Decision 96-10-066  October 25, 1996

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Rulemaking on the Commission's Own
Motion into Universal Service and to
Comply with the Mandates of Assembly
Bill 3643.

Investigation on the Commission's
Own Motion into Universal Service
and to Comply with the Mandates of
Assembly Bill 3643.

R.95-01-020  (Filed January 24, 1995)
I.95-01-021  (Filed January 24, 1995)

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This decision finalizes the universal service rules that we originally proposed in decision (D.95-07-050). Many of the issues raised in those proposed rules did not require any evidentiary hearings, but instead were commented upon by a number of parties in written comments in accordance with Rule 14.1 of the Commission's Rules of Practice and Procedure, 2 tit. 20, § 14.1. Other issues, such as the proxy cost model for estimating the costs of basic service, required evidentiary hearings. This decision addresses both the written comments and the evidence presented during the evidentiary hearings, as well as the comments that were filed in response to the issuance of the August 5, 1996 proposed decision.

Today's decision reaffirms the Commission's commitment to universal service by ensuring that residential basic telephone service be made available throughout California, and that the rates for such service remain affordable. Our decision adopts final rules pertaining to how universal service will be carried out in California as the local exchange telephone markets are opened to competing carriers. As we enter this competitive environment, yesterday's policies supporting universal service will no longer be sustainable.

The following are some of the key universal service rules and policies that we adopt:

- The term "basic service," for residential customers, is defined to include those telephone service elements that consumers have come to expect. (See App B, Rule 4.)
- All carriers providing local exchange residential service shall at a minimum provide all the service elements included in the basic service definition.
The definition of basic service may be revisited to evaluate whether service elements should be added or deleted from the definition.

A Universal Service Working Group (USWG) will be formed to address ways in which access and deployment of advanced telecommunications technologies can be provided to all customer segments and how education, health care, community, and government institutions can be positioned to take advantage of these technologies.

All local exchange carriers (LECs) and competitive local carriers (CLCs) shall be responsible for pursuing the objective of achieving a 95% subscribership rate among all customer groups. They shall also be required to include in their annual reports information about their subscribership rates.

All LECs and CLCs must provide a matrix of pricing information regarding basic service. Such a matrix will allow consumers to compare the rates charged by other carriers for the same type of service.

The Commission should take proactive steps to educate the public about changes and issues in the telecommunications market.

In accordance with state and federal directives, qualifying schools, libraries, municipal and county government owned and operated hospitals and health clinics, and qualifying community based organizations (CBOs) shall be entitled to discounted rates for certain services. Funding for these discounts will come from the California Teleconnect Fund surcharge of 0.41%.

The five large and mid-size LECs shall be included in the proxy cost model calculation for determining universal service support. They and other carriers of last resort (COLR) in high cost areas in these service territories will be eligible for subsidy support through the newly created...
California High Cost Fund-B (CHCF-B) will not be subject to the rules applicable to the CHCF-B fund. Instead, the seventeen smaller LECs shall continue to be eligible for universal service support under the existing California High Cost Fund. We shall refer to the existing fund as the CHCF-A fund.

Instead, the seventeen smaller LECs shall continue to be eligible for universal service support under the existing CHCF-A fund. (D.O.)

In order to avoid a windfall to the five large and mid-size LECs, any subsidy received from the CHCF-B shall be reduced by the same amount through an equal percentage reduction for all services except for basic service rates. The five incumbent LECs may file applications to decide what rates should be rebalanced downwards to the five permanent off the explicit subsidy support. (D.O.)

The Cost Proxy Model (CPM) sponsored by Pacific Bell (Pacific) has been selected as the proxy model to estimate the cost of providing residential basic service to the five large and mid-size LECs. The CPM estimated the statewide subsidy needed for providing universal service at $1.7 billion, of which Pacific estimated that it would receive $1.3 billion in subsidy support.

The CPM model, its inputs, and its results have been examined by the parties to this proceeding. As a result of these critiques, we have made adjustments to the model which total to $1.16 billion. As adjusted, we believe the adjusted CPM is consistent with the consensus costing principles (CCPs) adopted in the Open Access Network Architecture Development (OANAD) proceeding.

Using the adjusted CPM, at the statewide average cost of $20.30 was derived. That statewide average cost serves as the cut-off point for determining which census block groups (CBGs) are high cost. By CBGs whose costs exceed the statewide average cost of $20.30 shall be deemed high cost areas and eligible for support from the CHCF-B fund.

The benchmark for determining COL support shall be the statewide average cost of
The subsidy amounts which designated COLRs may expect to receive shall be offset with revenues that: the LECS or CLCs receive from basic service. the end user (common carrier line) charge (EUCL) and the common carrier line charge (CCLC), and the interstate Universal Service Fund (USF) and the Universal Lifeline Service (ULTS) program is revised to allow CLCs to compete for ULTS customers, and to receive subsidy support for providing service to this customer group. You should avoid situations where ULTS funds are being used to promote the name of a particular carrier, the marketing expenses associated with promoting the ULTS program shall no longer be recoverable from these funds in accordance with the schedule set forth in this decision. Instead, the ULTS Marketing Working Group will be formed to provide competitively neutral marketing for the program. Until decisions are forthcoming on the appropriate service area costs, only
$20.30, or the carrier's flat rate plus the \$12.45, whichever is higher, (i.e., for the common carrier service charge (EUCL) or the common carrier line charge (CCL), and the interstate Universal Service Fund (USF) and the universal service fund.)

- The subsidy amount which designated COLR(s) may expect to receive shall be offset with revenues that the LEC(s) or COLR(s) receive from basic service, the end-user common line charge (EUCL) or the common carrier line charge (CCL), and the interstate Universal Service Fund (USF) and the universal service fund.

- The estimated subsidy is 2.87%.

- An all end-user surcharge (ABUS) which is higher than the extra-bill line charge (ECL) may appear as a single line item for purposes of collection on a customer's bill. Extra-bill line charge (ECL) shall also appear as a separate line item for purposes of collection on a customer's bill. Extra-bill line charge (ECL) shall undergo a review every three years. The use of an auction mechanism in the future remains an option. Funds collected shall be used to promote the Universal Lifeline Telephone Service (ULTS) program.

- The Universal Lifeline Telephone Service (ULTS) program is revised to allow COLR(s) to compete for ULTS customers and to receive subsidy support for providing service to this customer group.

- In order to avoid situations where ULTS funds are being used to promote the name of a particular carrier, the marketing expenses associated with promoting the ULTS program shall not be recoverable from the ULTS fund in accordance with the schedule set forth in this decision. Instead, the Universal Lifeline Telephone Service (ULTS) Marketing Working Group will be formed to provide competitively neutral marketing for the program.
The above rules and policies are discussed in the following sections which follow.

In addition to the CHCF-A, CHCF-B, and the California Teleconnect Fund, the other universal service programs include the Deaf and Disabled Telecommunications Program, and the UTCS program. As shown in Appendix E, these five universal service programs total to approximately $855 million on an annual basis.

II. Procedural Background

In D.95-07-050, we described the backdrop leading to the issuance of this rulemaking (OIR or R.95-01-020) and investigation (OII or I.95-01-021) into universal service. A brief recap of some of those events and of events subsequent to the issuance of D.95-07-050 will be of aid to those who seek an understanding of the process for today's decision.

R.95-01-020 and I.95-01-021 were opened in January of 1995 to develop rules to further the goals of universal service in a competitive telecommunications environment. This proceeding was opened as part of this commission's comprehensive review of new state regulatory policies need to respond to the opening of monopoly markets to competition. In addition, the enactment of Assembly Bill (AB) 3643 (Stats. 1994, Chapter 278), which became effective January 1, 1995, provided some guidance as to the type of issues the commission should concern itself with. Sections 6 in code of 1995 provide for the opening of a proceeding to examine the current and future definitions of universal service, and mandated that public hearings be held so as to encourage participation from broad and diverse interests from all areas of California.

AB 3643 called for the opening of a proceeding to examine the current and future definitions of universal service, and mandated that public hearings be held so as to encourage participation from broad and diverse interests from all areas of California.

The Deaf and Disabled Telecommunications Program is funded by: i) the California Relay Service, and (ii) Communications Devices Fund.
the state. AB 3643 also stated that the objectives of the proceeding were as follows:

1. Define the goals of universal service, given the new technologies and increasingly competitive markets, with emphasis on the role of basic service in education, health care, and in the workplace.

2. Delineate the subsidy support needed to maintain universal service in the new competitive market.

3. Design and recommend equitable and broad based subsidy support for universal service in freely competitive markets.

4. Develop a process to periodically review and revise the definition of universal service to reflect new technology and markets.

5. Address the issues of `carrier of last resort' and `franchise obligations.'

AB 3643 also went on to state that the recommendations developed in this proceeding shall be consistent with Public Utilities Code § 709, and with the following principles:

1. Essential telecommunications service should be provided at affordable prices to all Californians, regardless of linguistic, economic, or geographical characteristics.

2. PU Code § 709 states as follows: "The Legislature hereby finds and declares that the policies for telecommunications in California are as follows: (a) To continue our universal service commitment by assuring the continued affordability and widespread availability of high-quality telecommunications service to all Californians. (b) To encourage the development and deployment of new technologies and the equitable provision of services in a way which efficiently meets consumer need and encourages the ubiquitous availability of a wide choice of state-of-the-art services. (c) To promote economic growth, job creation, and the substantial social benefits that will result from the rapid implementation of advanced information and communications technologies by adequate long-term investment in the necessary infrastructure."
cultural, ethnic, physical, geographic, or income considerations.

5. In order to avoid an "information rich" and "information poor" stratification, there must be an ongoing evaluation of which services are deemed essential and, therefore, a part of universal service.

6. Any subsidy that may be required to ensure that universal service remains a viable reality must have a clearly stated purpose and scope, include a broad-based and competitively neutral funding mechanism, and be imposed in a manner that clearly identifies the source of the subsidy.

7. Public policy should provide incentives as needed to promote deployment of advanced telecommunications technology to all customer segments.

8. Consumers should be able to have access to all the information needed in order for them to make timely and informed choices about telecommunications products and services, and how to best use them.

9. Because of their economic and social impact, education, health care, community, and government institutions must be positioned to be early recipients of the benefits of the information age.

10. All parties involved in providing services utilizing evolving public networks should adhere to the same guidelines regarding mutual interconnectivity and interoperability, common carriage, reliability, privacy, and security.
cultural, ethnic, physical, geographic, or income considerations.

(2) In order to avoid an 'information rich' and 'information poor' stratification, there
must be an ongoing evaluation of which services
are deemed essential and therefore a part of
universal service.

(3) Any subsidy that may be required to ensure
that universal service remains a viable reality
must have a clearly stated purpose and scope,
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funding mechanism, and be imposed in a manner
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(4) Public policy should provide incentives as
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telematic communications technology to all customer
segments.

(5) Consumers should be able to have access to
all the information needed in order for them to
make timely and informed choices about
telecommunications products and services, and
how to best use them.

(6) Because of their economic and social
impact, education, health care, community, and
government institutions must be positioned to
be early recipients of the benefits of the
information age.

(7) All parties involved in providing services,
utilizing evolving public networks should
adhere to the same guidelines regarding mutual
interconnectivity, and interoperability, common
carriage, reliability, privacy, and security.
(Stats. 1994, Chap. 278, Sec. 2(b)).

The universal service D.95-01-020 solicited initial comments
on how to meet the above objectives and principles. Responsive
comments were filed in March 1995.

As a result of those initial comments, the Commission
issued D.95-07-050. That decision described and set forth a
proposed set of rules pertaining to universal service.
Judge (ALJ) issued a ruling on February 21, 1996, setting forth the type of information that was to be included in the prepared testimony of the parties for the evidentiary hearings.

Not only did the ALJ rulings dated March 12, 1996, and April 37, 1996, delay, in the schedule, to allow the parties additional time to prepare for hearings. Thirteen days of evidentiary hearings were then held in late April and May of 1996. The matter was submitted following the filing of opening and closing briefs and the holding of oral arguments before the assigned ALJ, and Commissioner Jessie J. Knight, Jr., the assigned commissioner.

On June 10, 1996, the proposed decision of the assigned ALJ was mailed to the parties on August 15, 1996. Opening and reply comments to the proposed decision were filed on August 26, 1996, and September 3, 1996, respectively. An en banc oral argument was held on August 27, 1996.

During the time that parties were preparing for the universal service workshops, the Telecommunications Act of 1996 (Telco Act) underwent final revisions. On February 8, 1996, President Clinton signed the Telco Act into law. The enactment of the Telco Act is intended to promote competition and reduce the regulation of telecommunications services. Among the provisions is the creation of a Federal-State Joint Board (Joint Board) to develop recommended changes to the procedures and regulations regarding universal service. The Joint Board's policies to preserve and advance universal service are to be based on the following principles: (1) quality services at just, reasonable, and affordable rates; (2) access to advanced telecommunications and information services to all regions; (3) access to


Since June of 1995, since June of 1995,}
telecommunications and information services to low-income consumers, and those in rural, insular, and high-cost areas; 
(4) equitable and nondiscriminatory contribution by all providers so as to preserve and advance universal service; 
(5) provide for federal and state mechanisms to preserve and advance universal service; 
(6) provide schools, health care providers, and libraries with access to advanced telecommunications services; and such other principles that are necessary and appropriate.

With respect to the state's authority to regulate universal service, the Telco Act states: 

"(b) State Regulatory Authority.- Nothing in this section shall affect the ability of a state to impose, on a competitively neutral basis and consistent with Section 254, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers." (Telco Act, Sec. 253(b)).

III. Procedural Matters

A. Background

The California Incorporated (GTEC) was the only party who submitted transcript corrections. Since no one has objected to GTEC's proposed corrections, those corrections will be adopted and made in the Commission's copy of the reporter's transcript.

Toward Utility Rate Normalization (TURN) requested during the hearings that the model sponsors provide handbooks describing how the two different models operate. The handbook for Pacific's CPM was marked and received into evidence without objection as Exhibit 116. The handbook for the model sponsored jointly by AT&T Communications of California, Inc. (AT&T) and MCI Telecommunications Corporation (MCI) was marked for identification as Exhibit 117, and was not distributed to the parties until the last day of hearing. Since none of the other parties had an
opportunities to review Exhibit 117, the assigned ALJ allowed parties the opportunity to object to the admission of Exhibit 117 in their opening briefs, and to respond to any such objections in their closing briefs. GTEC objects to the admission of Exhibit 117 on the ground that it did not have an opportunity to cross-examine any witness about the exhibit, and that it is not relevant. GTEC also argues that Exhibit 117 refers to Version 2.2 of the Hatfield proxy model (HPM) and that no one other than the sponsors have been able to test that version. Citizens joins in the objection to the admission of Exhibit 117. MCI and Citizens filed curiae on behalf of GTEC.

AT&T/MCI argue that GTEC's objections should be overruled. They argue that Exhibit 117 is relevant because the exhibit states that the HPM is being used to develop estimates of the economic costs of providing local telephone services, and that the HPM may be used to determine the subsidy requirements. Also, the exhibit identifies Version 2.2 of the HPM as simply an extension and refinement of the HPM model that the parties have been concerned with in this proceeding. AT&T/MCI also point out that the assigned ALJ requested that the document be produced, and produced it.

On the last day of the evidentiary hearing, Exhibit 128 was marked for identification. Exhibit 128 is an exhibit sponsored by Pacific witness Richard Scholl in response to a question asked earlier that day by TURN's counsel. Scholl had testified earlier that he could not reconcile how the $953.73 figure in Exhibit 85 at page 11 was calculated. When Scholl resumed the evening, Scholl explained how the $953.73 figure was derived, as shown in Exhibit 128 (26 R/T 3543-3550). Parties were given the opportunity to object to the admission of Exhibit 128 in their opening briefs. Since no one filed any objections to the admission of Exhibit 128, that exhibit will be admitted into evidence, as well as Exhibit 128, if its relevance is consistent with the evidence produced at the evidentiary hearing.
After the opening briefs were filed, AT&T/MCI filed a June 6, 1996 motion to strike from Pacific's opening brief the odd references to an article by Dr. Alfred Kahn, which was attached to Pacific's opening comments in this proceeding. AT&T/MCI contends that the Kahn article was never offered in evidence during the hearings, and that Pacific's attempt to introduce Kahn's article without the opportunity for cross-examination is improper. Essentially, AT&T/MCI also seek to strike the references in Pacific's opening brief at pages 23, 42, and 44 about alleged conversations that took place between employees of Pacific and employees of US West. AT&T/MCI argue that Pacific has offered no citation to the record that such conversations ever took place.

Pacific argues that Kahn's article is part of the record in this proceeding because his article was part of the comments which Pacific had filed in this proceeding. Also, the principles enunciated by Kahn were adopted by Dr. Richard Emerson in his expert testimony, who was subject to cross-examination. Furthermore, the citation to Kahn's article was simply to point out that Emerson's position was carefully thought out.

In accordance with Article 19 of the Commission's Rules of Practice and Procedure, opening and reply comments to the proposed decision were filed by various interested parties. The California Department of Consumer Affairs (DCA) timely submitted its reply comments on September 3, 1996. However, DCA was informed by the Docket Office that its reply comments would not be filed because the typeface used was too small. DCA then filed a motion dated September 14, 1996 to accept its reply comments in excess of the five-page limit. As reformatted in larger type, DCA's reply comments exceed the page limit by one page.

B. Discussion

The objection to the receipt of Exhibit 117 is overruled, and it will be received into evidence. The purpose of Exhibit 117, as well as Exhibit 116, is to provide interested persons with
background information as to how the two models are formulated and how they operate; and sufficient information about

background information as to how the two models are formulated and how they operate; and sufficient information about

AT&T/MCI's motion to strike the references in Pacific's opening brief to Alfred Kahn's article is denied. Attorney Kahn's article was part of Pacific's September 1, 1995 comments that had been filed as part of this rulemaking proceeding. (See Rule 14.1.) In addition, the rebuttal testimony of Emmons' Exhibit 75, pages contained two footnotes referring to the Kahn article in Pacific's September 1, 1995 comments (as noted in footnote 10 of OS). With respect to AT&T/MCI's motion to strike the references in Pacific's opening brief to alleged conversations between U.S. West and Pacific at pages 23, 42, and 44, we will grant the motion as AT&T/MCI points out, there is no citation to the record that these alleged conversations ever took place. The sentences at pages 23, 42, and 44 of Pacific's opening brief which reference these alleged conversations shall be stricken.

As pointed out in DCA's motion, Rule 2 states that documents tendered for filing shall be in type "no smaller than 10 points." Rule 2 is mistaken in this regard. The intent behind Rule 2 was to have all pleadings adhere to a uniform type and format. To avoid a situation where a party could circumvent page limit requirements by using a smaller size typeface, Rule 2 was intended to use a typeface in a size that is readily readable, i.e., 12 point type, or 10 pica. Since Rule 2 is in error, DCA's motion to accept its reply comments in excess of the five page limit shall be granted, and its reply comments shall be filed as of September 3, 1996. The comments to the August 5, 1996, proposed decision have been reviewed and considered. To the extent the comments are argued in a fashion that the Docket Office shall continue to apply the 10 pica typeface or 12 point standard for all documents tendered for filing.
the earlier positions of the parties; or if the comments referred to new factual information, those comments have not been accorded any weight. As a result of the comments, both substantive and nonsubstantive revisions to the proposed decision were made by the assigned ALJ. As of 2007, the appealed action in this matter is pending.

Three of the more significant changes in the revised proposed decision are: (1) using economic lives instead of lives at Commission approved, depreciation lives; for the CPM; (2) funding a portion of the "gap" that exists between the cost benchmark of $20.30 and Pacifica's flat rate; plus other revenues; and (3) instead of funding the discounts for qualifying entities through the CHOR B, a separate California Teleconnect Fund surcharge is adopted.

On October 9, 1996, in accordance with the Assigned Commissioner's ruling dated October 9, 1996, parties were given the opportunity to comment on the revised proposed decision. Opening and reply comments were to be filed on or before October 18, 1996, and October 22, 1996, respectively. ICG and TURN filed motions seeking leave to late file their opening comments to the revised proposed decision. ICG requests that it be allowed to late file its opening comments because the delivery service that was hired to deliver the comments to the Docket Office arrived two minutes after the Docket Office had closed. TURN's motion recites that it was unable to file its opening comments on October 18, 1996 due to unforeseeable computer and printer problems. Both motions state that no parties would be harmed by the late filings since the parties to the proceeding were served with the opening comments on October 18, 1996, and the ex parte oral argument conducted on October 15, 1996, concluded early.

Due to circumstances beyond the control of ICG and TURN, and because the parties were served with the opening comments on the due date, we will grant the motions of ICG and TURN, and permit the Docket Office to accept late filed filed for opening comments on October 18, 1996.
them to date. File their opening comments to the revised proposed decision. The comments to the revised proposed decision have been reviewed and considered. Appropriate changes have been made to this decision. If the revision proposed has been adopted.

IV. What Does Universal Service Mean in a Competitive Environment?

As we noted in D.95-074050 at page 7 and as the Legislature noted in subdivision (a) of section 3643 of the Public Utilities Code, universal service has over the years developed a twofold meaning.

With respect to telecommunications services, the first is that a certain minimum level of telecommunications services must be available to virtually everywhere in the state; the second meaning of universal service is that the rates for such services remain affordable. By making affordable telephone service ubiquitous in California, all Californians can share in the social and business benefits of the telephone network.

As the marketplace for local telephone exchange service moves from a monopoly provider to multiple providers, the universal service program needs to be readjusted to meet the increasing competition. Two of the universal service programs that require attention are the Universal Lifeline Telephone Service (ULTS or Lifeline) program and the subsidy mechanisms which keep rates affordable in high-cost areas.

There are several adjustments that need to be made. The first adjustment has to do with the way in which the incumbent LEC is compensated for providing service to customers who qualify for the ULTS subsidy. Prior to the opening of the local exchange to competition, the incumbent LEC was the only carrier who received the ULTS subsidy because it was the only carrier providing service to ULTS customers. As CLCs start to enter, the markets of the incumbent LECs to serve residential customers, the ULTS subsidy needs to be made available to them as well.
The second adjustment that is needed concerns the mechanisms which have allowed the incumbent LECs to offer telephone service to all of their customers in high cost areas at affordable rates. Prior to the opening of the local exchange and toll markets to competition, the incumbent LECs were able to offset the increased cost of doing business in high cost areas by several mechanisms. They were able to have averaged rates throughout their service territory, which enabled the LECs to set a rate which reflected an average of the higher cost exchanges with the more profitable exchanges. The LECs were also able to price certain services above cost to subsidize basic local exchange service, which was generally priced below cost. Financial support for high cost areas is also available to the small and mid-size LECs through the California High Cost Fund (CHCF) and the new interstate Universal Service Fund (USF) for high cost areas.

With the introduction of competition, multiple carriers will be competing for the same customers. The implicit subsidies of averaged rates and services priced above cost to support services priced below cost will no longer be sustainable in a competitive market. Therefore, revisions to the mechanisms for the funding of high cost areas are needed so that the CLCs can have access to universal service funds on a more competitively neutral basis. To that end, as discussed later in this decision, we have created a new, explicit subsidy support mechanism for high cost areas of the state. This fund shall be known as the CHCF-B. The purpose of this fund is to replace the implicit subsidies that are used to support universal service with an explicit funding mechanism. Note: The proposed universal service rules also distinguish residential customers from business customers. (D.95-07-060, pp 34, 148.) The CHCF, which provides funding for the overall company costs of the small and mid-size LECs, does not distinguish between these two classes of customers. As we noted in D.95-12-021 at page
10. Some of the commenting parties have suggested that subsidies in high cost areas include business customers as well. The issue of whether business customers in high cost areas should be subsidized is addressed later in this decision.

With respect to residential customers, and the introduction of competition into the local exchange, we need to ensure the continued availability of residential telephone service throughout the state. Residential customers have come to expect a certain minimum level of basic local exchange telephone service (basic service). Although there have been frequent references to the term "basic service" in various exchange service decisions, it was not until the issuance of D.95-07-050 that all of the service elements which make up the definition of basic service appeared in one place. Today's decision makes clear what service elements make up the basic service definition for and outside residential customers. The cost of basic service also forms the basis for generating the estimate of the cost to serve and support high cost areas of the state.

Another issue that is raised by the concept of basic service, is what constitutes the minimum level of basic service. As new telecommunications technologies are developed, must the definition of basic service account for these new developments?

In the sections which follow, we address the basic service definition, the provisioning of basic service to high cost areas of the state, the ULTS program, and other related universal service issues raised in AB 3643 and the Telco Act.

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5. In D.95-07-050 at page 15, we discussed that the "definition of universal service", as used in subdivision (a)(4) of Section 2 of AB 3643, means the same as our reference to basic service.
1. Introduction

In order to effectuate a policy of universal service throughout the state, the Commission first needs to develop a list of the service elements which make up residential basic service.

If the basic service definition is too narrowly drawn, some service elements that may be essential for participation in society may only be enjoyed by those who can afford it. For certain urban areas, customers in more rural areas may not have them. In balancing what service elements should be included in the definition of basic service, the Commission must also be cognizant of the extra costs.

If too broad of a definition is adopted, consumers may end up paying for service elements that they do not need or want. In D05-07-050, the Commission proposed Rule 4 included the following elements in the basic service definition:

- Access to single party local exchange service;
- Access to interexchange carriers;
- Ability to place and receive calls;
- Touch tone dialing;
- Free access to emergency services (911);
- Lifeline rate for eligible customers;
- Customer choice of flat or measured rate service;
- Access to directory assistance;
- Access to a directory listing;
- Access to operator services;
Voice grade connection to public switched telephone network;

- Access to information services and 800 services;
- One-time free blocking for information services and one-time billing adjustment for charges incurred inadvertently, mistakenly, or that were unauthorized;
- Access to telephone relay service and provided for in PU Code § 2881;
- Access to public policy pay telephones;
- Free access to customer service for information about UTS, service activation, service termination, service repair, and bill inquiries.

Under our proposed rule, all 16 of the service elements which make up the definition of basic service would have to be
provided by all carriers in the state who provide residential service. (Proposed rule 4.A.)

2. Positions of the Parties

Following the issuance of the proposed rules contained in D.95-07-050, interested parties were allowed an opportunity to comment. Generally, speaking, the commenting parties were largely supportive of the 16 service elements proposed in the rule.

AT&T Wireless Services, Inc. (AT&T Wireless), formerly known as McCaw Cellular Communications, Inc. commented that certain aspects of the proposed rules could unduly limit customer choice by creating mechanisms that disadvantage certain carriers and types of communications technologies. With regard to the definition of basic service, AT&T Wireless states that the service element of "customer choice of flat or measured service" results in a competitive disadvantage to carriers that may seek to provide forms of basic service using pricing mechanisms that are different than the traditional flat rate mechanism. AT&T Wireless believes that the unlimited flat rate calling option should only be mandatory where there is only one COLR in a geographic service area (GSA).

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6 In proposed rule 4 of Appendix A of D.95-07-050, the service element for "access to directory assistance" mistakenly appeared twice.

The California/Nevada Community Action Association

(Cal/NevC) favors expansion of the one-time free blocking and one-time billing adjustments for information services, to include unlimited free blocking and unlimited billing adjustments for unauthorized charges.

The DCA suggests that an additional service element be added to the definition of basic service. DCA proposes to add the following element, "access to a local telephone directory at no additional charge." 

DCA also suggests that as more area code splits and area code overlays take place, there will be an increase in the number of calls to directory assistance. DCA proposes that there be unlimited access to directory assistance at no additional charge, or that there be unlimited access to directory assistance at no additional charge for customers to adjoining areas that once were in the customer's own area code, or that there is a requirement that free telephone directories be distributed to all customers in areas where the split or overlay occurred.

The California Telecommunications Coalition (Coalition) proposes the following modifications to some of the service elements which make up the proposed definition of basic service:

- Free touch tone dialing:
- Free access to directory assistance for the first five calls per month.
- A free directory listing for one name in a subscriber's household.

The Coalition proposes the following modifications to some of the service elements which make up the proposed definition of basic service:

- Free touch tone dialing:
- Free access to directory assistance for the first five calls per month.
- A free directory listing for one name in a subscriber's household.
The Coalition is opposed to pacific a recommendation that the service element which requires LECs and CLCs to offer flat rate service, be 'eliminated.' The Coalition points out that residential customers have had the choice of flat rate service and measured rate service, and that flat rate service is the preferred option.

Citizens Utilities Company (Citizens) commented that the policy statement in proposed rule 3.A.2 should be deleted. Citizens believes that the definition of basic service should be strictly limited to include only those services provided to residential customers which are so essential to basic network usage that no customer should be denied access on the grounds of affordability. Citizens fears that this policy statement contains the implication that as technology advances, that there will be an automatic expansion of the definition of basic service. Citizens states that in order to foster a competitive market, it is important to limit and minimize the amount of subsidy required.

The Division of Ratepayer Advocates (DRA) suggested that several minor changes and clarifications be made to the basic service definition which were incorporated into this proceeding.
service definition. In its reply comments, DRA stated that it also supports the recommended changes of the Coalition and UCAN to the basic service definition.

GTEC commented that it did not agree with the Coalition's suggestion to add the word "free" to elements 4, 5, 10, and 18 of proposed rule 4.B. GTEC stated that all those service elements are part of basic service, but they are not provided for free. GTEC contends that the cost of those service elements should be reflected in the price paid for the basic service package.

Intel Corporation (Intel) believes that services such as Integrated Services Digital Network (ISDN) should not be included in the basic service definition at this time. Intel points out that ISDN is becoming increasingly available, but at a slow rate and at high prices.

Pacific commented that it agreed with the definition of residential basic service, but recommends that the definition should not mandate the offering of both a flat rate and measured service. Pacific proposes that usage revenues and costs be excluded from the calculation of the fund because creative calling plans are likely to be introduced which will have the effect of eliminating distinctions between local and toll calls.

Public Advocates, Inc.'s (Public Advocates) comments

(Public Advocates represents the interests of the following groups: Southern Christian Leadership Conference, National Council of La Raza, Korean Youth and Community Center, Filipino Americans for Affirmative Action, Filipino Civil Rights Advocates, Association of Mexican-American Educators, California Association for Asian-Pacific Bilingual/Bicultural Education, California Association for Bilingual Education, California Rural Indian Health Board, Chicano Federation of San Diego County, Council for the Spanish Speaking, El Proyecto del Barrio, Escuela de La Raza, United Foundation Center for Phenomenological Research, Hernandez Mexican National, Korean Community Center of the East Bay, Lawyers Committee for Civil Rights, and support various other organizations.)

(Footnote continues on next page)
urge the Commission to include in the definition of basic service some access to advanced technology. Public Advocates' suggestions include the provisioning of lines with higher speed and more capacity so that transfer of voice, text, and images through the use of computers and telecommunication lines can be more easily accomplished. Another suggestion advanced by Public Advocates is to have CBOS act as the conduit by which the information superhighway is introduced to low income and immigrant communities. Under this proposal, qualified CBOS would receive a discounted rate of 50% for certain advanced telecommunications services. This issue is discussed later in this decision.

The Small LECs commented that they generally concur with the Commission's definition of basic service as set forth in the proposed rule, except for the requirement that customers have a measured rate local service. 12 The Small LECs state that many of them offer only flat rate service, and that the Commission should not require them to add a measured service offering as well. They contend that the addition of a measured service will be more costly to provide than flat rate service because of the additional cost of measuring and billing the measured local usage.

The Smaller Independent LECs also generally agree with the proposed definition of basic service, but disagree that public

(Footnote continued from previous page)

Rights of the San Francisco Bay Area, Motivating Adolescents to Succeed, Mountain View Community Health Center, Multicultural Area Health Education Center, Spanish Speaking Citizens' Foundation, and Spanish Speaking Unity Council.

12 When this proceeding first began, the Small LECs were made up of the following entities: CP National, Evans Telephone Company, GTB West Coast Incorporated, German Telephone Company, Pinnacles Telephone Company, the Siskiyou Telephone Company, and Volcang enterprises. Our subsequent references to the Small LECs do not include these two subsidiaries of Citizens. Our subsequent references to the Small LECs do not include these two subsidiaries of Citizens.
policy pay telephones should be included in the definition. They contend that the definition of basic service should encompass the service components that should be provided in connection with each residential and business access line. They believe that the availability of public pay telephones is not relevant to the scope of basic service; and that public pay telephones should be adequately addressed in the local exchange competition proceeding instead.

In footnote to the Coalition's September 15, 1995 comment, TURN indicated its concern that the customers' local calling area should be at least as large as the current local calling area provided by the service provider.

The Utility Consumers' Action Network (UCAN) suggested certain clarifications to the proposed rule regarding the definition of basic service. UCAN suggests the following underlined portions be added to the rule:

- free and unlimited access to 911/E911;
- free touch tone dialing;
- Lifeline rate for both monthly service as well as installation for eligible customers;
- free access to directory assistance for first five calls per month;
- free access to 800 services and 800-like services;
- free access to white pages, telephone directory and free yellow pages telephone directory;
- free access to customer service in both English and non-English formats.

§ Discussion

We believe that it is important to adopt a uniform definition of basic service so that all residential telephone service customers, no matter where they live in California, or what their level of income is, can expect a certain minimum level of service. This is especially important in a mobile society where people may move across towns or from one part of the state to another. For the vast majority of telephone customers, they have come to expect and rely on the service elements that we listed in D.95-07-050.

We will adopt some of the suggested revisions to the public service elements which make up basic service as suggested by the Coalition, and UCAN.\[14\] The suggested revisions are already incorporated as part of those particular service elements, and by adopting the suggested revisions, we are only clarifying what basic service means, and our rules, regulations, and decisions have come to expect.

Some of the revisions suggested by the Coalition and UCAN include the reference to the word "free" for certain services. GTEC points that each service element of basic service has an associated cost, and that the service elements which make up basic service are not free. Since customers pay for basic service, our use of the term in the universal service rules is intended to recognize that as part of the bundled basic service package offering, that "free" means there are no additional charges incurred by the customer when that service element is used by a customer.

\[14\] The adopted rules are attached hereto as Appendix B. Any differences between the adopted rules and the proposed rules, which are attached hereto as Appendix A, for ease of reference, are highlighted in bold.
One of the suggestions of the Coalition, DCA, and UCAN, is to have a free white pages directory and free yellow pages directory. Telephone customers have become accustomed to receiving a free white pages directory and yellow pages directory every year. Free directories minimize the number of calls made to directory assistance, and promotes the wide distribution of yellow pages advertising. We shall add the free white pages directory to the definition of basic service.

As STEC pointed out in its comments to the proposed decision, yellow pages directory advertising is not subject to the Commission's jurisdiction, except as provided for in subdivision (b) of Public Utilities Code § 728.2. Thus, we will not require carriers to provide free yellow pages directories as part of basic service. Although we cannot require the distribution of free yellow pages, as noted earlier, the continued free distribution of yellow pages is clearly in the best interests of the carriers, their advertisers, and the public.

In the September 5, 1996 proposed decision, and in the revised proposed decision, the assigned ALJ recommended that there be an allowance of five local directory assistance calls at no additional charge. We agree with the comments that there is a cost associated with answering these calls, and that this is an issue best left to the marketplace to decide. We will, however, require the incumbent LECs to continue to provide the same number of free
directory assistance calls that are provided in their tariffs until otherwise ordered by the Commission.

As for UCAN's suggestion that there should be free access to customer service in both English and non-English formats, our discussions of bilingual services cover that issue.

We will adopt the suggestion by the Smaller Independent LECs that the proposed service definition regarding access to public policy pay telephones, should be deleted. The focus of the basic service definition is to define the service elements that are to be provided to all residential households. Public policy pay telephones are not provided to households. Therefore, we will eliminate (d) of Public Utility Code 28A.2. Then, we will adopt the following text into the proposed definition of basic service: Although we cannot require the construction of specific facilities, we can require the construction and operation of facilities that are necessary to provide service in the basic service area of a carrier.

Requiring telephone companies to bring facilities to the building, as in the September 18, 1994 hearing testimony, would not make sense. The hearing testimony referred to the removal of the local directory assistance calls as part of the proceeding. The directory assistance calls are clearly part of a service that is a core service associated with basic service. The federal government and the state government have a role to play in the provision of service. We will ensure that the proposal for the removal of services is consistent with the company's mission. The proposal should take into account the company's need to provide service in a timely manner.
delete access to public policy pay telephones from our definition of basic service.\textsuperscript{15}

We do not adopt the suggestions by Pacific and AT&T.

Wireless that flat rate service be eliminated? At the PPB, many in consumers expressed satisfaction with having a choice of flat or measured rate service. Depending on their circumstances, some have preferred measured rate service while others preferred flat rate service. The flat and measured rate options preserve customers choice and provide consumers with a method by which to comparison shop among carriers. We believe that if wireless providers desire to compete in the local exchange market, they should be required to offer basic service in the same type of pricing formats that are offered today, by wireline carriers.

For the smaller LECs in California, of which there are at least 17, we shall exempt them from the service element that they be required to offer customers the choice of flat or measured rate service, unless the smaller LEC currently offers that option. If, however, a new carrier decides to offer local exchange service in one of the service areas of these smaller companies, the new carrier will be required to provide all of the service elements listed in Rule 4 of Appendix B. Once competition arrives in these areas, the incumbent LECs that do not offer measured rate service will be forced by the inherent competition to offer this service.

\textsuperscript{15} Public policy pay telephones play a role in the universal service concept because those types of telephones are placed where the public safety or convenience requires them.\textsuperscript{16} (25 CPUC2d 281, 284) fn. 1. Those type of telephones raise issues about the availability of such phones, where they should be placed, and who should have to place them there or if the public convenience requires it.

\textsuperscript{16} The term "smaller LECs" refers to all of the LECs included in the reference to Small LECs, the Smaller Independent LECs, Citizens Telecommunications Company of the Golden State, and Citizens Telecommunications Company of Tuolumne.
market considerations to decide whether such an option should be offered to their customers.

The evidence presented during the hearing clearly shows that there are costs associated with the number of directory assistance calls that could be curtailed with our adoption of the requirement that customers provide that data into place before an area code split or overlay is adopted. Such an option to adopt would be problematic.

We also decline to adopt Cal/Neva's 'suggestion' that unlimited free blocking and unlimited billing adjustments for unlimited service as dangerous calls would invite an avalanche of billing complaints. Whether the end user should be responsible for deciding whether information services calls were authorized or not? In the end, users should be responsible for deleting the policy statement that will result in the 'automatic expansion' of the definition of basic service.

In light of the criteria contained in Rule 4.3, the Commission will review the service in Rule 4.3.3. This raised a concern that new entrants offering service a customer's local calling area should be at least as large as the current local calling area. The Coalition In large, local calling areas that differ from the local calling areas for the incumbent LECs. We believe that such changes...
CORRECTION !!

THE PREVIOUS DOCUMENT(S) MAY HAVE BEEN FILMED INCORRECTLY ..... 

RESHOOT FOLLOWS
market considerations to decide whether such an option should be offered to their customers.

The evidence presented during the hearing clearly shows that there are costs associated with the LECs having to provide directory assistance. The number of directory assistance calls should be curtailed with the adoption of the requirement that customers be provided with a local telephone directory, and the notification code process that is put into place before an area code split or overlay is adopted.

We also decline to adopt Cal/Neva's suggestion to have an unlimited free blocking and unlimited billing adjustments for unauthorized information services calls. Such a change would invite an avalanche of billing adjustment complaints over whether calls were authorized or not. The end user should be responsible for deciding whether information services calls from their household should be blocked after this problem first occurs.

We also decline to adopt Citizens' recommendation to delete the policy statement in proposed Rule 3.A.2(a) will not be adopted. Citizens' fear that the policy statement will result in the automatic expansion of the definition of basic service is unfounded. In order for the basic service definition to be expanded, the Commission will review the service in light of the criteria contained in Rule 4.C.3.

TURN raised the concern that with new entrants offering service, a customer's local calling area should be at least as large as the current local calling area. The coalition, in footnote 13 of its reply comments, stated that CLCs who furnish residential service should be free to offer a flat rate service within a local calling area that differs from the local calling areas for the incumbent LECs. We believe that both of those
market considerations to decide whether such an option should be offered to their customers.

We also decline to adopt Cal/Neva's suggestion that the number of directory assistance calls should be curtailed with our adoption of the requirement that customers be provided with a local telephone directory, and the notification code process that is put into place before an area code split or overlay is adopted. Such a change would invite an avalanche of billing adjustment complaints over whether or not calls were authorized or not. The end user should be responsible for deciding whether information services calls from their household should be blocked after this problem first occurs.

We also decline to adopt Cal/Neva's suggestion to have unlimited free blocking and unlimited billing adjustments for unauthorized information services calls. Such a change would invite an avalanche of billing adjustment complaints over whether or not calls were authorized or not. The end user should be responsible for deciding whether information services calls from their household should be blocked after this problem first occurs.

We also decline to adopt Cal/Neva's suggestion to delete the policy statement in proposed Rule 3.A.2a that the policy statement will result in the automatic expansion of the definition of basic service is unfounded. In order for the basic service definition to be expanded, the Commission will review the service in light of the criteria contained in Rule 4.C.3.

TURK raised the concern that with new entrants offering service, a customer's local calling area should be at least as large as the current local calling area. The Coalition, in footnote 13 of its reply comments, stated that CLCs who furnish residential service should be free to offer a flat rate service within a local calling area that differs from the local calling area for the incumbent LECs. We believe that both of these
concerns are more properly addressed in the local competition proceeding rather than here. In particular, we agree with
some of the comments made at the PPHs, and in letters to the Commission, suggesting that Internet access, certain kinds of
custom calling features, and advanced broadband services, such as ISDN, should be incorporated into the basic service definition. We
first note that the basic service definition adopted today enables anyone who has the computer hardware and software to connect to an
Internet provider. All that is needed from a telecommunications standpoint is a 'voice grade' telephone line and touchtone dialing for
both of which are included in the basic service definition. Although many have talked about access (or lack thereof) to the
Internet and the information superhighway, we must point out that this Commission only has jurisdiction over the telephone companies whose wires connect the computer to the information provider. To broaden the definition of universal service and basic service to include access to a computer, modem, software, and the information provider, is clearly outside this Commission's jurisdiction.

