Decision **DRAFT DECISION OF ALJ MALCOLM (Mailed 6/17/2004)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Review Policies Concerning Intrastate Carrier Access Charges.	Rulemaking 03-08-018 (Filed August 21, 2003)

INTERIM OPINION RESOLVING INTRASTATE ACCESS CHARGE POLICY QUESTIONS IN PHASE I

I. Summary

This order resolves several policy questions with regard to intrastate access charges, their levels and impact on California long distance markets. Specifically, we find that if we reduce access charges for local exchange companies, we should compensate the utilities for their associated loss in revenues by increasing other rates. We also find that the access charges of all carriers, including long distance companies and small and mid-sized local exchange companies, should be reviewed to assure they are not artificially high.

The Commission opened this rulemaking in response to a petition filed by AT&T Communications of California, Inc. (AT&T). The term "access charges" refers to charges imposed by local exchange carriers (LECs) such as Pacific Bell Telephone Company (herein referred to as SBC) on interexchange carriers (IEC) such as AT&T for using the LEC's local exchange network. IECs use this switched access to originate and terminate long distance calls to the vast majority of California residential and business customers.

We opened this rulemaking in recognition that circumstances have changed since the Commission made significant changes to access charges in 1994. Rulemaking (R.) 03-08-018 stated the Commission's intent to consider reductions to the network interconnection charge (NIC), portion of access charges of SBC and the comparable rate element for Verizon California, Inc. (Verizon), the transport interconnection charge (TIC).

II. Background

On October 4, 2001, AT&T filed a petition pursuant to Pub. Util. Code § 1708.5 asking the Commission to reduce intrastate access charges. AT&T made several arguments in favor of its position, among them that existing access charges are priced substantially above cost and stifle competition in the long distance market.

SBC, Verizon, a group of small LECs, and Roseville Telephone Company (Roseville) opposed AT&T's petition primarily on the grounds that access charges are set at levels to subsidize local service.

The Commission granted AT&T's petition in part and initiated a rulemaking on topics relating to the level of intrastate access charges. We granted the petition, finding that

> "circumstances have changed since 1994, when we last comprehensively examined access charges for Verizon and SBC. First and foremost, since our 1994 decision, ILECs and IECs have become direct competitors for interLATA traffic. Verizon has been permitted to offer interLATA service since 1996 and SBC began offering interLATA service in January 2003. AT&T alleges that IECs suffer a price squeeze by virtue of the fact that they must pay access charges to their ILEC competitors, but the ILECs need only make paper transfers of money to their affiliates. According to AT&T, to the extent access charges are unduly high, the margin between access charges and the ILECs'

> retail long distance rates does not permit fair competition in long distance markets. "

We also noted that the order that adopted the NIC, Decision (D.) 95-12-020, found that the NIC is not cost-based or associated with the costs of any specific transport function. R.03-08-018 made no finding one way or the other regarding the validity of AT&T's argument but agreed to address its concern that the level of intrastate access charges was too high to permit long distance carriers to compete with SBC and Verizon in long distance markets.

In defining the scope of a proceeding, R.03-08-018 limited our review to issues concerning NIC and TIC portions of access charge tariffs, which we believed to be about half of total access charges for SBC and about a quarter of Verizon's. By limiting the scope of this inquiry to a rate element that has been identified as not based on costs, we hope to avoid the need for new cost studies and the attendant controversies regarding the appropriate cost standard that we should apply.

This order resolves the following questions posed by R.03-08-018 for Phase I:

1. If the Commission reduced or eliminated the NIC and TIC portion of access charges, should it offset decreases in LEC access charge revenues with increases in other rates?

2. If the Commission were to change the NIC and TIC portion of access charges, what is the possible range of revenue that would be affected?

3. Should the Commission consider revising the access charges for mid-size and small LECs? If so, should the Commission do so in this docket or should it open a

separate proceeding on this issue? If in this docket, at what point in this docket?

4. Should the Commission consider regulating access charges for Competitive Local Exchange Carriers (CLEC)? If so, should the Commission do so in this docket or should it open a separate proceeding on this issue? If in this docket, at what point in this docket?

5. In lieu of the Commission establishing access network costs for individual mid-size LECs, small LECs, and CLECs, should the Commission consider utilizing SBC's and Verizon's access rates as a proxy to establish ceiling rates applicable to the mid-size LECs, small LECs and CLECs.

