in this Memo of Agreement. CLEC agrees that classes on any Pacific or Nevada Bell OSSs prior to general availability of those systems will be pilots and may be conducted on other than the finished systems that will be available to the CLECs.

CLEC agrees that CLEC personnel attending classes are to utilize only training databases and training presented to them in class. Attempts to access any other PB/NB or SBC Communications system are strictly prohibited. CLEC also agrees that in training end user information will be accessed only if CLEC has complied with the following terms:

For business customers, prior to accessing such information, CLEC shall provide PB/NB with a written or electronic statement indicating that it has obtained the customer's approval (verbal or written) to receive such information. Where accessing such information via an electronic interface, CLEC shall have obtained an authorization to become the end user's local service provider. CLEC shall receive and retain such information in conformance with the requirements of 47 USC 222 (and implementing FCC decisions thereunder).

For residence customers, prior to accessing such information, CLEC shall, on its own behalf and on behalf of PACIFIC, comply with all applicable requirements of Section 2891 of the California Public Utilities Code and 47 USC 222 (and implementing FCC decisions thereunder), and, where accessing such information via an electronic interface, CLEC shall have obtained an authorization to become the end user's local service provider. Accessing such information by CLEC shall constitute certification that CLEC is in compliance with applicable requirements of Section 2891 and Section 222 (and implementing FCC decisions thereunder) and has complied with the prior sentence. CLEC shall receive and retain such information in conformance with the requirements of 47 USC 222 (and implementing FCC decisions thereunder). CLEC agrees to indemnify, defend and hold harmless PACIFIC against any claim made by a residence customer or governmental entity against PACIFIC or CLEC under Section 2891 or Section 222 (and implementing FCC decisions thereunder) or for any breach by CLEC of this section.

CLEC agrees that access to customer information and changes to end user accounts will be made only on accounts served by the CLEC.

CLEC further agrees that training material, manuals and instructor guides can be duplicated only for use internally for the purpose of training CLEC employees to implement provisions of Interconnection, Resale or OSS Agreements or to utilize capabilities of PB/NB OSSs in accordance with the OSS provisions of the Interconnection or Resale Agreement between PB/NB and CLEC executed on or about (contract signature date). Audio or video taping of classes is prohibited.

CLEC further agrees that personnel from other competitive Local Exchange Providers may be scheduled into this class to fill any seats that the CLEC has not contracted for in this Agreement. In witness whereof, the parties have caused this Agreement to be executed by their duly authorized representatives as of the date written above.

Pacific Bell or Nevada Bell
Account Manager Signature

CLEC (full contract name)
AECN/OCN:_____

By:_____

(name printed or typed)

Signature:_____

Title:_____

(printed or typed)

Date

Date:_____