Broadening the definition of basic service to include broadband services, will also impose more costs on the incumbent
LEC and the new carriers that want to enter the local exchange market. As some of the speakers mentioned at the PPHs, some customers may not want those services at all. In addition, the funding base would need to be increased as a result. We agree with

17 For example, in Public Advocates' survey of community based organizations, a survey question posed the need and demand for
Internet service: 37.21% of the respondents had the service, 93.94% of the respondents who did not have the service, responded
that they would use the service if it was affordable. The unaffordable portion may be the computer hardware and the
information provider's monthly fee, rather than the monthly cost of the telephone line. (See Public Advocates' Reply Comments,
December 1, 1995; Survey attachment.) The service Innov칟

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Intel's comment that to include greater bandwidth services at this time would create a new entitlement, which presently does not exist, and increase the need for additional funding. Before mandating the inclusion of a broadband pipeline into every residential telephone customer's house, as well as other calling features, we need to keep in mind that a number of households still exist within California that are without the means to afford any telephone service at all. We therefore decline at this time to include any other service elements in the definition of basic service. The service elements which we have included in the definition of basic service are contained in Rule 4.B., and to include additional service elements in the definition of basic service would provide all residents telephone customers the opportunity to avoid classes of information rich and information poor customers, there must be an ongoing evaluation of which services are deemed essential, and therefore a part of universal service. Consistent with those objectives, the Commission in D.95-07-050, developed proposed rules for the review of the basic service definition.

B. Review Of The Basic Service Definition

I. Introduction

AB 3643 states that one of the objectives of the universal service proceeding is to develop a periodic review process to revise the definition of universal service to reflect new technologies and markets. AB 3643 also provides that in order to avoid classes of information rich and information poor citizens suggests that the proponent who desires to
service, must file an application, and meet the burden of demonstrating that the service is so fundamental to the use of the network, that as a matter of public policy, no end user should be denied access to that service. A child has been examined not requiring

In addition, Citizens does not agree with proposed rule 4.C.2.b., which states that one of the criteria to be considered in evaluating whether a service should be added or deleted is "whether a substantial majority, 65%, of residential customers subscribed to the service. "Citizens contends that subscribership only reflects the degree to which the service has been successfully marketed, and does not accurately reflect if the service is essential for access to the network.

The Coalition suggests that the three year review period should remain flexible in case an earlier review of the definition of basic service is needed. With respect to the criteria for reviewing the basic service definition, the Coalition recommends that each of the criteria should be considered, and each given the weight that seems appropriate. The Coalition states that the Commission should avoid locking itself into a situation where each criterion must be met.

DCA recommends that the Commission reconsider whether the criteria in proposed rule 4.C.2d. should be included. DCA indicates that it is unclear to the exact meaning and intent of this criterion, and more evidence to the Commission has been provided. DRA recommends two clarifying changes to the rules. waiver regarding the review of the basic service definition. The first is to do with who can file the petition to review, and the second is to reconcile the petition to review with Rule 47 of the Commission's Rules of Practice and Procedure of nonlisited service.

In DRA's reply comments, DRA expressed support for UCAN's recommendation that interested parties should have a right to file a petition to modify the basic service definition at any time.
As for the four criteria to consider in whether a service element should be added or deleted, DRA believes that the two most important criteria are: that the service is essential for participation in society; and that a substantial majority of residential customers subscribe to the service. DRA suggests that the other two criteria should be deleted or at a minimum, that the phrase "subscription rates", in proposed rule 4.C.2, should be replaced with "the number of subscribers." GTEC also commented that it opposes the recommendation of Roseville and the smaller Independent LECs to eliminate proposed rule 4.C.31. DRA believes that this proposed rule ensures that the Commission has the necessary information to determine whether the criteria for including a new service element into the basic service definition have been met. It also states that it is unclear if DRA's comments agreed with the proposed rule for reviewing the basic service definition. GTEC believes that the proposed rule is more preferable than a trigger mechanism because it ensures that costing and pricing decisions are associated with a change in the definition of basic service.

GTEC commented that the 65% subscription criterion should only be used as a trigger for determining whether or not a review of the basic service elements should occur. Once the review is initiated, GTEC agrees that the Commission needs to review the quantitative and qualitative benefits of adding a service element, review whether the benefits outweigh the costs, and determine if any intervention is necessary to assure continued subscriber growth and availability. GTEC also states that the funding mechanism for universal service be technology indifferent, so as to avoid
subjecting new telecommunications services from excessively bearing the burden of funding the universal service program. In particular, Pacific suggests that proposed rule 4.0.3 should be more revised to clarify that a service should be added or deleted from the basic service definition only if the Commission determines that all four criteria have been met. This would make clear that merely satisfying a single criterion is not sufficient to make a service essential and therefore subject to inclusion in the basic service definition. Pacific also notes that a state or service provider Public Advocate disagrees with the new 65% subscriber criterion in proposed rule 4.0.2.b. They argue that access is the key to remaining competitive in the new information age. If access does not become essential for participation until a 65% subscription level is reached, those without access will be left behind, and a two-tiered telecommunications system will develop in California. Public Advocates also note that the 65% subscription rate is not a relevant criterion to judge whether a service is essential and may only serve to reinforce redlining patterns.

The Smaller Independent LECs generally concur in the proposed rule regarding the criteria to be considered in determining whether a particular service element should be included in the definition of basic service. They object, however, to the provision in proposed rule 4.C.3 which requires carriers to maintain data sufficient to determine whether the criteria for evaluating service elements have been met. They point out the following: that several of the criteria cannot be quantified; that it is unreasonable to require LECs and CLECs to provide data on a retroactive basis because it is uncertain as to which services may be the subject of a petition for rule 4.C.3; and that they will be forced to maintain large amounts of data of all kinds regarding various aspects of future services that may or may not actually be considered by the Commission, and that the proposed rule is
unnecessary in light of the Commission's broad authority.

In light of the Commission's broad authority, it is unnecessary to request information from carriers.

The proposed rule is considered unnecessary because the Commission's proposed rule does not address the evolving needs of universal service.

The proposed rule is considered unnecessary because the Commission's proposed rule does not account for the possibility that a service may be designed that should be included in the basic service definition.

UCAN comments that the Commission's proposed rule to periodically review the definition of basic service may be inadequate to effectively address the changing needs of universal service. The proposed rule fails to account for the possibility that a service may be designed that should be included in the basic service definition before there is a periodic review.

In order to solve this possible lag problem, UCAN suggests that the review process contain a provision that allows interested parties the right to petition for a review of the basic service definition at any time, so long as the service in question meets some or all of the Commission's review requirements.

UCAN also states that the review criteria should be clarified, and that the Commission should be flexible as to the weight to be given to each factor. UCAN recommends that the review criteria be composed of the following:

1. The service is essential for participation in society;
2. The service will assist in the prevention of stratification due to the creation of information rich and information poor communities;
3. A substantial majority, 65%, of residential customers subscribe to the service;
4. Availability of the service;
5. The degree to which the service has been promoted by the carrier;
6. The level of customer education which has been provided for the service;
7. The communities, which are presently being targeted for marketing and use of the service;
8. The qualitative and quantitative benefits of adding the service outweigh the costs;
The availability of the service, or subscription rates, would not increase without intervention.

The Universal Service Alliance (USA) proposes that the proposed rule for reviewing the definition of basic service be changed to a procedure whereby there is an ongoing evaluation of services by a committee consisting of community leaders, including representatives of low income, elderly, disabled, and rural consumers. This committee would meet as necessary to keep informed about costs and whether any services should be added to the definition of basic service. Subscription levels would be a consideration, but not necessarily a decisive factor. Other factors the committee could consider are the importance of service to consumers, the cost of providing the service, and whether other alternatives exist. This committee would then report its findings and recommendations to the Commission, which could conduct further proceedings as necessary.

3. Discussion

GTEC, UCAN and the Coalition have all commented on whether there should be an opportunity for an immediate review of the definition of basic service. Upon further reflection, we agree with UCAN and the Coalition that situations may arise where a service should be included in the definition of basic service without having to wait three years. As part of this immediate review procedure, the proponent for the inclusion of a new service element shall be permitted to make a showing that at least three of the four review criteria have been met. This alleviates the concern that a proposed service element may be so essential for participation in society, but has not yet reached a 65% subscription rate in residential households. We will revise rule 4.C. to reflect these changes.

In order to ensure that frivolous and meritless petitions for review are kept to a minimum, we will use the summary denial procedure.
procedure contained in Rule 47(h) of the Commission's Rules of Practice and Procedure. Rule 47(h) will be used when it is clear that the basic service definition should not be expanded or reduced, or in cases where the Commission is not persuaded, based on the petition and the responses, that a service element should be included or deleted.

UCAN's suggestion to broaden the type of information to review as part of the 654 criteria will be adopted, as well as its suggestion that the quantitative and qualitative benefits of adding the service to the basic service definition outweigh the costs.

We decline to adopt as part of our review criteria UCAN's suggestion to include the statement that the service will assist in the prevention of stratification. The review criteria that we adopt today was designed with AB 3643 in mind. We have developed a review process to periodically review and revise the basic service definition to reflect new technology and markets. (AB 3643, Stats. 1994, Ch. 278, Sec. 2(a)(4).) This review process is consistent with PU Code § 709, and the principle enunciated in AB 3643 that "In order to avoid an 'information rich' and 'information poor' stratification, there must be an ongoing evaluation of which services are deemed essential and therefore a part of universal service." (Id., sec. 2(b)(2).

We have also considered and adopted most of the changes suggested by BBA.

The suggestion by the Smaller Independent LECs to eliminate proposed rule 4.C.3. should be adopted. We agree that this proposed rule would impose an undue burden on the LECs and CLCs to maintain data on every possible service offering being contemplated. Such a provision is also unnecessary given the Commission's broad authority to examine the books and records of these regulated companies.

We decline to adopt USA's suggestion that a review committee be formed to provide the Commission with ongoing
evaluations of what services should be considered for inclusion in the definition of basic service. It is our belief that this review committee procedure would just add an unnecessary layer of review and expense. Under the procedure which we adopt today, interested parties have the opportunity to participate in the Commission's review process for evaluating whether a new service element should be added to the definition of basic service.

The revised criteria for deciding whether a new service element should be included in the definition of basic service is set forth in Rule 4 D 3 of Appendix B. It is our intent to consider all of the listed criteria, as well as the associated policy considerations. However, as for the weight to give to each review criteria, we believe that this should be developed on a case by case basis. To state that all criteria should be weighted equally, or that one criteria is more important than another, ignores the possibility that a situation may arise where certain criteria and policy considerations outweigh other criteria and considerations. We believe these guidelines address the concerns of Citizens, GTEC, Intel, Pacific and Public Advocates.

C. Promoting Access To And The Deployment Of Advanced Technologies

1. Introduction

In P.95-07-06 at pages 25 and 26, we solicited comment on the proposals of UCAN and USA to promote greater access to new technologies. We expressed concern in that decision that the activities contemplated by UCAN and USA involved other industries besides telecommunications and that funding for such activities should not come solely from telecommunications carriers and their customers.

By soliciting additional information from the parties, we hoped to gather enough information to allow us to design an appropriate program that is consistent with PU Code §709 and the following principles expressed in AB 3643:

"(4) Public policy should provide incentive as needed to promote deployment of advanced
telecommunications technology to all customer segments."

(6) Because of their economic and social impact, education, health care, community, and government institutions must be positioned to be early recipients of the benefits of the information age.

2. Positions of the Parties

Cal/Neva believed that with the dramatic growth of the information superhighway, access to this infrastructure will become a necessity. Unless efforts are made to ensure access to advanced technology, Cal/Neva fears that low income communities and others with special needs will be left behind. Cal/Neva proposes that the following steps be taken to ensure that everyone is provided with access to advanced telecommunication technology. First, there must be a prohibition against redlining. Second, a grant program to develop community based applications should be adopted. Third, there should be special rates for telecommunications services provided to schools and COs. And fourth, there must be a mechanism for incorporating enhanced services into basic services once they are used by a significant portion of the population.

Cal/Neva and Consumer Action have recommended that a working group made up of Commission employees, consumer groups, and community based organizations be formed to address all aspects of universal service. They suggest that the working group be patterned after the customer owned pay telephone (COTP) enforcement subcommittee. (See 40 CPUC2d 704; 36 CPUC2d 446.)

Citizens is of the opinion that access to advanced technology for lower income customers, and to non-English speaking customers, is a social policy issue that is beyond the scope of universal service and of this Commission. Citizens believes that social policy is better addressed by the legislature.
The Coalition asserts that the grant program and foundation approaches favored by UCAN and USA, and which were discussed in D.95-07-050, have significant problems. First, it is difficult for such programs to be competitively neutral because judgments have to be made as to which projects should be supported. Second, the proposals by UCAN and USA could result in the funding of activities of non-regulated entities. The Coalition contends that it would be inappropriate for telecommunications companies and their ratepayers to provide support for research, development and market testing conducted by private businesses.

The Coalition as well as TURN favors the establishment of a universal service working group made up of telecommunications companies and users. Some funding to support the administrative aspects of this working group would be required. The working group would allow end-users to influence the design and availability of telecommunications services and products by providing a forum for an exchange of ideas. The Coalition believes that only one working group should be formed; instead of establishing one working group in every local access and transport area (LATA) of the state, the single working group could then inform interested parties throughout the state, and solicit their input.

DCA believes that in order to avoid a division between information-rich and information-poor consumers, the Commission must employ other methods to promote access, top, and to encourage the deployment of advanced technologies. DCA recommends that the Commission adopt policies which will make such services available to schools, libraries, hospitals, government, and community centers.

DCA states that a grant type program should be one of many incentives used to encourage the early deployment of advanced information technologies. DCA feels that the current self certification process for applicants is converted into...
an income verification process. By using an income verification process, federal Lifeline monies might then be available. DCA' also suggests that those monies be used to establish a program which would provide matching funding to public libraries, schools, and other community organizations. DCA also suggests that other market incentives, which do not include government or ratepayer funding be used as well. DCA recognizes that private industry, local governments, community organizations, educational institutions, and various state agencies, must all work together to bring about a state of education, health care, community, and government institutions.

DRA suggests that the principle expressed in proposed rule 3. A. 6 be revised to more closely reflect the wording and scope regarding advanced telecommunications technology that is contained in AB 3643, and in the Commission's November 1993 Report entitled Enhancing California's Competitive Strength: Telecommunications Infrastructure (Infrastructure Report) and subsequent House of Representatives Joint Revised AB 3643. GTEO supports the concept of establishing a grant program for advanced technology, but favors a funding mechanism based on a state bond measure, or obtaining funds from an appropriation from the general fund. GTEO believes that because the information superhighway infrastructure is a convergence of technologies which include telecommunications, computers, cable, and information services, funding of such a program should not fall solely on one segment of the telecommunications industry, viewing that segment as a particular interest of the Pacific.”
Publio Advocates argues that access to advanced technology is the key to remaining competitive in the new information age. In order that certain communities are not left behind, Publio Advocates recommends that CBOs, health clinics, and libraries be provided with access to enhanced telecommunications services. The Smaller Independent LECs and Roséville commented that the proposed grant program in D.95-07-050 should be considered outside the scope of this proceeding. They recognize that a physical connection exists between access to advanced technology and universal service, but believe that the issues raised require careful thought and attention.

UCAN’s goal of promoting access to telecommunications services and technologies is to ensure that it is made available to, and meets the needs of, a majority of consumers. UCAN proposes that an alliance of interested parties be formed on a regional/sub basis, such as one for each of the ten LATAs in California. The goal of the alliances would be to discuss and develop community-based applications which utilize the telecommunications infrastructure. The more promising applications would then be picked by all the different regions and developed and tested for end user use, using privately raised monies. Such a program would assure that the market is responsive to all market segments.

UCAN estimates that funding for this alliance proposal will require approximately $24 million. This money would be used to administer the alliance, develop service ideas, choose the most viable ideas, design the application(s), and then seek out the necessary funding/services to deploy them in the community. USA commented that the proposed rules do not contain anything to promote access to advanced telecommunications services, and do not contain any incentives to promote the deployment of such advanced telecommunications technology to all customer segments. Nor do the proposed rules include any measures to position
education, health care, community and government institutions to be early recipients of the benefits of the information age. USA believes that in order to effectuate the policies and principles set forth in AB 3643, a working group should be convened to address ways in which collaborative partnerships of telecommunication providers, local governments, and grassroots organizations can address telecommunications issues, develop solutions, and promote the deployment of advanced technologies and telecommunications technology to all customer segments. USA believes that the working groups be made up of representatives from the following: LECs, CLCs, consumer organizations, other interested stakeholders involved in this proceeding, community leaders, particularly those who represent low income consumers, the elderly, people with disabilities, rural consumers, and local government leaders, and institutional leaders, such as health care, education, libraries, and local governments. USA believes that the operations of the working group will lead to the successful development of applications that benefit local communities, and which in turn improve people’s lives. In order to promote the deployment of advanced technologies, the working group could also establish regional technology centers where people could become familiarized with what these technologies can do. USA also proposes that the Commission establish a separate working group to address the universal design of structures, products, and services as it relates to universal service. USA states that telecommunications equipment and services are often designed for the normal human profile. USA suggests that members of this group consist of telecommunications providers, representatives of the disabled, and elderly, and other interested parties. USA envisions that this working group would meet to discuss universal design to promote universal service, and to address the identification, options for encouraging universal design in telecommunications equipment and products.
The USA also requests that the Commission require as part of the universal service rules that all telecommunications providers in California have a written policy on universal design, which states that such a policy should at a minimum commit the company to the following:

1. Creating products which are useful to the widest range of users (including customers with disabilities);
2. Paying conscious attention to the needs of customers with disabilities during the design process and building in flexibility that will make products easy for a wide range of people to use; and
3. Including a wide range of potential customers (including customers with disabilities) during market research and field trials. (USA Reply Comments, December 1, 1995.)

3. Discussion

We have considered, and adopted, DPA's suggestion to revise proposed rule 3.A.6. to make it consistent with AB 3643 and the Infrastructure Report.

The Cal/Neva, UCAN and USA proposals to create working groups and alliances have merit. However, their proposals envision that as a result of these meetings that these groups hold, new ideas for applications will be developed, and possibly funded through the working group itself. As we noted in D.95-07-060, part of the problem with developing incentives to promote deployment of advanced technologies is that this Commission's jurisdiction is limited to public utilities. Many of the advanced services being developed and offered today require hardware, software, and other components, in addition to the information that is provided to the end user. The Commission can formulate incentives with respect to the telecommunications services that are utilized, but cannot order incentives or impose assessments on the other non-regulated...
companies that are coming together to offer these services. The burden should not fall on telecommunications providers and their ratepayers to fund the design and research of potential new services and applications that are not directly related to basic telecommunications. To the extent that the proposals of Cal/Neva UCAN and USA seek direct funding to develop new ideas and applications, we reject those proposals.

We recognize the importance of how advanced telecommunications technologies affect every Californian's life, and the state's economy. As the state agency in charge of regulating the telecommunications industry, we should take the initiative to ensure that the development and deployment of these technologies do not pass certain customer segments by. We believe that a single, statewide working group to address universal service problems and issues should be formed under the auspices of this Commission. 18 This working group shall be known as the Universal Service Working Group (USWG). Although we will leave it to a workshop, and a subsequent decision, to work out the details of the USWG, the following are some of the criteria we will impose on the USWG. These criteria are also contained in Rule 7 of Appendix B.

1. The purpose of the USWG shall be to address ways in which access and deployment of advanced telecommunications technologies can be provided to all customer segments, and how to give health, education, community, and government institutions can be positioned to take advantage of these technologies.

2. A steering committee shall oversee the organization and administration of the USWG. The USWG Steering Committee should...
not function as a policy making body, nor should it seek to determine what the position of the USWG is with respect to any issue. The objective of the USWG is to create a forum where interested stakeholders can freely exchange ideas about various issues and policies. The formation and organization of the USWG should promote the free exchange of ideas and the views of all participants should be reflected in any USWG report or recommendation. Any participating organization or entity is authorized to publish its position.

3. The USWG shall be open to the participation of any interested stakeholders. The objective of the USWG is to create a forum where interested stakeholders can freely exchange ideas about various issues and policies. The formation and organization of the USWG should promote the free exchange of ideas and the views of all participants should be reflected in any USWG report or recommendation.

4. The USWG Steering Committee shall be composed of 24 members. There shall be eight representatives from the broadband telecommunications industry, representing a spectrum of telecommunications carriers. There shall be two representatives each from the following kinds of concerns: education, health care, community (libraries, and local government) for a total of ten representatives. There shall be two representatives from the business sector, two representatives from this Commission, one representative from the disabled community, and one representative from another state agency.

5. The USWG Steering Committee shall create a sub-group that will address the issue of unserved territories and may create other sub-groups as it deems necessary. The USWG Steering Committee shall consider whether regional sub-groups should be formed so as to increase participation by interested

19 In the Commission's electric restructuring proceeding, the working group concept has been very useful. We envision that the USWG will function in much the same way.

20 The representatives from the Commission should be the head of the Commission's CSD and the head of the Telecommunications bureau or their designees.
for stakeholders] and to broaden the diversity of ideas by appointment of diverse individuals. These funds are intended to provide for administrative support and reimbursement for USWG members' reasonable expenses relating to their participation on the USWG or the USWG Steering Committee. [6] [Within 90 days of the formation of the USWG, the USWG Steering Committee shall submit to the Commission for its approval via a Commission resolution or decision, an annual budget for the activities of the USWG and CEBU. A report shall be made to the Commission.]

7. The USWG Steering Committee shall prepare an annual report of a summary of the USWG meetings, their objectives, the issues raised, their accomplishment, and their recommendations. The report shall be submitted to the Commission and forwarded by the Commission to the Legislature for its information and to the public.

8. Absent Commission action, the USWG shall terminate on December 31, 1998.

A workshop shall be organized and noticed in the Commission's Daily Calendar by the Commission's CSD. The workshop will be held no later than 90 days from the effective date of this decision. The workshop should determine who is interested in participating on the USWG, and its Steering Committee, the framework of how the USWG should run and operate from both an

...In order to maximize efforts and input, and to minimize the expenses associated with the USWG, the Commission encourages the USWG members' employers to view their employee's participation as part of their job responsibilities and their respective company's own expenses.
administrative and purpose point of view, and to develop recommendations as to other operational issues that the Commission needs to address. Once the workshop recommendations are received, the Commission shall decide who will serve on the USWG Steering Committee, and issue other directives regarding the USWG. In addition, if necessary, the Commission may designate additional representatives to serve on the USWG without voting. We decline to adopt USA's recommendation that a working group be formed to address product design issues for hearing-impaired telecommunications products and services. Although we believe that product design is an important strategy to enable the deaf and hearing impaired population to improve their access to telecommunications products and services, this is an issue that affects the entire nation. As the attachment to USA's September 4, 1995 comments show, many of the nation's telephone manufacturers and companies are project supporters of efforts at the federal level to develop a national policy on this issue. Section 255 of the Telecommunications Act addresses the issue of making telecommunications equipment and services accessible and usable by disabled individuals. The FCC, in conjunction with the Architectural and Transportation Barriers Compliance Board, also plans to develop guidelines for accessibility of telecommunications equipment and customer premises equipment. These universal design issues and recommendations are more appropriately addressed at the federal level than by this Commission.

The suggestion by RIDCA to make services such as video, voice dialtone, E-mail, and Internet access available to certain institutions, and the suggestion that if additional federal monies are received as a result of the adoption of an income verification that they be used for matching funds for certain institutions, will be discussed later in this decision. Other concerns regarding the Specialized Technical Group's report on universal design issues, were also addressed in other sections of this report.
D. 95% Goal For Universal Service

1. Introduction

In D.95-09-065 at page 6, the Commission adopted a goal that 95% of the households in California have telephone service. That decision at page 7 also stated that "GTEC and Pacific must significantly improve their customer outreach and educational programs to achieve a 95% penetration rate for telephone service among non-white and non-English speaking households." D.94-09-065 also required GTEC and Pacific to set targets and to map out their marketing strategies to improve their universal service levels.

We proposed in D.95-07-050 that the same monitoring requirements that apply to GTEC and Pacific should also apply to all other providers of local exchange service, such as the CLCs, and in the other incumbent LECs (D.95-07-050, App. A, pg. 6). We also solicited comment regarding whether income should be the only criterion by which to measure subscribership goals.

The 95% subscribership goal raises several issues for the Public Advocates. Public Advocates made a series of identical recommendations in both the local competition proceeding and in this proceeding regarding the 95% goal, bilingual services, and redlining. In D.95-12-056, a decision in the local competition proceeding, the Commission deferred the majority of Public Advocates’ recommendations to this proceeding.

The 95% subscribership goal also raises the issue about telephone service in currently unserved areas of the state.

2. Positions of the Parties

Cal/Neva is opposed to using income as the only variable against which the 95% subscribership rate is measured. Instead, it is the variables to measure subscribership should include the following criteria: income, race, non-English speaking ability, and disabilities. Cal/Neva also suggests that subscribership rates be measured by census block groups (CBGs) so that subscribership rates
in rural communities and inner city neighborhoods can be determined, according to some but not others, according to some.

The Coalition commented that "income should not be the only variable against which subscribership is measured. Instead, the Coalition believes that the Commission should use all the variables to provide useful information about the extent of telephone subscribership, and about certain segments of society that may have relatively low subscribership rates." In the Coalition's view, "Consumer Action believes that the 95% goal should be reached for the following categories: for residential customers as a whole, for low income households, for the working poor, for seniors, for both urban and rural areas, and in minority communities."

DCA comments that there may be some merit in measuring subscribership rates using income levels, ethnicity, and the ability to speak and understand English. If subscribership rates are equal to or above the 95% subscribership rate for certain groups, DCA believes that further outreach efforts to those groups would not be necessary. To reach those groups whose subscribership rates are below the 95% goal, DCA suggests that marketing efforts be highly focused and targeted, and perhaps coordinated through community groups and ethnic organizations.

DRA points out that in D.94-09-065 at page 7, the Commission stated that GTEC and Pacific should increase their subscribership rates for all customer groups. However, in proposed Rule 3.B.3.a., "the Commission's objective includes only low income and non-English speaking households." DRA believes that all LECs and CLCs should be responsible for pursuing a 95% subscribership rate among all customer groups, including low income, disabled, non-white, and non-English speaking households.

DRA also recommends that income should not be the only criterion used to determine subscribership success.
DRA supports UCAN's recommendations described below, which would improve customer outreach and educational programs. The Public Advocates believe that the Commission should continue to measure telephone subscribership rates by language status, race, and income, instead of measuring subscribership by a single income criterion. Public Advocates points out that one of the principles enunciated in AB 3643 is to provide essential telecommunications services at affordable prices to all Californians, regardless of linguistic, cultural, ethnic, physical, geographic, or income considerations. In order to ensure that this principle is adhered to, language, status, race, and income must all be considered.

Public Advocates also recommends that the following recommendations be adopted with respect to the 95% subscribership goal:

- Each carrier must be responsible for the Commission's goal of at least 95% telephone subscribership in poor, non-white, and non-English speaking households.
- The Commission should annually assess the degree to which carriers have or have not met their universal-service goals in California's poor, non-white, and non-English-speaking communities; and should exercise their authority to ensure that their universal-service goals are actively and effectively pursued.
- The Commission should analyze the service territories maps of all carriers to determine if there are areas suffering from an absence of competition. If such areas exist, the Commission should require carriers who serve territories bordering these redlined communities to expand their territories to encompass these underserved communities.

UCAN's comments express support for the 95% subscribership goal, but points out that to achieve this goal, the
outreach efforts must be successful. UCAN suggests that the Commission improve customer outreach and educational programs for senior, disabled, and rural customers, in addition to low-income, non-white, and non-English speaking households. UCAN also takes issue with the suggestion in D.95-07-050 that the 95% goal be based on income criteria only. A similar proposal was made to the USA.

The USA supports the proposed rule that requires all local service providers to meet the 95% subscribership goal for low income and non-English speaking households. However, the USA also points out that there does not appear to be any California-specific data regarding telephone subscribership levels for the disabled, and that such data should be collected as well.

**Discussion**

**Discussion**

We will adopt the suggestions by Consumer Action and DHA that the 95% subscribership rate that was set forth in D.94-09-065 applies to all customer groups, not just to low income and non-English speaking households. However, the methodology for assessing whether the 95% subscribership goal should be modified to use income as the only measurement criterion is the methodology for assessing the 95% goal was first described in D.93-11-011. The assessment criteria included the following:

1. Telephone penetration rates by income, ethnicity, and geography.
2. Knowledge of availability of lifeline service, including costs, services, and procedures for qualifying for and obtaining service.

Instead of measuring subscribership rates by income only, we will retain the existing measures stated in D.94-09-065 at page 277. These include measurement of telephone subscribership...
rates by income, ethnicity, and geography. These different measures will enable us to obtain information about what segments of the population are currently underserved. As the Coalition and DCA point out, that information can lead to more focused marketing efforts.

The other suggestions by Public Advocates are discussed in the retailing and bilingual services sections, which follow. UCAN’s outreach and educational programs are discussed in the consumer information and ULTS sections of this decision.

**Unserved Territories**

Significant geographic areas of California have no local telephone service. The goal of a 95% subscribership rate for basic telephone service raises the issue of how to get service to these unserved territories. This was a topic of some concern during the PPSC proceedings. Both the California Public Utilities Commission and the U.S. Federal Communications Commission have heard comments from public advocate groups and other interested parties, including the Coalition and private companies. The issue of expanding the geographic availability of telephone service continues to be given high priority.

**Universal service policies** have always had two focuses:

1. The first is to improve the number of households who have access to telephone service in areas that are currently served by a telephone service provider. The second is to ensure that telephone service is available over wide geographic areas. The continued geographic spread of telephone service will assist California’s effort to achieve 95% subscribership.

2. Expanding the geographic availability of telephone service will improve the public’s health, safety, and productivity nationwide.

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22 It may be appropriate to eliminate ethnicity as a measurement criterion at some point. As discussed later in the ULTS section, a single entity marketing ULTS can target the advertising to customer groups who do not have high telephone subscribership rates. Additionally, the income and geographic criteria provide much of the information that we need to determine where telephone subscribership remains low.

23 See the ULTS discussion as to who shall be required to submit these subscribership reports.
well-being of those who live in or travel through these areas. In addition, the economic vitality of the area will be improved as a result of increased economic activity and a reduced reliance on subsidies to serve.

Serving unserved territories must be addressed in the context of a comprehensive strategy for increasing subscriberhip. The fundamental problem is that unserved territories generally remain unserved because of the high costs of serving them. Many of these unserved territories would best be characterized as 'extremely high cost territories.' Significant subsidies may be required to expand service to a relatively small number of households.

We note that several trends are working to increase the cost effectiveness of serving previously unserved territories. As the population grows in these areas, so does the density of the households to be served. Generally speaking, greater density lowers the per-household cost of serving the area. Furthermore, the cost of telecommunication technologies and services continues to decline. This makes serving previously unserved territories more economic. In addition, emerging technologies have the promise to significantly change the cost of serving certain areas. In particular, satellite technologies and wireless technologies hold the promise of significantly increasing the economic feasibility of service in many currently unserved areas. While these trends may not make all areas of the state economically feasible to serve on an isolated basis. the may bring the cost of serving unserved areas within a range that is reasonable for society to subsidize service.

There are also existing programs that carriers can avail themselves of for those who desire to serve currently unserved territories. The existing CHCF and the Rural Electrification Administration makes low-interest loans available to small telecommunications companies for serving rural areas. In addition, the State Authority has granted a carrier three small area aid.
unserved territory, the carrier may be authorized to draw a subsidy from the CHCF. B: If the area is highly cost-intensive and the cost of providing telephone service to all unserved areas of the state needs to be explored further, the rates to serve these areas might have to be set higher and other customers would still have to subsidize the service through the CHCF-B or other similar programs. At some point, the Commission must carefully weigh whether the cost justifies the service.

We could conceivably adopt a rule which would provide all currently unserved areas of the state with telephone service. However, the cost of providing telephone service to all unserved areas of the state needs to be explored further. The rates to serve these areas might have to be set higher and other customers would still have to subsidize the service through the CHCF-B or other similar programs. At some point, the Commission must carefully weigh whether the cost justifies the service.

DRA has suggested that the existing CPC&N application procedure under Chapter 5-Article 1/inf of the PU code be used to determine whether new telephone service should be approved in unserved areas. That process allows the Commission to determine, on a case-by-case basis, whether it is reasonable and prudent to bring telephone service to those locations. In a recent Commission proceeding involving the Kennedy-Meadows exchange, we analyzed the following criteria: (1) what are the public benefits of the new exchange; (2) is the proposed telephone exchange justified financially, and how will the cost of service be reflected in rates; and (3) are less costly telephone systems feasible, especially (D.95-11:025, pp. 6-17) (a) pursuant to section 190 of the code.

Instead of adopting specific rules and policies regarding unserved territories, we will continue to encourage companies seeking to expand their service territories into otherwise unserved territory, to do so by filing an application to expand service. We will look at each application on a case-by-case basis. We note that the current CPC&N model used to estimate costs for the served territories can also be used to generate cost estimates for unserved areas as well. The Commission's Telecommunications Division is directed to generate CPC&N cost estimates for any currently unserved CBGs that a potential carrier may wish to serve. This CPC&N-based cost estimate could provide valuable information.
about the relative cost of serving that area and would greatly aid
the Commission in determining whether to authorize such expansion.

The CSD, in conjunction with the Telecommunications
Division, shall review the unserved area issue and develop written
recommendations for the Commission's consideration as to the steps
we can take to expand the geographic availability of telephone
service. Specifically, the CSD and the Telecommunications Division
should employ the CPM, as well as other methods, to estimate the
population and the number of households living in those areas, and
the cost of serving currently unserved areas. The possibility of
holding auctions for these unserved areas should be considered as
well. The staff shall present these recommendations to the
Commission within six months. Further, we direct the USNG to form
a sub-group to address this issue and suggest possible policies or
programs for the Commission to consider. We expect the staff to
work with this sub-group to explore policy options for the
Commission.

During the PPHs into universal service, the Commissioners
were made aware of the need for emergency telephone communications
in unserved territories. Commissioner Pessier subsequently
expressed his concern that, at a minimum, there should be emergency
telephone service on all designated state roads.

It is clear that the public health and safety of all
citizens would be improved by such a program; however, we are
unable to determine the cost of such a program and whether the
costs justifies such an undertaking. In addition, this Commission
may not be the proper state agency to develop and/or implement such
a policy. There are other state agencies that may be better able
to address this issue. Therefore, we will direct the CSD and the
Telecommunications Division to jointly contact the state and
federal agencies who have the responsibility for providing
emergency services on the roads and highways in rural parts of
California, such as the California Highway Patrol, and the
California Department of Transportation, to form an interagency task-force to investigate the feasibility and policies of increasing access to emergency communications services along state roads and highways. The staff shall initiate this contact within 30 days from the issuance of this decision, and shall report back to the Commission about the status of the task-force within 6 months.

**E. Redlining**

The Commission specifically refers to the CDPD as a preferable alternative to redlining. The Commission notes in D.95-07-050 at page 26 that redlining "can be viewed as the practice of denying access to generally available advanced telecommunications services or adversely varying the terms of such access because of the conditions, characteristics of trends in particular communities." We suggested that an explicit prohibition against redlining be adopted, but invited comment on whether such language could be effective. We also invited comment on how to distinguish between redlining, and the economics of offering certain services.

Subsequent to the issuance of D.95-07-050, the Commission reiterated its position opposing any redlining, and adopted the following CLC regulation regarding redlining in D.95-12-056 at page 85, a decision in the local competition rulemaking and investigation proceeding (R.95-04-043 and I.95-04-044):

"Redlining is prohibited and the Commission shall take strong action against any carrier engaging in redlining."

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**California Department of Transportation**

4.P. (17)
24 The Commission has already addressed Public Advocates' proposal that at the outset of local competition, all of the CLCs' service territory maps should be reviewed for redlining. The Commission declined to implement that suggestion and we will not revisit that specific recommendation again. (D.95-12-056, p. 85.)

25 CAAT also recommends that the Commission require the largest competitors to provide local exchange services through their own facilities rather than simply serving as resellers. This issue would have been more appropriately addressed in our local competition proceeding, so we decline to address it in this proceeding.
discuss and assess how the development and deployment of telecommunications services is proceeding in their communities. Monitoring by the Commission of the LEC and DCA performance with regard to the 95% subscribership goal would also aid in detecting whether redlining is occurring. In addition, the tracking of complaints that indicate redlining may have occurred and another detection device the Commission could use.

DCA suggests that the Commission should adopt strong policies against any form of discrimination on grounds other than price.

DRA commented that the Commission has reason to be concerned about the possibility of redlining. However, DRA believes that with the proposed definition of basic service, redlining is unlikely because basic service consumers will have a range of access options to choose from. These access options, in combination with an explicit prohibition, will deter redlining. DRA proposes that if redlining occurs, the Commission should withdraw the carrier's certificate of public convenience and necessity, and require the carrier to pay appropriate fines.

Pacific commented that redlining involves difficult evidentiary issues of intent and reasonableness. Pacific believes that an explicit prohibition could chill investment by creating a perception that in order to deploy new technology, one has to deploy it everywhere. Pacific also believes that an explicit prohibition would be costly for the Commission to administer and enforce effectively and fairly. Pacific contends that providing for the periodic review of the basic service definition, and adding new essential services over time will significantly reduce the potential for redlining problems.

Public Advocates pointed out that redlining may not just be confined to the practice of denying access to generally available advanced telecommunications services, but could occur with basic service as well. Public Advocates contends "that
redlining exists when there is an absence of competition in a given community, and a failure to target marketing and outreach efforts to minorities, non-English speaking, and low-income populations."

(Public Advocates! Comments on D.95-07-050 and Proposed Rules par 25.) Public Advocates makes the following recommendations with respect to redlining:

- Each carrier must actively market its telephone services to poor, non-white, and non-English-speaking households and small businesses throughout each exchange territory in which it operates.

The Commission should annually assess the degree to which carriers have or have not met their universal-service goals in California's poor, non-white, and non-English-speaking communities, and should exercise their authority to ensure that their universal service goals are actively and effectively pursued.

- Each carrier must develop and submit one year, two-year, and five-year business plans with detailed targets towards obtaining the Commission's goals among poor, non-white, and non-English-speaking households, and meeting the minimum specified criteria in D.94-09-065.

- Enhanced telecommunications services such as digital, broadband, and fiber or fiber coax services must become part of basic service when such service is available to (even if not yet purchased by) 51% of the customers in the exchange, neighborhood, city, county, metropolitan area, or larger territory such as a LATA.

- Each carrier that is developing or building out new telecommunications technologies or services (hardware or software) must do so without discrimination in access on the basis of income, race or ethnicity, or geography.

- Enhanced telecommunications services must be available to qualified lifeline customers at
The Smaller Independent LECs, as well as Rossville, recognize the importance of redlining as an issue, but recommends that enforcement of redlining be left to the state and federal authorities. They point out that the Commission simply does not have the resources to determine whether discriminatory intentions form the basis for a carrier's service patterns.

3. Discussion

We do not believe that we need to include any other specific pronouncements in our universal service rules about redlining. The Commission in its local competition proceeding has already adopted an explicit prohibition against redlining. That regulation states: "Redlining is prohibited and the Commission shall take strong action against any carrier engaging in redlining." (D.95-12-056, Appendix C, 4.F.(17)). In the text of D.95-12-056, the Commission also stated in no uncertain terms that the Commission is "unilaterally opposed to redlining and shall prohibit it," and will "take strong action against any carrier we find engaged in redlining." (D.95-12-056, p. 85.) In addition, public utilities are prohibited under PU Code § 453 from discriminating against any person or locality as to rates, charges, service, or facilities.

Public Advocates has made a series of recommendations to combat redlining. Public Advocates' recommendation that each carrier actively markets services to certain customer groups, and its recommendation that one-year, two-year, and five-year business plans with detailed targets towards obtaining the 95% goal be disclosed, are based in part on what the Commission ordered of GTEC in D.94-09-065 and of Pacific in D.93-1101 (51 CPUC2d 728). (See Public Advocates' Comments on D.95-07-050, Sept. 24, 1995, pp. 22-23.)
However, the reporting requirements imposed on GTEC and Pacific concern telephone subscriber rates, and awareness and ways of encouraging participation in the ULTS program. We will not broaden the annual monitoring reports to include targeted marketing and outreach of all carriers' services to the poor, non-white, and non-English speaking households, and the development of business plans and targets, since that is not presently required of GTEC and Pacific. Public Advocates' call for targeted outreach by, and submission of marketing plans from all carriers, simply goes beyond the requirements imposed on GTEC and Pacific in D94-09-065 at page 277. We also believe that in a competitive market, all carriers will need to actively market their available services to all customer segments because the total number of customers in California is limited.

We stated in D95-07-050 that we were considering lowering reporting requirements contained in D94-09-065 (D95-07-050, pps. 13-14, 73-74.) In the August 5, 1996 proposed decision, the recommendation was made that each carrier, except GTEC and Pacific, be required to include in their annual reports the respective carrier's telephone subscriber rates by income, ethnicity, and

26. At the present time, GTEC and Pacific are required to file annual monitoring reports regarding the following: telephone subscription rates by income, ethnicity, and geography; customers' knowledge of the availability of the ULTS program; and one year, two year, and five year marketing plans designed to inform all eligible persons of the availability of the ULTS program; and how they may qualify and obtain such service. For Pacific, these returns requirements end in 1999, and for GTEC, in 2000. (D94-09-065, pps. 277-278; see D95-07-050, pps. 13-14.) As we stated in D95-07-050 at page 73, those requirements should continue to apply to GTEC and Pacific as long as they retain market power, or until the reporting requirements end.
geography, and their customers' knowledge of the availability of ULTS service, including costs, services, and procedures for qualifying for and obtaining that service. In the comments to the August 5, 1996 proposed decision, some of the parties commented that this type of information is proprietary, and that the carriers should be allowed to use, non-carrier specific data as substitutes for income and ethnicity information.is reflected in the proposed rule.