Parties filed comments on these questions on October 23, 2003 and filed reply comments on November 12, 2003. The Administrative Law Judge (ALJ) held a prehearing conference on November 19, 2003 at which the parties agreed that evidentiary hearings would not be necessary in order to resolve the policy questions in Phase I of this proceeding.

The following parties filed comments responding to the questions posed in R.03-08-018: SBC, Verizon, AT&T, California Cable and Telecommunications Association (CCTA), The Utility Reform Network (TURN) and Office of Ratepayer Advocates (ORA) (jointly, ORA/TURN), MCI WorldCom Network Services, Inc. (MCI), Frontier Companies,[1] small LECs,[2] Roseville,[3] Sprint

[1] "Frontier companies" include Citizens Telecommunications Company of California, Inc., Citizens Telecommunications Company of the Golden State, Citizens Telecommunications Company of Tuolumne, Frontier Communications Company of America, and Electric Lightwave, Inc.

Communications Company (Sprint), Qwest Communications Corporation (Qwest), Surewest Telephone (Surewest), Pac-West Telecom, Inc..

III. TIC and NIC Elements of Access Charges

Since the early 1980s, local exchange companies have been required to connect long distance carriers to their customers. The LEC carries the long distance traffic from the customer to the LEC's end office and from there to the IEC's facility. State and federal regulators have permitted LECs to impose "access charges" on IECs that use LEC networks to connect to long distance customers. Access charges recognize the LECs incur a cost to construct and maintain associated portions of their networks. The level of these charges has been the topic of dozens of formal proceedings before the Federal Communications Commission (FCC) and this Commission. In general, access charges have fallen over the years so that they are closer to actual cost.

The NIC (called the TIC for Verizon) is one element of intrastate access charges and is charged according to usage by the minute. The Commission has stated that the NIC is designed to recover costs associated with the LEC's tandem switching system, but the level of the NIC does not necessarily correspond to actual costs. (D.98-07-033, 81 Cal PUC2d 90 (July 2, 1998).) Since creating the

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[2] Calaveras Telephone Company, Cal-Ore Telephone Company, Ducor Telephone Company, Evans Telephone Company, Foresthill Telephone Company, Happy Valley Telephone Company, Hornitos Telephone Company, Kerman Telephone Company, Pinnacles Telephone Company, Ponderosa Telephone Company, Sierra Telephone Company, Inc., Siskiyou Telephone Company, Volcano Telephone Company and Winterhaven Telephone Company.

[3] This order refers occasionally to “ILECs”, which includes SBC, Verizon, small LECs, Frontier companies and Roseville

NIC in l995, the Commission has not made any findings with regard to the relationship between tandem costs and the NIC/TIC.

The intrastate NIC and TIC rates adopted by this Commission are fashioned to some extent after the FCC's TIC, adopted in l992 and applied to interstate traffic. After the FCC adopted this rate element, Congress passed the Telecommunications Act of l996 (Telecommunications Act), requiring, among other things, that subsidies to universal service, or basic local rates, be explicit. The FCC has since responded by phasing out the TIC from interstate rates over a two-year period.

This Commission has so far rejected proposals by interexchange carriers to eliminate the NIC and TIC for intrastate rates. However, changes in the industry over the past 15 years motivate us to review these charges. For a while, the relationship between the cost of access and charges for access did not significantly affect the competitiveness of any particular carrier. Although high access charges might dampen innovation or investments in long distance markets, all carriers faced the same level of charges and none acquired any advantage due to access charge pricing structures. The potential impact of high access charges, however, changed after LECs entered long distance markets in 2002. To the extent access charges are set above cost, LECs have an opportunity to price long distance services at levels that are anti-competitive. In effect, LECs could collect high access charge revenues from competitors while charging very low retail toll rates. Even if LEC long distance services are offered through affiliates, excess profits from access charges may be passed along to the affiliate through the parent company.

If an LEC can acquire substantial market share by setting prices below costs, it may be able to drive competitors out of business and remain as one of

few competitors in the long distance market. This effect, called "predatory pricing," could create market conditions that permit the unregulated affiliate to charge excessive rates for long distance markets.

Whether LECs are able to price anti-competitively and the extent to which intrastate access charges are promoting arbitrage are the types of conceptual issues that motivated our inquiry. They are factual matters we may review at a later time. At this juncture, our objective is to address some broad policy questions that will affect the scope of this proceeding, should we decide to order LECs to reduce their access charges.

The following addresses each of the Phase I issues identified in this rulemaking.

IV. Phase I Issues

A. If the Commission reduced or eliminated the NIC and TIC portion of access charges, should it offset decreases in LEC access charge revenues with increases in other rates?

R.03-08-018 stated that a threshold issue in this proceeding is whether reducing access charges would require increases to other LEC rates. We stated our intent to resolve this controversy immediately in order to know whether and how changes in access charges may affect customers of other LEC services. If access charge reductions need not be offset by equivalent rate increases, our task in Phase II would be to decide whether and by how much to reduce the NIC and TIC portions of access charges. On the other hand, if access charge reductions must be “revenue neutral,” access charge rate reductions would need to be offset by increases to other rates or “rate rebalancing.” This policy decision implies a much more elaborate review of utility rates and revenues.

This issue is certainly the most contentious of those addressed in Phase I of this proceeding. Local exchange companies, including the small and

mid-sized LECs, and Qwest argue that the Commission should order access reductions only if it orders corresponding rate increases, consistent with their understanding of New Regulatory Framework (NRF). Consumer representatives and competing long distance carriers argue that the principle of revenue neutrality should not be applied selectively in favor of the LECs and that the LECs do not need the offsetting revenues in order to remain financially sound.

We address these issues by considering the principles of existing regulation under NRF, the effect of the CHCF-B on the utilities' ability to recover basic service costs, federal law and policy, and the potential impact of rate rebalancing from a broader policy standpoint.

1. Does the New Regulatory Framework Require or Prohibit Rate Rebalancing in this Case?

We first consider our current regulation of SBC and Verizon under the NRF and whether the principles of that regulatory model require or intend that rate reductions ordered by the Commission be offset by increases to other rates.

ORA/TURN and CLECs argue that the Commission never promised such revenue neutrality under NRF in all circumstances, applying that concept in the original rate design order but permitting its application according to specific circumstances in subsequent cases. MCI adds that using a revenue requirement adopted in l989 as the basis for increasing small customer rates today makes no sense and is contrary to the Commission's original intent to promote efficiency in the operations of SBC and Verizon.

LECs reply that the Commission has explicitly supported the concept of revenue neutrality where it orders a rate reduction, applying that principle in several decisions and requiring it as part of the annual price cap process. Verizon argues that the Commission never intended to consider such matters

one case at a time, but rather to consider all rate design issues in triennial reviews.

When the Commission adopted the NRF in l989, it abandoned general rate cases and strict regulatory oversight hoping to provide incentives for innovation, improved service and competitive rates. It stated an intent to retain close oversight of the prices for certain basic services and permit pricing flexibility for others that were not essential as they become subject to competitive conditions. (D.89-12-031)

In adopting the rate design that accompanied the NRF, the Commission addressed the issue of "revenue neutrality," stating that, on balance, rates should change in ways that provided a "fair opportunity to earn a competitive rate of return." (D.94-09-65, 56 CPUC2d, 117,137) In subsequent orders, we reiterated that our regulatory oversight was intended to result in "neither windfall nor the loss of opportunity for Pacific and GTEC [now SBC and Verizon] to achieve their authorized returns." (D.97-02-049, 71 CPUC2d 111, 119)

We find that in past instances in which the Commission has ordered rates to be reduced, we have provided for revenue neutrality. We are wary of midstream changes to our regulatory programs, which have been crafted with an eye toward balancing competing interests. We would only depart from established policy with a compelling showing. In the case of NRF, we developed a package of principles designed to promote efficient utility operations and reasonable prices while providing the utilities with a reasonable opportunity to earn profits that are commensurate with their risks in various telecommunications markets, whether they are competitive or monopolistic. Picking and choosing from these regulatory principles in individual cases such as

the one before us could unfairly tip the scales in favor of one interest at the expense of others.

In addition, the initial NRF revenue requirement adopted in l994 was characterized as a "reasonable starting point" for the new regulatory program. We found that subsequent rate changes would be "offset by countervailing rate changes or revenue adjustments so that the cumulative effect of all revenue changes for each NRF company is zero." (D.94-09-065, 56 CPUC2d 117, 137). We have departed from this principle of "revenue neutrality" in some cases and permitted "rate rebalancing," notably where the utility has proposed rate increases to services for which there exist reasonable substitutes. We have not, however, ordered a reduction to one rate and refused to permit offsetting increases to other rates. The parties who argue against rate rebalancing in this case, however, do not adequately distinguish the circumstances here from those in cases where we have ordered rate rebalancing.