Upon further reflection, we will not require the other carriers to include this type of information in their annual reports. It is our belief that the establishment of the ULTS Marketing Working Group, as discussed later in this decision, will be in a better position to assess how well the 95% subscriber goal is being met. If the Marketing Working Group detects that certain groups or communities do not have sufficiently high subscriberhip rates, the Marketing Working Group can target those groups or areas. While Rule 316.3(b) has been revised to reflect this change, it was considered important that the requirement that carriers inform all eligible persons of the availability of the ULTS program be developed to inform all eligible persons of the availability of the ULTS program. (See D. 94-09-065). As we discuss later in this decision, the marketing of the ULTS program in a competitive environment should be coordinated through the ULTS Marketing Working Group, rather than by multiple companies seeking to sign up the same customers.

As for Public Advocates' recommendations that enhanced telecommunications services must become part of basic service, and that those services should be made available to qualified ULTS customers at a 50% discount, our procedure for reviewing the service elements which make up the basic service definition will be followed instead of adopting Public Advocates' recommendations.

CAAR's recommendation that redlining can be minimized if the largest carriers are required to serve everyone at a LATA wide
price, will not be adopted either. Rather than set one uniform price, competition between competing carriers should be encouraged so that the market becomes more efficient and prices are driven downwards.

We will not follow the suggestion of Roseville and the Smaller Independent LECs that the enforcement of redlining issues should be left to the courts. Instead, utility redlining issues should be handled by the Commission since the Commission has the express power to prohibit discrimination as to rates, charges, service, and facilities. (Pu Code S 453). See D 87739 (82 CPUC 422). Should redlining take place in California by telecommunications providers subject to federal jurisdiction, the Commission will likely make its views known in that forum.

P. Bilingual Outreach

1. Introduction

In D 95-07-054, the Commission adopted the rule that a CLC making a sale in a language other than English is required to confirm with that customer in writing, in the same language in which the sale was made, the service(s) ordered. In D 95-12-056 the Commission expanded its bilingual information and outreach rules to require the CLCs to inform each new customer in writing and in the language in which the sale was made of information on the availability, terms and rates regarding the UTs Program and Basic Service. (In addition, the CLC is to provide bills and notices, as well as access to bilingual customer service representatives) in the language in which prior sales were made. D 95-12-056 deferred to the proceeding for proposals Public Advocates to provide a new bilingual service for customers to whom service was sold in English only, and its recommendations for bilingual marketing and outreach, and 2.0 of 2.0 Positions of the Parties. 3 has 3 has 3-0-10.1 has 380-10

Public Advocates' comments stated that to achieve universal service, people must have full access to and a genuine working knowledge of non-English speaking populations, and has 3-0-10

- 65-30 -
Public Advocates recommends that the following bilingual service requirements be adopted:

- Every CLO should inform each new customer, and regularly inform existing customers, of the availability, terms, and statewide rates of lifeline telephone service and basic service.
- Public Advocates recommends that this information (and other information such as bills and notices) be provided to non-English speaking customers in the common languages spoken within the exchange or larger territory, including Spanish, Cantonese, Mandarin, Tagalog, Vietnamese, and Korean.

- Each carrier must have bilingual service representatives available in the common languages of the exchange.

**Discussion**

Public Advocates' first and second recommendations regarding bilingual services have already been adopted by the Commission in the rules regarding local exchange competition in parts D.95-12-056 and D.95-12-056, par. 180, App. C.41(Fr. 16). These delineate underlying rules are the subject of a Petition to Modify. D.95-07-054, and D.96-02-072. In D.96-08-027, the Commission ordered that a workshop be held to determine what operational and economic constraints carriers might face in complying with those rules. We did not defer resolution of Public Advocates' first and second recommendations to the local exchange competition proceedings, R.95-04-043 and I.95-04-044, and to the future disposition of the Petition to Modify, D.95-07-054, and D.96-02-072. Instead, we

with respect to the recommendation regarding targeted marketing and outreach to non-English speaking populations, and the
provisioning of bilingual services to customers to whom service was sold initially in English, we will not impose any further bilingual service requirements. As we noted in the 95% subscribership goal section discussed earlier, the targeted marketing and outreach idea was based on the requirement imposed on GTBQ and Pacific that they encourage participation in the UTTS program. We will not bootstrap that requirement to make it mandatory that there be targeted outreach to non-English speaking persons (for all of the carrier's services) among those customers with the first contact with a carrier was in non-English. Customers whose first contact with a carrier was in English, should have no difficulty in accessing the bilingual service representatives of the carrier. Undoubtedly, given this state's diversity, there will be more than one non-English speaking customer per carrier. This diversity will necessitate that bilingual customer service representatives be on hand to serve these customers upon demand. Ideally, a carrier should remain optimistic that carriers will recognize that tailoring products and services to particular market segments will be to the carriers' benefit. We must keep in mind that the customer base, which was formerly served by a monopoly, will now be served by competing carriers. In order to attract the business of this finite group of customers, all carriers can be expected to compete vigorously for all customers. The offering of bilingual services will be a natural consequence of competition.

As we have previously expressed in prior decisions, we remain optimistic that carriers will recognize that tailoring products and services to particular market segments will be to the carriers' benefit. 27 We must keep in mind that the customer base, which was formerly served by a monopoly, will now be served by competing carriers. In order to attract the business of this finite group of customers, all carriers can be expected to compete vigorously for all customers. The offering of bilingual services will be a natural consequence of competition.

27 Carriers who plan to target certain market segments based on language or ethnicity should be aware that the Commission will not countenance slamming of the customers in these markets.
B. Positions of the Parties

CAAT believes that the consumer information matrix, newly proposed in D. 95-07-050, needs to be expanded to meet the principles set forth in AB 3643. CAAT also recommends that a consumer education program, similar to the Telecommunications Education Fund Trust, be created to inform and educate consumers about the changing telecommunications marketplace.

Consumer Action commented that the basic service matrix should be adopted. Consumer Action believes that other pricing packages may be developed in the future, that the matrix needs to reflect that, and recommends that a workshop be held to consider the type of information that should be included in the matrix.

DRA endorses UCAN's and TURN's recommendations regarding the need for widely disseminated consumer information.

TURN commented that the proposed consumer information rules should be modified to provide the information suggested by UCAN. TURN recommends that the information about local service should be accompanied by a statement explaining the customer's local calling area, and that a toll free number be provided for customers inquiring about their local calling area. For measured
by initial, and additional minute, as well as any rate differentials based on time of day. 

With respect to toll service, TURN recommends that carriers provide information about their undiscounted toll rates in a matrix similar to what has been recommended for measured rate/pool service. Due to the complexity of discount calling plans and the difficulty in comparing such plans, TURN does not propose to include them in the matrix at this time. TURN also states that the matrix should include information about the other significant charges that customers may be required to pay, such as charges for returned checks, late toll payments, changes to service, and disconnection after disconnection due to nonpayment. Disconnected accounts may result from overuse or other reasons.

UCAN commented that proposed rule 7 is limited as to the type of information that should be listed. UCAN recommends that the consumer information matrix include price information about per minute or sub-minute rates. In addition because the local toll and long distance markets have been opened to competition, the matrix should include rate and service information for long distance and intralATA toll calls. As new service offerings are made, UCAN favors expansion of the matrix to include rate and pricing service information of these new services as well. UCAN also suggests that this rate and service information be set out before any discount, incentive, or packaged pricing plan is included. UCAN also disagrees with D. 95-07 at page 73 that says "other customer-related information should not be mandated at this time. UCAN believes that quality of service is a vital factor that consumers rely upon when shopping for a carrier. Thus, information about a carrier's complaint history should be disseminated to the public as well. UCAN believes that providing accurate complaint information about well-known, as well as unknown carriers, will aid consumers in shopping for a carrier. UCAN also believes that this type of information is vital for the development of a competitive..."
market, because consumers will be able to objectively determine which carriers have had fewer complaints.

During the San Diego PPH, it was suggested by a speaker that the Commission consider drafting a "customer bill of rights." The type of items that the speaker contemplated as being included had to do with fraudulent use of telephone-calling cards and pricing or service options to detect that type of activity. A centralized clearinghouse to answer questions about the type of services a carrier has been authorized to offer, Commission review and approval of carrier notices so that consumers can rely on the information contained therein, and obtaining a property owner's permission before any utility-related work is performed. Another speaker also expressed concern about the possible release of customer-specific information. UCAN, suggested in its December 1, 1995, reply comments that a set of consumer rights be developed. UCAN suggests that the rights cover the following categories:

- customer rate and service information
- customer right to privacy, and the customers' right to redress

C. Discussion

We have reviewed and considered the comments of the parties, and studied the matrix that was developed by UCAN in conjunction with TURN, and which was received on September 1, 1995. We will adopt the matrix proposed by UCAN, with the exception of requiring carriers to have a toll-free number to answer questions about a customer's local calling area, and whether a particular call is a toll call or long distance. We decline to adopt the latter suggestion at this time. Such a toll requirement could overburden the individual carriers with questions every time a customer considers making a telephone call to a different neighborhood or a different town or city. The consumer information rule in Rule 9 of Appendix B reflects the new requirements of competition develops toll and local calls, toll service, and long distance calls, new pricing packages are going to...
be introduced. This will present a problem for the customer information matrix, because each carrier may offer a different type of program. CSD should conduct a workshop with interested parties to study ways in which these various pricing packages can be compared and included in the matrix. Such a report will produce information because each carrier may offer a different type of program. CSD should conduct a workshop with interested parties to study ways in which these various pricing packages can be compared and included in the matrix. 

As this Commission moves toward restructuring itself in light of the regulatory changes that have and are taking place, the complaint history idea of UCAN has some appeal. We will adopt on a trial basis UCAN’s suggestion that the Commission annually compile a report that summarizes the complaint history for each certificated carrier. Such a report should also include any open Commission investigations pertaining to specific carriers. This information is already in our database for tracking proceedings before the Commission. Such a report would also include a record of the complaints against each certificated carrier, the name, address, and telephone number of each certified carrier, the dates when the carrier was certificated by this Commission to offer local exchange, intralATA, toll service, and interLATA service, the total number of complaint cases filed against each carrier during the past year, the total number of formal Commission investigations that were opened against each carrier during the past year, the total number of residential and business customer complaints, and the number of open complaint cases and investigations as of the close of the reporting period. The annual report shall contain the following for each certificated carrier: the name, address, and telephone number of each certificated carrier, the dates when the carrier was certificated by this Commission to offer local exchange, intralATA, toll service, and interLATA service, the total number of complaint cases filed against each carrier during the past year, the total number of formal Commission investigations that were opened against each carrier during the past year, the total number of residential and business customer complaints, and the number of open complaint cases and investigations as of the close of the reporting period. The Commission staff shall be responsible for preparing this annual report, and disseminating it to the public. Copies of the report shall also be provided to the Commission and transmitted by the Commission to the Legislature for informational purposes. The first report should be available for dissemination on or about January 30, 1997, and cover the reporting period of July 1, 1995 to June 30, 1996. Subsequent annual reports should be available by August 1st of each year thereafter. The Commission will review the efficacy of these annual reports, and unless extended by Commission
order, this reporting requirement shall terminate after the annual report for the period July 1, 1998 to June 30, 1999 has been completed. A consumer education program, as suggested by CAA, is something the Commission needs to consider as well. As the Commission initiates steps to reform itself to meet the competitive environment of the future, consumer protection is likely to take on added importance in the Commission's mission and goals. With all of the regulatory and reorganization changes taking place, the Commission needs to consider taking proactive steps to inform the public about changes in the marketplace. We envision a public service media campaign, informational meetings, before group and town hall meetings, where Commission staff can disseminate information about important consumer issues. To that end, we will direct the Commission's Executive Director to meet internally with the staff within 90 days to develop possible solutions to meet these challenges. The Executive Director, in concert with the appropriate, Commission division(s), shall submit a plan of action to the Commission for approval. Such a plan should also include for the fiscal impacts of implementing such a program.

VI. Benefits for Schools, Libraries, Health Care, and Community Based Organizations

A. Introduction

Two of the principles in AB 3643 express the intent that all customer segments, including certain kinds of institutions, benefit from the deployment of advanced telecommunications technology. Section 12(v)(b)(4) and 20(b)(6) state as follows:

"(4) Public policy should provide incentives as needed to promote deployment of advanced telecommunications technology to all customer segments."

In light of our recommendations, and others expressing concern about the Commission's ability to fulfill its mandated mission, the Commission with review the utility of each year's report. The Commission will review the efficiency of those annual reports, any misuse, or change in Commission
health care providers serving rural areas, as well as elementary and secondary schools and libraries, should receive discounted rates. Section 254(h)(1) of Section 101 of the Telco Act states as follows:

"(A) Health care providers for rural areas—A telecommunications carrier shall, upon receiving a bona fide request, provide telecommunications services which are necessary for the provision of health care services in a State, including instruction relating to such services, to any public or nonprofit health care provider that serves persons who reside in rural areas in that State, at rates that are reasonably comparable to rates charged for similar services in urban areas in that State. A telecommunications carrier providing services under this paragraph shall be entitled to have an amount equal to the difference, if any, between the rates for services provided to health care providers for rural areas in that State and the rates for similar services provided to other customers in comparable rural areas in that State, treated as a service obligation as a part of its obligation to advance universal service."

"(B) Educational providers and libraries—All telecommunications carriers serving a geographic area shall, upon a bona fide request, for any of its services that are within the definition of universal service under subsection (c)(3), provide such services to elementary schools, secondary schools, and libraries for educational purposes at rates less than the amounts charged for similar services to other parties. The discount shall
be an amount that the Commission, with respect to interstate services, and the States, with respect to intrastate services, determines as appropriate and necessary, to ensure affordable access to and use of such services by such entities. A telecommunications carrier providing service under this paragraph shall--

'(1) have an amount equal to the amount of the discount treated as an offset to its obligation to contribute to the mechanisms to preserve and advance universal service, or:

'(ii) notwithstanding the provisions of subsection (e) of this section, receive reimbursement utilizing the support mechanisms to preserve and advance universal service.

In D.95-07-050 at page 16, we stated the following:

"We believe that education, health care, for profit, community, and government institutions should be in a position to benefit from the information age. Absent suggestions to the contrary, we believe this objective can be achieved by creating and fostering the development of a competitive market. Potential providers for this market must realize that a making certain kinds of telecommunications services widely available to these institutions will increase demand; thereby encouraging the development of a market for these products and services. Given the current legal framework, it is only fair to require carriers to provide for special rates. However, providing special rates to certain classes of customers, to the exclusion of others for the same type of service, may be contrary to PUC Code § 453 and its prohibition against discriminatory rates and charges."

Before the start of evidentiary hearings, and after the Telco Act was signed into law, the assigned JU issued a ruling on February 21, 1996, directing parties to provide testimony on the services to offer during the evidentiary phase.
Telco Act’s requirement for funding of discounts for schools, libraries, and rural health care providers resolves the need for subsidies. B. Positions of the Parties AT&T/MCI take the position that the Telco Act left a lot of unanswered questions about how much of a discount should be funded. They recommend that the Commission wait to first see what the Federal Communications Commission (FCC) does with respect to this issue and has already had archive calls differed to agree. AT&T/MCI believe that only discounts below true economic cost or total service long run incremental cost (TSRIG) are discussed need of subsidization.28 They assert that there is no need to subsidize prices above TSRIC because the carrier’s costs will already have been recovered. If subsidy funding of discounted rates at above, the TSRIC is permitted, AT&T/MCI believe that these subsidies could pose a threat to competitive entry into these markets.

The California Cable/Television Association (COTA) agrees with AT&T/MCI that the Commission should wait until after the FCC has resolved the schools, libraries, and rural health care providers issue, in COTA contends that ordering discounts before the FCC has resolved the issue could allow the incumbent LEGs to use the subsidized discounts to delay competition and lock up customers before new entrants have the opportunity to offer a competing service. COTA further contends that offering discounted service could artificially lower the costs of the incumbent providers and reduce the cost to the customer. It contends that pricing strategies to ensure fairness and non-discrimination are essential to maintain a level playing field.

28 AT&T/MCI witness Cornell defined TSRIC as the "forward-looking" long run costs caused by supplying the total quantity of demand for the item whose costs are being estimated. The costs included in total service long run incremental costs can be both costs that vary with volume, and those that do not. Because they are long-run costs, they include all categories of costs that are caused by the offering of the item in question. As forward-looking costs, they are calculated using the most efficient plant and equipment in the most efficient way."
Citizens commented that the need to provide advanced information age services to public and community institutions is a matter of social policy, which is best addressed by the Legislature, rather than this Commission. Therefore, Citizens believes that proposed rule 3:B:2 should be deleted because the Legislature has not adopted any social policy on this subject.

Due to the differences in the Telco Act regarding rural health care providers, and schools and libraries, DCA recommends that the Commission retain a distinction between the two types of subsidy, funding at least in part from funds not to come from the

With respect to discounted rates for schools and libraries, DCA is concerned that there is no direct evidence from any schools or libraries regarding what rates they believe are necessary to ensure affordable access. If the Commission decides to establish rates for schools and libraries without first seeking input from those entities, then DCA would support DRA's proposal for setting the discount rate. However, DCA advocates that additional steps should be taken to promote and foster broadband deployment of advanced telecommunications and information services. For rural health care providers, DCA contends that the use of the phrase "reasonably comparable" rates was intended to distinguish rate discounts for rural health care providers from the discounts for schools and libraries. DCA argues that a rate for a rural health care provider is reasonably comparable to the rate for services provided to urban health care providers if the rural health care providers' rate includes the additional costs, if any, incurred by the telecommunications provider to provide service to the rural area. Thus, DCA does not support DRA's proposal to provide rural health care providers with exactly the same subsidy as that which is provided to schools and libraries.

DCA also believes that the Commission should adopt policies that encourage the early deployment of a broadband telecommunications network for use by everyone. DCA recognizes
that the Telco Act does not discuss access to advanced services by CBOs, but agrees with Public Advocates that CBOs will play a major role in determining the extent to which society will be divided between "information haves and have nots." DRA proposes that the Commission adopt the following discount mechanism for rural health care providers, schools, and libraries. The discounted rate would be set at the TSLKIC of a measured business line (MB) for the lowest cost density zone in which whichever proxy cost model the Commission adopts. The carrier would then be provided with a subsidy that reflects the difference between what carriers normally charge and the rate limit of access established by the Commission. DRA proposes that the subsidy be funded through the CHCF, which, in Ljepovic's view, is insufficient. DRA recognizes MCI's concern that the incumbent LECs might act in an anti-competitive manner if subsidies were distributed before the FCC adopted final rules. Instead of vitally delaying the discounts as MCI has suggested, DRA recommends going forward with the adoption of DRA's proposal, and that the Commission monitor the program to detect any abuses. DRA proposed that, after the FCC makes their determinations, the Commission can simply amend its discount methodology in an appropriate fashion.

GTEC points out in its brief that it has proposed a plan at the FCC which would provide funding sufficient to ensure that all schools and libraries in the country will be able to implement plans for advanced telecommunications programs. In its testimony, Pacific noted that discounts for schools, libraries, and rural health care providers are mandated by the Telco Act, and that such discounts are to be funded by the federal universal service mechanism. Pacific also believes that it should be permitted to receive funding for
providing voluntary discounts to schools, even though Pacific's witness, Rex Mitchell, recommended that the Commission should wait to see what the FCC does, before making any decisions regarding these issues.

The California Public Advocates argue that access to advanced technology is the key to remaining competitive in the new information age. In order that certain communities are not left behind, Public Advocates recommended that CBOs, health clinics, educational organizations, schools, and libraries be provided with access to enhanced telecommunications services which offer broadband capacity. Public Advocates contend that these types of institutions play a pivotal role in providing information access to underserved communities. Public Advocates' view is because the schools and libraries in low income, minority, and limited English speaking communities do not have the access that they do in more affluent communities.

Public Advocates recommend that at a minimum, this broadband capacity should consist of a twisted pair that has two-way digital capacity of 1.544 megabits per second (Mbps), or hybrid fiber/coax capacity. According to Public Advocates' witness, Thomas Hargadon, the cost for providing the equivalent of a T-1 line, which has a capacity of 1.544 Mbps, will soon be $30 to $50 per month. If 20,000 institutions are subsidized at this rate, the monthly rate is $1 million per month. In addition to access, Public Advocates propose that these institutions receive technical assistance as well. Public Advocates contend that these discounts should be implemented now, instead of waiting until the FCC takes action.

For purposes of obtaining access, a "community-based organization" means any non-profit corporation or unincorporated
Association operating on a non-profit basis, whose primary commitment, as defined by its articles of incorporation, bylaws, or mission statement or as evidenced by demonstrated service, is to serve, directly or in an advocacy capacity, communities of individuals or groups, including but not limited to, low-income communities, minority communities, and limited English proficient communities. To obtain access, a community-based organization shall certify under penalty of perjury that it meets these requirements.

For purposes of receiving lifeline rates, a community-based organization means any non-profit corporation or unincorporated association operating on a non-profit basis, whose primary commitment, as defined by its articles of incorporation, bylaws, or mission statement or as evidenced by demonstrated service, is to serve, directly or in an advocacy capacity, low-income communities of individuals or groups, including but not limited to, minority communities and limited English proficient communities. To qualify for lifeline rates, a community-based organization shall certify that the populations it or its member individuals or groups primarily serve, directly or in an advocacy capacity, are low-income individuals, as defined by the Public Utilities Commission.

Public Advocates recognizes that the CBO definition specifically includes populations that it asserts have historically been underserved with respect to telecommunications. Public Advocates contends that the targeting of these communities is necessary because these communities are the least likely to have access to enhanced telecommunications services. UCAN commented that CBOs should be positioned to benefit from advanced telecommunications technology. UCAN disagrees, however, with the discussion in D.95-07-050 that reliance on competition alone will make this a reality. UCAN is concerned that if the Commission relies solely on competition to ensure that these...
institutions receive access, the needs of these organizations and the communities that they serve will not be met.

C. Discussion

Following the issuance of D.95-07-050, the Telco Act was signed into law. The Telco Act specifically mentions that rural health care providers can receive telecommunications services which are necessary for the provision of health care services at rates reasonably comparable to the rates charged for similar services in urban areas. The Telco Act also provides for discounted rates for schools and libraries for any services that are within the Telco Act's definition of universal service. The Telco Act omits any reference about discounts to CSOs. Since the Telco Act requires discounts to certain kinds of institutions, we decline to adopt Citizens' suggestion that Rule 5.8.2 be deleted.

Although AB 3643 does not mandate discounts for schools, libraries, rural health care providers, and CSOs, that legislation made clear that these types of organizations are to be early recipients of the benefits of the information age, and that incentives should be provided to promote the deployment of advanced telecommunications services to all customer segments.

The first question that we need to address is whether we should wait until the FCC addresses these issues. The advantage of waiting is that this Commission can review what the FCC has done and then adopt state rules that are consistent with the FCC's rules.

We do not believe that we should wait until the FCC adopts its rules with respect to discounts to school and libraries. The Telco Act provides that a state may adopt regulations that are not inconsistent with the FCC's rules, and that the state can provide for additional definitions and standards that preserve and advance universal service. (Telco Act § 254(f).) AB 3643 took effect on January 1, 1995, and called for the opening of a proceeding to address universal service issues by February 1, 1995.
If we were to wait until the FCC adopted its rules regarding discounts to schools and libraries, our rules on this subject could be delayed until May 1997, well beyond the time contemplated in AB 3643.

Before the discount programs can be established, we need to address the issue of who qualifies for the discount, what services qualify for the discount, and whether there should be a limit as to the number of lines or services that the institution is entitled to. To ensure that no favors are granted to particular firms with respect to the discounts for schools, only public or nonprofit schools providing elementary or secondary education, i.e., grades K-12, and which do not have endowments of more than $50 million, may request the discounted rate. For libraries, only those libraries which are eligible for participation in state based plans for funds under Title III of the Library Services and Construction Act (20 USC §3350 et seq.) shall be eligible for the discounted rate. This adopted criteria is consistent with the criteria set forth in the Telco Act.

As for the type of services that qualifying schools and libraries can subscribe to at a discounted rate, it is instructive to refer to §254 (b)(1)(B) of the Telco Act. That subsection provides that these kinds of institutions may subscribe to universal service under subsection 254 (c)(3) if they subscribe to universal service under subsection 254 (c)(3). That subsection provides as follows:

(3) Special services. In addition to the basic services included in the definition of universal service, as established by the Commission, special services may be provided to such nonprofit schools and libraries to assure that all students and teachers have access to quality classroom educational communications technology services. The term "special services" means services that are technology based, including but not limited to videoconferencing, computer networking, and interactive telephony services.

29 It is our intent that the term "nonprofit schools" include schools run by a religious order that has been incorporated as a nonprofit Public Benefit Corporation (Corporations Code §5110 et seq.) or as a nonprofit Religious Corporation (Corporations Code §9110 et seq.) that offers or operates a service to the functional education of students for religious purposes.
universal service under paragraph (1), the Commission may designate additional services for such support mechanisms for schools, libraries, and healthcare providers for the purpose of subsection (h).

Subsection 254(c)(1) describes what universal service is, and the considerations that are to be taken into account in defining the services that are to be supported by the federal universal service support mechanism. This subsection recognizes that the definition of services may evolve as a result of advances in telecommunications and information technologies and services.

Subsection 254(c)(1) appears to contemplate a set of service elements which 'make up' universal service, similar to what we have done with respect to the definition of basic service for residential customers. In addition to the service elements that are to be developed by the Joint Board and the FCC, the FCC under subsection 254(c)(3) can designate additional services that are to be supported by the funding mechanisms.

Although the FCC has not yet adopted what list of services can be provided at a discount to schools and libraries, we believe that, at a minimum, it will include the service elements that make up an MB line. In recognition that there should be access to advanced telecommunications services, discounted rates for switched 56, ISDN, T-1, and DS-3, or their functional equivalents, are a strong possibility as well. (See Telco Act, § 254(b)(6).) We will therefore adopt a program of discounts for qualifying schools and libraries in Rule 8 of Appendix B.

Qualifying schools and libraries shall be entitled to discounted rates for all MB, switched 56, ISDN, T-1, and DS-3 services, or their functional equivalents.\footnote{30 Whether or not a service is the functional equivalent of the named service shall be determined when the tariff sheets are filed.}
regarding which services should be discounted, we will review those rules for consistency with the rules we adopt today.

The DRA's suggestion for calculating the rate for schools and libraries is not feasible given the residential focus of the proxy cost models. Instead, we will set the discount rate for schools and libraries at 50% for all T1, ISDN, T-1, and DS-3 services, or their functional equivalents. Carriers who plan to offer these types of services shall file appropriate tariff sheets showing the discounted rates for schools and libraries for these services. If carriers who serve qualifying schools and libraries with these discounted services will receive a subsidy amount that represents the difference between the tariffed rate for businesses for such services and the tariffed discount rate for schools and libraries, or if the schools and libraries cannot negotiate a better rate than the tariffed discount rate for these services with joint individual carriers, a discount of 50% off that negotiated rate shall apply.

We believe that our discounted rate is appropriate and necessary to ensure that schools and libraries can afford access to these services. By providing for these discounts, the students, the community, and society as a whole benefit as well. As discussed later, the discounted rate also allows schools and libraries to be in a position that will make them early beneficiaries of advanced telecommunications and information services.

For example, if the tariffed rate for DS-3 service was $1000 per month, the tariffed discount rate for schools and libraries for that service would be $500. If the school or library is able to negotiate a lower monthly rate of say $400, the carrier would be entitled to a $200 subsidy. The school or library would end up paying the carrier $200 for the DS-3 service.
With respect to health care providers, the Telco Act provides that only those which serve persons in rural areas can obtain a rate that is reasonably comparable to rates charged for similar services in urban areas. Although the rate charged for rural health care providers is to be comparable to rates charged for urban counterparts, we believe that the issue of reasonably comparable rates for rural health care providers should be deferred until the Joint Board and the FCO have an opportunity to address this issue.

We agree with DCA that the Telco Act intended to create a different rate discount for rural health care providers than the rate discount for schools and libraries. No one, however, submitted any evidence in this proceeding about what is a reasonably comparable rate. Should the Joint Board and the FCO have had an opportunity to address this issue, we believe that it would be reasonable to implement a discounted rate for rural health care providers, municipal and county government-owned and operated hospitals and clinics.

Such a program is consistent with AB 3643, which mandates that health care and government institutions be positioned to be early recipients of the benefits of the information age. These qualifying hospitals and health clinics shall be entitled to a 20% discount off of the tariffed rate for switched 56, ISDN, T-1, and DS-3 services, or their functional equivalents. Carriers who plan to offer these discounted services to municipal and county government-owned and operated hospitals and clinics shall file appropriate tariff sheets showing the discounted rate for these services. Carriers who provide such services will receive a subsidy amount that represents the difference between the tariffed rate for businesses for such services and the tariffed discount rate for municipal and county government-owned and operated hospitals and clinics. As is the case for schools and libraries, if the parties can negotiate a
lower rate than the tariffed discount rate; and discount of 20% off that negotiated rate shall apply. These rates and discounts are

The advocates' suggestion that discounts be given to qualifying CBOs in low-income and non-English-speaking communities, especially in rural areas, was not sufficiently considered by the Act.

Advocates also noted that the rural areas that are served by the CBOs and the CBOs themselves are often not the best positions to take advantage of the benefits of the information age and promote access to the Internet technology and information infrastructure throughout the state. Since there is no specific provision in the Telecommunications Act that mandates discounts to CBOs, we will develop the following rules. In order to qualify for the CBO discount, a CBO must provide a written commitment to provide proof at the time of application that it is a tax exempt organization. This CBO must also certify that it offers health care, job training, job placement, or educational instruction to its clients. This latter requirement ensures that the discounted telecommunications services are being used to directly or indirectly benefit the public at large, and that the discount is not being used simply to reduce the CBO's telecommunications expenses.

The definition of a qualified CBO also imposes a limit on the number of CBOs which can take advantage of this program, which in turn minimizes overall funding costs. The discounted services that shall be made available to qualified CBOs are limited to a total of up to 56 switched lines or their functional equivalents. The qualified CBO shall be limited to a total of two switched ISDN lines or their functional equivalents, or the equivalent to an ISDN line.

A "tax exempt organization" shall refer to an organization described in Section 501(c) (3) or 501(d) of the Internal Revenue Code, Title 26 of the United States Code.

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32 A "tax exempt organization" shall refer to an organization described in Section 501(c) (3) or 501(d) of the Internal Revenue Code, Title 26 of the United States Code.
equivalents, or two ISDN lines or their equivalent, or one switched 56 line or its functional equivalent, and one ISDN line or its functional equivalent, or one T-1 or its functional equivalent, at the discounted rate.

The discount for qualified CBOs shall be 25% off the tariff price for switched 56 of ISDN and T-1 services, or their functional equivalents, offered to businesses. Carriers offering switched 56, or ISDN, and T-1 services, or their functional equivalents, shall file tariffs reflecting that qualified CBOs shall be entitled to this discounted rate for CBOs are free to negotiate better terms with the carriers. If the CBOs can negotiate a lower rate than the tariffed discount rate for such a service, then a discount of 25% off that negotiated rate shall apply.

In any case, the monthly rate for each qualified CBO shall be no less than the rate that would be available for such a service.

Funding of these discount programs for qualifying schools and libraries, municipal, and county government-owned and operated hospitals, and health clinics, and qualifying CBOs shall be through the California Teleconnect Fund. We will initially fund this program at $50 million per year, with $5 million of the $50 million shall be for the qualifying CBOs, $5 million for municipal and county government-owned and operated hospitals and health clinics, and the remaining $40 million will be set aside for qualifying schools and libraries. If the monies for the CBO and hospital and health clinic discount programs are not exhausted during the first year, that money shall be available to fund the discounts for schools and libraries in the subsequent years. To facilitate this, the first year's funding for the schools and libraries portion of the California Teleconnect Fund has been set at $40 million. We believe that this fund is sufficiently sized to connect all qualifying schools and libraries to the nation's telecommunications infrastructure. This estimate is based upon DRA's estimate that California has approximately 1000 libraries, and approximately 7800 public schools and 4100 private schools.
program would provide $258.40 per month in subsidy for each of the estimated 12,900 institutions. The SB 600 Task Force estimated that connection of a 56-kilobit circuit and a frame relay connection plus ongoing costs to serve each public school would cost approximately $8 million a year. The California Teleconnect Fund will provide significant discounts when matched by school and library resources. It will also enable these institutions and the population they serve to benefit from the advanced telecommunications services that are available.

First year funding for the CBO portion of the California Teleconnect Fund is set at $5 million. If we assume that the CBO can be connected for approximately $1000 per year per line (not that each CBO has two such lines) the California Teleconnect Fund could provide discounts to over 10,000 qualifying CBOs.

Initial funding for municipal and county government-owned and operated hospitals and health clinics is set at $5 million.

Even if we assume that it costs $10,000 to connect such entities, the size of the fund will enable 2,500 of them to be connected and rather than to wait to see what the FCC does with respect to rural health care providers, we believe that this discount program should begin as soon as possible so that these kinds of qualifying hospitals and health clinics can reap the full benefits of advanced telecommunications.

The California Teleconnect Fund shall be funded in the same manner and upon the same billing base as the CHCF. As discussed later in this decision, we will require that this California Teleconnect Fund be given separate line-item treatment so that the funding for these discount programs is made.

If we encounter any problems derived from this decision, programs be ready for the direct funding of the discount services.

explicitly. This is a change from the August 25, 1996, proposed decision wherein it was recommended that the discount program be funded through the CHCF.B.. We believe that this discount program which brings connectivity to selected types of qualifying entities, should be separate from a fund which is targeted at making telecommunications services in high-cost areas available and affordable unless otherwise called for. It is our recommendation that the California Teleconnect Fund be based on an initial funding level of $50.25 million. We estimate the initial surcharge level for this fund to be 0.414%. This surcharge shall be adjusted annually by the Commission to ensure that the proper funding level is maintained.

The surcharge that we adopt today for the California Teleconnect Fund is based on an initial funding level of $50.25 million. We estimate the initial surcharge level for this fund to be 0.414%. This surcharge shall be adjusted annually by the Commission to ensure that the proper funding level is maintained.

The California Teleconnect Fund surcharge shall become effective with the billing cycles that begin on February 17, 1997. Beginning with the billing cycles that begin on February 1, 1997, carriers shall mail bill inserts notifying customers of the California Teleconnect Fund surcharge. This bill insert notice may be combined with the CHCF-B bill insert notice.

The Telecommunications Division staff shall monitor the size of the California Teleconnect Fund over the course of the coming year and annually thereafter! The staff shall notify us when half of the monies allocated for these discount programs has been appropriated, when 3/4 of the allocated monies have been appropriated, and when all of the allocated monies have been spent. The staff shall also keep us informed as to whether adjustments to the funding levels might be needed. No additional monies beyond what has been allocated for these programs is authorized at this time.

It is our intent that the above-described discount programs be used for the direct benefit of the qualifying entities and the population that they serve. To that end, the Telecommunications Division shall conduct a workshop within 60 days to discuss what type of reports qualifying entities may have to
This workshop may be held in conjunction with the workshop described in the next paragraph. Furthermore, none of these discounted services may be resold to or shared with any other non-qualifying entity or person.\footnote{This footnote is not included in the natural text.}

In order for the carriers to claim reimbursement from the California Teleconnect Fund, the carriers will be required to file a monthly report with the Telecommunications Division in a format to be prescribed. Among the items the report shall contain are the number of qualifying institutions or organizations in each of the discount programs, and the amounts the carriers is seeking reimbursement for. The Telecommunications Division staff shall conduct a workshop within 60 days to develop a uniform reporting format.

As we noted earlier in this decision, the information the superhighway is made up of many different interests and industries. In our capacity, we can provide the onramp to this highway at a discount. However, to make this highway accessible to all, and to ensure the success of this discount program, the telecommunications industry, computer and software manufacturers, and the information providers, must all take the lead and provide schools, libraries, hospitals, clinics, and CBGs, with the necessary equipment and services at no cost or at substantially reduced prices.

The California Teleconnect Fund is an important strategy in fostering the development of a state of the art infrastructure for California! In the Infrastructure Report to the Governor, the Commission outlined three principles upon which the infrastructure strategy was based. The first was innovation in the delivery and use of advanced telecommunication services. The second was to promote diversity in the range of choices among services and providers. The third was to ensure affordable, widespread access to California's public education networks and the resources tied to those networks. The California Teleconnect Fund embodies all three of these principles.
First, by providing qualifying schools, libraries, hospitals, health clinics, and CBOS with discounts, we will foster innovation in the use of advanced telecommunications services. By making these advanced services more affordable to these kinds of institutions and organizations, we will see the development of new uses for these technologies by both the users and the providers of such services. Furthermore, as carriers strive to meet the demands of these institutions and organizations, new and innovative services are likely to be developed.

Second, the establishment of a competitively neutral fund permits any telecommunications carrier serving an eligible institution or organization to draw from the fund. The fund enables a qualifying institution or organization in a competitive market to seek out the carrier that best fits its individual needs. Telecommunications carriers will also target these markets because of the additional buying power the California Teleconnect Fund engenders. These competing carriers will increase the availability of choices, and spur the deployment of additional network infrastructure to other customers. In addition, the fund engages.

Third, the discounts provided for by the California Teleconnect Fund will assist in ensuring affordable, widespread access to today's advanced telecommunications and information age technologies, at the schools and libraries, as a direct result of the fund. Just as the library provides materials to thousands of Californians, the California Teleconnect Fund will enable libraries to provide the public with access to these networks and resources as well. CBOS will also find it less costly to connect to the information superhighway, and provide their constituencies with access.

The California Teleconnect Fund also reduces the dichotomy between the information rich and the information poor.
The funding of telecommunications discounts to qualifying schools and libraries has the potential to provide all school children and library customers with access to the information superhighway. By providing qualifying CBOS with discounts for high-speed data broadband connections, these CBOS can better serve their constituencies and provide the communities they serve with increased access to the advanced telecommunications network, thereby decreasing the stratification between information rich and information poor communities. The provisioning of discounts to qualifying hospitals and health care facilities will also bring the benefits of advanced telecommunications to the very facilities that often are called upon to provide health care services to those who can least afford to do so or to do so alone.

The California Teleconnect Fund will also serve to develop infrastructure that will bring benefits to all Californians. This will be accomplished in three ways.

First, the funding of discounts for schools and libraries will increase the demand for these services, which in turn will fuel investment in infrastructure by the telecommunications carriers. For example, many schools tend to be located in residential areas. The increased demand for advanced telecommunications by these schools will attract additional telecommunications infrastructure, investment into these communities making the availability of advanced telecommunications to residences more likely. As users demand advanced services, more and more advanced telecommunications providers and CBOS are likely to develop many useful applications for these technologies. These applications will foster greater demand for these telecommunications technologies, which in turn will lead to greater investment.

Third, the enhanced availability of advanced telecommunications will lead to the development of a consumer base for advanced telecommunications services. By making these services available to libraries and schools, the potential market will grow.
widely available, consumers will be better educated and trained in the use of information technologies, and will be positioned to reap the benefits of the information age. The California Teleconnect Fund will bring the benefits of advanced telecommunications to more Californians quicker, and lead to the fulfillment of California's vision of an advanced telecommunications infrastructure that benefits all and reduces universal service costs.

To ensure that our rules are consistent with, and do not burden, the FCC's rules, the Commission's Telecommunications Division shall review and compare the FCC's adopted rules with the rules we adopt today. If there are any inconsistencies between the two sets of rules, or if the federal and state funding mechanisms or the FCC's rules do not allow these problems to be brought to our attention, the issue of health care providers serving rural areas will be taken up after the FCC has addressed this issue.

VIII. Funding of High-Cost Areas

A. Background

In D.95-07-050 at pages 7 and 8, we discussed the mechanics of how high-cost areas of the state have been funded in the past. We noted that, under the incumbent LECs can no longer rely on internal subsidies between high-cost and low-cost exchanges, and price differences between services, to help fund the cost of providing universal service in high-cost areas. Instead, of a single, monopoly provider responsible for providing universal service, there may soon be competing providers. As we noted in D.95-07-050, the funding mechanisms need to be redesigned to allow new market entrants access to universal service funds if they provide basic service to low-income customers or to high-cost areas. In addition, the mechanisms need to be changed to reflect the downward pressures on costs that competition should bring.

(D.95-07-050, p. 34.)
We laid the foundation for developing how to fund high cost areas in D.95.07-050 and D.95.12-021. The process for funding high cost areas of the state involves several steps, all of which have been the subject of much debate and controversy. The first step, which we have described earlier in this decision, is to decide on which service elements make up residential basic service. Those service elements form the basis of the costing information that is developed in the second step.

The second step is to determine approximately how much it costs to provide basic service to the entire state. This step involves the use of a proxy cost model to develop state-wide costs. Two proxy models have been presented to the Commission for consideration, the CPM sponsored by Pacific, and the RPM sponsored by AT&T and MCI.

The third step is to determine what the cut-off point, or benchmark, should be for deciding whether an area is high cost or low cost. The areas in which the proxy cost of providing service are at or exceed the benchmark would be deemed to be high cost areas and eligible for subsidy funding, and those proxy cost estimates which are below the benchmark would be considered low cost areas and not eligible for subsidy support.