In sum, the Commission is not limited in this case to following NRF, although we are not convinced in this case that departing from NRF's underlying principles is merited, whether as a matter of fairness or on the basis of the facts in this circumstance.

2. Does the CHCF-B Ensure that SBC and Verizon Recover All Costs Associated with Basic Local Services?

The CHCF-B is a fund of revenues collected from all California LECs. These revenues are redistributed among the LECs according to their proportional liability for the cost or some portion of the cost of providing some local basic services in some areas of the State. LECs with higher costs receive more funds per line than those with low costs. The purpose of the fund is to provide

subsidies to those local services in order to keep rates low and permit competition in local markets.

AT&T, TURN/ORA assert that the creation of the CHCF-B obviated the need for other subsidies to local basic services and replaced subsidies for those services previously provided by access charges. AT&T asserts all subsidies to local basic rates are now explicit, consistent with FCC policy.

The LECs take issue with this interpretation of the Commission's program. SBC and Verizon argue that they do not receive subsidies for certain local services, such as business lines and second lines, and that the fund does not recover the difference between costs and rates in all but high cost areas of the state. SBC states the fund only provides subsidies for areas of the state that cost more than $20.30 and that in other areas of the state it still realizes a shortfall at the local rate of $15.18.

We adopted the current rules for the allocation of funds from the CHCF-B and D.96-10-066. As the LECs state, D.96-10-066 did not find that the CHCF-B would assure the recovery of all revenues needed to support basic services. The purpose of the fund was to support only those areas of the state that are expensive to serve. The order creating the fund did not calculate a total revenue requirement for basic services. Nor did it provide a windfall for the utilities. The revenues it authorized the utilities to take from the fund were offset by reductions in other rates. In that way, the fund was designed to retain the utilities' financial status.

In setting forth the revenue allocations from the CHCF-B, D.96-10-066 intended only to retain the basic model for NRF rates and revenues adopted in D.97-02-049. Whether SBC and Verizon recover all costs for basic services from basic service revenues and the CHCF-B is an issue of fact for which we do not

have evidence in this case or any other at this point. We therefore would not reduce access charges and deny offsetting rate increases on the basis that the CHFC-B provides all required subsidies to local basic services. Neither would we assure revenue neutrality on the basis that the CHCF-B does not fully fund the costs of local services that are not recovered in corresponding rates.

3. Conclusion.

Our previous discussion clarifies that we would be within our discretion to order rate rebalancing or deny it if we were to reduce access charges. We find that the order adopting the current CHCF-B does not resolve the extent to which the fund compensates the LECs for costs associated with basic local service but that the order required the utilities to offset draws from the fund with reductions to rates.

After considering these several related issues, we believe we must order rate rebalancing if we reduce access charges. We find no compelling reason in this case to depart from our established principles in order to assure fairness or promote other public policy goals.

The decision to order rate rebalancing triggers associated inquiry in Phase II of this proceeding. Specifically, we will need to forecast revenue losses and allocate revenues to specific rates or surcharges. The assigned ALJ will address the scope of this part of our inquiry and provide a procedural schedule for addressing these questions following a prehearing conference in Phase II of this proceeding.

B. If the Commission were to change the NIC and TIC portion of access charges, what is the possible range of revenue that would be affected?

R.03-08-018 inquired as to how much revenue SBC and Verizon collect from the NIC and TIC portion of access charges. The parties do not have exact

estimates of NIC and TIC revenues or forecasts and the parties generally do not dispute the potential range of revenues. SBC estimates that it collected about $168 million in 2002. Verizon estimates its TIC revenues for the 12-month period ending June 2003 to be about $58 million plus about $10 million in revenues imputed in its own toll rates. Verizon argues it would lose this $10 million in rates because it would have to reduce its toll rates to meet the rates of competitors who remove the TIC liability from their toll rates. Roseville states its TIC revenues are about $4.4 million or about 31% of its total switched access revenue.