The fourth step is then to determine whether any other sources of revenues which the carrier receives should be considered as offsets to the subsidy calculation. The fifth step is then to decide on the type of funding mechanism to be used. The sixth step is to decide whether any specific services or entities should be excluded from having to pay into the fund. The seventh step is to derive the surcharge amount. The final step is to determine what rates should be reduced in light of implicit subsidies being made explicit. In addition, there are some ancillary issues which need to be addressed, as well as other administrative details to consider, such as setting up the fund, and deciding who should administer the fund.
Some of the comments to the proposed rules in D.95-07-050 recommended that business customers in high cost areas should be included in the subsidy mechanism. In response to those comments, the assigned ALJ issued a ruling on February 21, 1996 directing the parties to include in their prepared testimony the additional costs associated with subsidizing business customers in high cost areas. Despite this request, none of the proponents of the proxy model included business customers in their modeling of costs.

2. Positions of the Parties

The Smaller Independent LECs object to the Commission's proposal to exclude business customers from the benefits of the universal service funding mechanism. They argue that failing to include businesses in the subsidy for high cost areas will have an adverse impact on the rural economies of the state. They argue that business customers will depart rural areas because of the higher cost of service, thus incurring costs of uncollectibility for the LECs.

The Smaller Independent LECs also argue that TU Code § 739.3 was designed to reduce the disparities between high and low cost areas and that the statute's goal applies to business customers as well as residential customers. Roseville also opposes the Commission's proposal to exclude business customers for many of the reasons articulated by the Smaller Independent LECs. In addition, Roseville contends that if there is no subsidy for the cost of business access lines, the Commission will need to adjust business rates to cost. In such a case, Roseville believes that the Commission needs to have hearings and provide notice to customers in connection with these rate increases.
Pacific's comments in response to D.95-07-050 disagree with the position of Roseville and the Smaller Independent LECs that business customers should be eligible for a subsidy. Although Pacific recognizes their concerns, Pacific states that including business customers in high-cost areas would increase funding requirements beyond the point of what a fund can bear.

For the evidentiary hearing, Pacific stated that because statewide averaged prices are currently mandated for business lines, business lines in high cost areas are being implicitly subsidized. Pacific proposed that until the Commission geographically deaverages prices for business lines, there should be subsidy funding for those areas where the costs exceed the mandated averaged price. However, according to Pacific's prepared testimony, it did not include any of the business service loop data in its model so that it could determine the required subsidy for business loops in high-cost areas.

3. Discussion

Although we requested parties to provide information on the cost of providing businesses in high-cost areas with services, no one presented any estimates of this cost during this proceeding. Due to this lack of information, and for other reasons, we state below, the CHCF-B fund should not include the costs associated with serving business customers in high-cost areas.

Pacific suggested in its comments to D.95-07-050 that if businesses in high-cost areas were included in the CHCF-B funding mechanism, the fund size would become too large. We agree with Pacific that in deciding whether basic service for business customers located in high-cost areas should be subsidized or not, we

34 We also refrain at this time from listing all the service elements that make up basic service for a business customer.
the Commission must weigh the cost of such a subsidy and the burden on ratepayers. Generally speaking, business customers tend to be more attractive to carriers than residential customers because businesses tend to make more toll and long distance calls. This attractiveness should lead multiple carriers to compete for business customers before similar competition reaches residential customers, resulting in lower prices for business customers. (See D.94-09-065, p.49.)

We decline to include in the CHCF-B fund the costs of providing telephone service to business customers in high cost areas, and we decline to include costs for service to those areas based on either the CHCF-B fund or the severe congestion.

C. The Small And Mid-Size LECs

1. Introduction

In D.95-07-050, at page 35, the Commission analyzed PU Code § 709.5, and stated that "Unless PU Code § 709.5 is amended to exempt the smaller LECs from local exchange competition, it is our belief that the redesign of universal service must apply statewide." It was from that point of view that we stated in D.95-12-021 that the proxy cost study should be developed for all of California. We also allowed the smaller and mid-size LECs to propose alternative proxy cost models in the event that the other models do not adequately reflect their costs.

There are currently seventeen smaller LECs, three mid-size LECs, and two large LECs in California.35

2. Positions of the Parties

AT&T/MCI note in footnote 3 of their opening brief that reform of the existing universal service funding mechanisms does

35 One of the three mid-size LECs, Contra Costa Electric LEC, Inc. (Contra Costa), will soon have its operations merged with GTBC (See D.96-04-053.)
not necessitate the immediate elimination of the existing CHCF for the smaller LECs. AT&T/MCI believe that a fund which addresses the need for subsidies for the large and mid-size LECs is sufficient to create a more competitive telecommunications market. 

Citizens' position represents the views of all its subsidiaries. Of the two proxy models presented in this proceeding, Citizens recommends that the CPM be adopted.

However, Citizens recommends that the CPM incorporate more company-specific data for the mid-size and smaller LECs. In this regard, the Commission should be left in place to handle the smaller LECs until they actually face competition and the new CHCP.

B. fund, has undergone actual use; and (2) incurred by each of the smaller LECs, as well as determining the extent of interstate access and universal service revenues received by the company. The GRCs will also determine the companies' and FOCs' intrastate access and toll revenues, and decide how the remaining portion of the actual, determined operating costs will be met.

In addition to the type of regulation that the smaller LECs are regulated under, the Small LECs point out nine other
distinctions between the large and mid-size LECs, and the smaller LECs.

1. Smaller LECs receive interstate Universal Service funding under rules that do not provide funding for Pacific Bell. 2. The smaller LECs have received support in the form of interstate dial equipment minutes to (DEM) weighting. 3. The smaller LECs have been classified as rural telecommunications carriers by the Telco Act, and are subject to different policies on universal service funding and competition. 4. The smaller LECs have accounting records to show their actual costs on a geographically specific basis, whereas the large LECs do not. Such records are necessary for the smaller LECs already have geographic specific, local rates. 5. The smaller LECs do not have extensive toll networks, like the larger LECs. 6. The smaller LECs are competing with the ISPS on the same scale as GTE and Pacific Bell. 7. Given the size and budget of the smaller LECs, the complexity and cost of dealing with the proxy models cannot be justified, and they are not sufficient to show actual costs on a geographic basis. 8. The Small LECs recommend that with respect to the smaller LECs, the Commission should conclude their pending rate cases that are currently under way. The Commission should make a finding on the desirability of the results of these determinations in those proceedings whether there is any need for intrastate universal service funding for the smaller LECs. 9. The Small LECs recommend that the Commission make a finding on the desirability of the results of these determinations in those proceedings whether there is any need for intrastate universal service funding for the smaller LECs. 10. The Small LECs recommend that the CHCF be left intact for addressing the high-cost element of and universal service issues in their territories. They state that except for the one-time recovery of FIRD impacts in 1995, the draws from the CHCF have not been significant, and that the smaller LECs do not anticipate that draws from the CHCF in 1996 and thereafter...
under the current rules, will be significant. They also contend that it will take some time before competition actually occurs in the smaller, rural exchanges. \[\text{\ldots}\]

The Smaller Independent LECs state that, as proposed, a high-cost voucher program may be appropriate for the larger LECs, who will need a new source of revenue to replace the internal subsidies that flow between high-cost and low-cost exchanges. However, the smaller LECs should be exempted from the use of a proxy model. Instead, their universal service funding requirements should be determined by reference to the actual cost data developed in their GRCs.

Roseville takes the position that the universal service funding requirements of the smaller and mid-size LECs should be determined from their actual costs, rather than from a model estimate. They use of a proxy model to estimate the amount of subsidies for the smaller and mid-size LECs should not be used until the adopted model's accuracy has been validated through the experience of GTEC and Pacific.

Roseville makes four arguments as to why the proxy model should not be used. First, Roseville contends that the errors in estimates for Roseville's costs will be magnified enormously by the CPM. Second, both models utilize only data derived from the large LECs. Third, there is no evidence that the two models reasonably estimate the costs of the smaller and mid-size LECs. Instead, there is substantial evidence which suggests that the models do not reasonably estimate these costs. And fourth, the models are unnecessary when the actual costs are available. The Smaller Independent LECs cite these three reasons as well in support of their argument that they should be exempted from the proxy cost modeling process.
**Discussion**

When we originally proposed our universal service rules in D.95-07-050, we felt that all carriers should be subject to the same universal service rules. "In light of the Telco Act," and for the other reasons discussed below, we have reconsidered that position.

**PU Code § 709.5(a)** states as follows:

It is the intent of the Legislature that all telecommunications markets subject to commission jurisdiction be opened to competition no later than January 1, 1997. The commission shall take steps to ensure that competition in telecommunications markets is fair and that the state's universal service policy is observed.

Subdivision (d) of **PU Code § 709.5** provides that the Commission "shall expedite its universal service proceeding so that whatever additional rules and regulations that may be necessary to achieve fair local exchange competition shall be in place no later than January 1, 1997."

The Legislature clearly intended that the local exchange market be opened to competition and that the rules and regulations regarding universal service be in place by January 1, 1997.

The broader issue raised by this code section is whether different universal service funds can be adopted for different size carriers. In light of the Telco Act, we believe that such an approach is permissible since the arguments made as to universal service were not limited to large users.

The Telco Act recognizes that certain LECs should be treated differently. The Telco Act specifically exempts certain rural telephone companies from resale, number portability, dialing parity, and interconnection obligations. These obligations

37 A rural telephone company is defined in Section 3(a)(2)(47) of the Telco Act.
will not apply to rural telephone companies until such companies have received a bona fide request from another carrier for interconnection services on network elements and the state commission determines that such request is not unduly economically burdensome, is technically feasible, and is consistent with Section 254 of the Telecommunications Act of 1996 (Telecom Act, § 251(f)).

As the Commission noted in D.91-10-031 (33 CPUC2d43) (CC 91), the smaller LECs will face much lower levels of competition than GTEC and Pacific. Local exchange competition may take a long time to reach the service territories of the smaller LECs. The Telecom Act appears to account for this as it exempts rural telephone companies from interconnection obligations.

Another reason why the smaller LECs should be treated differently is that the smaller LECs are currently regulated under rate of return regulation. The two large LECs, and the three mid-size LECs, are, or have requested to be, regulated under another incentive-based ratemaking framework. Under rate of return regulation, the Commission examines the revenues and expenses of the company. Due to the smaller LEC's size, it is relatively easy to determine what their actual costs of service are. We agree with the arguments of the smaller LECs that there is no need for a proxy model to estimate these costs. We would like to restate our comment to reflect this.

Another compelling reason as to why we should maintain two separate universal service funds is because the federal funding mechanisms for rural telephone companies may change in the future. These funding mechanisms are currently being studied by the Joint Board. Currently, the smaller LECs receive most, if not all, of
their universal service funding needs through these mechanisms.\footnote{At present, very little support is provided to the carriers through the CHCF- A. The Commission should wait to see what the FCC does with the federal funding mechanisms before deciding whether the smaller LECs should be treated, like the large and mid-size LECs.} For the above reasons, we will include GTEC\footnote{Pacific,} CTCC, Contel\footnote{and Roseville in the CHCF-B fund for determining universal service subsidy support in the 15 high cost areas.} and the 17 smaller LECs in the CHCF-A fund under the existing procedures.\footnote{As for the seventeen smaller LECs, we shall exclude them from the CHCF-B for the purpose of estimating their costs of service.} Instead, we shall continue to allow them to draw from the CHCF-A fund under the existing procedures. Once the FCC decides what federal universal service funding mechanisms should be in place, we shall revisit the smaller LECs and the CHCF-A fund.

If a bona fide request to enter a smaller LEC's service territory is received, the Commission will make a determination in accordance with § 251(f) of the Telco Act.\footnote{As shown in Appendix C, an adjustment to the CPM has been made to remove the 17 smaller LECs from the CPM board.} Currently, the FCC has not made a determination on what type of mechanism we should use to determine the high cost area subsidy support in such a situation. We are currently contemplating two possible options: the first is to compute the costs of providing universal service in the GSA areas that the competitor wants to enter using the smaller LECs' actual data.\footnote{In their comments to the PD, the Smaller Independent LECs recommended that the PD be modified to expressly provide for continued 100% funding of the CHCF-A beyond 1997. We decline to do so, as D/94-09-065 noted at page 259. CHCF funding beyond the completion of the GRCs will be dependent on the level of reasonably expected rates to allow [small and mid-size] LECs the opportunity to earn their authorized returns.} The other option is to conduct an auction to determine the level of

\footnote{As shown in Appendix C, an adjustment to the CPM has been made to remove the 17 smaller LECs from the CPM board.}
cost support needed. Since it is unlikely that a bonafide request to enter the small LECs' service area will be filed soon, we will decide how this situation should be handled at a later time.

D. The Coating Standards To Be Applied

1. Introduction

In shaping the development of the proxy cost models for use in the universal service proceeding, we have attempted to achieve some consistency with the TSRIC studies being developed in the OANAD proceeding. In D.95-07-050, we proposed that the subsidy should be based on the TSRIC of providing basic service to residential customers. (D.95-07-063, App. B, proposed Rule 6 A.3.) However, this joint arrangement proved impractical and in D.95-12-021, the Commission decided that an independent, proxy-based cost model should be developed in the universal service proceeding. It was left to the workshops to determine if a TSRIC methodology was appropriate for the two proceedings be performed jointly in the OANAD proceeding. (D.95-07-050, p. 54.)

In D.95-12-016, a decision in the OANAD proceeding, the Commission adopted a set of coating principles which the parties in that proceeding had agreed to. These coating principles are based on TSRIC, and have been referred to as the "consensus costing principles" or CCPs. The principles relevant to universal service are as follows:

Principle No. 1: Long run implies a period long enough that all costs are avoidable.

Principle No. 2: Cost causation is a key concept in incremental costing.

Principle No. 3: The increment being studied shall be the entire quantity of the service provided, not some small increase in demand.

Principle No. 4: Any function necessary to produce a service must have an associated cost.
Principle No. 5: Common costs, if any, are not part of a TSLRIC study, except for a TSLRIC study of the firm as a whole.

Principle No. 6: Technology used in a long run, incremental cost study shall be the least-cost, most efficient technology that is currently available for purchase.

Principle No. 7: Costs shall be forward looking.

This section will address the costing principles discussed during the universal service proceeding. We will focus on whether the least-cost technology and forward looking principles imply that new technologies, such as the use of a hybrid fiber coaxial cable (HFC) network, should be incorporated into the cost analysis.
Positions of the Parties

AT&T/MCI believe that the CCM should contain a number of fundamental concepts which govern how basic service costs should be determined. In accordance with that belief, AT&T/MCI evaluated the proxy cost models in terms of their consistency with the CCM.

AT&T/MCI argue that adherence to these principles means that (1) shared and common costs should not be included as part of the cost of universal service, and (2) the cost savings of HFC should be reflected in universal service cost studies.

AT&T/MCI contend that the cost model of Pacific's HFC network sponsoring should reflect the cost savings of HFC technology for providing basic service. AT&T/MCI's witness, Lee Selwyn, notes that in Pacific's Section 214 application, it filed a cost model for video dial-tone service. Pacific asserted that the HFC technology would reduce forward-looking costs by 36%. In a quote from an NTT Pacific's testimony in support of its Section 214 application, NTT Selwyn notes that Pacific stated that an HFC architecture leads to lower costs because: (1) it is a more efficient network design; and (2) that such an architecture will generate substantial operational cost savings; and (3) it is a multiple use network.

Pacific's Section 214 testimony also asserts that "The cost of analog telephony, only an HFC network would result in a capital cost saving of 36% per subscriber line, over conventional outside plant. [Exh. 7, p5 74.]" Selwyn argues that if the testimony provided by Pacific is supported by its Section 214 application is to be believed, "then the HFC architecture represents the least cost form of new network construction, and Pacific's CPM should incorporate the HFC architecture, in order to correctly model forward-looking incremental costs."
of the LECS' TSLRIC estimates using independent estimates of TSLRIC that rely on publicly available data and assumptions rather than proprietary LECS data and assumptions. 

Contel stated in its comments that the proposed mechanism for determining high-cost support requirements must include the TSLRIC of basic service, as well as a reasonable level of COLTATA contribution to the joint and common costs of the firms:

b) GTEC supports the use of forward-looking TSLRIC costs in the proxy cost models, but states that the model must be adjusted to account for overhead costs, which are not captured by a TSLRIC estimate. Failure to include a reasonable level of contribution would inadequately compensate a COLTATA contributor and probably overstate the impact of the forward-looking approach. 

GTEC argues that neither the AT&T/MCI model nor the Pacific model comes close to producing costs that reflect TSLRIC.

GTEC asserts that both models failed to compare the total cost of providing all services, including basic service, which is what a true TSLRIC study should have done. Instead, GTEC contends that the two models are a "hodge-podge" of cost concepts that estimate the replacement cost of today's network using only those technologies and engineering practices which were appropriate at the time. 

GTEC also argues that HFC technology is not appropriate as part of a forward looking cost study. Pacific recognizes that the goal of the Commission is to rely upon the TSLRIC cost studies in ANAD to help estimate the full cost of basic service. Pacific has also evaluated the cost models in terms of the CCPs. Contrary to the position taken by AT&T/MCI, Pacific believes that the cost of basic service should include some shared and common costs, in addition to the TSLRID.

Pacific also argues that HFC technology is not appropriate as part of a forward looking cost study. Pacific asserts that the HFC technology is only available at the beginning and will not be the primary serving technology for many years to come. Pacific also claims that its estimates of the HFC cost savings are based on a long-term view of the HFC network.
Pacific contends that the existing network should be the basis for any universal service cost study because that is the network that is actually being deployed and used.

In Roseville's comments to the proposed rules in D.95-07-050, it was opposed to the use of TSLRIC to estimate the cost of providing universal service. Roseville argues that TSLRIC fails to account for administrative costs, which are a legitimate part of providing universal service. Roseville recommends that in order to accurately determine costs, the Commission must include fully allocated costs.

**Discussion**

We believe that for the most part, we should follow the TSLRIC CCPs as the cost standard for the development of a proxy model. By this we mean that costs should be short-run in nature, the least cost technology that is being deployed today should be used, costs should be forward looking, and the costs should be fully allocated.

As we noted in D.95-12-021 at page 7, we did not anticipate that the proxy model, adopted in this proceeding, would be a pure TSLRIC model. For example, a pure TSLRIC model would not include shared and common expenses.

We do not believe that the forward looking and least cost technology principles mean that the purported cost savings of a HFC network should be incorporated into an estimate of basic costs.
residential service at this time. Notwithstanding Pacific's prior claim that HFC is the least-cost network for providing basic telephone service, we believe that more substantive experience with HFC is needed before we estimate the cost of providing universal service based on an unproven technology. We do not agree, however, with Pacific's view that a new technology must be deployed universally before it is incorporated into a universal service cost study. Instead, if it can be shown that such an architecture provides service to a significant number of residential customers, and that such architecture represents the least cost technology for providing basic residential service, then it should be incorporated into the cost model, avoided or.

B. The Competing Proxy Cost Model

Introduction of evidence at this point would not aid a balanced analysis. In D. 95-07-050; at page 50, we proposed that the costs for all the GSAs be developed by way of proxy cost studies, in part, based on existing proxy cost models. During the scheduled workshops, various models were discussed, but no agreement as to a particular model was reached. Since no agreement could be reached, new evidentiary hearings were scheduled to address all the proxy cost model issues. (See ALJ Ruling, February 21, 1996) This proceeding

Parties sponsored two proxy models for the Commission's consideration. AT&T/MCI sponsored the HPM, [41] The HPM is based in part on the Benchmark Cost Model (BCM) [42] Pacific sponsored the statewide CPM. [42] The BCM was developed for use at the FCC. The joint sponsors of the BCM are US West, NYNEX, Sprint, and MCI.

41 During the workshops in March 1996, Pacific had proposed using the CPM for its service territory only, rather than a statewide model. The statewide CPM was made available in April 1996.
In deciding which proxy model to choose, the parties have also taken positions on the size of the fund. AT&T/MCI witness Cornell testified that "in deciding the size of the fund, the Commission should not err on the higher side." She stated that if the Commission were to err on the high side, the long-term consequences are much more likely to be irreparable than if the fund is set too low. The recipients could then use the monies for anticompetitive behavior that the market cannot necessarily correct. (14 RT 1421-1422, 1424)

AT&T/MCI witness Selwyn testified that if the fund is oversized, that would be contrary to the goal of encouraging the development of competition. As Selwyn stated, "I think that as we move toward reliance upon competitive marketplace forces to replace the forces of regulation, you're going to have to be very careful in making sure that competition has an opportunity to develop and to provide the discipline in the market that regulation was formerly responsible for bringing up." (15 RT 1619-1620)

But if the fund is undersized, Selwyn believes that the recipients are still in a position to viably furnish the service, and to take any needed corrective measures, such as focusing on efficiency.

Citizens contends that the Telco Act directs that the universal service fund must be structured to assure quality.
services at just, reasonable, and affordable rates. The support mechanisms must also be specific, predictable, and sufficient. Citizens believe that the Commission should adopt a funding mechanism which will provide sufficient funds to assure that quality services are available to all potential users at just, reasonable, and affordable rates.

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The DCA believes that the Commission's CHCR-B fund should be narrowly defined, and specifically targeted, yet not too large or too small. According to GTEC, the market will be distorted if the fund is either too large or too small. GTEC believes that the Commission should establish a fund of the correct size. According to GTEC, that size is one which funds the difference between the local rate ceiling and a proxy measure of the market rate, based on

ICG cautions that in determining the size of the universal service fund, the Commission must be careful not to oversize the fund. Pacific does not believe that if the fund is oversized, the incumbent LECs will use the monies to subsidize the cost of competitive services. This will create a barrier to market entry, and the incumbent LECs will retain their market dominance.

Pacific agrees that there are risks to both oversizing and undersizing the fund. Pacific contends, however, that undersizing the fund runs the risk of disrupting telephone service to the high cost areas of the state, and that it will discourage facilities based competition in high cost areas. Contrary to what the AT&T/MCI witnesses believe will happen if the fund is oversized, Pacific argues that it must still abide by the competitive safeguards that are still in place. Pacific asserts that with these safeguards, anticompetitive conduct cannot occur.

b. Discussion

In deciding which proxy model to adopt, and what estimate of universal service the Commission should adopt, we must be vigilant that the fund is neither oversized nor undersized. If it is oversized, the subsidy provided to carriers will exceed the
actual cost of subsidizing residential basic service in high cost areas. This will allow recipients of such funds to compete subsidize other services and to engage in other anticompetitive behavior. Oversizing the fund will deter new carriers from entering all markets because of the recipients' ability to subsidize the prices of certain services. The danger in undersizing the fund is that the ability of carriers to serve high cost areas may be impaired.

Our approach to deciding which model to adopt and the results produced by the models have been guided by this cautious attitude. Recognizing the disparity between the results produced by the competing models and the respective interests of the model proponents, and other interested parties, we have crafted a fund which some may think is oversized, while others may think is undersized. But one which we think is appropriate in light of all the evidence. The CHCF-B that we adopt is appropriately sized to encourage competition in all markets, while at the same time preserving and promoting universal service throughout the state.

3. The Two Proxy Models

The Two Proxy Models are one of the primary innovations of the [CPM][1]. One of the primary innovations of the [CPM][1] is the use of a grid cell pattern to locate customers. These grid cells are used to identify customer locations within 1/100th of a degree of longitude and latitude (roughly 1/4 mile). The quantity of facilities are also estimated by measuring the distance between the center of the grid cell and the central office. The [CPM][1] was developed by Pacific and its consultant, INDETECT. The [CPM][1] can estimate residential service costs on a large number of geographical bases, including the CBSO and wire center.

Pacific presented two versions of the [CPM][1] during the workshops in this proceeding. The proprietary version relies on precise and detailed information about Pacific's customers while the statewide version relies on more general, commercially available data. About 9,000 subscribers were analyzed to estimate costs for the entire state to be used.

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The density of a given household is the density of the house, the distribution plant to be used, and the feeder plant to be used within the household to identify the density of the wire center to identify the feeder plant to be used. The cost inputs—engineering and financial assumptions of the CPM—are based on Pacific's practices. Some of this underlying cost data, specifically the switch and pair gain investments, are proprietary due to agreements with vendors. Pacific used operating expenses and per unit capital costs from its OANAD cost studies. The allocation of shared and common costs was performed by using a specially modified version of Pacific's Profitability Index (PI) model. The operating expenses for the service areas served by other LECs were estimated using the relationship between Pacific's per line operating expenses and the other LECs' operating expenses. Pacific contends, that the CPM is the best available model for estimating the cost of providing residential service. Pacific asserts that the CPM's geographic division of the state is more reliable than the HPM. Pacific also argues that the CPM has been designed by experienced network engineers. In addition, Pacific contends that the CPM produces TSLRIC estimates that are consistent with the OANAD proceeding. Finally, Pacific argues that the Commission should adopt the CPM because it can be adapted to suit the Commission's needs. The model is consistent with the data being formulated by Citizens, DRA, and GTBC in support of the use of the CPM model. Citizens supports the use of the CPM because the model is consistent with the data being formulated by Citizens and the other LECs. Citizens also points out that the CPM's use of grid cells more accurately estimates costs in rural areas and that the CPM is more readily adaptable than the HPM.
suggested that more company-specific data be used for the smaller LECs' territories. DRA believes that the Commission should use the CPM because: (1) it is easier to use than the HPM; and most of the inputs and assumptions can be changed in the CPM; (2) the CPM's input costs and assumptions are more easily verified than the HPM; and (3) the CPM relies more on California-specific numbers than the HPM. As discussed later in this decision, DRA recommends several specific modifications to the inputs and assumptions of the CPM:

- Regarding utilization factors: fiber/copper feeder cut-off, CFI, calculation of drop costs, costs for cable and conduit placement, and depreciation rates.

GTEC supports the use of the CPM with modifications because it believes that the CPM's estimates are closer to actual cost estimates than the HPM. The CPM also reflects the least-cost means of serving customers today. In addition, GTEC contends that the CPM is flexible because it can use company-specific data or general data. The model can also process information on a grid, cell, census block, or wire center level. GTEC recommends a series of modifications to the CPM. These include the following suggestions:

1. Classifying wire centers based on the number of lines served;
2. An external process for developing non-company specific/unique cost inputs and standards; and
3. A new copper/fiber feeder cut-off of 12,000 feet. GTEC also suggests investigating some further modifications such as using carrier records to determine business wire and additional residential line counts.

b. The Hatfield Proxy Model

The HPM is based on the BCM. The HPM uses the BCM to estimate the capital cost of providing the residential local loop. The HPM departs from the BCM by: (1) adding the cost of certain critical network components, such as the drop and terminal; (2) calculating maintenance expenses using plant specific factors; (3) replacing the switching module with a new one; and
explicitly accounting for billing and collection, and white page listing costs. In addition, the HPM modifies some of the
user-changeable inputs such as the distribution fill factors.

The HPM Relies on a variety of sources for its extensions to the BCM. For additional network components, the HPM relies on selected portions of the incremental cost studies from other jurisdictions. For plant-specific expense factors, the HPM relies on historical relationships between LEC investment and maintenance expenses. Generally, the HPM uses historical California LEC cost relationships. However, for switch repair and maintenance costs, the HPM uses historical relationships from the New England Telephone Company (NET). For switching costs, the HPM relies on published information and industry expert opinions.

Issues of the AT&T/MCI contend that the HPM is competitively
neutral. AT&T/MCI point out that the HPM bases its cost
assumptions on a number of sources rather than the historical
experience of any single incumbent LEC. It is also consistent with
TSLRIC costing principles because it reflects the costs an
efficient, cost-minimizing competitor would incur. AT&T/MCI also
argue that the HPM has been approved in other jurisdictions, such
as in the state of Washington. They also contend that the HPM is
adaptable: issues of the BCM compel the use of published information and industry expert opinions.
Discussion

It would have made our task much easier if the two models produced similar results. Unfortunately, the outcomes of the two models are quite extreme. As a result, we have to analyze both models, and decide which model is better suited for developing the cost of providing basic service throughout the state.

To evaluate the two models, we examined a number of criteria. These criteria are based on our discussion of proxy models in D.95-12-021; and the criteria applied by DRA. (Ex. 109, p. 3-2.) These criteria are: (1) the ability to estimate costs for the entire state on a CBG basis; (2) the degree to which the design of the model can accurately reflect costs; (3) the openness and accessibility of the model to changes in assumptions and inputs; (4) the ability to model costs based on today's placement of technology; (5) the ability to model the proposed definition of basic service and subsequent changes to this definition; and (6) the verifiability of inputs and assumptions. In evaluating the two models, more emphasis has been placed on the model's design and the ability to change the inputs and assumptions rather than the inputs themselves.

Can the Model Estimate Costs for the Entire State on a CBG Basis?

The purpose of choosing the CBG as the GSA for determining the subsidy is to reduce the cost averaging that would occur if a larger GSA was used. The Commission first proposed that the costs to serve an area in D.95-07-050. This designation was subsequently reaffirmed in D.95-12-021.

For exact identification from the CBG. Since the population is not evenly distributed throughout the CBG, the CBG is divided into smaller areas for further analysis. This approach allows for more accurate measurement of costs to serve the CBG. D.95-07-050 also proposed that a COLR be required on a CBG basis.
Both models can produce costs for the entire state, but only the CPM can generate cost data for the entire state on a CBG basis. The HPM does not generate output on a CBG basis, but instead output is generated by density zones. The CPM is also capable of generating cost on a wire center basis or some other grouping. The BCM apparently has this capability, but the designers of the HPM appear to have eliminated this capability from their model (See: R.T. 1987-1988). No specific evidence on this point was offered during this proceeding, and parties, especially GTEC and the Small LECs, have identified design flaws in both models.

GTEC has identified a number of design flaws with the BCM, which have not been addressed by the HPM. Many of these structural flaws have been recognized by the joint sponsors of the BCM. Some at the close of hearings were attempting to correct them. It is unclear whether the joint sponsors will be successful in their ongoing attempts to improve the BCM. It is also unclear whether the sponsors of the HPM will embrace the revised BCM. The primary problems as identified by GTEC are the following: (1) the BCM assumes that the population is evenly distributed within the CBGs; (2) the BCM assumes that the cost of placing facilities is linearly related to the cost of materials; and (3) the BCM assumes that the CBGs are squares. Each of these items are discussed below. Neither is accurately even throughout the CBG. The BCM assumes that the population is evenly distributed throughout the CBG. This assumption is not accurate for rural areas where the population tends to be clustered around roads and the towns. Consequently, the BCM would tend to overestimate the cost of serving less dense remote areas, all else being equal. The joint sponsors of the BCM have recognized this
deficiency. With the BCM model at the time hearings concluded, we were modifying the model to correlate the population with the road pattern in these less dense areas. The CPM's grid cell design avoids this problem by identifying the location of population in a more precise manner. In doing so, the BCM model identified an area out of proportion. The BCM assumes that structure costs vary in direct proportion to the costs of those facilities. This means that a discount on material costs, for example, copper cable, will lead to a corresponding drop in the supporting structure costs. This also means that the model incorrectly assumes that the costs of placing facilities will vary with the size of cable. For example, the BCM assumes that a cable one quarter as much as the standard cable will cost roughly one quarter as much as the standard cable and will require a trench one quarter as deep. The joint sponsors of the BCM have recognized this problem as well, and are working to correct it with an additional adjustment.

The HPM attempts to rectify this problem by incorporating the installation factor for facilities in these two lowest population density zones. This installation factor adjustment represents somewhat of an ad hoc solution. It fails to address the deficiency in the more densely populated areas. The CPM addresses this problem by separately identifying costs for separate facilities placement from their cable costs; and separating per foot and per pair cable costs.

In rural areas where CBGs can be quite large, the BCM assumes that copper distribution plant can serve the entire interior. It is unclear whether the BCM allows for sufficient electronics in the distribution plant to ensure that these households could actually receive telephone service from the network as modelled. This deficiency has been recognized by the developers of the BCM. It was noted...
By relying on a regularly shaped grid, the CPM avoids creating this artificial geography and its attendant difficulties. In turn, drives the switching costs; and the application of unit costs to feeder plants. According to GTEC, classification of lines by density, instead of by wire center size, fails to take into account the economies of scale by wire center size. In contrast, the HPM uses actual, central office line counts to determine the number of lines served by the central office. This type of categorization is not necessarily problematic, but, caution must be exercised to ensure that the inputs from the tables are consistent with the base data which was generated; the tables. The BCM appears to be a more self-contained model, but some pre-processing of data is also necessary.

Another weakness of the CPM is that it gathers inputs from a series of tables. Much of the modeling of the network has already been performed at a lower level to generate the data to populate these tables. This design is not necessarily problematic, but caution must be exercised to ensure that the inputs from the tables are consistent with the base data which was generated; the tables. The BCM appears to be a more self-contained model, but some pre-processing of data is also necessary.

One of the primary advantages of the BCM is that it allows for the sharing of feeder cables between CBGs on the same feeder route belonging to the same wire center. According to AT&T/MCI's witness, Mercer, this produces an accurate depiction of the distribution network associated with each wire center. In the BCM, the commission has attempted to allocate for all significant deficits in the network. Moreover, the BCM provides for some target deficiencies in the network. The Telecommunications Division staff responsible for reviewing the CPM was formerly organized within the Commission's Advisory and Compliance Division (CACD).
allows for the gradual tapering of feeder plant as it extends from the central office. This allows CBGs more distant from a central office to share some of the economies of scale they receive by being served by a large central office building. 

The CPM does not contain an explicit method for accounting for the sharing of feeder cable by households served from the same wire center. The tapering effect is simulated by averaging segments of distribution plant used to serve sample loops. The CPM attempts to account for this through averaging. It is unclear, however, whether this process is sufficient.

Consequently, the CPM may tend to exaggerate the cost of feeder plant in less dense areas served by large central offices.

Although both models have their flaws and reflecting costs, the CPM's shortcomings appear to be more easily resolved than those of the HPM and BCM. Service based models (of which the HPM and BCM are examples) are more likely to reflect the tapering effect.

Is the Model Open and Accessible? Can the Commission change inputs and assumptions? 

AT&T/MCI assert that the HPM is an open and flexible model. While the HPM's extensions of the BCM are open and flexible, the underlying inputs and assumptions in the BCM model are not. By contrast, Pacific claims that many of the assumptions of the HPM and BCM are not user changeable. The fiber/copper cut-off, the cable multipliers and

Certain critical assumptions and inputs to the BCM cannot be changed by the user because: (1) they are locked, and (2) changes are restricted by copyright. Pacific points out that many of the assumptions of the HPM and BCM are not user changeable.
the mix of aerial, buried and underground plant are all fixed. However, in the CPM, all similar assumptions are user changeable. As Pacific points out, the BCN is a proprietary model which can be modified by the joint sponsors, but not necessarily by the Commission or even the HPM's sponsors in California.

The sponsors of the models spent a great deal of time evaluating the models to determine how well the models conformed to the CPM. The CPM is consistent with the CCPs. They maintain that the HPM reflects efficient technology under a long run planning horizon for the entire demand of residential basic service. AT&T/MCI contend that by separately identifying certain structural costs, the HPM is able to separate the costs caused by providing basic service from other loop based services. AT&T/MCI also claim that the HPM appropriately includes overheads and excludes common costs. In contrast, AT&T/MCI argue that the CPM violates CCP 4 because it: (1) uses historical expenses from 1994; and (2) incorporates shared and common costs.

Pacific argues that its implementation of the CPM is consistent with the CCPs. The CPM is a 'sophisticated model' which assumes the current LEC switchtopography. Pacific contends that the CPM uses forward-looking assumptions, and includes the entire demand for service.

45 MCI/AT&T's witness Selwyn asserts that the fiber/copper crossover point in unchangeable in the CPM. However, GTEC and DRA did not encounter this, and were able to make this change in the CPM.
Pacific argues that the HPM should not be used because it violates certain TSLRCO principles. According to Pacific, the HPM fails to acknowledge the existing topology of the network by misassigning wire centers. In addition, the HPM does not account for all costs caused by basic service, and understates costs, to such an extent that it fails to identify associated costs. In addition, Pacific argues that the HPM is not forward looking because it estimates operating expenses based on the relationship between embedded investment and expenses.

Both the CPM and HPM are designed to model the costs of providing basic residential service using today's placement of technology. Neither model is well suited to account for new technologies, such as a HFC network or wireless technologies. Neither of those two technologies are currently being used to offer basic residential service on a wide scale in California, however. Both the HPM and CPM use a scabbed node approach whereby the current topology of central offices is assumed. The models are provisioned with facilities as they would be deployed today.

Both models rely on historical LEC data to predict forward looking maintenance and repair costs. For some repair and maintenance expenses, the HPM applies a factor derived from the historical relationship between plant investment and repair expenses to the forward looking investment estimates generated by the BCM. For other operating expenses, such as network operations, the HPM adds a fixed per line expense based on historical data. In this respect the HPM differs from the BCM which uses an investment/expense factor for all operating expenses. The CPM uses Pacific Bell's 1994 per line maintenance and repair expenses, adding a fixed amount per loop. Some adjustments are made to reflect the forward looking model assumptions, for example, maintenance of analog switches is excluded. As with other operating expenses, the CPM estimates
Both the CPM and the HPM make efforts to produce forward looking costs. However, the selection of the models was not determined by the forward looking nature of the cost estimates. Consequently, the design of the HPM could not validate the data contained in the BCM or respond to questions about how the BCM worked. This difficulty is compounded...
by the fact that the BCM's inputs are not readily comparable to other data sources. For example, GTEC claims that the BCM's structure factor is in such a form that a company cannot "compare on these costs to its own experience," given cited parallels to those on

The HPM extensions to the BCM frequently relied on unidentified experts, rather than any concrete source. For example, in response to a DRA data request; Hatfield Associates indicated that they relied on informal conversations with a person from a major switch manufacturer to identify switching costs. In addition to switching cost adjustments, several types of network costs, such as the network interface device, digital loop carrier, equipment capacity, and switch installation, were based on informal, undocumented conversations. [HPM Document] At this point, the

During the proceeding, DRA illustrated that the origins of many of the HPM's inputs were unclear. The HPM had to add certain critical network components, which were not included in the BCM. For example, the HPM uses drop costs from a NET study, yet AT&T/MCM's witness could not explain how those costs were derived. Pacific also questioned whether the NET study is a TSL/R study, defined by the Commission's CCPs, noting it was

Pacific's own data. However, Pacific's reliance on pre-existing models in implementing the CPM complicates the verification of input data. For example, the A & B costs in the CPM are derived from Pacific's PLAN COSTDEC model; switching costs are derived by the Switching Cost Information System (SCIS) model, and shared and common costs are allocated using a specially modified version of the PI model. Each of these models are highly complex on their own, and this makes it difficult to verify the reliance on Pacific's own data and underlying models is a defect; however, with effort, the data underlying the CPM can be identified. This is not true of the HPM, since the HPM's dependence on unidentifiable sources presents greater problems.

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Using the criteria above to evaluate the two models, we conclude that the CPM is a more appropriate model for estimating the cost of providing basic service in California. The CPM can model costs for the entire state on either a CBG or wire center basis. The CPM's grid cell design is more conducive to an accurate representation of costs than the HPM's design. In addition, the CPM is more open and accessible to changes in assumptions and inputs. Also, the assumptions and inputs in the CPM are more easily verified than in the HPM. For these reasons, we will adopt the CPM as the proxy model to develop the cost of providing basic service to all residential customers in California.

F. Recommended Adjustments to the CPM

Introduction

We have adopted Pacific's CPM in order to calculate the cost of providing basic service on a CBG level. With Pacific's original inputs and assumptions, the annual statewide subsidy amount totals $1.7 billion, of which it is estimated that $1.3 billion would go to Pacific. Initially, we adopted Pacific's CPM. The parties recommend that adjustments be made in order to change inputs which the parties believe lead to an overstated subsidy. For the most part, these changes affected the inputs and not the structure of Pacific's model. In some cases, a slight change to the model structure itself was recommended. The changes covered the number of lines to be subsidized, drop costs, cable and conduit costs, the fiber feeder cut-off, fill factors, depreciation rates, reordering of switches, the outside plant factor, switching costs, shared and common costs, rearrangement expenses and the nonrecurring burden. There were several recommendations regarding changes that should be made in the CPM. These changes included:

1. Adjusting the number of lines to be subsidized.
2. Accounting for the drop costs.
3. Adjusting the cable and conduit costs.
4. Reordering the switches.
5. Adjusting the outside plant factor.
6. Adjusting the switching costs.
7. Adjusting the shared and common costs.
8. Adjusting the rearrangement expenses.
9. Adjusting the nonrecurring burden.

These adjustments are intended to improve the accuracy of the CPM's estimates and provide a more realistic picture of the cost of providing basic service in California.
We have adopted overall adjustments which total to $1.116 billion. This section details all of the recommended changes. Appendix C summarizes these adjustments, in more detail describing the impact of the changes to the model, the effect of each change is described in isolation, to not highlight the overall effect.  

2. How Many Lines Should be Subsidized?  

a. Introduction  

The statewide CPM, as sponsored by Pacific, includes the cost of second lines in its subsidy calculation. As testified to by several of the witnesses, the subscriber rate for second lines for Pacific's customers is approximately 17%. The issue in this section is to decide how many lines in high-cost areas should be subsidized by the fund, as well as to notionally subsidize carriers in areas lower than 17%. 

b. Positions of the Parties  

AT&T/MCI, and all the other members of the Coalition, argue that only the primary line to a household should be subsidized. According to the Coalition, additional access lines do not satisfy the definition of universal service under federal or state law. 

Citizen's agrees with AT&T/MCI witness Cornell that only the primary residential line, i.e., one line per household, should be included in the cost of universal service. 

46 The numbers shown in Appendices C, D, and E vary from what was originally proposed in the August 5, 1996 proposed decision, because of changes made in light of the comments to the proposed decision, and because of the issuance of D.96-08-021 relating to CPE.  

47 AT&T/MCI witness Cornell considers a household to be a situation where a person or persons live separately from others, even though they might reside in the same dwelling. Cornell's definition is virtually identical to Pacific's witness Mitchell's definition that a household is an unrelated, separate group or individual living separately, even if living in the same dwelling.
DRA takes the position that all residential lines in high cost areas should be subsidized. DRA believes that all of the lines should be subsidized because there is no rate difference between the first line and any subsequent lines. Subsidizing all lines also increase the utilization of the network. In addition, by subsidizing all lines in high cost areas, it encourages facilities based competition because carriers would be competing for the first line, as well as subsequent lines. DRA also agrees with Pacific's argument, that primary lines are more costly when they are separated from the total cost of access lines, so to recover that cost DRA agrees with GTEC that if a distinction needs to be made between first and secondary lines, that it would place carriers in the difficult position of making judgments as to what constitutes a household, and it would create a need for exchange of information among the various carriers. Such an exchange process would be difficult, and involve the exchange of proprietary customer information. GTEC recommends that there be subsidy support for both primary and secondary residence lines because there is no tariff distinction at present between first and subsequent residence lines. GTEC points out that supporting secondary lines would permit access to information services on the secondary line, such as an Internet provider, without interfering with the use of the primary line. If additional lines are not supported, GTEC contends that it will be necessary for prices to rise to market levels for second lines. If only one line per household is to be subsidized, then there must be a definition of a household that can be reasonably applied so that the COLR is not in a position of having to determine whether the customer constitutes a separate household, or not. GTEC believes that the support of a single line will cause administrative difficulties, and that
customers will construe the definition in a way that serves their own interest so that many second lines will end up being supported.

In testimony, a Pacific witness, Mitchell, testified that the subsidy should be made available for one basic service line per residence and that the pricing of additional lines should be based on the market. According to Mitchell, this keeps the subsidy fund relatively reasonably scoped, and assists with the transition from regulatory pricing to economic pricing. If the Commission restricts the price of additional lines, then it must provide a vehicle to recover the full cost of those additional lines.

The solution that TURN takes is the position that the fund should only support for the first subscription for telephone service. TURN argues that, the first connection is far more essential than any additional subscriptions. The first subscription enables a family or household to receive calls, complete local calls, and provides access to toll service.

Additional subscriptions are a separate and distinct service, and generally provide the household with additional convenience.

The primary line only would not create any undue administrative burden. A customer in a high-cost area would merely need to certify that of his only has one primary line serving that household. If TURN points out that the PBES are already doing this for customers who are on the ULTS rates. The self-certification process described in General Order (GO) 153 for the ULTS program could be easily modified to apply to this fund. The definition of a basic service line is implicit in the CPM. If the number of lines to be subsidized...
individual premises were expanded or contracted, the model would no longer reflect the costs of those expansions or contractions. Here we are concerned about the number of lines that should be subsidized in each high cost area. We've staked on not subsidizing any blood.

The Telco Act refers to universal service as an evolving level of telecommunications services. In defining the term services, it is used to fund the federal universal service system support mechanisms, one consideration is whether the telecommunications service is essential to education, public health, or public safety. (Telco Act, § 254(c)(1)(A).) The California Legislature in AB 3643 declared that an essential service requires that telephone service be affordable and ubiquitously available. One of the principles of AB 3643 is that essential telecommunications services be provided at affordable prices. (Stats. 1994, Ch. 278, § 2(a).) In determining how many lines should be subsidized in high cost areas of the state, we need to consider whether the number of lines we choose to subsidize is sufficient to provide essential telephone service.

In order to keep the fund size at a reasonable level, we believe that only the primary line, the first line, to a household should be subsidized. Subsidizing only one residential line per household in high cost areas allows each household to have essential telephone services. Subsidy of additional lines is not justified because the primary line already provides the essential connection. Subsidizing only one line per household also keeps telephone rates affordable for those who live in high cost areas, as well as for everyone who is obligated to support the fund. The arguments of DRA and GT&D that all residential lines in high cost areas should be subsidized would only serve to increase the size of the fund. We believe that the staff has developed to recognize that only one line per household in a high cost area shall be subsidized. That
adjustment of $128 million is shown on Appendix C. This adjustment is based on the CPM's assumption that approximately 17% of households in California have second lines. This reduces our estimate of the number of subsidized lines to about 4.03 million lines.

As for the possible administrative problems of having a COLR determine whether a customer has only one primary line, we believe that TURN's suggestion to use a self-certification procedure has merit. As Pacific witness Mitchell acknowledged, there would only be a limited burden on the carrier if customers in high cost areas had to self-certify that they only have one primary line per household. The problem that TURN addressed will become a concern as competition in high cost areas grows. That is, telephone service to a residence may be provided over the traditional copper pair owned by the incumbent LEC, or a telephone signal may come over the coaxial cable that presently serves to connect cable television. With two or more sources of connection, it is possible that a household in a high cost area may attempt to subscribe for two subsidized primary lines. That is, the customer may subscribe with the LEC to obtain the first subsidized line and then attempt to subscribe with a CLC to obtain another subsidized line that is provided over the coaxial cable. TURN's suggestion that all subscribers, requesting residential basic service in high cost areas be required to certify that they are not presently receiving residential basic service through any other telephone company will

48 Some of the commenting parties contend that the 17% figure is too high of a number for each LEC. We would just note that the CPM assumes as part of the modeling process that there is at least one phone in each household, and that 17% of the households have second lines uniformly in all areas of the state regardless of the LEC company. Thus, when the CPM is run, the extra 17% is included in the run result. Our adjustment resolves this problem.
be adopted, the certification should also provide that the customer will notify the company if circumstances change. A hard drive workshop will be convened by the CSD, in conjunction with the Telecommunications Division, to discuss ways in which the self certification process in GO 153 can be adapted for use with this fund to avoid any existing issues and to solve

3.1 Drop Costs

Background

The CPM currently assumes one buried drop per residence. The drop is the connection between the subscriber network interface on a customer's premises to the company's distribution plant. Plant on company property. The cost of placing the drop is overestimated, so DRA recommends that the CPM's buried drop cost be reduced by half, so that the cost of placing the drop is spread over two copper pairs, rather than to a single pair. Pacific's standard engineering practice is to use two copper pairs in drops in a buried plant to each residential subscriber. Currently, DRA proposed a full drop. GTEC is unopposed to the purpose of DRA's proposed modification. Although DRA proposes to support all residential lines, GTEC asserts that DRA appears to be assuming that the CPM accounts for only one drop per household. GTEC asserts that DRA's proposed modification goes against industry standards which require placement of two pairs to each residential unit. Pacific's reply brief did not address DRA's recommended adjustment.

b. Discussion

In the August 5, 1986 proposed decision, an adjustment of $39.7 million was made to the CPM. That adjustment was based on the belief that the cost of the drop plant should be spread evenly over two pairs.
for buried drops is manufactured to carry two pairs; and that any attempt to separate the costs associated with a second pair is to impractical. The GTBC also asserts that the second pair is often used in the event the first pair is defective. In addition, it is not clear that there is any significant incremental cost.

It is important to agree with GTB's argument that drop wire is produced in a fashion that the installation of two pairs would be expected. The CPBM's original drop assumption is also consistent with our policy that there should be spare capacity in the existing distribution plant. Upon further reflection, we shall eliminate the $39.7 million adjustment from the CPBM's offer.

4. Cable and Conduit Costs

Cable and conduit costs are fixed costs per foot for copper cable and are paid in advance of the actual installation of the pole, and pair gain costs in a table called A & B costs. The A & B costs are fixed costs per foot and are required regardless of the size of cable, or number of pairs, or size of cable being installed. The A & B costs were derived from Pacific's plan: COSTDEC model. The PLAN model is Pacific's loop planning program.

AT&T/MCI recommends that the Commission not accept Pacific's A & B costs. AT&T/MCI witness Selwyn testified that the CPBM's terrain modifying factors appear to have been developed and applied inconsistently in the PLAN: COSTDEC program. The modifying factors are multiplied against the structure costs, and the costs of copper and fiber cables from the PLAN: COSTDEC program.

According to Pacific's CPBM documentation, these modifying factors are applied to Pacific's estimate of how the cost of installed outside plant can be affected by topographical considerations and urban congestion. AT&T/MCI contends that the evidence strongly suggests that the PLAN: COSTDEC data represents average field conditions, rather than lower cost normal field conditions. While the modifying factors are applied to average field conditions, rather than lower...
cost normal field conditions, the CPM is in effect double counting or overestimating the effects of terrain and other sources of modeling difficulty. Selwyn also points out that the regression analyses that were used originally to develop the A & B costs no longer exist, so the cost values that were used are unsupported.

Selwyn testified that Pacific recently announced it had developed new A & B cost values. In Workpapers for the revised A & B costs of copper cabling and conduit sized for four or more ducts, were supplied. However, the remaining revisions to the A & B costs were not supplied and reviewed by the time hearings had concluded.

The revised copper cable costs for buried 26-gauge copper cable was reduced from $1.60 to $1.76 per foot. Selwyn testified that the substitution of the revised A & B costs for copper cable alone reduced the CPM's estimate of the statewide annual subsidy requirement by $45 million a year, a step that has been made.

As for the revised A & B costs for conduit, Selwyn contends that this revised cost underestimates conduit investment for distances less than 1973 feet, and overestimates conduit investment for distances longer than 1973 feet. Since the average A & B conduit length produced by the CPM is 8730 feet, the CPM would overstate the conduit costs and provide revised costs that are not consistent with the expectation of the CPM. Therefore, the CPM will overstate the conduit costs by about $45 million a year. A revised DRA recommends using Pacific's revised A & B costs for cable. DRA estimates the annual statewide impact at about $50.5 million.

GTEC points out that the CPM inputs rely on extensive tables, unit cost factors such as cable and conduit costs, which have been developed outside the CPM. This is of concern to GTEC because the actual modeling of the unit costs is external to that of the CPM, and raises concerns about their applicability to other LECs. When GTEC witnesses White reviewed the cable and conduit costs input in the CPM, he found them to be inconsistent with his experience. GTEC believes that the CPM does not have any internal controls of its own.
which assure that the assumptions used in developing these different unit cost inputs are consistent with each other, with the size of the wire center being evaluated, or with a specific network design for that wire center. GTEC also asserts that in addition to the unit costs, other key assumptions used in the model, such as the ratio of feeder to distribution, and the mix of cable by density, zone, are based on averages or practices specific to the Pacific. GTEC believes that it is important to have these observable processes be used to develop the unit cost estimates used in the CPM. GTEC has developed a spreadsheet which accepts some of the basic cost elements such as cable material costs and placement costs. These cost elements are based on GTEC's recent contract with Lucent Technologies (Lucent) and this process also accepts data assumptions for the rules that govern how these basic elements are combined, such as cable sizing, the branching and spacing of cable routes, and utilization rates. By modeling the wire center network using this information, this process would create a consistent set of unit cost values which would be used to populate the unit cost tables in the CPM.

Pacific agrees that the Commission should use the A&B costs for copper cable. It does not agree that the CPM should use the bi-Discusión

We address three issues in this section. The first is the A&B cable costs. The other two issues relate to the conduit and cable costs generated by the CPM. The solutions to these issues are identical. Pacific, as sponsored by Pacific, contains cable sizes based on averages from Pacific's installed plant. Separate samples of feeder and distribution plants were taken to identify what sizes of cable typically serve distinct categories of density. The feeder plant was sized based on the COSTDEC database, while the bob distribution plant was sized based on OANAD Loop samples, a Pacific branch plant. The Commission's decision.

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GTEC's proposed method would base cable sizes on its external modeling process. GTEC's method sizes feeder plant cables according to the number of access lines served by a central office. Distribution plant would be sized in accordance with the number of lines in the distribution area. The modified method assumes you add the same line size for each channel.

The modification to the A & B cable cost is supported by Pacific's revised cost of copper cable to $0.17 per foot. Since this cost was not included in the CPM runs that Pacific sponsored, during the hearings, this change needs to be reflected in the CPMs. We will adopt the revised cable cost. This adjustment to the CPM results in a $48 million annual adjustment to the cost.

The source for Pacific's conduit costs is the PLAN-COSTDEC program AT&T/MCI witness Selwyn points out that the regression that Pacific used to develop the conduit costs in the CPM was in error because it simplified the regression by failing to include a function that reflects cost incurred on a per trench foot basis. We believe that this manipulation of the regression tends to inflate conduit costs.

The modification to the conduit costs is less clear. The source of Pacific's conduit costs is the PLAN-COSTDEC program AT&T/MCI witness Selwyn. From the recent OANAD decision, D.96-08-021, the Commission accepted

The August 5, 1996 proposed decision recommended the adoption of GTEC's proposed conduit costs. However, since GTEC's proposed conduit costs were based on a vendor contract that has expired, we will not adopt these costs. Instead, we will use Pacific's sample of conduit placement costs following the method implemented in the OANAD cost studies and taking into account GTEC's concern about ensuring that conduit and feeder cable capacities are aligned. Adoption of this conduit adjustment results in an annual adjustment of $40 million.
Pacific's cable sizes. If the adjustment of $46.06 million is adopted, Pacific asserts that utilization will decrease, and that the fill-factors should be reduced. As a result, a significant increase in loss is anticipated. To maintain consistency, with the OANAD proceedings, and because of the concern we expressed in the August 5, 1996, proposed decision concerning GTEC's cable sizes, we will use Pacific's original cable sizes. Hence, no adjustment for cable sizes is shown in attached Appendix C. Usual feeder telegraph wire contains 54 Fiber Feeder Cut-off. The fiber feeder cut-off wire is shown in Appendix C.

Background: The material used for feeder plant depends on the length of the feeder route. The CPM assumed that if the feeder length is longer than 9000 feet, fiber is used. If the feeder length is shorter than 9000 feet, copper is used. Pair gain technology is used in conjunction with fiber feeder at the serving area interface. The cost of the pair gain device itself, rather than the type of cable, which drives the economics of feeder technology. The 9900 foot cut-off point is not a reasonable assumption. They point out that the CPM should take all significant factors, such as capacity requirements, into account that impact the choice of copper/cable versus fiber. The CPM's assumption of 9000 feet generates a loop investment cost that do not consider whether or not that distance is the economically efficient cut-off point for primary residential service. AT&T/MCI argue that in the last seven years, Pacific has made a number of revisions to its guidelines governing the planning and provisioning of feeder facilities to support advanced digital and broadband service. According to AT&T/MCI, this has led to a significant overbuilding of feeder facilities in relation to those facilities that are actually required to meet the demand for residential.
access lines and other plain old telephone service (POTS) services. This is evidenced by excessively low feeder plant utilization factors. AT&T/MCI also point out that Pacific's Crossover Study fails to provide any support for the use of a 9000 feet cut-off. Pacific claims that increasing the feeder plant to 12,000 feet was for loop broadband planning. DRA recommends that the fiber feeder length assumption in the CPML be changed to reflect that fiber only be considered for feeder plant which exceeds 12,000 feet. When DRA investigated this issue, it was determined that Pacific's documents in support of the 9000 feet cut-off was for loop broadband planning. DRA asserts that the cost of basic service should not be used to subsidize the development of broadband services. DRA states that the fiber feeder length is beyond 12,000 feet. DRA considers the use of fiber when the total feeder length exceeds 12,000 feet. In reality, this situation does not occur as the 9000 feet cut-off is too far to the end user. DRA states that the 12,000 feet cut-off point is consistent with its engineering practices.

Pacific also argues that the drop in electronics prices make it economical to place fiber for all feeder routes which exceed 9000 feet. According to Pacific, the 9000 feet cut-off makes economic sense. Pacific also points out that GTEC's recommendation is based on 12,000 feet of feeder length whereas DRA's recommendation is 12,000 feet of feeder length. Pacific's copper distribution runs tend to be 2800 to 3200 feet in length. If GTEC's distribution runs are the same, Pacific's feeder length would be about 9000 feet. GTEC also contends that if the cut-off is increased to 12,000 feet, an artificial case or scenario is used to prove the case.

49 POTS is a frequently used industry acronym which refers to an analog voice grade dial tone access line.
increase in costs will be needed to reflect the costs of maintaining more copper in the feeder. 

Discussion

The testimony of AT&T/MCI witness Selwyn is compelling. He points out that Pacific’s feeder planning practices have been in transition from the provisioning of POTS to the provisioning of advanced narrowband and broadband digital services. His testimony traces the reasons why Pacific’s fiber feeder cut-off point have been reduced from 12,000 feet to 9000 feet. The 9000 feet cut-off would not make sense in low density, rural zones where demand and capacity requirements are smaller. Additionally, a cut-off of 9000 feet would shift the costs of providing basic service to customers in low density rural zones where demand and capacity requirements are smaller. 

We believe that the CPM’s estimate of loop investment costs is overstated and does not accurately represent the least cost, forward looking, method of providing residential basic service.

The CPM’s maintenance expenses reflect Pacific’s 1994 experience at a time when the company’s plant was almost exclusively copper with far less fiber than even the 12,000 feet cut-off implies. If the 9000 feet cut-off is more appropriate then the model ought to reflect significant savings in maintenance expense over the 1994 figures. By changing the parameters in the model, we are not indicating a preference for any particular technology choice. We are simply creating a standard based on what appears to be the least cost technology at the present time. Accordingly, we adopt the recommendation to extend the cut-off of copper feeder versus fiber feeder from 9000 feet to 12,000 feet. Adopting this modification results in an annual subsidy decrease of $78 million. Such an adjustment is consistent with how we addressed this problem in D96-08-021.
6. **Fill factors**

a. **Background**

The fill factor is a measure of how much of the plant is being used to provide service to customers. It is also known as the utilization rate. Fill factors are used to determine the size of feeder cables and related facilities. They are also used in the CPM to spread the cost of the resulting feeder investments, together with the costs of conduit and other support structures, over the working feeder lines and prior to the feeders.

The parties debate what level the fill factors should be for feeder distribution and pair gain. In the model, AT&T/MCI's fill levels for copper feeder, fiber feeder, and copper distribution are based on the fill factors that Pacific has achieved in its network. These fill factors are called the actual fill factors. There is another level for fill factors, known as administrative or design fill factors, which are based on fixed assumed levels of utilization of the feeder cables.

AT&T/MCI argue that Pacific has reported unreasonably low actual fill factors. They state that the low utilization levels are directly attributable to Pacific's announced plans to build a network capable of providing far more services than basic local exchange service. AT&T/MCI do not believe that this excess capacity should be borne by basic local exchange service. To rectify this deficiency, AT&T/MCI witness Selwyn suggests changing the copper feeder fill factor to 89% and the copper distribution fill factor to 71% for all density zones. Such an adjustment results in an annual decrease of $87.2 million. He also suggests raising the pair gain fill factor for density zones 4, 7, to 73%, and 82% and 83%, respectively. This adjustment decreases the annual requirement by $29.8 million.

CCTA points out that the utilization factors that Pacific uses in this proceeding differ substantially from Pacific's fill factors in ONAD. According to CCTA, this results in a higher allocation of spare capacity costs to the universal support level.
than to the OANAD price floors. As a result, the TSLRIC for using universal service is higher than the OANAD TSLRIC. CCTA asserts that the actual fill factors should have been used for OANAD instead of in this proceeding. CCTA recommends that due to the interrelationship between OANAD and universal service, with respect to the fill factors, the Commission should ensure that the TSLRIC adopted for universal service is no higher than the TSLRIC adopted in OANAD. 

DRA recommends that the Commission adopt the Fill factors because those are the factors that may be using in OANAD. DRA also states that the lower fill factors used in the CPM represent the less efficiently designed networks of the local exchange carriers. In fact, GTEC disagrees with DRA and argues that higher fill factors are unrealistic. GTEC states that the design utilization factors used in OANAD were set at an upper bound to establish the theoretical minimum cost of service. The objective in this proceeding is to establish an equitable price for service. GTEC asserts that the design utilization rate is not the objective. Level network designers seek to achieve, but rather, is the trigger point for placing additional facilities. Pacific contends that average fill factors are appropriate for determining universal service funding. Pacific's existing utilization is based upon all of Pacific's engineering decisions which determined the most efficient manner of providing broadband telephone services. Pacific argues that if design utilization factors are used, such modeling will fail to account for the LEC franchise obligation to have plant ready to serve upon demand. This will result in held orders and service delays. Selwyn argues that the high fill factors recommended by Selwyn could never reach those levels, because they do not account for defective pairs, maintenance, replacement, or defective


pairs, or for the idle assigned pairs that are required for quick dial tone. Also the proxy cost model should be reasonably consistent to the practices adopted in the CANDAD proceeding. As such, we will adopt the 76% fill factors for feeder and pair gain that we adopted in D. 96-08-022.

On the distribution side, we will adopt Pacific's distribution fill factors. We consider this an extremely generous assumption. Given that these distribution fill factors include second lines, we are allowing triple the capacity that would be employed in serving only one line per household.

This adjustment results in an annual decrease to the subsidy amount of $64 million. AND the incremental cost of depreciation, Background

The CPBM includes a calculation for depreciation of network plant for Pacific's shorter lives in the CPBM, which resulted in higher depreciation rates. The economic lives used by Pacific in the CPBM are shorter than the depreciation lives approved by the Commission. The CPBM includes a calculation for depreciation of network plant for Pacific operated by the Commission.

Selwyn contends that the depreciation levels proposed by Pacific overstated the universal service funding requirement by $216 million. This is because the rates are based upon Pacific's network modernization strategy and preferred depreciation lives. Selwyn states that the Commission should use, at a minimum, the depreciation rates and lives which the Commission has approved for Pacific, and Selwyn points out that a network that is designed to support a primary residential access line to each household will be subject to less technological and market obsolescence than a network designed to accommodate a variety of discretionary and potentially competitive services.

AT&T/MCI also argue that there are Commission procedures for
setting and changing depreciation lives and rates. Pacific claims that Pacific has not formally asked to have their depreciation lives reduced.

DRA agrees with AT&T/MCI that the CPM should reflect Commission-approved depreciation lives and depreciation rates. DRA states that the Commission has always prescribed depreciation lives for the intrastate jurisdiction only after staff review, public comment, and a public hearing process. DRA estimates that this kind of adjustment will result in a decrease of $245 million per year.

GTEC contends that since the purpose of the proxy cost model is to estimate forward-looking costs, the depreciation costs must also be forward-looking. GTEC supports the use of economic depreciation as the only forward-looking depreciation estimate because it is the best estimate of how long the plant will be economically viable. GTEC argues that the "composite book" of depreciation used in the HPWC and BCM as well as the prescribed Commission lives reflect a regulatory process that historically kept depreciation low and extended capital recovery beyond the economic lives of the equipment. Pacific argues that these new "economic" lives are appropriate for determining depreciation in the CPM because they better reflect the competitive realities with which the LECs are facing.

Pacific witness Emmerson stated that the use of prescribed lives in the past led to depreciation reserve deficiencies, a practice which is unlikely to be sustainable in a competitive environment. Pacific argues against using the longer lives in the CPUC-approved depreciation rates. In Richard Scholle's testimony for Pacific, he states that "Because the implicit investment recovery guaranteed from regulators for the franchise monopoly no longer exists, the regulatory revenue requirement rate of return framework, which allowed excessively long depreciation lives for LECs is no longer valid." Scholle claims that using CPUC-approved depreciation lives will understate the costs of universal service.


The August 5, 1996 proposed decision suggested that the CPM use the Commission approved depreciation lives established in D.95-11-009. The proposed decision's rationale was that a clear distinction should be drawn between the provisioning of residential basic service and the rapid turnover of equipment associated with building a state of the art network for every conceivable telecommunications service. For that reason, an adjustment to the CPM of $245 million was proposed.

The proposed decision's resolution of this issue generated many comments. The LECs and others argued that the use of longer lives was inconsistent with the CCPs and that the use of longer lives would cause the high cost areas of the state to retain older, less advanced equipment, while the low cost areas would enjoy state of the art equipment. AT&T argued that the incumbent LECs never sought to change the Commission approved depreciation lives and have failed to submit any evidence to support the shorter depreciation lives. AT&T also argued that the proposed decision correctly noted the distinction between a network designed to supply universal service and a state of the art telecommunications network. Further, evidence adduced failed to support the shorter lives.

In deciding that the shorter lives should be adopted for purposes of the OANAD proceeding, the Commission stated that the depreciation lives adopted in D.95-11-009 reflected the time at previous regulated monopoly environment and that the longer lives are difficult to justify in an environment of local exchange competition. We will likewise adopt the CPM's use of shorter lives for depreciation in this proceeding. Such an approach is more consistent with what we have done in OANAD, and reflects the Commission's forward-looking costing principles. It is also consistent with ABY 3643's principle that incentives be used to promote deployment of advanced telecommunications technology to all customer segments.
8. Reordering of Switches

Background

Prior to INDETECO's modification of the CPM at the request of GTEC, witness Roger White, the CPM classified wire centers into seven zones on the basis of the population density of the grid squares associated with each wire center to determine the density zones, determine the cost of the central office switches, as well as the cost of the feeder, and business location of the wire center. GTEC asserts that the CPM's approach to calculating the switch and the feeder costs is unsatisfactory because the CPM does not consider the line counts in the office to determine those costs. GTEC contends that the size of the switch and the feeder routes are dependent on the number of lines in the switch server switch. GTEC also contends that designating wire centers by density zones in the CPM does not adequately capture differences in office size across zones. As a result, the CPM produces inconsistent results. For example, 16,000 line switches are placed in the highest-density zone while larger 40,000 line switches are placed in the middle-density zones. In addition, the switching costs in the CPM do not reflect economies of scale and scope.

GTEC recommends that the wire centers in the CPM should be assigned to zones based on the number of business and residence lines in each wire center. According to GTEC, this modification allows the model to calculate the feeder size and the conduit cost of each central office consistent with the size of each office.

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50 GTEC witness, Roger White, worked with INDETECO to make this modification to the CPM. However, the CPM model that the other parties had analyzed during the hearing did not incorporate this modification.
b. Discussion

No one commented on GTEC's switch reordering proposal. Although GTEC witness White agreed with Pacific that the CPM's method of sizing feeder and switch size by density zone was not necessarily an error, Pacific did not rebut the mismatches that White had observed. {oration}

Although the proposed decision and revised proposed decision recommended the adoption of GTEC's switch reordering suggestion, upon reflection we will not make this modification to the CPM. The switch reordering would result in a far greater impact than indicated in the revised proposed decision. The magnitude of the impact suggests that GTEC's proposal had more of a wide ranging effect on the model than anticipated in the revised proposed decision. Upon further examination, it appears that this change cannot be adopted in isolation, but must be part of a comprehensive set of changes to all inputs and engineering assumptions affecting feeder and switch plant. The necessary changes go far beyond the limited modifications to inputs proposed by GTEC.

The switch reordering estimate of $11 million in the revised proposed decision was incorrect because that change was not incorporated in the CPM contrary to what the staff was led to believe. As a result, the cumulative effect estimate of $98 million in Appendix D of the revised proposed decision is correct. 

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51 The switch reordering estimate of $11 million in the revised proposed decision was incorrect because that change was not incorporated in the CPM contrary to what the staff was led to believe. As a result, the cumulative effect estimate of $98 million in Appendix D of the revised proposed decision is correct.
Outside Plant Factor

9. Outside Plant Factor

Background

The CPM makes an adjustment to the costs of outside plant based on which density zone the outside plant is placed. If the plant is placed in highly dense urban areas, the outside plant factor is set greater than one to account for the difficulty in placing plant in urban areas.

GTEC states that the CPM's adjustment factor for outside plant is not supported by price quotes and that the CPM has already included an adjustment for such factors. For example, the CPM uses an adjustment factor for urban areas making it more expensive than average to place outside plant in the most dense zones. However, this adjustment is on top of an adjustment of input prices. GTEC recommends that the Commission should revise the outside plant factor to 1 for dense areas.

Pacific states that this adjustment reflects the fact that cities often restrict the times when their streets can be dug up. Pacific claims that it is more expensive to install outside plant in downtown San Francisco than it is in less dense areas because of scheduling limitations, traffic and difficulty in locating or spotting materials prior to installation. In addition, customer delay exists. (The model should not artificially create a difference.) In addition, as we discussed in the reference to cable and conduit costs, the historically based cost estimates of facilities placement

Pacific relies on. As an average cost, there is no reason to increase these costs for the relatively densely populated areas where most customers live, and where most facilities to serve them are placed. If an adjustment were necessary, it should only be in atypical areas, for example, extremely dense areas. Average costs should not be augmented to meet typical conditions.

We adopt GTEC's adjustment to the outside plant factor. GTEC's actual practices show that no cost difference exists. The model should not artificially create a difference. In addition, as we discussed in reference to cable and conduit costs, the historically based cost estimates of facilities placement

Pacific relies on. As an average cost, there is no reason to increase these costs for the relatively densely populated areas where most customers live, and where most facilities to serve them are placed. If an adjustment were necessary, it should only be in atypical areas, for example, extremely dense areas. Average costs should not be augmented to meet typical conditions. (continued)
Pacific's anecdote about the additional cost of restrictions placed on construction appears to refer to central business districts and commercial centers. This type of adder may be more appropriate for business lines than for residential lines. In the residential neighborhoods of California's most dense cities, having less inhabitants during the daytime, hours, and construction is more likely to be encouraged during those hours than discouraged. 

Adoption of this modification results in a $37 million annual decrease. 

10. switching costs are not consistent with expenses incurred on a forward looking basis. Selwyn discussed switching costs in his opening testimony. Selwyn states that Pacific's switching costs are greatly overstated because the CPM uses the figure $239.13 to represent total switching costs per line. Selwyn asserts that these costs are not consistent with expenses incurred on a forward looking basis. Selwyn goes on to say that Pacific in its January 1993 press release stated it would spend just over $1 billion to replace all of its remaining analog switches with digital ones. These switches would serve 911 million lines. Selwyn's calculation is based on the press release amount. It is that the switching cost per line is $110, or $130 less per line than assumed in the CPM calculation. This switching adjustment to the CPM would reduce the annual subsidy amount by $289 million. 

DRA had originally recommended in its opening testimony that the switching costs used in the CPM be lowered. DRA examined the vendor prices for DMS-100 and 5-ESS switches, as well as the SOIS model's calculation of the inputs. DRA found that Pacific did not utilize the maximum possible discounts available for both switches. Instead, Pacific used a weighted average of 10% switch discounts. DRA recommended that the switch costs should reflect the higher discounts available from manufacturers. In DRA's reply testimony, DRA changed its position on switching costs. bluoda
After further analysis and investigation, DRA no longer recommends that there be an adjustment to the switching costs. Pacific argues that there are lifecycle price variations for switching equipment. Pacific witness Scholl states that Pacific does not always get the maximum discount for its switches because it sometimes purchases switches before the models become the standard in the market. Depending on the stage at which the switch is purchased, maximum discounts may not be available.

b. Discussion

AT&T/MCI witness Selwyn's calculation of the switching costs has some merit in that it is based on an announced expenditure by Pacific. However, aside from the press release, there is no supporting evidence that the $110 switching cost per line is accurate. Instead, Selwyn suggests that the CPM should assume that maximum price discounts will exist over the technology life cycle for digital switches. According to DRA witness Hassan Mirza, given Pacific's size, one would expect that Pacific has the ability to get the highest discount. But given the price cycle analysis of Pacific, Pacific may not be able to experience a constant level of high discounts over the long run.

We will use Pacific's estimate of the switch costs. As Pacific witness Scholl testified, the prices for new switches are not discounted significantly until the new technology becomes the standard, and a large number of older technology switches are replaced.
11. Shared and Common Costs

a. Background

Shared and common costs have been defined in the CCPs of the QANAD proceeding as follows:

"Shared costs: Costs that are attributable to a group of outputs but not specific to any one within the group, which are avoidable only if all outputs within the group are not provided."

Common costs - Costs that are common to all outputs offered by the firm, while these costs are not considered part of a pricing issue." (D.95-12-016, App. C, pp. 5-6.)

The CPIC accounts for shared and common costs, which Pacific states are attributable to universal service. Pacific initially estimated the shared and common costs at $5.00 per line. It subsequently increased that estimate to $6.70 per line. The allocation of these costs was a subject of much dispute in the hearings. Another issue that is related to this discussion is whether or not the loop itself is a shared cost of a family of services.

AT&T/MCI argue that the universal service fund should not recover any greater portion of the shared and common facilities used to provide universal service than the shared cost of the loop. AT&T/MCI witness Cornell stated that the loop is a shared cost of all the services that use the loop. Cornell also asserts that

52 The definition of shared and common costs used in the CCPs were taken from a cost study report submitted to the Oregon Public Utility Commission.
beyond the full cost of the loop itself; all other shared and common costs should be recovered through other services.

Cornell states that if the Commission does not exclude these other shared and common costs it would subvert the purpose of the fund and discourage the development of competition because the other carriers would end up paying the shared and common costs of the incumbent LECs. As a result, the incumbent LECs would have a competitive advantage, and they could use these shared revenues to unfairly compete against new entrants.

AT&T/MCI also argue that if shared and common costs are to be included, then the associated revenue sources must be considered as well. They point out that Pacific seeks to exclude all revenues except for basic residential service rates. They also argue that the CPM's allocation is unreasonable and arbitrary because the CPM shifts a substantial portion of the cost that are actually service-specific to other services, to basic service.

AT&T/MCI witness Selwyn recommends that the Commission adopt either one of the following two proposals (1), given that the allocations of shared and common costs among family members are invariably arbitrary, shared and common costs and the associated family revenues should be left out of the equation, or (2) if shared and common costs are included, then all of the revenue sources that contribute to the shared and common costs to the extent of their assignment to a particular service must be included.

CCTA argues that inclusion of some shared and common costs in the calculation of the universal service fund is appropriate. CCTA witness Dr. Marvin Kahn argued that: (1) some of Pacific's shared and common costs are actually directly associated with providing basic residential service and (2) that the remaining shared and common costs should be distributed on the basis of the margin on incremental costs. Pacific has been willing to accept in competitive markets.

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margin would be reflected in toll and Centrex contracts entered into by Pacific. The Commission contends that if the Commission included the same amount of shared and common costs in the universal service fund in the OANAD proceeding as in the CCTA proceeding, it must account for the same amount in the OANAD proceeding. CCTA also notes that if the Commission includes the same amount of shared and common costs in the price floors for services, it could allow the LECs to price anticompetitively.

DRA argues that the recovery of shared and common costs is a pricing issue. Instead of including the costs in the subsidy calculation, DRA recommends that the Commission allow the incumbent LECs to make their own pricing decisions regarding the amount of shared and common costs that should be recovered from the residential basic service. DRA recommends that this recovery be determined in the OANAD proceeding at a national level and based on the appropriate amount of shared and common costs.

If, however, the Commission wants to determine the amount that the LECs should be allowed to recover, DRA proposes that the Commission use Pacific's OANAD PI model, and the Commission use Pacific's OANAD PI model, and the Commission should limit the amount of shared and common costs that can be recovered by the incumbent LECs through their basic service rates until the market is fully competitive. DRA submits an account analysis, and allocated shared and common costs into sixteen family buckets. The allocation was based on the allocation factors developed in the PI model. When the CPM was updated prior to the hearings, in this proceeding, Pacific used a modified PI allocation. As factors, for two of the sixteen family buckets, the second bucket is labeled as "Business-Residential-Public." While the second bucket was made up of "Residential," and "Residential," the DRA points out that this deviation resulted in assigning the costs of the two family buckets to services in those two families. This increased the

shared costs, allocated to basic service by 85%. DRA believes that it was unreasonable for Pacific to simply pick two of the bucket ta and reallocate their costs to services within the family, without applying the same process to the remaining fourteen cost families.

DRA recommends that the Commission reject the modified PI and apply allocation factors that Pacific made for. Instead, DRA believes that the allocation of costs used in CANADP using the modified PI flow model, is reasonable and sufficiently reliable.

DRA also recommends that the Commission use Yellow to Page revenues to offset the LECs' shared and common costs.

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GTES argues that markups for shared and common costs are appropriate for basic service. GTES states that in competitive markets, multi-product firms have to obtain contributions to shared production costs and overheads from wherever they are available.

The amount of contribution placed on each product depends on the demand elasticity for the product and supply conditions. GTES describes the Ramsey pricing rule, which details the equilibrium prices in a competitive market. Under the Ramsey pricing rule, services which are less demand elastic will contribute a larger amount to shared and common costs.

TO agrees with AT&T/MCI and TURN's view that only the shared cost of the local loop should be recoverable in the OTL fund.

Roseville and the Smaller Independent LECs argue that if they are included in the funding mechanism, the Commission must also allow the COLR to recover its shared and common costs.

DRA states that the only shared cost which should be included in the subsidy calculation, and that Pacific should recover all other shared and common costs from other services. In his testimony, TURN witness Long cites from the Telco Act that all services should bear no more than a reasonable share of joint and common costs.

He goes on to explain that the conference report of the Telco Act states that
universal services may bear less than a reasonable share of their joint and common costs. By reliance on arbitrary and unfair allocations, TURN also contends, based on the allocations of shared and common costs that it has reviewed, that Pacific has vastly overstated the amount that should be treated as the cost of basic residential service. TURN argues that including such costs will significantly increase the number of lines eligible for support from the fund (and for each such line) increase the amount of support, an unnecessary and unfair increase.

Also, TURN assert that Pacific did not meet its burden of proof in showing that these shared and common costs should be attributable to universal service, and that the Commission should not include any of Pacific's shared and common costs in the cost of basic residential service. The Commission correctly noted that no share of shared or common costs is both consistent with the service and necessary for the market to function. They state that the biggest shared costs involve number administration, network test centers and network control centers. Pacific argues that the shared and common expenses to be recovered are for the universal service cost object. The costs affected include billing of residential customers receiving and answering inquiries from residential customers, and developing methods and procedures for installing and maintaining service to residential customers. Pacific witness Emmerson testified that the loop is not a shared cost. He also states that the universal service fund must make a reasonable contribution to a carrier of last resort's shared and common costs, and that the only shared or common costs should be the shared costs of universal service. We turn to the issue of whether the loop is a shared cost of universal service, and how that reasoning sounds to joint and common cost. An officer reported on the issue of whether the loop is a shared cost of universal service.
The definition of a shared cost, as defined in the CPM, is that of other public utility commissions wherein this issue was discussed. AT&T/MCI and TURN argue that the local loop meets the definition of a shared cost as defined in the CPM. TURN also cites the decisions of other public utility commissions wherein this issue was discussed. TURN argued that the loop was built-in response to the end user's subscription to basic telephone service. Therefore, the expense of the line and switch is incurred regardless of whether the facilities are ever used. Thus, much of the loop plant is characterized as nontrafficsensitive (NTS). TURN had argued that the NTS plant costs are actually "joint and common" costs. The Commission previously touched upon this subject in the Implementation Rate Design (IRD) proceedings (D.94-09-065) wherein the questionable costs were actually "joint and common" costs. The Commission had recognized that the loop costs for interstate use of the network as received a contribution from the EUC 1 charge (IR D.94-09-065, pp. 43-44). This charge is a substitute for the recoupment of the cost of religious and police services.

Given our previous determinations in D.94-09-065, we decline to conclude in this proceeding that the loop is a shared cost. Section 254(k) of the Telecommunications Act places a limit on the sharing of joint and common costs of facilities that should be borne by the service elements that make up basic service. In order to determine what this limit should be, we focus our attention on how the shared and common costs were allocated in the CPM.

(2) Assignment Of Costs

Several of the witnesses testified to the difficulty of allocating shared and common costs. Some of them referred to

in their oral arguments. We shall not deviate from the CPM's decision in this regard.

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such attempts as arbitrary.\textsuperscript{53} There were several examples during the hearing of how costs were arbitrarily assigned to basic service. For example, an advertising promotion that was designed to promote the sales of extra telephone lines to existing customers would be attributable 100% to basic service. \textsuperscript{(26-RT 3617-3618.)}

The cost of billing residential customers would be assigned to basic service as well. \textsuperscript{(26-RT 3614-3615.)} Another example of how costs are allocated somewhat arbitrarily are the costs associated with billing inquiries to residential service centers. These shared billing inquiry costs are in addition to the billing inquiry costs the CPM directly identifies as being associated with basic service. These costs also do not include the incremental service related costs associated with ULTS. According to Pacific, these billing inquiries have to do with residential customers not being able to pay current bills and negotiating payments. \textsuperscript{(26-RT 3612-3613.)} The CPM allocates 100% of these costs to basic service. \textsuperscript{(24-RT 3132-3133.)} However, as TURN's witness Long points out, the cause of the inability to pay or to negotiate a payment schedule may be due to causes that are unrelated to residential basic service. That is, the inability to pay is likely more attributable to toll calls to services billed by Pacific for interexchange carriers or information service providers or for custom calling features. \textsuperscript{(Ex. 121; CCP 8-9.)} Pacific witness Scholler acknowledged that Pacific has not done any study to determine whether customers who request special payment plans do so because of the customer's inability to pay the basic exchange service charge as opposed to any other charge. \textsuperscript{(24-RT 3132-3133.)}

\textsuperscript{53} This arbitrary allocation problem was also noted in the IRD decision in D.94-09-065 at page 44.
In considering TURN also points to another category of costs that have been allocated 100% to basic service. These costs involved customer inquiries, customer representatives, regarding multiple products, and obtaining service turn-on dates. In addition, this category of costs includes such items as the customer calling a phone representative, stating "hello, thank you for calling Pacific Bell," and for training, meetings, and waiting to serve. (As TURN points out, none of these activities appear to be specifically caused by residential basic service, as opposed to any other residential service offering of Pacific.)

TURN also provides other examples of how Pacific has been allocated service, the allocation of shared and common costs in the CPM in the residence 2 family bucket, and the family bucket labeled "Business, Residential, Public," have resulted in unreasonable and arbitrary allocations. Although 30% of the residence 2 bucket was allocated to basic service, TURN contends that Pacific has not justified why basic service has been allocated that percentage of the shared and common costs. With respect to the costs associated with bill production which are captured in the Business-Residential Public bucket, TURN points out, that prior to Pacific's revision of its cost model, Pacific had only allocated 16% of the shared costs to residential basic service. The CPM now allocates 81% of those shared costs to residential basic service while only 19% is allocated to business and public. TURN witness Long suggests that Pacific should be held to its lower initial estimates.