AT&T believes SBC's NIC revenues were about $154 million in 2003 and $76 million for Verizon in 2003. AT&T argues that these revenues have been declining and will continue to decline in future periods. The reasons for this decline, according to AT&T, result from the incursions of wireless carriers and SBC's own affiliates into long distance markets. AT&T refers to these amounts as "rounding errors" for these large companies. MCI makes similar comments.

The revenues from the NIC and TIC are significant but appear to be declining as consumers increasingly use wireless communications for long distance calls.

C. Should the Commission consider revising the access charges for mid-size and small LECs? If so, should the Commission do so in this docket or should it open a separate proceeding on this issue? If in this docket, at what point in this docket?

R.03-08-018 sought comments on whether the Commission should revise access charges for mid-size and small LECs and, if so, in what context.

SBC proposes that to assure no carrier has a competitive advantage, all LECs should be treated alike. PacWest suggests the Commission set mid-size access charges at the ILEC's Total Element Long Run Incremental Cost following

review of SBC and Verizon charges. MCI and AT&T propose this is a matter for a future phase of this proceeding.

Small LECs, Frontier Companies, Roseville, ORA/TURN, Surewest, object to further review of small and mid-sized LEC rates at this time. Small LECs observe that these rates are subject to review in individual company rate cases. Frontier Companies comments that none of its affiliates have NIC or TIC elements in their access charges.

The Commission opened this rulemaking with a concern that access charge levels may affect competition, especially in an era where Verizon and SBC have long distance affiliates competing with more traditional long distance companies. Although we do not have information at this point about the extent to which the access charges of small and mid-sized LECs may affect competition, we believe it reasonable to treat all LECs alike so that none has a competitive advantage. Moreover, to the extent the access charges of small and mid-sized LECs are priced above cost, long distance carriers are penalized. We intend to review the access charges of small and mid-sized companies in this docket. We will not, however, slow the pace of the proceeding to consider the costs of each of those companies. Instead, we will plan to review this matter in a third phase of this proceeding where we will direct each utility to either provide evidence that the Commission has already set the NIC or TIC portions of their access charges at cost in general rate cases or use Verizon or SBC's rates as a proxy, as we discuss below.

D. Should the Commission consider regulating access charges for CLECs? If so, should the Commission do so in this docket or should it open a separate proceeding on this issue? If in this docket, at what point in this docket?

R.03-08-018 sought comments on whether the scope of this rulemaking should include a review of the access charges of CLECs. All local exchange companies, i.e., CLECs and LECs, have exclusive control of both originating and terminating access to their customers. Our order raised the concern that CLEC access rates may be substantially higher than the access charges of LECs.

AT&T states its opposition to excessive access charges but opposes any regulation of them at this time because the problem is minor compared to the impact of high access charges imposed by Verizon and SBC. AT&T observes that this proceeding limited its inquiry to NIC and TIC portions of access charges, which may not be elements of CLEC tariffs. AT&T suggests the Commission consider the matter in a future phase of this proceeding.

SBC suggests the Commission regulate CLEC access charges as a matter of fairness. It refers to an FCC action which aligns CLEC access tariffs more closely to LEC rates. PacWest suggests the Commission find that CLEC access charges are automatically reasonable if they are no higher than the FCC-approved ILEC rates.

Small LECs and Roseville object to applying this inquiry to CLECs. ORA/TURN observe that the Commission has already considered this proposal and rejected it on the basis of a full evidentiary record in D.96-03-020. CCTA and Surewest also argue against such an inquiry. Frontier Companies argue that CLEC rates should be subject to market forces rather than regulatory oversight because those companies do not have market power.

As with the issue of access charges for small and mid-sized LECs, the revenues corresponding to access charges that might be implicated in this proceeding are almost certain to be relatively small. Nevertheless, as a matter of fairness and in recognition that CLECs may increasingly provide access to customers, we intend to review CLEC access charges. We recognize that the effort required to establish cost-based access charges would be daunting and consider alternatives to that exercise. As with small and mid-sized companies, we intend to consider this question and conduct this formal review in a third phase of this proceeding.

E. In lieu of the Commission establishing access network costs for individual mid-size LECs, small LECs, and CLECs, should the Commission consider utilizing SBC's and Verizon's access rates as a proxy to establish ceiling rates applicable to the mid-size LECs, small LECs and CLECs?

R.03-08-018 inquired as to whether the Commission should consider using SBC and Verizon access charges as proxies for the access charge rates of small and mid-size LECs and CLECs.