We agree with TURN that Pacific has not demonstrated that the costs described above were allocated by the CPM to basic service, were wholly, or disproportionately caused by residential basic service, as opposed to the many other services offered by Pacific. We believe Pacific was correct in its original assessment that these are shared costs which should be borne by the many services that share them, not just basic residential service. In addition, the modification of only two of the sixteen allocation
facts. As mentioned above, we believe that the Teleco Act mandates that a reasonable portion of the shared costs should be included as part of the cost of basic service. Clearly, some amount of the shared costs is attributable to residential basic service. However, the modified PI allocation factors that Pacific used for two of the family buckets for use in the CPM resulted in a shifting of the cost of basic service. As a result of this modification, basic service bears more than its reasonable share of the shared costs under the CPM.

We have analyzed the unmodified PI allocation factors that Pacific used initially for the proprietary version of the CPM. We believe that those allocation factors result in more reliable and reasonable allocations of shared costs than those proposed by Pacific. We will use those shared allocation factors for the CPM.

As a result of this adjustment to shared costs, the estimate of the annual subsidy requirement is reduced by $280 million.

(4) Treatment Of Common Costs

Turning now to "common costs," we believe that Pacific's original CPM estimate placed an undue proportion of these costs on basic service. We are concerned that an excessive

54. The two family buckets that were used were: "Business, Residence and Public," and "Residence."
allocation to basic services, and in turn to the universal service fund, will insulate these costs from competitive pressure, and give rise to possible anti-competitive behavior. As TURN points out, Congress recognized this potential in the Telco Act, which contemplated that universal service should bear no more than a reasonable share of joint and common costs, and in the Conference Report, which suggests that the cost of universal service bear less than a reasonable share. Consistent with that direction, we have reduced common costs per line from $2.91 to $2.00 to safeguard against these possible competitive problems. We note that the revised common costs are a more reasonable allocation. The reduced amount represents approximately an 11% mark-up over direct and shared costs, which is commensurate with the overhead factor that was experienced in the local exchange industry. (See Exhibit 65, supra, p. 144) Imputing even larger amounts per line would have been unfeasible as the profit margins are minimal.

As a result of the adjustment to common costs, the revised estimate of the annual subsidy required is reduced by an additional $118 million. So far, this has yielded only a modest reduction in universal service. (5) Imputation on such a large scale would have been highly inaccurate. CCTA contends that by allowing the recovery of these shared and common costs in the universal service proceeding, the LECs may be able to bundle unregulated products and services such as video with category II services in an anti-competitive manner. According to CCTA, this problem arises because under the existing imputation rules, universal service support payments are not necessarily imputed into the price floor for the bundled package of basic local service and competitive services. CCTA requests that the imputation rule be modified to state that in determining whether the price of a package is above the price floor, the revenues received should include the subsidy payment excluding any portion that is intended to recover shared and common costs. Therefore, the increased expenditure should be treated as an additional cost.
We decline to modify D.96-03-021 in this proceeding. Any party, seeking to modify or clarify the imputation rules in D.96-03-020, should file a petition to modify that decision, which we will consider in accordance with Section 12.18.

Rearrangement Expenses And The Nonrecurring Burden

Background: The CPM, a Pacific, includes expenses for the rearrangement of plant and an item called the nonrecurring burden. These items add up to 268 million dollars annually. The rearrangement expenses are the costs associated with rearranging existing facilities to accommodate new and existing customer demand. Examples of rearrangement expenses includerewiring equipment, changing calling patterns, moving existing lines from old equipment to new equipment, andrewiring or modifying equipment so additional new equipment and new customers can be added to the network.

The nonrecurring burden expense covers the expenses which a LEC incurs by installing and disconnecting residential telephone lines which the LEC does not recover in its nonrecurring charge. Parties debated whether rearrangement expenses should be included in the subsidy calculation. AT&T/MOI state that the CPM overstates the costs of basic service because of rearrangement expenses. AT&T/MOI witness Selwyn recommends that rearrangement expenses be eliminated because there will be very little churning of facilities as a result of the Commission's quick-dialto-the-index requirement. Selwyn views rearrangement expenses as the laborious cost of disposing of existing loop facilities made available as a result of customer churn.

DRA contends that the CPM is supposed to estimate the cost of basic service using forward-looking technology for the entire quantity of the service. DRA believes that the CPM should therefore include rearrangement expenses that are associated with...
serving the entire quantity of the service, and not those associated with just serving new customers. In particular, service rearrangement costs are minimally properly included in the CPM calculation, and that the elimination of these expenses will underestimate the costs of providing universal service. Pacific's witness, Scholl, stated that rearrangement expenses involve many more activities than just dealing with existing customer churn. Such expenses are not just for loop facilities, but are also incurred for switching, interoffice facilities, and other investments. Scholl states that these rearrangement expenses are part of the costs of having investment in place to service new customers, and that such a rate base is too large the population grows, there will be a continual need to rearrange existing equipment. With respect to the inclusion of the non-recurring burden in the universal service subsidy, AT&T/MCI witness Selwyn argues that with quick dialtone, the non-recurring burden should be minimal as well.

DRA argues that the non-recurring burden should be treated as a shared cost. As a shared cost, DRA recommends that the LECs should be allowed to determine recovery of the expense. Pacific states that LECs incur the non-recurring burden expense, because rates for installation have been kept below cost. To assist, Scholl's witness, Selwyn, argued that the cost of providing universal service is offset by discounted service rates.

b. Discussion

We are somewhat persuaded by AT&T/MCI's argument that rearrangement expenses should be minimal as a result of PU Code § 2883, requiring continuing access to 911. As a result of that code,
requirement, a large percentage of existing lines are going to remain in place, and rearrangements of wire should be kept to a minimum. Rearrangements will primarily be caused by demand for second and additional lines. However, we agree with Pacific that one cannot ignore future growth, and that there are still likely to be situations where moving, modifying, or making changes to existing facilities will be necessary in order to accommodate demand.

Since the target of the universal service subsidy are primary access lines, we will deduct 75% from Pacific’s estimate of its rearrangement expenses. This reduction results in a decrease of $170 million annual subsidy. This adjustment is consistent with the rearrangement costs that was adopted in OANAD D.96-08-021 for the OANAD proceeding.

Regarding the issue of the nonrecurring burden, our same analysis of rearrangement expenses apply. When a new customer requires service, it will be at the central office. Since the primary lines are already in place providing 911 access, it will be a rare occasion when the carrier will have to go out to the field or the customer’s premise. We will also deduct 75% from Pacific Bell’s nonrecurring burden estimate. This reduction results in a $43 million annual subsidy decrease.

a. Background

DRA recommended in its opening testimony that if the CPM was adopted, relevant cost data from Pacific’s and GTDI’s proposed OANAD cost studies should be included. As DRA noted in its opening testimony, that a comparison of the CPM’s estimates of GTDI’s costs in OANAD to the costs shown in the CPM showed a significant difference. (Ex. 109 or Ex. 110, pp. 3-16 to 3-17, \[\text{Table 3.2.}\])

\[\text{Discussion:}\]

The Telecommunications Division staff is responsible for analyzing the workings of the CPM results, questioned the directory...
assistance cost, reflected in the CPM, after reviewing Table 3.2.
The Telecommunications Division sent a data request to Pacific in June 1995, requesting the monthly volume of directory assistance calls. The reported volume of calls was compared to the volume and cost per call contained in the CPM, and to GTE's OANAD cost of providing directory assistance. The staff determined that the CPM cost estimate for directory assistance was overstated. We will adopt the staff's adjustment of the cost of directory assistance.

This change results in an annual adjustment of $50 million involving

14. Repair and Maintenance Costs of directory calls

In P.26-08,021 at pages.64-65, the Commission decided that Pacific should reduce its estimates of loop repair costs by 14% to account for the downward trend in loop repair costs. Since the objective of the universal service cost studies is to reflect a similar forward-looking view of costs, and because the CPM relies on identical repair costs to Pacific's OANAD costs, a similar 14% downward adjustment in the CPM's repair and exchange maintenance costs should also be made. Accordingly, an adjustment of $46 million should be made to the CPM.

G. Benchmark

1. Introduction

This issue addresses the cut-off point of the benchmark, that is, which GSAs have higher costs, or less affordable service. It serves as the guide for determining which GSAs have "affordable" service, and which GSAs have higher costs, or less affordable service (see AB 3643, Stats of 1994, Ch. 278, § 2(b)(1)). The benchmark is an important issue because it serves to size the fund by limiting subsidy support to those GSAs whose costs exceed this cut-off point.

The benchmark also serves as the guide for determining how much support a designated COLR receives for serving high cost areas.
Establishing a benchmark also has implications for future rate design. If, the benchmark is set at a level above the current basic local exchange service rate in a particular GSA, that may cause pressure to increase the rate toward the benchmark to more closely reflect the cost of providing service to that GSA.

P. D. 95-07-050 proposed that the GSA should be considered high cost if the proxy cost of serving that GSA was above the revenue generated by the LEC offering basic service in that particular GSA. 02% to determine if such GSA should be designated as high cost.

In the comments to the August 31, 1996 proposed decision, Pacific and TURN discussed the unfunded "gap" problem that occurs if the benchmark is set above an incumbent LEC's Tariff. That issue is discussed below as well.

Position of the Parties

AT&T Wireless commented that if the high cost GSA was designated as suggested by the proposed rule, that such a rule would make the high cost fund overly dependent on each LEC's revenue requirement. This could lead to a situation where customers in two different GSAs with identical proxy GSA costs are treated differently for purposes of CHCF support.

AT&T Wireless recommends that the benchmark should be the statewide average proxy costs of all GSAs. If the proxy cost of serving a particular GSA exceeds the statewide weighted average of serving all GSAs, then the GSA would be considered high cost. The subsidy would then equal the difference between the specific proxy cost and the statewide average of serving all GSAs. COTA asserts that in determining the size of the fund support should be given only to the access lines in need of such support. COTA recommends that only those GSAs with costs above the statewide average should be eligible to receive monies from the fund. Citizens commented that a high cost GSA should be defined as any GSA where the cost for providing basic residential service...
is higher than one standard deviation above the national average loop cost. According to Citizens, the benefits of using such a method are as follows: (1) it is completely neutral because the national average loop cost is a readily available number; it is simple to administer; (2) the numbers can be easily updated; and (3) it can account for changes in the costs of services. 

Citizens also recommends that there be a three-year transition period during which the base would move from a direct embedded cost base to the use of TSLRIC as the base. Thus, in the first year, a high cost area would be defined as a specific GSA area where the direct embedded cost to provide residential basic service is higher than one standard deviation above the national average loop cost. At the end of the transition period, the high cost area would be a GSA, where the (TSLRIC cost to provide basic residential service) is higher than one standard deviation above the national average loop cost.

In its comments to D.95-074050, DRA recommended that there be a comparison of costs among the GSAs, rather than comparing costs and revenues as suggested in proposed Rule 6A:6-10. DRA proposed in its comments that a GSA be considered high cost if the average cost of serving residential customers in that GSA is more than 150% of the weighted statewide average cost of basic residential service serving residential customers in urban GSAs. 55

During the hearing, DRA took the position that the reference point should be based on Pascifides existing flat rate service rate of $11.25, plus the EUCL charge of $3.50. The sum of these two items total to $14.75. The density zone which has the highest TSLRIC but which does not exceed the $14.75, would then be the high cost area for the high cost area.

55 DRA uses the United States Census Bureau definition of urban areas, to define the term urban GSAs.
used, as the benchmark zone. The subsidies for the respective zone would then be calculated as the difference between the TSLRIO of the particular zone, and the TSLRIO of the benchmark zone in question. According to DRA, the use of its recommended benchmark has two advantages. The first is that it maintains current rates for the vast majority of existing customers because it is based on Pacific's statewide flat rate. Since Pacific has about 80% of the market share in terms of number of lines, the use of Pacific's current flat rate plus EUC/ would ensure the maintenance of the same flat and measured rates for most California customers. The second advantage is that it minimizes the size of the fund. While maintaining basic service rates at a reasonable level, the Commission should determine the maximum rate level for basic residential service and deem that to be the affordable rate. By selecting a statewide affordable rate, the fund is targeted to support rates at affordable levels, rather than to support different rate levels for different companies. Although GTEC is not proposing that rate rebalancing be done in this proceeding, GTEC believes that rates for basic service which are below the benchmark level be permitted to increase to the benchmark level. According to GTEC, permitting rates to increase to this benchmark will better reflect costs and reduce the size of the fund. GTEC recommends that the affordable rate be set at $20.00. GTEC would not use this affordable rate benchmark to calculate the support calculation. Instead, GTEC proposes that the COLR serving the high cost area be compensated for the difference between the market rate determined by the proxy cost model, and the rate that the COLR is allowed to charge its customers.
According to the reply briefs filed by the Coalition and TURN, all of the Coalition members, including AT&T, MCI, and TURN, agree that the fund should be sized by first deducting the sum of the incumbent LEC's basic service rate plus the EUCF from the cost of basic service, as determined by the model. This results in the gross funding requirement. The second step, as discussed later, in this decision, is to deduct the interstate Carrier Common Line Charge (CCLC) revenues, Yellow Pages advertising revenues, and any other revenues from interstate support received by the carrier as offsets. The result of the second step is the net funding requirement. The minimum sliding-priority formula is to be applied.

The United States Department of Defense and All Other Federal Executive Agencies (DOD/FEA) recommend that the Commission establish a rate that would be charged by each provider of both the residential basic service. A DOD/FEA proposes that the rate be based on the average cost of basic service in California's urban areas.

To 3. in Discussion, the Department of Revenue estimated the national average cost of basic service to be $20.30 per line.

The first issue is whether the LEC's local exchange rates should be used to establish the benchmark, or whether some other reference should be used. The other references that parties have suggested are the national average loop cost and an average of the statewide proxy costs.

We believe that a benchmark based in part on the national average loop cost should not be used. In the national average, it is not specific to California's conditions. The national average costs of CBOs within California are both urban and rural, and mountainous and flat terrain. In theory, this average should more closely reflect the average cost of providing basic service in California than the present rates of the LECs. Using the adjustments that we have adopted, the CPM results in a statewide average cost of $20.30 per line.
In developing the benchmark, we must balance the economic and social burden of subsidizing basic services and our universal service policies of encouraging subscription and maintaining rates at affordable levels. All of these considerations lead us to believe that the benchmark for determining COLR support should be the statewide proxy model weighted average of $20.30, or the flat-rate, plus BUCL, whichever is higher. The latter benchmark is designed to address the situation when the incumbent LEC's flat-rate plus BUCL exceed the statewide average cost. The use of this benchmark is consistent with promoting the universal service goals of 95% subscription while maintaining affordable rates. This adequately sized fund is crucial in addressing the.

The statewide average cost of $20.30, as generated by the adjusted CPM, should also be used as the cut-off point in determining, which CBGs are high-cost. Although the cut-off of $20.30 will decrease the number of high-cost areas more than all no $14.75 benchmark, it provides a targeted and justified level of support to high-cost areas. Rates for customers in high-cost areas will remain affordable by providing subsidies to carriers willing to undertake the COLR obligation. Affordable prices in high-cost areas promote the goal of providing affordable basic telephone service throughout the state. In addition, this measure of the goal of providing affordable basic telephone service throughout the state.

Accordingly, those GAs whose adjusted CPM estimate of the cost of providing residential basic service is greater than the $20.30 benchmark shall be deemed to be high-cost areas and eligible for subsidy funding. Those GAs whose adjusted CPM estimate of the cost of providing residential basic service is less than $20.30 shall be deemed ineligible for subsidy funding.

In the August 29, 1996, proposed decision, it was suggested that carriers receive a subsidy for high-cost areas based on the difference between the CPM cost estimate of serving a particular CBG, and the benchmark price, less the offsets for revenues from residential basic service, the EUCL charge, the CCLC, and the...
interstate USF, if any. This would put Pacific at a disadvantage because its per line revenues were estimated at $16.02, or $4.28 below the state-wide average benchmark. Under the August 5, 1996 proposed decision, this gap of $4.28 would not be funded. Such a result would unfairly penalize Pacific for having lower rates than the other incumbent LECs. Accordingly, we will adopt a rule to allow funding of this gap when the revenues that a carrier receives are less than the benchmark. By funding this gap, some of the pressure to increase existing rates should be alleviated. The following rule for determining high cost area support should apply:

The subsidy that a designated COLR shall be entitled to will be based on the following:

1. The benchmark will be defined as the greater of the state-wide average cost, as determined by the CPM, or the incumbent’s flat rate plus ECUL.

2. If the per line cost of serving a CBG exceeds the benchmark, the COLR will receive the difference between the benchmark and the per line CPM cost estimate for the CBG.

3. In areas where the incumbent’s flat rate plus ECUL is less than the benchmark, the COLR will receive the difference between the benchmark and the incumbent LEC’s flat rate plus ECUL, in addition to the subsidy described in subdivision (2) above.

4. The COLR’s draw from the CHCF will be offset by the COLR’s revenue from the ICC and the federal Universal Service Fund. The amount of the offset will not exceed the amount of subsidy the carrier received.

56 Funding the soliloquy gap will require approximately $134 million. That amount has been included in the calculation of the CHCF-Borrego surcharge.
would have received without the offset.

Our adopted rules in Appendix B reflect the above discussion and part of our lines 85.08 to 90.01 described in detail above.

The adjusted CPM run reveals that using our adopted benchmark, approximately 4.03 million lines out of approximately 12.7 million total lines will be subsidized. Due to the lengthy printout, that would be required for a run result showing the adjusted CPM estimate of cost for each CBQ, and whether a CBQ is considered to be a high cost, such a table has not been included as part of this decision. Interested parties who desire that breakdown may contact the Telecommunications Division staff to obtain that information.

As part of the administration of the CHCF-B, the Telecommunications Division will need to maintain a database of this information, and correlate that information with the service areas of the LECs and CLCs through a mapping or database system.

H. What Offsets Should There Be?

1. Introduction

In D.95-07-050 and D.95-12-021, the Commission described its proposed approach for determining the subsidy amount. In addition to including the certified rate for flat or measured rate

57 The 4.03 million line figure is after the primary line adjustment. As discussed in [footnote to the COBR discussion, subsidy support will be disbursed based on the actual reported number of eligible lines and additional service inventories inferred from [citation].

58 Pacific stated in its opening brief that "Pacific intends to run the revisions required by the Commission's decision, then turn that version of the model over to the Commission." Since the CPM has been adopted as the proxy model upon which to estimate the cost of providing universal service, we believe that Pacific's intentions to forward the revised CPM to the Commission are appropriate, and that current prices and costs do not change in response to the imminent adoption of the proxy model.
service, as well as the EUCL in the calculation of the subsidy. We stated that other sources of revenues might need to be considered as well. (D.95-07.050/p.53 fn.17/D.95-12.021/p.11.) In the February 21, 1996 ALJ ruling, parties were directed to address the following issues, among others, in their prepared testimony: "Should the Commission consider offsets to the results of the proxy cost model, and if so, what offsets should be considered?"

In this proceeding, the parties have debated whether the subsidy should be offset with revenues that the LECs receive from sources, such as, the federal, CCLO, the Interstate USF, and revenues from yellow pages. These revenue streams have traditionally been used to keep basic rates low. We discuss below whether these items should be offset against the subsidy.

Positions of the Parties

AT&T/MCI point out that the parties generally agree that the revenues received from the current level of residential basic exchange prices, the EUCL, and all payments from the current high cost fund should be deducted from the costs of basic universal service in determining the net funding requirement for the fund.

The parties, however, differ as to whether the CCLO, interstate USF funds, and revenues from yellow pages should be used as an offset. AT&T/MCI contend that the offsets to the subsidy should include all federal, CCLO, revenue monies from the interstate USF, and LEC yellow pages revenues. We do not agree with the AT&T/MCI assertion that the CCLO is a rate element which produces revenues that the incumbent LECs receive to help recover the cost of the loop. Under the split between the interstate and state jurisdictions, 25% of the embedded cost of the loop is allocated to the interstate jurisdiction. Most of the 25% of this cost is recovered in the EUCL charge, and the remainder is recovered in the interstate CCLO. The LECs will continue to use the embedded cost incurred from the state jurisdiction and recover the costs in customer rates. The costs associated with the establishment of the loop will continue to be recovered in the long term.
receive these revenues to offset the cost of the loop unless the CCLC is abolished by the FCC. AT&T/MCI witness Cornell testified that, with the exception of federal Lifeline funding, the interstate USF payments should be subtracted from the needed fund level because the monies are explicitly intended to help support universal service.

AT&T/MCI argue that PU Code Section 728.2 requires the Commission to consider the net revenues of yellow pages when establishing rates. They contend that the Commission recognized in D.89-10-029 that yellow pages profits have not been a contribution to basic rates. AT&T/MCI note that during the AT&T divestiture the Commission successfully fought to support the regional Bell operating companies. AT&T/MCI assert that the history of yellow pages are "good arguments for using yellow pages as an offset to AT&T/MCI assert that Section 728.2 requires the Commission to consider the net revenues of yellow pages when establishing rates. They contend that the Commission recognized in D.89-10-029 that yellow pages profits have not been a contribution to basic rates. AT&T/MCI argue that yellow pages are a monopoly, and that it will not be subject to competition because of economic barriers to entry. They contend that the net revenues of yellow pages operations are consistent with Section 728.2 of the PU Code. AT&T/MCI further argue that the yellow pages business continued to be a monopoly and that it will not be subject to competition because of economic barriers to entry.

AT&T/MCI argue that the CCLC is abolished by the FCC in the California fund. They contend that if the CCLC is abolished by the FCC, then all payments received from the federal fund, with the exception of the federal Lifeline fund, should be subtracted from the California fund.
When the court required AT&T to turn over its Yellow Pages operations to the operating companies, it assumed that revenue from directory advertising would continue to be included in the rate base of the operating companies, providing a subsidy to local rates. (United States v. Western Electric Co., 692 F. Supp. 846, 865 (D.D.C. 1984).) CCTA cautions that if the "incumbent" LECs (Yellow Pages from) yellow pages are not offset against the fund, the Commission will allow the LECs to double-recover these profits. No way to recover the cost to customers.

CCTA also argues that contrary to the assertions of GTEC and Pacific, the Yellow pages market remains non-competitive and will continue to be dominated by the LECs because of their incumbent status.

CCTA recommends that because the testimony of AT&T witness Patricia van Midde suggests that the Yellow Pages profits for Pacific and GTEC are $495 million and $491 million, respectively, the Commission should set a minimum offset level of $500 million for Pacific and $50 million for GTEC.

The Coalition contends that the revenues from Yellow Pages constitute an explicit and sustainable source of universal service support and should be used to offset the amount of the fund. The Coalition points out that Yellow Pages' profits have historically been, and continue to be, designated as a source of funds to support universal service. The Coalition argues that Yellow Pages' revenues should not be included as an offset to the new high-cost fund because this would amount to continuing an implicit subsidy.

The Coalition also contends that the Yellow Pages market is not a natural monopoly and is likely to become increasingly competitive. DRA also argues that Yellow Pages revenues should not be included as an offset to the new high-cost fund because this would amount to continuing an implicit subsidy.

DRA also argues that the Yellow Pages market is not a natural monopoly and is likely to become increasingly competitive. DRA takes the position that the subsidy for high-cost areas should be offset by revenues from the following federal sources: the EUCF, the U.S. P. and FCC. DRA asserts that these revenues were never intended to cover high-cost areas.

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offsets are necessary in order to avoid double-recovery of costs by the COLRs. With respect to revenues from yellow pages, DRA is opposed to using those revenues as a direct offset to the fund. DRA instead favors calculating the subsidy based on the TSLRIC cost of basic service, and pricing the LEC's basic network functions (BNFs) in CANAD at TSLRIC. Therefore, DRA believes that the revenues from yellow pages should be used by the LECs to provide a source of recovery for the LEC's shared and common costs that the BNFs would not otherwise be able to recover. DRA is also of the opinion that using revenues from yellow pages as an offset would result in the LECs continuing to rely on yellow pages as an implicit subsidy. DRA asserts that this would be contrary to the Commission's goal of making the subsidy for universal service explicit. DRA volleys this claim by engaging in a broad attack on the implicit subsidies which, DRA asserts, does not believe that the implicit subsidies should be reintroduced as a proposed offset to the implicit subsidies, a proposal that GTEC argues that no offsets should be considered. GTEC maintains that these mechanisms, such as the CCLC, and revenues from yellow pages, are implicit subsidies which have been used in the past to support universal service. By developing a new and explicit, and competitively neutral funding mechanism to replace the implicit subsidies, GTEC does not believe that the implicit subsidies should be reintroduced as a proposed offset to the implicit subsidies. With respect to the CCLC, GTEC asserts that the revenues from the CCLC should not be considered in calculating the funding and GTEC points out that the local exchange customer does not pay the CCLC as a result of ordering basic exchange service. Instead, it is only when the customer chooses to use interoffice long distance calling that CCLC revenue will be generated. Thus, customers with little or no access demand will generate little, if any, revenue
for the COLR that serves them. If an average amount of CCIC revenue is used as an offset to calculate support, but the LEC loses some of its high volume intercarrier traffic, the COLR will lose those revenues that such an offset would include. GTEC also points out that the FCC has sought comment on the use of a combination of EUCF increase and universal service funding to reduce the CCIC.

GTEC also asserts that there is no risk of double recovery as a result of not including CCIC revenues as an offset. GTEC contends that the total investment estimated by the forward looking CVM for GTEC reflects only 46% of GTEC embedded cap cost. GTEC argues that yellow pages revenues should not be used as an offset for several reasons. The first is that yellow pages revenue come from an unrelated, non-telecommunications business. Yellow pages advertising is not generated by residential basic service subscribers, but instead by business customers. Second, the inputs required to enter the directory assistance business are available to any publisher, and are not tied to the assumption of any COLR responsibilities. New entrants are not required to develop directory publishing as a condition of entry into the market. Third, revenues from yellow pages differ among the carriers, which would need to be taken into consideration if such an offset was used. And fourth, PUC Code § 728.2 provides that yellow pages revenues and expenses may be considered in setting rates for other services offered by telephone corporations. GTEC asserts that this does not mean it should be considered for calculating the size of the universal service fund.

GTEC also asserts that although revenues from yellow pages have been used in the past to support universal service, using such revenues as an offset is inconsistent with the Telco Act that any universal service support should be made explicitly.

Finally, GTEC maintains that using yellow page revenues as an offset violates Section 728.2 of the PUC Code which permits the
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Pacific also contends that a yellow pages offset could eliminate another source of recovery for shared and common costs. In addition, the offset would reduce or eliminate the other carriers' obligations to contribute to the fund. Also, the revenues from yellow pages is unlikely to be sustainable over the long term due to competition and the renewal of a monopoly if unlimited.

The Small LECs contend that the proposals to use the revenue from interstate USF and access pool revenues to offset intrastate costs is inconsistent with the jurisdictional separation of responsibilities of the federal and state governments. They contend that interstate support revenues are intended to support interstate costs, and not intrastate costs, to keep them separate.

TURN believes that the yellow pages offset is "one of the most important steps that the Commission must take in this proceeding." (TURN Reply Brief pp. 30-31) TURN contends that an offset of yellow pages revenue is necessary in order to ensure that carriers are not overcompensated for serving high cost areas.

TURN argues that yellow pages profits have historically been used to support basic exchange service and that local telephone competition will not alter the long term sustainability of those profits. TURN believes that revenues from basic service should be included as an offset. Therefore, revenues received from basic service are not included in the proposed offset.

As for the use of intercarrier revenue, there is no disagreement that revenues from basic service should be included as an offset. In the comments of GTEC and Pacific to the August 5, 1996 proposed decision, they argue that the calculation of the LEC's revenues used to offset the support amount should be reduced to account for those customers who have measured rate service. TURN replied that it would be incorrect to reduce the LEC revenue offsets without considering the revenue from local usage generated by measured rate customers. We agree with TURN's position, and for that reason have not made any modifications to the revenues from basic service.
from the carrier's flat rate shall be treated as an offset against the fund. For calculation purposes, it is assumed that the flat rate is incorporated in the benchmark.

We agree with the parties that the EUCL charge should be considered as an offset to the fund. It is an appropriate offset because it recovers a large share of the interstate portion of the LECs' NTS: embedded loop costs. In addition, the CPMP benchmark does not recognize the receipt of these monies when it calculates the cost of providing universal service on a statewide basis. The residential and single-line business EUCL charge is capped at $3.50 per line. Like the flat rate offset, the EUCL offset will be incorporated as part of the benchmark.

As for the CCLC, we agree with AT&T/NOJ/DRAN and TURN that the CCLC should be used as an offset. The LECs' argument that the CCLC is a switched access, usage-based rate is irrelevant. What is relevant is that the CCLC recovers the remaining portion of residential and single-line business interstate NTS costs that are not recovered by the EUCL charge. To ignore recovery of this amount by the LECs would overcompensate them for the loop.

The CCLC offset will be treated differently from the flat rate and EUCL offsets. The CCLC offset will be deducted from the COLR's total draw from the CHCF-B. The CCLC offset will include only the CCLC revenue for subsidized lines and the amount of the offset will not exceed the amount of the subsidy that would have been received without the offset.

As for the monies that the five large and mid-size LECs may receive from the interstate USF, we agree that those monies should be used as an offset. However, only a portion of interstate USF funding should be considered since the USF is designed to cover the entire cost of a company, not just the cost of serving residential customers or customers in high cost areas. Therefore, the fund should only be offset by the carriers' per-line monthly.
USF 'draw multiplied by the percentage of lines eligible for high cost assistance in California, will be treated as the CCLC offset.

The USF offset will be treated the same as the CCLC offset. The USF offset will be deducted from the carrier's draw. The USF offset will be confined to the USF revenue for subsidized lines, and capped at the pre-offset amount of subsidy. All costs in California will be treated the same as the CCLC offset. The USF offset will be deducted from the carrier's draw. The USF offset will be confined to the USF revenue for subsidized lines, and capped at the pre-offset amount of subsidy.

With regard to the CHCF, GTCC, and Pacific, these also are ineligible for this fund. The three mid-size LECs are currentlyineligible or are transitioning away from this fund as a source of universal support. Accordingly, no offset is required for monies from the CHCF-GTCC. The entire revenue is not an eligible offset.

With regard to the revenues from yellow pages, we now conclude that those revenues should not be included as an offset.

As we noted in D.95-12-021, PU Code § 728.2(a) suggests that the revenues and expenses associated with yellow pages should only be considered when establishing rates for other services. We are not establishing rates for other services in this proceeding. All that we are doing is establishing a fund to subsidize high cost areas of the state. Existing rates are calculated based on yellow page revenues. Existing rates would be higher if yellow page revenues were not already accounted for. It would be double counting to again offset yellow page revenues against rates. In addition, the use of revenues from yellow pages would significantly reduce the contribution of others to support the fund. Such a result is contrary to the expressed intent in the Telco Act and AB 3643 that there be "equitable" support. For those reasons, we decline to include revenues from yellow pages as an offset.

The offsets are incorporated in Rule 6.C.2. of Appendix B. Our estimate of what offsets there should be are shown in Appendix D. We note that the "商报商" is an old practice, and we do not rely on it. However, it is an old practice that may be used for support from the EUCIC charge, the CCLC, and the interstate USF, the offsets.
I. Funding Mechanism Issues (c) above the five large and mid-size 42U LECs. Also, should the FCC revise these various charges or adopt new charges, we shall revisit the offsets issue. 42U, etc.

In our proposed rules, we discussed how the CHCF's fund should be collected. As (D) described in (pp. 60-66) we compared two options: (1) using an AEUS; or (2) a net transaction account method. With an AEUS, a surcharge is imposed on all customers' expenditure for telecommunications services. The surcharge, however, appears as a line item on each customer's bill. The carriers pay the monies that they have collected from their customers into the fund. The fund administrator then issues a check when the carrier submits a claim. As (a) described in Code 1 55-15-26.9 in 1985, a net transaction account was from carrier contributions. The carrier is assessed a percentage charge on its revenue on the net of payments made to other carriers for telecommunications access. Carriers may seek reimbursement for the charges from their customers to the extent the carriers are able to pass along the charge. Under the net transaction account, the surcharge is collected from carrier contributions. The carrier is assessed a percentage charge on its revenue on the net of payments made to other carriers for telecommunications access. Carriers may seek reimbursement for the charge from their customers to the extent the carriers are able to pass along the charge. Under the net transaction account, monetary transactions are reduced. The fund administrator accounts for the amount of money a carrier owes, and subtracts the amount it is entitled to draw. Hence, the name net transaction account. For example, if a LEC owes the fund $50 million and is allowed to draw $100 million, the surcharge fund administrator simply disburses a check for $50 million to the carrier.

The allocation is made in Rule 1 58. AT&T/MCI witness Cornell refers to the net transaction account method as a "value-added charge." Like the net transaction method, the value-added charge is based on the total revenues received for a service, net of any payments for inputs that will also be subject to the charge. 42U (Ex., 417 pp. 35-36).
Although proposed rule 6\(x\) set forth the net trans account as the proposed funding mechanism, we stated in \(R.95-07:050\) at page 64 that the Commission was still undecided as to whether the net trans account system is preferable over an ABUS. We requested parties to provide additional comment on the net trans account system.

In addition to choosing a funding method, we must also make some choices regarding the following, which customers or carriers should pay into the fund, which services should be included in the surcharge calculation, the surcharge for the CHCF-B, and should the CHCF-A be combined with the CHCF-B for purposes of administration.

1. What Type of Funding Mechanism Should be Adopted?

a. Positions of the Parties

AT&T/MCI support the adoption of a net trans account method. They state that the net trans method is easier to administer than an ABUS because it eliminates the need to collect and then disburse the monies. Instead, under the net trans approach, only the net amounts would change hands. AT&T/MCI acknowledge that with an ABUS, end users would know how much they are paying to support universal service. However, the net trans method could also accomplish this if the charge appears as a separate line item on the customer's bill.

DCA supports the use of an ABUS. DCA contends that an ABUS is already in place, and that it is easy to administer. In addition, an ABUS informs customers about the amount of the subsidy who pays it, and who benefits from it.

DRA recommends that the net trans account method be adopted. DRA states that, with the exception of GTEC and ICG, all of the other active parties support the use of a net trans account. DRA believes that the net trans is consistent with the Telco Act and that it has distinct public policy advantages over the ABUS. For example, under the net trans approach, the carriers are
required to make payments into the fund. As a result, the carriers have a much stronger incentive to keep the size of the fund reasonable. F foes lth., at any level of contribution beyond that required to support the fund.

GTEC favors the adoption of the AEUS as the preferred mechanism for funding the CHCF fund. GTEC comments that an AEUS is easy to administer, simple to collect, and is competitively neutral. GTEC also states that the AEUS is preferable because it is clear and explicit that carriers can see how much they are contributing to universal service. GTEC asserts that under a "net-transfer" approach, the subsidy would not be explicit but would be buried in the rates that customers pay for service.

GTEC also asserts that an AEUS maximizes competitive neutrality because the surcharge is applied uniformly to all providers and services. That is, under the AEUS, every time a customer spends a dollar on telecommunications, a given percentage of that dollar will go to support universal service. GTEC argues that with a "net-transfer" method, recovery of the surcharge amounts is unlikely to be uniform across all services' rates. This may influence customers to select different services in different amounts. GTEC also argues that the AEUS is a proven method of collection since it has been used in California to collect the UUTS funds. GTEC points out that a net-transfer account is not competitively neutral because it requires carriers to pay into the fund directly. As a result, smaller carriers are more likely to be impacted because they will have to absorb the contribution to the fund, or they will have to attempt to pass the contribution onto their customers.
Pacific favors the use of the net trans account. Pacific witness Mitchell testified that the net trans approach simplifies implementation, reduces billing costs, and minimizes the potential for significant customer confusion. The Small LECs support the use of an AEUS. They believe that it is the fairest and most neutral method of distributing the subsidy burden. The Small LECs point out that the AEUS is a simple and proven mechanism, whereas the net trans account exists only in theory. Given all the other complex changes associated with the transition to competition, the Small LECs believe that an AEUS should be adopted.

TURN states that the carrier contribution approach of the net trans is consistent with the requirements of the Telco Act. According to TURN, Section 254(f) of the Telco Act directs state commissions to require telecommunications carriers to contribute to preserve and advance universal service. Under the net trans method, the carriers would pay a percentage of their common carrier revenues net of payments made to other carriers. Although the other carriers may attempt to pass this charge onto its customers, market conditions may prevent this from occurring, and carriers may end up contributing some of their own funds. The AEUS, on the other hand, makes customers the sole funding source of the fund.

TURN also argues that with a net trans account method, carriers would have a stronger incentive to keep the fund size reasonable. TURN also comments that carriers would have every incentive to keep their customers informed by noting on their bills that customers are paying a certain percentage surcharge to support universal service.

Discussion

Both the AEUS and the net trans account method have advantages and disadvantages. In making a decision as to which funding mechanism should be adopted, we are mindful that our
selection should be consistent with the following principles contained in AB 3643. Any subsidy that may be required to ensure that universal service remains a viable reality must have a clearly stated purpose and scope, include a broad-based and competitively neutral funding mechanism, and be imposed in a manner that clearly identifies the source of the subsidy.

"(5) Consumers should be able to have access to all the information needed in order for them to make timely and informed choices about telecommunications products and services, and how to best use them." (Stats. 1994, Ch. 278, Sec. 2(b).)

The two principles described above make clear that the funding mechanism should meet the following criteria: that it is competitively neutral; that it clearly identifies the source of the subsidy; and that consumers have the information they need to make informed choices.

In addition, as pointed out by the parties, Section 254(f) of the Telco Act also provides some guidance. Section 254(f) states: "pertinent part of the "State Authority. A State may adopt reasonable regulations not inconsistent with the Commission's rules to preserve and advance universal service. Every telecommunications carrier that provides intrastate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, in a manner determined by the State, to the preservation and advancement of universal service in that State." An AEUS would appear as a surcharge on each customer's bill. The imposition of such a surcharge is in conformance with AB 3643 because it clearly identifies the source of the subsidy. Customers can see how much they are paying into
the fund which supports universal service and allows residential customers in high cost areas to pay affordable rates. Customers are also informed as to the amount of the surcharge. If after seeing the surcharge amount, customers believe the surcharge is too high, they can make their opinion known by contacting the State or their state legislators. In this way, customers often provide a check and balance to ensure that the surcharge, for the fund is not oversized. If after, receiving the surcharge amount, customers believe the surcharge is too high, they can make their opinion known by contacting the State or their state legislators. The net transaction account method would impose the funding obligation directly on the carriers, rather than on customers. The net transaction account method was adopted, that they be permitted to state on their customer's bills that part of the customer's bill includes a payment to support the fund. However, as testified to by several witnesses, the carrier could conceivably absorb some or all of the fund charge. If the carrier decided to absorb some or all of the charge, then a net transaction method would not be consistent with the principle expressed in AB 3643 that the subsidy "be imposed in a manner that clearly identifies the source of the subsidy" because the customer would not know if such a charge was being imposed on them. Under such a scenario, customers would not have access to all the information, but rather paid in a manner that does not reveal the source of the subsidy. If AB 3643 did not intend that the customers of telecommunications carriers be obligated to fund the subsidy to support universal service, and therefore the language in Section 2(b)(3) of AB 3643 was meant to apply only to carriers. Thus, if the charge was imposed on the carriers only, then it would be consistent with this principle because the carriers would know that the charge was imposed on them to fund universal service. We believe, however, that such an interpretation of AB 3643 would be mistaken. Clearly, when AB 3643 was enacted, the Legislature knew that the longstanding practice of funding universal service came from the UTS AEUS, and other rate subsidies supported by ratepayers, and not by the carriers. (See Stats. 1994, Ch. 278, Section 1(a), Section 2(a)(2) and (3).)
needed to know whether the carrier was in fact passing the carrier-based charge onto the customer. In addition, in order to establish the net trans account method, all the carriers and the fund administrator would have to design new accounting procedures and systems. We believe that everyone is aware that the carrier is likely to be needed initially. As everyone becomes interested in this issue acknowledges, the net trans account method is a new concept and untested in the real world. Also, in order to ensure that carriers are correctly netting out payments paid to other carriers for services subject to the charge, auditing of the carriers is likely to be needed initially.

Further, we believe that the ABUS is a more flexible and competitively neutral method of funding than the net trans account method. With an ABUS, the charge is imposed on all telecommunications services and customers. Thus, an ABUS is broad-based because everyone who uses telecommunications services in such California is affected by the surcharge. It is also competitively neutral because all telecommunications services are subject to the surcharge. The net trans method, on the other hand, may not be as competitively neutral because the carriers could pass the charge on to less elastic services such as residential basic service, and relieve the more competitive services of the charge.

The net trans account method could also cause implicit subsidies to continue. Since carriers would be obligated to pay the charge under a net trans approach, carriers may have to raise the money to fund universal services. Some of these carriers will undoubtedly try to raise some of the same rates that currently support below-cost rates in high cost areas. TURN contends that the language of section 524(k) of the Telco Act requires that telecommunications carriers, and not new customers, pay into the fund to preserve and advance universal service. We are not persuaded by TURN's argument that the Telco Act
Act was intended to prevent use of the AEUS to fund the CHCF-B. Despite the language in Section 254(k), we agree with ICG that it is highly unlikely that Congress intended to use only, and not their customers, to contribute to the national fund. This is especially true since carriers are likely to pass that charge onto its customers. Moreover, carriers who collect the AEUS do "contribute" to the fund in the sense that they incur certain administrative expenses to assess, collect, and remit the money to the fund. (In addition, Section 254(k) of the Telecommunications Act permits the states to adopt regulations pertaining to universal service that are not inconsistent with the FCC's rules to preserve and advance universal service; even if we read the term "customer" narrowly.

We adopt the use of the AEUS to collect the surcharge for the CHCF-B. This reflected in Rule 675.27 of Appendix B.