SBC proposes the Commission apply LEC access charges to CLECs as a benchmark. If a CLEC wished to set the rate higher, it would have to demonstrate that its proposed rates were required to recover costs. AT&T does not oppose this idea but suggests its consideration be deferred to a later phase.

Small LECs, Roseville, and Frontier Companies object to using SBC or Verizon rates as proxies for small companies, arguing that small LECs may have very different costs.

Using the access charges of Verizon and SBC as a ceiling or benchmark for the access charges of CLECs and small and mid-sized LECs may be a reasonable

alternative to developing costs for each of these companies. We will develop options in Phase III of this proceeding.

V. Conclusion

This order resolves the questions set forth in R.03-08-018 identified for Phase I in this proceeding. We find no compelling reason to depart from established NRF policy with regard to rate rebalancing in the event we order LECs to reduce or eliminate the NIC and TIC portions of the access charges.

We also state our intent to consider changes to access charges of LECs other than SBC and Verizon and CLECs in a third phase of this proceeding.

We proceed to Phase II of this proceeding.

VI. Motion of Small LECs to be Excused as Respondents

In their comments, Small LECs ask to be excused from this proceeding as respondents, arguing that access charges are better reviewed in rate cases for individual companies and on the basis of their individual costs.

R.03-04-003 does not list specific respondents but implies that all LECs and CLECs may be treated as respondents because the scope of the proceeding at the time anticipated that the access charges of any and all carriers might be subject to change. We herein determine that the scope of this proceeding will continue to include an inquiry related to the access charges of small and mid-sized LECs and CLECs. We therefore deny the motion of small LECs to be excused as respondents in this proceeding.

VII. Comments on Draft Decision

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Section 311(g)(1) of the Public Utilities Code and Rule 77.7 of the Rules of Practice and Procedure. Comments were filed comments on _____, 2004, and filed reply comments were filed on _____, 2004.

VIII. Assignment of Proceeding

Michael R. Peevey is the Assigned Commissioner and Kim Malcolm is the assigned ALJ in this proceeding.

Findings of Fact

1. In adopting and implementing the NRF for Verizon and SBC, the Commission never agreed to assure revenue neutrality in all cases where a utility rate would increase or decrease.

2. The Commission is not bound by its past order if it provides notice and an opportunity to be heard on issues relevant to those portions of an order the Commission may change.

3. The CHCF-B adopted in D.96-10-066 does not necessarily assure recovery of all revenues needed to support basic services. The order did not match a revenue requirement for basic services with explicit sources to fund the revenue requirement.

4. Neither federal law nor FCC rules requires the Commission to offset revenue losses from access charge reductions with increases to other rates.

5. The Commission has not been presented with a compelling showing as to why it should in this case depart from established NRF principles which anticipate rate rebalancing when the Commission orders a rate to be changed.

6. The estimates of TIC and NIC revenues provided by Verizon and SBC are reasonable for the purpose of considering the potential financial impact of access charge reductions in Phase I of this proceeding.

7. The Commission does not have information about the extent to which the access charges of CLECs, or small and mid-sized LECs are set at cost or could impact competition in California's intrastate long distance markets.

8. Using the access charges of Verizon and SBC as a ceiling or benchmark for the access charges of CLECs and small and mid-sized companies may be a reasonable alternative to developing cost estimates of access charges for each of those utilities.

Conclusions of Law

1. The Commission is within its authority pursuant to Public Utilities Code Section 1708 to modify any order.

2. If the Commission reduces or eliminates access charges for SBC and Verizon, it should order offsetting rate increases.

3. This scope of this proceeding should include issues relating to the TIC and NIC portions of SBC and Verizon's access charges, and the access charges of all other telecommunications companies with access charge tariffs, and possible offsetting rate increases to the extent set forth herein.

4. The motion of small LECs to be excused from this proceeding should be denied because the scope of this proceeding will continue to include review of certain of their rates.

INTERIM ORDER

IT IS ORDERED that:

1. All telecommunications companies authorized to provide access to local customers and who have access charges are named respondents to this proceeding.

2. This proceeding shall remain open to investigate the Phase II issues identified in Rulemaking 03-08-018, the issues identified in this order for Phase II of this proceeding, and considering the findings and conclusions set forth herein on issues relating to Phase I.

This order is effective today.

Dated _____, at San Francisco, California.