3. Who Should Be Obligated to Pay Into the Fund

a. Introduction

Having adopted an AEUS funding mechanism, the next issue to address is whether any customer groups should be excluded from having to pay the AEUS. This issue was raised during the AT&T/MCI proceeding in the context of both an AEUS and the net transmeta exchange account. After careful consideration of the various positions of the parties, the Commission recommends the exclusion of residential primary service and local coin revenues from public policy.

b. Positions of the Parties

AT&T/MCI recommend the exclusion of residential primary service and local coin revenues from public policy. They further recommend that the fund should be supported by all other common carrier services, whether provided under tariff or under contract, whether provided by an incumbent local exchange carrier, an interexchange carrier, an alternative access provider, an entering competitive local exchange provider, a satellite carrier, a cellular company, a payphone provider, or an alternative operator services provider, and whether involving switched services or dedicated services should be considered part of the base for provision of support." (Ex. 1, pp. 34-35.)
AT&T/MCI assert that the revenues from residential primary access service should be excluded because it is the service eligible for support. AT&T/MCI witness Cornell stated that these lines should be excluded from the charge on the theory that if they are part of the taxing base, more lines will probably need support thereby making the fund even larger. According to Cornell, if primary service should be viewed as a residential customer's first line, and does not include toll or long distance charges, then the customer may make coin revenues from public policy payphones and should be excluded because it is a subsidized service. The source of AT&T/MCl witness Kahn, recommends subtracting out basic service revenues from the funding base to remove the service being supported from the source of the support. All 50 states agree that residential revenues should be excluded from the calculation.

GTEC contends that primary basic exchange revenues should be excluded from the funding base. GTEC asserts that by including them, basic service will become more costly and increase the number of customers who need support. As for TCG's claim that excluding residential revenues will result in a competitive disadvantage to carriers who only serve business customers, GTEC contends that no such advantages will result.

Pacific argues that basic residential revenues should not be included in the funding base. Pacific states that applying the surcharge to the subsidized revenues will increase the cost of basic service, which in turn increases the size of the subsidy.

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Paul Cain, the witness for TCG and MFS Intelenet (MFS), testified that residential customers should not be excluded from the calculation of the surcharge. If basic residential revenues are excluded, a large portion of Pacific's and GTEC's revenues would not be included in the calculation of their net transmission revenues. According to Cain, this would dramatically increase the percentage share of the universal service obligation.
that would be borne by carriers serving business customers, which would defeat the goal of a broad-based, competitively neutral funding mechanism. That is, a carrier who only provides service to small business customers would end up transferring revenues to a carrier providing both residential and business services, thereby giving an competitive advantage to the carrier receiving the transfer.

TURN supports excluding residential primary basic exchange service from the funding base. TURN states that inclusion of primary basic exchange service in the revenue base would have the effect of increasing the costs and enlarging the fund, and adds to the complexity of administering the USF. In another aspect, TURN supports excluding business customers from the funding base on an Act calculation. The Cellular Carriers Association of California (CCAC) states that cellular carriers should not have to contribute to state universal service programs. CCAC argues that the Omnibus Budget Reconciliation Act of 1993 (Omnibus Act) exempts cellular carriers from state universal service obligations. Although the Omnibus Budget Reconciliation Act of 1993 (Omnibus Act) preempts states from any rate and entry regulations, CCAC recognizes that the Omnibus Act acknowledged the importance of the state maintenance of universal service, and specifically provided that commercial mobile radio service (CMRS) are not exempt from such surcharges when the CMRS are a substitute for landline telephone service, CCAC contends that it is exempt from a universal service surcharge because cellular service is not a substitute for landline telephone service.

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This proceeding also heard testimony on whether cellular customers should be excluded from the funding base on an Act calculation. The Cellular Carriers Association of California (CCAC) states that cellular carriers should not have to contribute to state universal service programs. CCAC argues that the Omnibus Budget Reconciliation Act of 1993 (Omnibus Act) exempts cellular carriers from state universal service obligations. Although the Omnibus Budget Reconciliation Act of 1993 (Omnibus Act) preempts states from any rate and entry regulations, CCAC recognizes that the Omnibus Act acknowledged the importance of the state maintenance of universal service, and specifically provided that commercial mobile radio service (CMRS) are not exempt from such surcharges when the CMRS are a substitute for landline telephone service, CCAC contends that it is exempt from a universal service surcharge because cellular service is not a substitute for
landline service, 60 CCAC also argues that if the Commission does not exclude cellular service from the funding base, the surcharge must be restructured in the way that it is calculated. They state that the current way the surcharge is calculated is calculated unfairly to discriminate against cellular customers because the charge is paid based on a percentage of total revenue, and not on per service equivalently.

DCA contends that cellular customers should contribute to the high cost area subsidy fund. DCA agrees with DRA's position that the Telco Act provides that every and existing telecommunications carrier should contribute to a state-based to add universal service program, and that cellular customers benefit from universal service in the same way that landline customers benefit. DCA also points out that cellular customers generate increased usage on both the landline and wireless networks, and therefore is appropriate for cellular carriers to share in the funding of the CHCR+B fund. DCA also notes that applying the universal service surcharge to wireless carriers is equitable and non-discriminatory.

DRA argues that applying the universal service surcharge to wireless carriers is equitable and non-discriminatory. DRA contends that cellular subscribers receive the societal benefits of universal service, and that it is only fair that they contribute to a broadening of the funding base to include cellular customers. DRA also argues that the CCAC's suggestion that the universal service surcharge be transformed into a flat, uniform dollar amount imposed on a per-line

60 Section 332(c)(3)(A) of Title 47 of the United States Code reads in pertinent part: "Nothing in this subparagraph shall exempt providers of commercial mobile services (where such services are a substitute for landline telephone exchange service for a substantial portion of the communications within such state) from requirements imposed by a State commission on all providers of telecommunications services necessary to ensure the universal availability of telecommunications services at affordable rates."
or per call basis. Would it simply shift the burden of universal service onto wireline customers? As discussed, that burden has historically been borne by subscribers to cellular service. The point is that cellular customers pay the same surcharge as wireline customers; pay a greater surcharge per phone call; and that is because the cellular carriers receive much more in revenue per phone call. As previously stated, we have adopted an AEUS for telephone service, which required a collection of the subsidy funds. With this mechanism, we see no need to exclude residential/local exchange service from the surcharge amount. A broad, based support mechanism should include residential basic service in the funding base so as to reduce the overall surcharge percentage rate. All residential customers should support the fund because they benefit from the comprehensive and far-flung network as well. Additionally, with our modifications to the proxy model, we have targeted the subsidy to a minority of access lines in the state's areas of the stateон which are
truly high cost. The majority of access lines will not be required to subsidize and should help contribute to the universal service fund. The only residential customer group that will be excluded from the charge are ULTS customers who have certified their need based on specific income levels. Paying a tax to subsidize a luxury. Regarding the issue of excluding cellular carriers, we reaffirm the position which we took in D.94-09-065 at page 292. In that decision, we held that all end-users of every LEC, IEC, cellular, and paging company in the state, receive value from the interconnection to the switched network, and that all users should be included in the billing base for the ULTS program and the Deaf and Disabled Telecommunications program. As noted in CCAC's opening brief at page 2, when the draft decision which led to the adoption of D.94-09-065 was issued, CCAC commented that cellular subscribers should not be required to subsidize the landline network in any manner, but if required to do so, subsidization should be subject to an equitable universal service funding mechanism. New, Despite CCAC's comments, D.94-09-065 left unchanged the imposition of a ULTS surcharge on cellular service customers. The Omnibus Act, which preceded the issuance of the draft decision, which became D.94-09-065, exempted cellular customers from paying into the fund, or that the fund should be modified to a flat uniform rate instead of a percentage of revenues. We would note that inclusion of cellular customers in the funding base is necessary to ensure that all users are paying their fair share of the cost of universal service. Other CMRS services, except for one-way paging services, should be included in the billing base for the CHCP-Bisurcharge.
consistent with AB 3643's principle that the funding mechanism be broad-based and of funds already allocated to payments for post-1990
consistent with D.94-09-065 and D.95-02-050, in addition to ULTS billings, the following should also be exempted from the CHCP-B surcharge: coin sent paid calling, debit card messages, one-way radio paging, usage charges to CORTA customers, receiving services under existing contracts that were executed on or before September 15, 1994, and directory advertising.

4. The Surcharge for the CHCP-B

The surcharge that we adopt today was derived from the adjusted CPM estimate of the cost to serve high cost C225a using the $20.30 benchmark. The annual subsidy was divided by the total number of end user customers to arrive at the gross surcharge. The gross surcharge was then offset by the CHQ, the CCH, and before USF support, if any. This results in a net surcharge. The $20.30 benchmark, which is the CHAP benchmark, was adjusted for the C225a.

5. Combining The CHCF-A and CHCF-B

In the comments to the August 5, 1996, proposed decision, some of the parties suggested that the CHCF-A and CHCF-B surcharges be combined into a single line item rather than as two separate line items. Since it is our intent to use the same billing base for the CHCF-A and for the CHCF-B, we will adopt that suggestion. For purposes of collecting the funds for the CHCF-B, we will allow the CHCF-A and the CHCF-B to appear side by side as a single line item on the bill.
item on the end user's bill. Since the two funds are for two different funding mechanisms, the carriers shall be responsible for remitting the CHCF-A and the CHCF-B monies to separate bank accounts, and shall account for these two funds separately. Combining the two surcharges together as a single line item should result in less customer confusion and a more efficient manner of administering and collecting the surcharge amounts. Customers will be able to see on their bills how much they are contributing to support universal service in high-cost areas.

The combined CHCF surcharges shall appear on end user's bills starting with the billing cycle that begins on February 1, 1997. This will give the carriers time to implement this change to their billing systems. In addition, it will also give carriers the time needed to prepare and mail a bill insert informing customers of the change. The new format will begin with the first bill that is produced. The bill insert shall be mailed concurrently with the first bill that reflects this new billing format. The bill insert language shall be developed in a workshop to be convened by the Telecommunications Division as soon as possible.

At the present time, the CHCF-A is administered by Pacific Tel. The Commission, as discussed later, will eventually administer the CHCF-B. The Commission should also take over the administration of the CHCF-A. This transition should take place over the next six months.

The bills shall be directed to provide for an orderly transfer of the CHCF-A responsibilities, and all related books, accounts, monies, and related paperwork to the Commission. The testimony in this proceeding indicates that drawing on the CHCF-A and CHCF-B funds are likely to be minimal in the future. If that remains true, the carriers may decide to list the CHCF-A and CHCF-B as two separate line items.
the case, once the Joint Board and the PUC decide on the federal funding mechanisms for universal service, the Commission should revisit the CHCF-A fund to determine whether the fund is still required or if the subsidy amount should be reduced.

J. Carrier of Last Resort

1. Introduction

The COLR is a regulatory concept rooted in the idea that by accepting the franchise obligation from the state to serve a particular area, the public utility is obligated to serve all the customers in that service area who request service. (D.95-07-050, In the Matter of 39 C.F.R. 946(956-9577).) The COLR concept is important to a universal service policy because it ensures that customers receive service. Prior to the opening of the local exchange markets to competition, the 22 incumbent LECs served as the COLR in 13 states, California's 800 plus local telephone exchanges.

As we noted in D.95-07-050 at pages 36 to 37, with the introduction of competition, the COLR may no longer be the single monopolist serving the territory. Instead, certain competitors may choose to serve the same service area, or a smaller service area, for certain groups of customers. That may result in more than one COLR in certain service areas, and only one COLR in other areas. In the proposed COLR rules, the incumbent LECs would also continue to serve and be designated the COLR in all of their respective service areas. The incumbent LEC would retain that franchise obligation until another carrier or carriers are designated as the COLR. The incumbent LEC could also decide to remain as a COLR. The proposed rules also provide for a procedure to replace the last remaining COLR who wants to be relieved of its COLR obligation. Under the proposed rules, only designated COLRs would be able to receive a subsidy for providing service to residential customers in high cost areas. The subsidy, which is derived from the proxy model, will vary according to the cost of providing basic service within a GSA.
In 2:11, **Positions of the Parties**, AT&T Wireless commented that proposed rule 6.425, which requires a designated COLR in a given GSA to serve the entire GSA, may be discriminatory to wireless carriers because the boundaries of a particular GSA may not fit within the territory covered by that carrier's FCC licenses. AT&T Wireless also points out that incumbent LECs may also experience the same problem if they are required to cover GSA boundaries that are outside their existing exchange territories. AT&T Wireless recommends that the proposed rules be modified to permit any carrier to apply for designation as a COLR in an area that may not cover an entire GSA.

Citizens commented that proposed rule 6.2 may be too narrow legally deficient because it forces the owner of the facilities to sell its facilities at book value. Citizens also believe the Commission already has procedures in place to protect against abandonment of a particular service area, and that the auction mechanism provided for in proposed rule 6.1.1 is unnecessary.

The Coalition commented that there is no need to require new COLR entrants who seek to be a COLR in a particular area, to comply with any extra criteria than that which is required as part of the local entry certification process. Accordingly, the Coalition believes that proposed rule 6.4 is not required. The Coalition also feels that the NOI process could be streamlined by allowing the Coalition to seek COLR authority by advice letter.

The Coalition commented that in order to eliminate barriers to entry, access to subsidies, funds should be allowed to all new entrants, whether or not they are willing to undertake the COLR obligations. The Coalition argues that new entrants in many cases will be required to construct entirely new networks from the ground up. If new entrants are required to serve an entire GSA, the new entrants are likely to refrain from entering the market at all.

If the Commission insists on requiring that a carrier shall undertake the COLR obligations in order to draw from the CHCFs,
the Coalition recommends that the geographic area be sized in a
manner which makes meeting the obligation possible. The Coalition
believes that GSAs which are sized by census blocks would best meet
this requirement.

Regarding the safety net auction mechanism, the Coalition
cautions that the incumbent LECs may try to use the mechanism as a
means of skimming off the subsidy amount. The Coalition strongly
recommends that in order to prevent this from occurring, the plurality
of incumbent LECs be prohibited from participating in the bidding if
they initiate the auction. As mentioned previously in our views
regarding the Coalition agrees that the winner of the safety net
auction should be allowed a premium as an incentive to serve a
particular area. However, after three years, the Coalition does not
recommends that all the other COLRs serving the same area should be
entitled to the entire subsidy. premium on a pro rata basis.

DRA suggests that some minor revisions be made to proposed rules:
6.G.1., regarding resale, be revised. DRA believes that the Commission should not be directly involved in
deciding whether a service or facility that is resold should be
priced below its cost. Also, DRA asserts that the high cost caused
subsidy should apply only to the offering of basic service as a
whole, and should not apply to the offering of any unbundled part of
basic service, such as the loop. Therefore, DRA recommends that

rule 6.G.1. be revised as follows:

If resale of basic service is permitted, the provider
residential customer shall receive the subsidy
provided that the basic residential service is
priced at the affordable price set by the
Commission.

GTEC commented that it is reasonable to impose a COLR
obligation only on those carriers who are willing to serve any
customer in a market, and that all the carriers seeking to

undertake the COLR responsibility should be required to meet the Commission's established fitness requirements. Pacific believes that the financial qualifications should be more stringent as well, and proposes that in order to become a COLR, that the carrier must hold a minimum of $500,000 of cash or cash equivalents.

Pacific agrees with the Commission's proposed rule that only providers acting as a COLR throughout the GSA should be able to receive the high cost subsidy. Pacific states that the eligibility requirement acts as an incentive for carriers to offer service to all subscribers within the GSA. If the subsidy was only offered without a carrier having to undertake the COLR obligation, Pacific contends that such a method would simply subsidize entrants for cream-skimming, not thereby attract or require the necessary competition.

Pacific supports the use of an auction in the event no single carrier is willing to undertake the COLR obligation, as well as allowing a COLR to opt out of its obligation. However, it disagrees with the Coalition’s proposal that if an auction is triggered by the withdrawal of the sole COLR, the withdrawing COLR should be disqualified from bidding in the auction. Pacific argues that such a restriction may actually increase the size of the fund because the incumbent COLR will not be participating. Pacific also points out that the proposed rule 61.61 should be clarified regarding the notice when the auction will be held. Pacific recommends that the auction be noticed and held within 180 days of the COLR filing its application to withdraw.

Regarding the issue as to whether a COLR should have to meet specified criteria beyond the safeguards contained in the local competition rules, Pacific believes that the local competition rules are sufficient, and that no additional criteria are necessary.

Pacific commented that this proceeding needs to address the issue of resale of residential service, and whether the reseller is entitled to participate in the CHF-B fund.
points out that the reseller should not be able to qualify as a COLR because it is not standing ready to serve any customers in the same sense that a facilities based carrier is. Pacific suggests one two ways of dealing with this issue: The first is to have the facilities based carrier or COLR receive all the funding. The COLR whose services are resold has no control over whether the reseller is providing all the basic service elements. The second method is to allow a reseller to draw from the fund if the reseller can demonstrate that the service provided meets the COLR requirements.

The smaller independent LECs state that they have made significant investments to develop modern state-of-the-art digital networks and that they are in the best position to deploy new technologies in their service areas at reasonable rates. Due to the size of this large embedded plant investment, they argue that they shouldn't be designated the exclusive carrier for a period of at least seven years. They argue that this designation will allow them the opportunity to recover their capital investment while providing a transition period to determine their future investment in a new competitive environment. Competing carriers could still offer service in these areas, but only the incumbent LECs could draw from the high cost fund benefits of a COLR designation. The LECs have made a significant investment, and the carriers should receive a COLR designation. They believe that the Commission's first criteria should be that only facilities-based providers may become COLR targets of the Commission's inquiry for the COLR designation.

Both Roseville and the smaller independent LECs agree with the discussion in D. 95-07:050 that only highly qualified and carriers should receive a COLR designation. They believe that the Commission's first criteria should be that only facilities-based providers may become COLR targets of the Commission's inquiry for the COLR designation. Roseville suggests that the carrier seeking to become a COLR explicitly state

63 Roseville suggested in its comments that due to this plant investment, it should be designated as the exclusive COLR for a period of no less than five years.

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what efforts it intends to make to communicate with non-English-speaking speakers in their native language. USA also believes that there should be an ongoing review of all providers to determine if they are meeting their obligations in this area. This put into effect on April 1995.

Discussion

As noted earlier, the purpose of the COLR idea is to ensure that there is a public utility which is obligated to serve all the customers in its service area, who request service. In D.95+07+050, we proposed that the incumbent LEC be designated as the COLR in all their service areas, until such time that another carrier or carriers are designated to be a COLR, in D.95+07+050, App. A, §6.11.C.

We wish to make clear that the COLR obligation applies to both residential and business customers, for all areas in which the COLR has been named the designated COLR, and to becoming as a designated COLR. As explained in D.95+07+050, page 57, and in proposed rule §6.11.D.

The proposed rules also provide that a designated COLR will be required to serve the GSA. In D.95+07+050, App. A, §6.11.C.

In response to some of the comments that we received about requiring the COLR to serve the entire CBG, we want to clarify the area in which the COLR is obligated to serve. The only GSA geographic study already serves as the reference point in the proxy models from which cost data and high cost area subsidies can be derived, as in D.95+07+050, App. A, §50. We did not intend to suggest that the GSA serve as the geographic service area for all COLCs. This would be contrary to the local competition rule which allows the COLCs to designate the service territory that they intend to serve. (D.95+07+054, pp. 28, D.95+12+056, App. C, Rule 4.)
What we did intend is that any designated COLR in order to avail itself of the subsidy for a high cost area, must serve the GSA upon which the subsidy is based. This enables the Commission to match the subsidy in a high cost GSA to the number of residential customers the COLR serves in that particular GSA. This is consistent with the Telecommunications Act's requirement that an "eligible telecommunications carrier" shall offer the services supported by the federal universal service support mechanism throughout the service area designated by the state. (Telco Act, §102, amending 47 U.S.C. §214(e).) Until such time as provided for in Rule 6.D.1. all incumbent LECs, in order to avail themselves of the subsidy for a high cost GSA, shall be required to serve all the high cost GSAs that are within the incumbent LEC's existing exchange area boundaries;

b. All COLRs who are designated COLRs, in order to avail themselves of the subsidy for a particular high cost GSA, shall be required to serve the entire GSA(s) that is (are) within the COLR's designated service territory for which it has elected COLR status. (Rule 6.D.6., App. B.)

The Coalition argues that every carrier serving an area, whether or not the carrier has undertaken the COLR obligation, should be eligible for the subsidy. We disagree. The purpose of allowing only the designated COLRs to draw from the funding mechanism for high cost areas is to attract competition into these high cost areas. In order to draw on the funds, the carrier must be willing to serve all customers in the Rule 6.D.6. designated...
This will allow consumers to choose from more than one carrier. Nor do we believe that the requirement that a carrier not be smaller than exchange size tends to be a barrier to entry. The CBGS, which serve as the GSAs, tend to be smaller in geographic area than exchanges. Thus, the smaller carrier will be encouraged to serve the entire GSA and receive the subsidy, rather than serving a smaller portion of the GSA and remaining ineligible to receive the subsidy.

Several comments to the proposed rules with respect to the issue of who gets to receive the high cost area subsidy in a resale situation were received. The proposed decision that was mailed on August 5, 1996, interpreted Pacific's comments to D.95-07-050 regarding when resellers should be eligible for CHCF-B funding, and modified Rule 6.G. Pacific points out in its comments to the August 5, 1996 proposed decision that, under proposed Rule 6.G., resellers would get the double benefit of below cost discounted rates, and the CHCF-B subsidy. That is not what we intended. The original rule, as proposed in Appendix A of the proposed decision, will be adopted.

The sale of unbundled BNFs may pose problems for the way in which subsidies should be distributed. If a CLO purchases some BNFs from the underlying facilities based carrier in a high cost area, the issue arises as to whether the subsidy should be apportioned between the CLO and the seller of the BNFs. We plan to examine this issue after the OANAD proceeding has determined what the prices of these unbundled components should be.

We also need to clarify that proposed rule 6.D.3. is meant to ensure that a designated COLR in a high cost GSA will be eligible to receive the subsidy to gain from the bundling of high cost areas to the extent that the carrier must be willing to serve all consumers in the high cost area.
entitled to a subsidy on a per-residential-customer basis. \(^65\) The\nsubsidy that the designated COLR is entitled to is contained in rule \(6.0.2\) of Appendix B. The estimated amounts that the five\nlarge and mid-size LECs might expect are shown in Appendix D.\n
In order to receive the subsidy for serving the high cost areas, the designated COLR shall report on a monthly basis the\nnumber of residential service customers that it served during the prior month to the Commission. The Telecommunications\nDivision shall conduct a workshop within 60 days to develop the type of information that needs to be reported. The Commission retains its\nright to inspect the books and records of the COLR to ensure \ncompliance with the CHCF-B.\n
\(^65\) The CPM's line counts, as shown in Appendix B, are\ngenerated estimates. The fund administrator will disburse the\nsubsidy support based on the actual reported number of lines that\nare eligible for support.
develop a mapping and tracking system to identify the COLRs and the areas that they are obligated to serve.

Proposed rule 6.0.4 also listed the factors we stated the Commission should consider in determining whether COLR status should be granted: "A number of comments responded to our invitation to comment on whether a COLR should be required to meet criteria beyond what is required of the CLCs. Under the Telco Act, it appears that the federal equivalent of a COLR, can eligible small telecommunications carriers, will also have to advertise the availability and charges for such services through the media in order to be eligible for universal service support. (Telco Act, 47 U.S.C. § 102, amending 47 U.S.C. 214.)"

We have considered those comments and will delete any additional financial ability criterion beyond what is required of the CLCs. We will retain the criteria regarding a description of the facilities that the carrier has in place or the arrangement of the carrier plans to enter into in order to provide local service as well as the carrier's commitment to promoting universal service to all residential customer groups within the carrier's service territory. We believe that these two criteria should be used to ensure that a carrier desiring to be designated as COLR has a stake in the outcome, that it is unlikely to abandon its customers, and that the carrier is committed to promoting universal service. We will not adopt the suggestions by Roseville and the Smaller Telephone Association. We decline at this time to adopt the Small LECs' suggestion in its comments to the PD that the 22 incumbent LECs be designated as "eligible telecommunications carriers" under section 102 of the Telco Act. The FCC has not yet established what services will be supported by the federal universal service support mechanisms.

67 We will modify proposed rule 6.0.4.4 to delete the reference to low-income and non-English speaking communities. Instead, we will broaden the rule to include the promotion of universal service among all customer segments.
Independent LECs that, because of their size and investments, that these LECs should be designated the exclusive COLR for a period of no less than five years. It is clear under the Telco Act that rural telephone companies may soon be faced with requests for interconnection, and that states will allow such arrangements if the request is not unduly economically burdensome, is technically feasible, and consistent with the federal universal service provision. In addition, 16 U.C.C. § 709.5(a), clearly provides that it is the intent of the legislature that all telecommunications subject to commission jurisdiction be opened to competition no later than January 1, 1997. (Emphasis added.)

A number of comments addressed the competitive bidding mechanism that we proposed in the event no carrier wanted to retain the COLR obligation. We will clarify proposed rule 6.E.1.a. to reflect that an auction will be held within 180 days of the date of filing of an application to withdraw as the COLR in a GSA. We will also adopt Citizens' suggestion that proposed rule 6.E.2. be changed to delete the reference to a sale at book value.

The Coalition suggested that after three years, the other competitors who entered after the auction was awarded should be entitled to the full subsidy rather than one half the subsidy. That suggestion will not be adopted. We intend that the length of the award in such a situation should be limited to three years. Otherwise, the premium that is paid to the winning COLR will continue indefinitely, rather than possibly being bid down. Some changes have been made to proposed rule 6.E.3. to make this intent clearer.

K. Recognition of the Explicit Subsidy

1. Introduction

In order to avoid a situation where the incumbent LEC receives a subsidy from both the CICF and the FNPP, and monies from the implicit subsidies contained in rates for services which are priced to help offset the costs of universal service, an adjustment is...
needed. Most of the parties refer to this problem as the "windfall" issue.

2. **Positions of the Parties**

AT&T/MCI contend that the Commission should order the intrastate incumbent LECS to create a fund to lower prices on a dollar for dollar basis to prevent the LECS from realizing a part of the windfall due to the creation of an explicit fund to subsidize high-cost areas. If the Commission does not reduce prices by the dividend operative date of the fund, AT&T/MCI recommend that the relevant prices of the incumbent LECs be subject to refund.

AT&T/MCI contend that the prices of two essential monopoly input functions, namely the switching component of switched access and collocation, should be reduced to their economic cost or TSLRIC as soon as possible so as to encourage rapid development of competition and provide the greatest benefits to consumers. AT&T/MCI also state that the other essential monopoly input functions should be priced at TSLRIC as well, but the unbundling of those elements and their pricing should be done in OARAD.

AT&T/MCI assert that CTA's proposal for an across the board reduction is arbitrary and economically inefficient. Such a proposal would reduce the different services by an equal percentage, regardless of each service's contribution above cost. The equal percentage reduction is not revenue neutral because it would reduce the differentials between the rates for essential monopoly input functions and the rates for end user services that use those functions. AT&T/MCI contend that this will only exacerbate the prospect of an anticompetitive price squeeze and discriminatory pricing.

CCTA contends that Pacific's proposal to selectively reduce toll prices rather than the prices of intrastate switched access or other products is self-serving because it only affects those services which Pacific claims to have high margins, and in doing so would raise rates as a means to "cease competition on the level playing field".
which it faces greater competition. CTIA believes that fairness requires that there be an equal proportionate reduction in all nonabove cost rates excluding those which apply to services included in the basic service package or those that are covered by individual contract clauses without finite monthly or time period limits.

The Coalition recommends that the Commission order each LEC to implement rate adjustments that fully offset each LEC's and receipts from the fund. To prevent the LECs from serving their own anticompetitive interests, they should not be permitted to unilaterally choose the offsetting rate adjustments. The Coalition also recommends that the fund should not begin to operate until the Commission determines and implements the appropriate offsetting rate adjustments; or, the Commission has made the rates that might be adjusted subject to refund, including interest, and eligible for cumulative refunds, when the appropriate rate adjustments have been determined and implemented. The Coalition asserts that there should be no other rate rebalancing other than downward adjustments to offset the windfall problem and inappropriate rate increases going forward. DRA agrees with AT&T/MCI that the LECs should reduce inducement rates for essential monopoly input functions (i.e., local switching and collocation services, that are currently in Category I). Such a reduction will most likely foster competitive entry into the local exchange markets. DRA recommends that the Commission reject Pacifi's proposal to reduce rates for end user services such as toll. DRA believes that no offsets are needed for toll and other competitive services because the competitive marketplace will force the LECs to reduce rates. DRA believes that it makes more sense for regulatory, regulatory sense to flow the rate reductions through the LECs than least competitive services in Category I. DRA contends that this will help to achieve the Commission's goal of having prices move the closer to cost. DRA agrees with the FCC that GTEC states that offsetting reductions should be made in rates, so as to remove the distortion that is caused by the existing
implicit support for rates. However, one of the parties' proposals dealing with this issue should be adopted because different rates are at different starting points: GTTC suggests that the only practical way to deal with this issue is to allow each LEC to propose a package of rate reductions which exactly offset its anticipated gross receipts from the fund. GTTC recommends that this process occur in another proceeding designed to address these kinds of rate issues.

COG recommends that the Commission hold further hearings before deciding how the LECs' rates should be adjusted to prevent them from receiving a windfall. In the event the Commission decides not to hold further hearings on this issue, COG recommends that the Commission adopt CCTA's proposal.

Pacific commented that any universal service funding will generate new revenue sources for the incumbent COLRs, and that retail offsetting revenue reductions are appropriate. Pacific proposes to make the following reductions: (1) change the peak and off-peak price structure for residential customers; (2) change to a ratio of subminute billing methodology for both residential and business customers; and (3) reduce the monthly prices for custom calling features for residential customers. If more reductions are needed, Pacific contemplates an option a possible reduction in business toll rates for nonbusiness customers and for exchange access.

TCG argues that Pacific's plan for rate reductions gives Pacific a competitive advantage because its proposed rate reductions are tied to services of comparable competitive pressures are going to require reductions in prices. Also, Pacific's plan to use the advice letter process to effectuate the reductions is harmful to competition because of the difficulty of responding to advice letter filings in a timely manner and because of the potential that the rate changes proposed in an advice letter could become effective while the resolution of a protest is pending. TCG favors CCTA's treatment of Kahn's proposal that any carrier making a net

positive draw from the fund must evenly spread its offsetting rate reductions across all services. 68

3. Y. Discussion

We first note that AT&T/MCI's suggestion that essential monopoly input functions be reduced to their direct economic costs or TSLRIC, is an issue that the OANAD proceeding should be primarily concerned with, rather than this proceeding. It is in the OANAD proceeding that the costs and pricing of essential monopoly input functions are being examined. If the assigned ALJ properly excluded testimony regarding rate rebalancing and deaveraging from this proceeding (see Exhib. 14, RTJ 1387), the focus of this proceeding is to establish a universal service fund. It was not intended to be an exercise in pricing of services in a competitive marketplace. (C.95-12-021, "pa5") as

However, in order to make subsidies for high-cost areas explicit, there must be a correlating downward adjustment of rates or price caps through a surcharge or reduction in tariffed rates or price caps so as to prevent the LECs from recovering implicit subsidy expenses support as well. It is only to that extent that we engage in the rebalancing of rates. Indeed, only in this regard and in the context of the motives of the incumbent LECs and the other parties, do we suggest any resolution to this pricing dispute beyond the necessary framework for achieving a fair and reasonable price to the consumer.

In resolving this windfall issue, we must be cognizant of the motives of the incumbent LECs and the other parties. By contrast, an excessive and unnecessary price support rate increase that is not based upon cost and also

68 In DCA's reply brief at pages 20 to 31, DCA stated that TCG's proposal, that rates should be reduced across the board over all LEC services, was the most fair. TCG had stated in its opening brief that "rate reductions be spread evenly across all of the LECs' services." In TCG's reply brief, TCG recommended that "any carrier making a net positive draw from the USP must evenly spread its offsetting rate reductions across all services, as proposed by Dr. Kahn." Since TCG's proposal appears to be based on CCTA witness Kahn's proposal, it is unclear whether DCA favors an across the board reduction of all services, including residential basic service, or whether it would exclude residential basic service from such rate reductions.
adopting the proposal of AT&T/MCI, the essential monopoly input became cheaper for the CLCs. If, however, Pacific's proposal to reduce only the price caps for certain competitive Category II services is adopted, that allows Pacific to reduce the prices of services for which it faces more competition, and thereby possibly preserving its share of the market.

We do not believe that ICC's suggestion to hold additional hearings into this issue, or that GTEC's proposal are the most efficient ways to resolve the windfall issue in the short term. What we need to do in this proceeding is to establish a fund to provide explicit support to high cost areas of the state. In order to implement such a fund, and to transition from implicit subsidies to explicit subsidies, we must: take immediate action to resolve this problem.

Contrary to AT&T/MCI's assertion that CCTA's proposal is arbitrary and not economically efficient, we believe that CCTA's proposal of ordering an equal percentage reduction for all rates except for residential basic service, and rates covered by service contracts, results in the most competitively neutral outcome in the short term. Neither the CLCs or the incumbent LECs gain an unfair advantage as a result of the adoption of an across-the-board reduction. Although some of the services provide greater voice and contribution toward universal service than other services, an across the board reduction will result in an immediate offset without much controversy.

By excluding rate reductions for residential basic exchange services, we help ensure that the implicit universal service support that is contained in other rates, is reduced. The exclusion of residential basic service from the rate reductions is appropriate given the purpose of the fund. If we were to reduce rates for basic service as well, this would widen, rather than narrow, the gap between residential rates and their costs.
Concurrent with the effective date of the fund, the five large and mid-size LECs affected by the CHCF-B shall reduce, all of their rates except for residential basic service and existing super contracts, by an equal percentage. This overall reduction shall equal the anticipated monthly draw the incumbent LECs anticipate, from the fund. The rate reduction shall be accomplished by a monthly surcredit to each customer's bill through an advice or letter filing. In order to ensure that the total reductions equal the total amount the LECs receive from the fund, the large and mid-size LECs shall establish memorandum accounts to track the rate reductions, so that a true up with the actual monies received from the CHCF-B can occur if necessary. Bids under $100,000 may be submitted to file. We shall afford the five large and mid-size LECs the unburdened opportunity to decide what rates or price caps should be reduced downward to permanently offset the explicit subsidy support that is accomplished, a monthly surcredit shall be used to offset any anticipated monthly draw. These five LECs shall be permitted to file applications describing what rates or price caps they seek to permanently rebalance downward as a result of receiving monies from the CHCF-B. Protests and responses to the applications may be filed in accordance with Article 12 of the Commission's Rules of Practice and Procedure. A review of the applications, with this proceeding. \[...\]

Who Should Administer the Fund

In our Introduction, we discussed whether the initial Commission, or a neutral third party, should administer the CHCF-B fund. We proposed that the Commission should administer the fund because of two reasons. Firstly, by having the Commission administer the fund, it would eliminate the need to pay an administrative fee.
to an outside administrator. Second, it would allow for easier enforcement of the fund in the event auditing of the carriers were required, or if a carrier's authority needed to be revoked, needed.

Further, we were particularly interested in receiving comments about the possible delays and administrative difficulties the Commission might face with doing audits, investigations, and revocations, if the administration of the fund was left up to a third party.

2. Positions of the Parties

The Coalition commented that the administration of the high cost fund should be administered by a third-party with fund management experience. This would separate the fund's workings from other resource demands or resource constraints that the Commission staff might face. The budget to administer the fund should include as part of the funding requirement. The Coalition also suggested that the third-party administrator be overseen by a 'Committee of Commission, industry, and consumer representatives similar to the UITS Trust Administrators Committee. The third party administrator should also have sufficient auditing and legal resources.

The Coalition states that if improper behavior on the part of a carrier is detected, there would be a complaint against the carrier with the Commission.

DRA believes that the Commission should appoint itself to administer the high cost fund. DRA states that only the Commission staff has the appropriate expertise to monitor such a program. GTEC commented that the Commission has the expertise to fund administer both the high cost fund and the UITS fund. GTEC also suggested that the Commission must weigh whether the staff has the

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time and people to undertake administration of both funds, or
whether a neutral third party administrator should administer the
funds; [xx96] further, [inquiry to CHCF shall cease at that point.]

\[\text{Discussion}\]

In order for the Commission to make timely adjustments to the
operations of the funds, [xx47] the Commission should be
the initial administrator of the funds. Administration of the funds
will be handled by the head of the Commission’s Telecommunications
Division or his/her designee.\[69\] As the details of the workings of
the funds’ operations become better known, the staff of the newly
incorporated Commission can quickly incorporate changes to the fund which will
make it operate more smoothly and efficiently.\[60\] Also, if problems are
identified by the carriers in conjunction with the fund, the Commission can take prompt action to resolve any such problems.\[60\] In
addition, incorporating the CHCF-A into the CHCF-B may require
resolution of some operational details. The Commission is in the

\[60\] The Commission’s staff will provide quarterly updates to the
full Commission at its meetings concerning the administration and
operation of both the CHCF-A and the CHCF-B.
In order to make the CHCF-B operational, the Executive Director shall coordinate the details of administering the CHCF-B fund on a day-to-day basis with the Telecommunications Division and the Fiscal and Administrative Services Branch of the Management Services Division. Such details include, but are not limited to:

- Developing monthly reports for remitting amounts to the fund and claims from the fund;
- Establishing the necessary accounting systems, opening appropriate bank accounts, establishing claim procedures, producing checks, and creating auditing and investigatory procedures for remittances to the fund and claims onto the fund; and
- Opening appropriate bank accounts and establishing the fund rules that will enshrine such banking and accounting practices.

The administrative details of day-to-day operations of the CHCF-B fund shall be resolved as quickly as possible and before the effective date of the CHCF-B program, and no later than the following:

1. Review of the Fund Size

D.95-01-020 proposed that the subsidy amounts derived by the proxy model be reviewed periodically. (D.95-07-050, App. B, rule 9.A.7.) The Commission stated that such a review would give us the opportunity to review the effects of competition, advances in technology, and whether the subsidy amounts need to be reduced. We invited further comment on whether a periodic review was necessary, and if so, how often such reviews should take place, and what items would need review or adjustments.

2. Positions of the Parties

The Coalition favors a three-year periodic review whereby the market rates for basic service would be reviewed to determine the new subsidy requirement. The Coalition suggests that the new subsidy requirement reflect the weighted average of the cost of basic service as reflected in the rates charged by all the carriers.
DRA supports a periodic review of the subsidy amount. DRA believes that a review would ensure that technological advances and competitive pressures are reflected in the subsidy amount. Without a review procedure, DRA cautions that the subsidy has the potential for subsidizing providers rather than promoting universal service. DR1 believes that a review would ensure that technological advances and competitive pressures are reflected in the subsidy amount. With no review procedure, DRA也要 that the subsidy has the potential for subsidizing providers rather than promoting universal service.

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often the review should be, and the type of review mechanism that should be used. In conducting such a review, we believe that a review of the subsidies generated by the CHCF-B fund should take place. The review of the CHCF-B funding mechanism will ensure that the overall size of the fund is within reason, and that it will be adjusted as competition and new technology revolve. By conducting such a review, the need for ongoing high cost area support may be reduced over time. The CHCF-B surcharge should also be recalculated each year to account for changes in the billing base, in the existing rate structure, and in the entry of new competitors. And the use of this untested CHCF-B fund mechanism, a review of the fund should take place every three years. Three years should give us sufficient time to determine whether new entrants are willing to serve high cost areas of the state with the subsidies provided. This initial review will give us the opportunity to adjust the CHCF-B fund mechanism. Subsequent reviews will take place every three years thereafter. There may also be a need to reexamine the CHCF-B earlier depending upon what the FCO adopts in response to the Telco Act. The next issue to decide is the format of such a review. Suggestions have been made to use an auction mechanism or an indexing mechanism. A weighted average of the prices charged for basic service in a GSA, or to conduct a reexamination of the inputs and assumptions used in the proxy model. An indexing mechanism or a weighted average could be as useful for readjusting the subsidies derived from the proxy model. However, a drawback to these two forms of adjustment is that they are somewhat dependent upon the numbers derived in the initial loadings. An indexing mechanism or a weighted average could be as useful for readjusting the subsidies derived from the proxy model. However, a drawback to these two forms of adjustment is that they are somewhat dependent upon the numbers derived in the initial loadings. An indexing mechanism or a weighted average could be as useful for readjusting the subsidies derived from the proxy model. However, a drawback to these two forms of adjustment is that they are somewhat dependent upon the numbers derived in the initial loadings. An indexing mechanism or a weighted average could be as useful for readjusting the subsidies derived from the proxy model. However, a drawback to these two forms of adjustment is that they are somewhat dependent upon the numbers derived in the initial loadings. An indexing mechanism or a weighted average could be as useful for readjusting the subsidies derived from the proxy model. However, a drawback to these two forms of adjustment is that they are somewhat dependent upon the numbers derived in the initial loadings.
proxy model. For example, the indexing mechanism allows the subsidy amount to be increased or decreased by the indexed amount. This does not encourage carriers to become more efficient; as a result, the subsidy tends to remain near the same level as originally set.

If a reexamination of all the inputs and assumptions in a proxy model is used to review the subsidy amounts, based on our most recent experience, such a reexamination is likely to be time-consuming and contentious. Nevertheless, ongoing reexamination can be an effective tool for determining whether a subsidy is needed, how large it needs to be, and how the subsidy should be targeted.

After having undergone the process of examining and reviewing the competing proxy cost models, the inputs, the outputs, and the time and expense associated with such a review, the auction mechanism merits additional thought. There should be no doubt, however, that the proxy model exercise has been beneficial. As we noted in D.95-07-050 at page 49, the cost studies serve as a good starting point for determining whether a subsidy is needed, how large the subsidy needs to be, and how the subsidy should be targeted. With a subsidy mechanism in place, an auction mechanism appears to be the most efficient mechanism for reviewing the subsidy amounts in the future. By the time the three-year initial review comes up, new entrants may have entered the market and gained experience regarding the cost of providing residential basic service in high cost areas. A properly structured auction mechanism could drive down the cost of the subsidy for high cost areas if a more efficient provider exists in a particular GSA. The CPM: proxy costs will remain the basis of the subsidy calculation until an auction for that particular GSA has been initiated by a request and completed.

The auction mechanism also eliminates revisiting whether a particular proxy cost model is better than another, and performing costs studies over again. It also eliminates technology debates as to what type of technology the proxy model should use.
since the bidder will take that into account when the bid is made. Also, if new service elements are added to the definition of basic service that will be accounted for in the auction process, each bidder will also have to consider all sources of revenues, when they make their bid.

Over the course of the next two years, the Telecommunications Division staff will monitor how competition develops in high-cost areas of the state, and keep us informed. If little or no competition develops, then we may reconsider whether the use of an auction mechanism is appropriate for reviewing the subsidy amounts. Staff of the Division will update the paper presented above as due to the possibility that a COLR may want to withdraw from the only COLR in a particular GSA in the Telecommunications Division over the next six months to two years to discuss with interested parties how the auction mechanism should be organized. The staff shall prepare a workshop report for the Commission's review upon completion of the workshops. Then, assigned ALJ, after consulting with the assigned Commissioner, will then issue a ruling detailing the steps needed toward developing an auction mechanism. A Commission decision regarding the appropriate auction mechanism will then follow with the auctions taking place in about three years from today or as needed if a COLR seeks to withdraw from serving a particular GSA. No auction will be held in the interim.

71 The following are some of our preliminary thoughts on what an auction mechanism might consider: (1) that qualifications must a carrier meet before being allowed to participate in the auction process; (2) how should the bidding process be structured; and how many rounds of bidding there should be; (3) what should be the bid becoming binding on the carrier; (4) should performance bonds be required to ensure that the winning bidder can carry out its obligations; (5) should CEBs be aggregated for purposes of bidding and (6) should losing bidders be allowed the same subsidy as the winning bidder.
accordance with Rule 6 of Appendix B until the Commission has established an auction process. After that date, the RNW will be auctioned to the highest bidder.

IX. Universal Lifeline Telephone Service Program

The Commission has established an auction process to determine the RNW. The RNW is a new fund that is currently used to provide a discount to certain low-income households.

A. Introduction

The ULTS program is designed to promote the use of affordable, statewide, basic telephone service among low-income households. The ULTS program is mandated by the Moore Universal Telephone Service Act (Moore Act), contained in PU Code, Section 874, et seq. At the present time, there are approximately 3.5 million ULTS subscribers in California. Universal Lifeline telephone service is intended to help low-income households afford basic telephone service.

The ULTS program is designed to provide a discount to qualified residential low-income customers. The discount consists of an installation charge of $10.00 and a monthly fee of $5.62 for flat-rate service or $3.00 for measured rate service. Each LEC is then allowed to draw money from the ULTS fund, which covers the difference between the statewide ULTS rate and the LEC's rate for residential basic service, as well as for certain expenses associated with the ULTS program. The ULTS program is currently funded by a 3.24% surcharge on all end user bills. The commission has also determined that the ULTS program would be free to select any carrier from those who provide residential local exchange service. By selecting a particular carrier, the customer can save money on their phone bill. If the customer chooses a carrier who is not included in the ULTS program, they may be required to pay additional fees.

72 Some of the small LECs charge less than $10 for the ULTS installation charge because of the restrictions contained in PU Code § 874(c). (See D.94-09-065, p. 57.)

73 Some of the small LECs' basic exchange rates are lower than Pacific's basic exchange rate. In those cases, the small LECs' ULTS rates will be less than the statewide ULTS rates. In addition, in exchanges with extended area service (EAS), the ULTS customer will pay 50% of the EAS charge.
carrier, that serving carrier would then be permitted to submit a claim to the ULTS program for reimbursement.

B. Position of the Parties

AT&T Wireless believes proposed rule § V.A.1.b. y that carriers qualifying for a subsidy from the ULTS program must "charge no more than the statewide ULTS rate, as set by the Commission, to qualifying low income customers," hinders a customer's choice. AT&T Wireless recommends that ULTS customers be allowed to apply the ULTS subsidy to a provider of basic service whose rate may be priced higher. However, the amount of subsidy for that higher-priced carrier would receive could be no higher than the ULTS subsidy amount received by other carriers for serving other ULTS customers. In effect, the customer (who chose the higher-priced carrier) would have to pay the ULTS base rate plus the price difference between the higher rate and the ULTS subsidy amount.

AT&T Wireless contends that consumers should be permitted to use their virtual voucher to select a higher-priced service that reflects the cost of a higher-priced technology. California and Consumer Action are opposed to any change from the current self-certification application process for ULTS rates to an income verification process. They argue that an income verification process creates a barrier to enrollment because of the complexity of the process, and the type of information that may be required. They also argue that such a process is expensive. In addition, in a November 1993 study of the ULTS program for the Commission, it was determined that the number of ULTS customers who were ineligible based on income, was too low to justify the administrative costs associated with such an income verification.
They also fear that any monies received as a result of a change to an income verification method could be diverted to support libraries and public schools, as suggested by DCA. They contend that such monies should be used to benefit affordable telephone service for low income customers also in need of assistance.

Cal/NovA also supports expanding the ULTS program to allow providers of discounted basic service to the "working poor", as suggested by Consumer Action. They believe that the ULTS income ceilings are too low to benefit working poor and lower-middle income households. They suggest that a second tier of ULTS with a higher income ceiling, and somewhat lower benefit levels, should be established, or else those already approved for service under Citizens' Access as well as Pacific, suggests that the proposed rule 5.A.1 be clarified to state that only those carriers who provide for basic residential service will have access to the ULTS subsidy program.

The Coalition is opposed to an income verification process for the ULTS program. The Coalition believes that this issue should be dealt with in R.94-12-001. The Coalition asserts that an income verification process is expensive, and the cost of verification may exceed the extra monies that would be available from the federal government. The Coalition also points to the results of the November 1993 study which concluded that the incidence of fraud in obtaining ULTS service was not significant. The Coalition also points out that the current administrator's resources for auditing and enforcement should be increased. It is difficult to see, however, how more resources can be identified to further benefit the intended goal of giving a voice to those on a brake pattern for telephone service. This would place an undue burden on people who already have a telephone service.

See A Study to Assess Customer Eligibility and Recommend Outreach Activities for the Universal Lifeline Telephone Service, SRI International, Nov. 1993, pp. 3, 13.)
The Coalition also supports Consumer Action's proposal to eliminate the existing subsidy of ULTS marketing by the LECA. As a Consumer Action points out below, "in a competitive environment, it is unfair for the customers of one company to underwrite the business marketing efforts of other firms to attract customers."
The Coalition does not oppose Consumer Action's proposal to use ULTS funds that are earmarked for LECA marketing subsidies to fund other community and consumer groups, so long as those organizations' marketing efforts are effective and targeted to all appropriate areas. Consumer Action agrees that all carriers who provide basic service to low-income customers should be able to avail themselves of the ULTS fund. However, they believe that the reimbursement should be limited to the added expenses incurred in providing ULTS service, such as the difference between the ULTS lead rate and regular service. Consumer Action is opposed to any carrier's subsidy to pay for ULTS outreach, advertising, and other marketing efforts. They believe that the existing reimbursement for such efforts must be ended because of the competition that the carriers face, and to avoid multiple subsidies for marketing efforts directed at the same group of customers. Consumer Action favors the use of community and consumer groups to carry out the very marketing for increasing telephone subscribership under the ULTS do program.

Consumer Action also favors a revision to the once-a-year discounted installation charge. Consumer Action believes that low-income customers tend to move more frequently, and that the current rule limiting the installation discount to once a year serves as a price barrier for households that move twice or more in a given year.
administrator for the ULTS program, rather than moving the responsibilities to the Commission or another third party.

DCA commented that the ULTS program should adopt the federal verification standards for ULTS applicants. DCA's understanding is that because the ULTS program currently employs a self-certification process instead of an income verification method, approximately $50 million per year in potential federal funding for lifeline service is foregone. DCA suggests that an income verification process be adopted, and that the additional federal monies be used to supplement the current ULTS surcharge should be retained and those monies should be used to provide schools, libraries, and CBOS with access to advanced technologies.

DRA commented that the Administrative Committee that is currently mandated to administer the ULTS fund should continue to perform this function. DRA recommends that the membership of the Administrative Committee be diversified to include representatives of the CLCs.

DRA pointed out in its September 1, 1995 comments that the marketing of the ULTS program in a competitive environment may need revision. Under the current practice, the incumbent LECs are reimbursed for their recorded expenses associated with administering the ULTS program, including their ULTS marketing expenses. With the opening of the local exchange to competition, the marketing expenses associated with the ULTS program become an issue.

DRA sets forth two approaches for resolving the marketing expense problem, and states that each approach has its own advantages. The first approach is to allow the LECs and the CLCs to market the ULTS program. DRA states that the advantages of this approach are the following:

- The ULTS program is competitive with other local offerings.
- Third-party administrators are less expensive administratively.
there would be continuity between the marketing and the provision of the service.

The LECs and CLCs are in the best position to be knowledgeable about customers and should as a result be able to provide effective marketing,

private enterprise would provide the service, diminishing the role of government (although the neutral third party could also be private).

If DRA's proposed modification to Appendix A, paragraph 5.A.1.c is implemented (see section B. below), an incentive will be created for low-cost CLCs to market ULTS to eligible ULTS customers.

DRA's second approach is to give the responsibility for marketing the ULTS program to a neutral third party, such as the ULTS Trust Administrative Committee. DRA believes that the advantages of having a third party handle the ULTS marketing are as follows:

the possibility of cream-skimming would be diminished, since this agency would be impartial;

the need for Commission oversight of companies' ULTS marketing efforts would be avoided;

co-ordination of efforts could be improved.

DRA believes that the advantages in favor of the LECs and the CLCs handling the ULTS marketing outweigh the advantages of the neutral third party approach. Consistent with that recommended approach, DRA recommends that a fixed statewide administrative fee.
per ULTS customer be paid to the LEC or CLO by DRA suggests that the fee be derived from the historical average expenditures by the LECs in administering the ULTS program, including marketing expenses. This fee could be updated from time to time to reflect the effects of inflation and productivity.

On the subject of whether the existing self certification process should be changed, DRA recommends that the Commission or ERC should hold workshops on the feasibility of implementing an income verification process for ULTS. DRA recommends that the Commission first determine if the $50 million of federal funding is available before deciding whether to implement the verification program. DRA points out that an independent verification program may be more necessary if the LECs and the CLOs are allowed to do their own ULTS marketing, because some carriers may be tempted to subscribe to ULTS customers who are ineligible for the ULTS program. DRA also recognizes the drawbacks of an income verification process for the ULTS program. Such a process may deter some eligible customers from applying for support. Also, the cost of verification may be prohibitively expensive, in light of the relatively small amount of subsidy per customer that the carrier receives. DRA also does not expect to see significant savings in terms of reduced fraud through such a process because of what the November 1993 study concluded.

Subject to DRA also suggests revisions to proposed rules 5.1.1 and 5.1.3 and recommends that the revised rules for the ULTS program be implemented as soon as possible. DRA also believes that the amount of the subsidy should be reviewed whenever the definition of basic service is changed. DRA is opposed to a second tier of ULTS with a higher income ceiling and somewhat lower benefit levels. DRA contends that the size of the fund is already significant and it is likely that demand for ULTS will continue to increase as the population grows. Instead of a two tiered ULTS program, DRA believes that
toll call restrictions and bill installment payment plans are ways in which lower income consumers can avoid being disconnected from the network. GTEC believes that the ULTS program should have an income verification process instead of a self-verification process. GTEC contends that such a process would ensure that only those meeting the required eligibility criteria would receive a subsidized rate. Such a process also acts as a deterrent against fraudulent customers tried to claim a subsidy for a customer who was not eligible for the ULTS program.

In addition, the adoption of an income verification process would make available the additional federal monies to help fund the ULTS program. Pacific believes that the current self-certification process would have unintended adverse effects on the ULTS program by discouraging eligible customers from applying. In addition, such a process would be costly to the administration given the number of ULTS subscribers. Pacific believes that the current self-certification process strikes the proper balance of deterring fraud and ensuring that the universal service goals benefit the greatest number of California customers.

Pacific commented that a neutral third party should oversee the administration of the ULTS fund unless administrative feasibility is better served by having the Commission administer the fund. As AMT provided as soon as possible, and any remaining BAN should be used. Public Advocates recommends that enhanced surveillance telecommunication services be made available to qualified ULTS customers at ULTS rates, i.e., no more than 50 percent of the price of the service. Public Advocates also recommends that the ULTS

program should retain the self-certification process, because the likelihood that an income verification process will determine eligible persons from applying. BAN should only be drained for

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The Small Business LECs recommend that the self-verification process continue. However, they suggest that the Commission investigate how the current self-verification process in a substantially similar form could satisfy federal requirements and make the self-certification procedure for ULTS eligible for the additional $50 million in federal subsidies. USA believes that with all the other changes occurring in the telecommunications industry, the Commission should not change the self-certification procedure for ULTS at this time.

Current Discussion

As we noted in D. 95-07450 at page 67, with the introduction of local exchange competition, the Commission needs to review and revise the self-certification process. These revisions will permit all carriers who provide residential basic service to ULTS and ULTS customers to avail themselves of the ULTS funds. The changes that we make to the ULTS program are discussed below.

We first address the suggestion to modify some of the proposed rules. We will adopt the suggestion by Citizens and Pacific to clarify rule 5.A.1. by specifying that only those TLEs that carriers who offer residential basic service will have access to ULTS funds. Such a suggestion is appropriate given that the ULTS program is a residential service. Thus, all that a ULTS customer needs to do is to select a provider of local exchange service. That carrier will then establish the necessary paperwork in order to claim reimbursement from the ULTS program.

We will also adopt DRA's suggestion to modify proposed rule 5.B.3. to make the reporting consistent with the requirements of GO 153, as well as Resolution T-15826. We have also revised this rule to include the requirement that the carrier report the number of ULTS customers that it served that month. Proposed rule 5.B.3. has been renumbered as rule 5.A.1.e. This requirement will enhance the verification process to ensure that the claim for reimbursement per ULTS customer is correct.
Division staff shall revise the ULTS Monthly Report and Claim Statement to reflect this requirement. We do not adopt DRA's suggestion to modify proposed rule 5.A.1.c. We believe that rule 5.A.1.c., as drafted, is more neutral, competitively neutral. In a competitive market, prices and subsidies should not be driven downward. We have revised rule 5.A.1.c. to clarify how much of a subsidy a carrier serving the ULTS customer is entitled to...

We have also revised rule 5.A.1.b. to clarify that a new entrant serving ULTS customers shall set their ULTS rate in accordance with PU Code § 874, i.e., the ULTS rate shall not be more than 50% of the new entrant's rates for non-ULTS customers and that such a rate cannot exceed the ULTS rate set by the Commission. In addition, proposed rule 5.B.2.b. has been revised to reflect the other services that are exempt from the ULTS surcharge as provided for in D.94-09-065 at pages 288 to 293...
In a residential subscriber's service area where measured service is available, the subscriber may elect either of the following:

(1) A lifeline telephone service measured rate of not more than 50 percent of the basic rate for measured service, exclusive of federally mandated end-user access charges, available to the residential subscriber.

(2) A lifeline flat rate of not more than 50 percent of the rates for basic flat rate service, exclusive of federally mandated end-user access charges, available to the residential subscriber.

(c) The lifeline telephone service installation or connection charge, or both, shall not be more than 50 percent of the charge for basic residential service installation and connection charges, or both. The commission may limit the number of installation and connection charges, or both, that may be incurred at the reduced rate in any given period.

The Moore Act was enacted at a time when there was only one monopoly provider of local exchange service. Pu Code § 674 did not envision that there would be two or more competing basic exchange service carriers in the same service territory. Due to the passage of the ULTS, specific singular references that the ULTS rate shall not be more than 50% of the rate for basic flat rate service or of the rate for basic measured rate service and due to our past practice of setting a uniform statewide ULTS rate for GVEC and Pacific that is equal to 50% of Pacific's residential basic exchange rates, we feel compelled to deny AT&T Wireless's request to allow the ULTS

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See D.94-06-065 at pages 49 to 50.
subsidy to be applied as a credit to a carrier's higher priced basic service rate. This result is also consistent with the Moore Act's declaration that basic residential telephone service be made affordable to low income citizens, and that the use of the word "residential" means "residential use and excludes industrial, commercial, and every other category of end use." (PU Code §§ 871.5(b), 872.) The Moore Act clearly does not contemplate that ULTS program funds be used to subsidize mobile telephones if these are offered to the public at a higher price than standard telephone service.

Despite the conclusion above, we do recognize the importance that mobile telephone technologies, such as cellular and personal communication services, may have for providing basic service in remote rural areas of the state. However, until the Moore Act is amended by the Legislature, the ULTS program funds should not be used to subsidize a service that can be used anywhere.

Our analysis is also in line with the recommendation to include enhanced telecommunications services within the ULTS program is similar to our analysis above. The Moore Act contemplates the offering of basic telephone service at affordable rates to the greatest number of citizens. (PU Code § 871.5.) The Moore Act envisions Lifeline service as "that class of service necessary to meet minimum residential communication needs." (PU Code § 873(a).) Subdivision (b) of PU Code § 873 states as follows:

"(b) Minimum residential communication needs include, but are not limited to the ability to originate and receive calls and the ability to access electronic information services."

We do not believe that "the ability to access electronic information services was meant to include access to enhanced telecommunications services." Our basic service definition allows
the calling party to make outgoing calls to the telephone number of the electronic information service. However, access to that type of service, such as the Internet, is not regulated by the Commission, and hence should such access be subsidized by the ULTS program. Nor do we believe that § 882 of the Code creates a ULTS entitlement to advanced telecommunications services. Accordingly, we reject Public Advocate's suggestion to broaden the ULTS program to include for income-limited customers and their families.

We have recommended that the ULTS program be expanded to a two-tiered income and benefit program so that persons with moderate incomes can afford telephone service at certain rates. At the present time, there are approximately 30 million ULTS customers with a fund size of approximately $360 million. Creating a new tier of ULTS-eligible customers with a higher income ceiling and lower benefits will cause funding requirements to increase even more. Although many of the letters to the Commission, as well as speakers at the PIPs, favored the ULTS expansion program, a number of other letters and speakers were against having such a program at all. Taking all of these concerns into account, we have decided against creating a two-tiered ULTS program. Instead, we have decided to go with an installment plan approach. The problem that people with modest incomes who do not qualify for ULTS, may not be the monthly cost of basic service, but rather the toll and long distance calls that they make. The idea of toll restricted calling and making customers aware of billing installment plans, could go a long way toward solving some of these problems. For example, toll restricted calling might be imposed by a carrier when a telephone bill with a number of toll and long distance calls is not paid. Instead of disconnecting the customer, toll restricted calling could be imposed so long as the local exchange portion of the bill is paid, and some amount is paid toward the previously incurred toll and long distance bills.
calls, and to receive all incoming calls. By keeping the customer's account open while scheduled payments are made, the customer avoids disconnection, and having to overcome deposit and other credit assurances before being reconnected. Carriers who serve residential customers are encouraged to develop such options so that people who may be faced with temporary monetary problems can retain local exchange basic service, or people who may want to avoid the long-distance exchange basic service, can select that grade of service they consider suitable.

We now turn our attention to the issue of marketing expenses associated with the ULTS program. When the ULTS program was instituted by the Commission, it adopted GO 153 to govern the administration of the ULTS program consistent with PU Code § 1879a and the related statutory history which preceded this section. 77 Subdivision 5 of GO 153 provides that carriers may seek a reimbursement of expenses incurred and revenues lost as a result of providing ULTS. Included among these reimbursable expenses are "commercial/marketing expenses." It is argued by some opponents of the program that the ULTS program should not subsidize the marketing efforts of each carrier who offers basic service to low-income families. We are persuaded by the argument of Consumer Action and others that the ULTS program should not subsidize the marketing efforts of each carrier who offers basic service to low-income families. We must remember that the group of potential customers who qualify under ULTS is a finite group. Every carrier who plans to offer residential service will be targeting the same group of potential customers. It makes no economic sense to have multiple marketing campaigns conducted by each carrier who is trying to sign up the low income universe. The longer a long distance carrier must work to recruit new customers, the more potential customers may have been "snatched" away by competitors. Keeping a carrier away from their own initiative will not only be financially expensive for example, your local utility company might be prevented from offering a new service which might have been a good idea for you, the potential customer. It is not a good idea to limit the potential for growth.

77 When the Universal Telephone Service Fund was first enacted, former Revenue and Taxation Code sections 44181, 44182, and 44184 indicated that the telephone corporations were to be reimbursed for providing universal telephone service as contemplated by the ULTS program. (See Stats. 1983, Ch. 1143, Sec. 3; Stats. 1987, Ch. 163.)
same customers, especially when the marketing expense of each carrier is subsidized by the ULTS program. 

In addition, multiple ULTS marketing efforts tend to indirectly subsidize the carrier's overall marketing strategy by encouraging the potential customer, whether or not they qualify as a ULTS customer, to sign up with a particular carrier. Such advertising also promotes the name of a particular carrier at the expense of ratepayers. It also indirectly subsidizes the marketing of other services, such as lucrative toll and enhanced services, for that the carrier can sell to consumers once they have become customers. 

Having individual carriers continue to market the ULTS program may lead to abuses of the subsidized marketing system. 

Furthermore, DRA makes some compelling arguments as to why the LECS and CLCs should market the ULTS program. In particular, the independent carriers are the most knowledgeable about the market and ways in which they can reach those markets. However, we do not believe that DRA's suggestion that each carrier be entitled to a portion of a fixed statewide fee for marketing is the solution. Such a scenario could lead to a situation where a carrier, under the pretense of marketing ULTS, claims reimbursement, but uses the money for non-ULTS related activities. Also, it does not eliminate the problem of ratepayers subsidizing carriers to entice those who do not have telephone service to become that particular carrier's customer. Furthermore, apportionment of the monies available for marketing could disadvantage certain carriers if it was distributed based on the carrier's size, or the number of customers the carrier has. 

We believe that in a competitive environment, a single entity should be responsible for the marketing of ULTS services. The advantage to this approach is that no particular carrier is directly benefitted by ULTS marketing activity. Instead, potential customers are free to choose which carrier they want to call upon. A single entity also limits the size of the ULTS marketing expenses.
Instead of ratepayers having to subsidize multiple ad campaigns, one there could be a single budget for marketing expenses. Another advantage is that the entity can specifically target the ULTS marketing to customer groups which have lower subscription rates.

The most logical entity to do the marketing is the ULTS Trust. An Administrative Committee of the ULTS Trust, or a subcommittee of it, the ULTS Trust. An alternative possibility is for the Commission to create a ULTS marketing working group. A third option is to solicit interest from consumer groups and an idea to activate radio to

The drawback to the Administrative Committee idea is that its role as the administrator would be expanded to include developing marketing strategies and supervising various marketing campaigns. In the decision which ordered the ULTS Trust to be set up, and an Administrative Committee established, the Commission has stated that the administrative committee is financial in nature and should not be construed to include policy decisions. The Commission also stated the following: "Administrative committee members should not be paid and should not be compensated for serving on the committee. Budgetary approved funds should be reimbursable only when actually incurred." (Id. at p. 561.)

"Having the Administrative Committee, or a subcommittee of that group, develop marketing strategies and supervise marketing of efforts, it seems beyond the scope of the committee's intended duties. Selecting a consumer group or groups to head up the ULTS marketing has drawbacks as well. First, the consumer group might lack knowledge of the ULTS program. This could lead to problems in starting up a marketing campaign and targeting consumers who are likely to qualify for the ULTS program. Another problem is that the selection of the group or groups to handle the ULTS marketing could cause problems as it is important for the group to select which groups are the most eligible qualified to handle the ULTS marketing campaign."
We favor the establishment of a ULTS Marketing Working Group. The purpose of the ULTS Marketing Working Group would be to assist the Commission in developing a budget for statewide, non-carrier marketing strategies for the ULTS program; to develop competitively neutral marketing strategies; and to oversee the development and implementation of ULTS marketing campaigns. It would be advisable to establish a Working Group that would consist of twelve members: three representatives from the large and medium size LECs; three representatives from the CLECs; three representatives from consumer groups or public interest groups; one representative from a small LEC; one representative from the wireless carriers' pool and the head of the Consumer Services Division or his/her designee. Preferably, the representatives of the carriers should have marketing and/or sales backgrounds. The advantage of assembling such a working group is that all the members have an interest in making sure that marketing of ULTS services reach as wide an audience as is possible. Furthermore, it is hoped that the group would not be dominated by a single carrier. The ULTS Marketing Working Group will recruit a qualified advertising agency to develop print, billboard, and radio advertising for the ULTS program, as well as qualified nonprofit CBOs to engage in community outreach to promote the ULTS program. The selected advertising agency shall not have any conflicts of interest with respect to the ULTS program. The selected agency may sub-contract portions of the work to other advertising agencies. The selected agency shall adhere to the auditing standards of the Association of National Advertisers, and the work performed for the ULTS program shall be subject to Commission audit.

78 The selected advertising agency shall not have any conflicts of interest with respect to the ULTS program. The selected agency may sub-contract portions of the work to other advertising agencies.
Working Group should develop competitively neutral ways in which consumers can be informed about which carriers offer ULTS service and how ULTS service may vary from carrier to carrier. Compensation for participation by working group members should be nominal, especially the LECs, IECs, and CLCs. Implementation of ad campaigns should take place as soon as possible.

As mentioned earlier, the ULTS Marketing Working Group is also positioned to assess how well the 95% subscribership goal is being met. By using targeted marketing, the Marketing Working Group should be able to increase subscribership rates by having access to data concerning income, ethnicity, and geography, among other marketing guidelines. We shall order the CSD to convene a workshop as soon as practicable to determine who shall make up the ULTS Marketing Working Group, to develop a budget, to develop marketing strategies, to recruit an advertising agency, and CBOs, and to lay the groundwork for future meetings and coordination of the marketing efforts. Upon the completion of a written budget, the budget shall be submitted to the Commission for approval by way of a Commission resolution. One year after the formation of this working group, an annual report shall be prepared by the Commission staff assigned to this working group, in conjunction with the members of the working group. The annual report should detail the ULTS Marketing Working Group’s activities during the past year, the increase or decrease in ULTS customers, telephone telephubscribership rates by income, ethnicity, and geography, criteria, and its expectations and what was accomplished during the coming year. The annual report shall be submitted to the Commission, who will review the effectiveness of the ULTS Marketing Working Group to determine if alternative marketing solutions are needed.

Effective upon the date this order is signed, ULTS associations will be required to provide advertising, outreach, and related marketing expenses by individual carriers will no longer be reimbursed by the ULTS fund.
In accordance with the following ULTS advertising campaigns (e.g., newspaper posters, billboards, bus shelter interiors, print, and radio and television ads), outreach activities, and related marketing expenses, that are the subject of existing contracts which call for the continued display or commercial air time of the advertising medium, or other continuing ULTS activities, after the effective date of this decision, shall continue to be reimbursed by the ULTS fund for the period called for in the contract or until three months from the effective date of this decision, whichever occurs first. It is our intent that there will be no carrier-specific ULTS reimbursement for these kinds of activities after the third month. (a) ULTS advertising, outreach, and related marketing expenses that are not the subject of any contracts will not be reimbursed by the ULTS fund after the effective date of this decision. Should the incumbent LECs decide to continue using existing advertising campaigns to market ULTS after the expiration of the contract, or after the third month, the production expenses associated with producing those campaigns shall be reimbursed to the ULTS program.

The Commission also needs to examine whether some of the other expenses that are currently reimbursed by the ULTS program should continue to be reimbursed in a competitive environment. As competition emerges, the expenses that are reimbursed to the licensed carriers should perhaps reflect the competitive environment and its associated efficiencies. Any contemplated adjustments need to be consistent with the provisions contained in the Moore Act. As we noted in D.95-07-050, at page 68, this is an issue that requires appropriate work and cannot be resolved hastily.

79 Reimbursement for ULTS activities stemming from contracts that were entered into between August 5, 1996 and the effective date of this decision, may be disallowed if a motivating cause of the carrier to enter into the contract was to promote the carrier's name recognition.
Commission has as well as the Legislature, should consider reviewing in the future, the existing income verification process, and the eligibility of ULTS customers. To this issue is whether by adopting an income verification process, California can avail itself of approximately $50 million in additional federal funds to support universal service.

This is not the first time this issue has been raised. In 25 CPUC2d: 556; at pages 561 to 562, the Commission ordered that a workshop be held to determine whether an acceptable verification program could be developed to meet the FCC's requirement so that non-federal monies to support universal service could be released. The same issue was again raised in comments responding to a rulemaking. We issued regarding whether the income-based criteria for the program, and the Low Income Ratepayers Assistance Program, now known as the California Alternate Rates for Energy Program, should be changed. (See R.94-12-001.)

The potential availability of $50 million dollars is too large of a number to ignore. We are not convinced by the argument that the costs of an income verification process outweighs its benefits. It is highly unlikely that it would cost in the neighborhood of $50 million to do income verification checks of the applicants for ULTS services. Although an income verification process might deter some applicants from applying for the ULTS program, a carefully constructed income verification process and appropriate marketing campaign could alleviate some of these problems.

Before we consider whether an income type verification process should be used, we need to ensure that the federal monies were considered into the process. The general concern of the California Energy Commission was a disallowance of the eligibility of the customers to receive income verification assistance by the California Public Utilities Commission. The California Public Utilities Commission has been issued yet another decision.

80 No decision in R.94-12-001 has been issued yet.
will be available if such a switch is made. We also need to determine what type of verification process is required, whether our current self-certification process can be modified to meet the FCC requirements, or whether a new verification process is needed. In addition, in light of the Telco Act, we need to determine if these monies will still be available in the future. All of these questions need to be answered before we move forward with modifying our current ULTS application procedures. We will direct the Telecommunications Division staff and the Legal Division to make appropriate inquiries at the FCC, and to conduct the necessary research to determine the answers to these questions. Upon an ads receiving the staff's evaluation and analysis of these issues, we will inform parties to this proceeding as to the next steps the Commission intends to take. As suggested by Consumer Action in its comments to the proposed decision, among the steps the Commission should take before deciding whether an income verification process is used, are to hold public participation hearings or roundtable discussions with various community groups to assess the impact that an income verification process could have on ULTS subscribership rates.

Consumer Action recommends that the once-a-year add-and-yeildiscounted installation charge under the ULTS program should be continued. The ULTS installation charge was thoroughly examined in D.94-09-065 at pages 56 to 58. We decline to adopt Consumer Action's recommendation at this time.
competitors begin to serve ULTS customers, the auditing of carrier accounts may need to be increased. If the Administrative Committee, or any other entity, detects problems in the way in which the ULTS program is operating in this new environment of competition, they should bring these problems to the attention of the Commission. Staff liaison shall be the head of the Telecommunications Division or his/her designee. The staff shall provide quarterly updates to the full Commission at its meetings regarding the Administrative Committee and the ULTS program.

The Administrative Committee is currently made up of five members, two of whom are members from public interest groups. The other three members are drawn from the LECs, the IECs, and the small LECs. In addition, there is one Commission staff person who acts as the liaison. There does not appear to be an compelling need to expand the size of the Administrative Committee at this time. If parties believe that the size of the Committee should be expanded, they should file a petition to modify this decision.

The applicable rules pertaining to the responsibilities of carriers who provide ULTS are set forth in Rule 5 of Appendix B. We believe that the changes we have adopted have improved the focus and clarity of the rules, as well as our intent.

There are two other issues which have been raised in this proceeding, but which are not addressed in this decision. The first issue concerns itself with AB 3643's directive that the initial carrier accounts may be subject to ongoing review. The applicable rules pertaining to these transactions are set forth in Rule 5 of Appendix B. We believe that the changes we have adopted have improved the focus and clarity of the rules, as well as our intent.

We have considered the various wording changes suggested by the various parties in their comments to D.95-01-021 and have incorporated some of their suggestions in the final rules. Some of the changes we have adopted may conflict with the implementation of the Initial Decision and Order or its interpretation by the Commission.

81 The staff liaison shall be the head of the Telecommunications Division or his/her designee. The staff shall provide quarterly updates to the full Commission at its meetings regarding the Administrative Committee and the ULTS program.
proceeding addressed the issue regarding "franchise obligations." (Stats. 1994, Ch. 278, Sec. 2(a)(5).) The Commission's subsequent decision, D.95-07-050, at page 075, states that "We do not believe that the LECs should be granted any additional recovery for stranded investments." In the September 1, 1995, open comments regarding the proposed rules, that statement generated numerous comments regarding the stranded investment/franchise obligations impact issue. Our discussion of that issue also generated the filing by the LECs of several applications for rehearing of D.95-07-050. In the decision denying those applications for rehearing, the Commission concluded that "the issue of addressing the impact of local competition upon the ability of an LBO to recover the cost of investment in rates and the consequent effect upon LEC earnings should be heard in the evidentiary hearings that took place in January and February of 1996 in the Local Competition proceedings of rulemaking and investigation." R.95-04-043/1:95-04-044 at (D.95-12-062 at p.62) and (D.96-09-089 at p.118). The franchise obligations issue was addressed in the franchise impacts hearing of the Local Competition proceeding. (See D.96-09-089.) D.96-09-089 permits Pacific and GTEC to file an expert application to show whether the "new regulatory program embodied in the roadmap proceedings combined with the NRIP-established depreciation methods will deprive them of the opportunity to earn a fair return on their regulated assets." (Id. at page 72.)

The other issue that the incumbent LECs believe needs to be addressed is the rebalancing of all rates. As competition increases, the incumbent LECs believe that they will be "fixated" disadvantaged if they cannot lower their prices for services that are subject to competition. In addition, the implicit subsidies contained in the rates of certain services that are prided above the LECs' costs, in order to support the policies and goals of universal service, will not be sustainable in a competitive environment.
The assigned ALJ appropriately excluded testimony regarding network wide rate rebalancing. His ruling was consistent with our pronouncement in D.95-124021 at page 13 that "the issues surrounding rate deaveraging, the pricing of basic services, and of revenue rebalancing should be addressed in the context of the overall incentive-based regulatory framework instead of in this proceeding." In order for competition to benefit all customers in California, these rate and revenue rebalancing issues need to be addressed sooner rather than later. Due to the other open-ended telecommunications proceedings, the rate and revenue rebalancing issues were given a lower priority. As we approach 1997, and the other major telecommunications proceedings begin to wind down, some these issues need to be given a higher priority. It is our intent to examine these issues in the months to come.

In Pacific's comments to the August 57, 1996 proposed decision, Pacific requests for the first time in this proceeding that it be allowed to recover the implementation costs associated with the Universal Service Program. In its reply comments, TURN contended that, because Pacific never raised this issue before, there is no record on whether Pacific will be the only carrier to incur these costs. In addition, TURN argues that no record has been developed regarding the reasonableness of Pacific's proposed implementation cost estimate. TURN also contends that it is absurd for Pacific, which stands to receive 70% or more of the fund proceeds, to have customers pay for the costs of a program of which Pacific will be the prime beneficiary. In the revised proposed decision, the assigned ALJ recommended that Pacific's request to recover its implementation costs should be rejected. We take a different view, and in the proceeding, the Commission authorized the establishment of a moratorium
memorandum to record actual implementation costs associated with local exchange competition. We cautioned, however, that the tracking of these recorded costs should not be construed as an assurance that recorded costs will automatically be subject to phase recovery. [D.96-03-020, p. 91]. The implementation costs that Pacific seeks to recover in this proceeding is not unlike the costs that Pacific seeks to recover in the local competition proceeding. We should similarly authorize the five large and mid-size LECs to record actual implementation costs incurred with respect to the universal service program we adopt today in a memorandum account. We will authorize the tracking of these costs that are incurred on and after the effective date of this decision.

Findings of Fact

To date R.95-01-020 and 1195-01-021, were opened to develop rules to further the goals of universal service in a competitive telecommunications environment.

1. The enactment of AB3643 provided some guidance as to the type of universal service issues the Commission should address.

2. "P.95-07-050 described and set forth a proposed set of rules pertaining to universal service responsibilities in a competitive environment.

3. The Commission in conjunction with the State and the Consumer Services Agency, held thirteen public participation sessions.

4. Parties were given an opportunity to file written comments on the proposed universal service rules.

62 Six months should give us an opportunity to see what type of recurring implementation costs the LECs may face.
hearing throughout the state concerning the proposed universal service rules.

D. 95-12-021 outlined the framework for structuring the universal service rules.

The parties failed to reach any agreement regarding the proposed universal service rules.

The parties failed to reach any agreement regarding the proxy cost model.

Thirteen days of evidentiary hearings were held in late April and May of 1996.

The Matter was submitted on June 10, 1996.

On February 8, 1996, the Telco Act was signed into law.

GTEC objected to the admission of Exhibit 117 into evidence.

On June 6, 1996, AT&T/MCI filed a motion to strike from Pacific's opening brief the references to an article by Dr. Alfred Kahn, and the references at pages 23, 42, and 44 about telephone conversations that allegedly took place between the employees of AT&T and Pacific, and employees of US West as depicted and identified in Exhibit 117.

DCA's motion dated September 4, 1996 requested that it be accepted for filing, formatting it to adhere to the pagination requirements of Rule 77.5, which exceeds the page limitation.

ICG and TURN filed separate motions on October 21, 1996, seeking leave to file their opening comments to the revised proposed decision.

Universal service has developed over the years to mean that: (1) a certain minimum level of telecommunications services must be made available to virtually everywhere in the state; and (2) the rate for such services remains affordable.

As the marketplace for local telephone exchange services moves from a monopoly provider to multiple providers, the universal service program needs to be readjusted to meet the challenges of increasing competition.
17. The implicit subsidies of averaged rates, and service priced above cost to support services priced below cost, will not be sustainable in a competitive market. 

18. In order to effectuate a policy of universal service throughout the state, the Commission needs to develop a list of the service elements which make up residential basic service.

19. Free telephone directories minimize the number of calls made to directory assistance, and promotes the wide distribution of yellow pages advertising free services as an aid to emergency functions but.

20. At the PPFs, many consumers expressed satisfaction with having a choice of flat or measured rate service, a la Juna abondad i.e. The flat and measured rate options preserve the consumer's choice, and provides consumers with a method in which to comparison shop among carriers.

21. The adopted basic service definition enables a telephone customer, who has the computer, hardware and software, to connect to an Internet provider, and access local to archiving services etc or ylp.

22. Broadening the definition of basic service to include broadband services will impose more costs on the incumbent LEC, and the new carriers who may enter the local exchange market and.

23. The service elements that are included in the definition of basic service are contained in Rule 4:B. 3(b):p.814838.

24. When the Commission solicited comment on the proposals to promote greater access to new technologies, we expressed reservation that the activities contemplated by the proposals involved other industries besides telecommunications; and that the funding for such activities should not come solely from the telecommunications carriers and their customers.

25. GAN 645, stated that one of the objectives of this proceeding is to develop a periodic review process to revise the definition of universal service to reflect new technologies and markets that are not interrelated and to focus on their allocation yhp.

26. When the Commission solicited comment on the proposals to promote greater access to new technologies, we expressed reservation that the activities contemplated by the proposals involved other industries besides telecommunications; and that the funding for such activities should not come solely from telecommunications carriers and their customers.
27. Many of the advanced services being offered today require hardware, software, and other components, in addition to the backing information that is provided to the end user.

28. Product design issues and recommendations are more appropriately addressed at the federal level than with the Commission.

29. D.94-09-065 adopted the goal that 95% of the households in California have telephone service, and that customer outreach and educational programs to achieve a 95% subscription rate for telephone service among nonwhite and non-English-speaking households must significantly improve so that to achieve a profit.

30. D.94-09-065 required GTBR and Pacific to set targets, and to map out their marketing strategies to improve their universal service levels.

31. The Commission proposed in D.95-07-050 that the same monitoring requirements that apply to GTBR and Pacific, should also apply to the other providers of local exchange service.

32. Public Advocates made a series of identical proposals for recommendations in both the local competition proceeding and in this proceeding regarding the 95% goal for bilingual services, and the elimination of the requirement to use income and other monitoring criteria.

33. Subscribership rates for telephone service should continue to be measured by income, ethnicity, and geography.

34. It may be appropriate to eliminate ethnicity as a measurement criterion at some point because the income and educational geography criteria provide much of the information that is needed to determine where telephone service subscription rates are low.

35. In D.95-07-050, we suggested that an explicit prohibition against redlining be adopted, and invited comment on whether such a language would be effective.

36. No additional pronouncements are needed about redlining because in D.95-12-056, the Commission adopted a rule in the local competition proceeding that states that redlining is prohibited.
and that the Commission shall take strong action against any carrier engaged in redlining.\footnote{37} The Public Advocates' recommendation that each carrier actively market its services to certain customer groups and that they furnish their business plans with details about how the 95% subscription rate can be achieved are based in part on what the Commission ordered of GTEC and Pacific in D.93-11-011 and D.94-09-065.

38 \footnote{38} These reporting requirements imposed on GTEC and Pacific in D.93-11-011 and D.94-09-065 concerned telephone subscription rates, and awareness and encouragement of participation in the ULTS program of offering plans to new customers. Public Advocates' \footnote{39} In a competitive market, all carriers will need to actively market their available services to all customer segments because the total number of customer segments in California is limited.\footnote{40} In D.95-07-054 the Commission adopted the rule that a CLC making a sale in a language other than English is required to confirm with that customer in writing, in the same language in which the sale was made, the service ordered.\footnote{41} In D.95-12-056 the Commission expanded its bilingualism information and outreach rules to require the CLCs to inform each new customer in writing and in the language in which the sale was made, information on the availability, terms, and rates regarding the ULTS program and basic service. In addition, the CLC is to provide bills and notices, as well as access to bilingual customer service representatives, in the language in which the prior sale was made.\footnote{42} In D.96-08-027 the Commission ordered that a workshop be held to determine what operational and economic constraints carriers might face in complying with the multilingual billing and notice requirements that are contained in the Local Exchange competition rules.\footnote{43} As shown in the tables, carriers have faced increased billing and notice requirements resulting in increased bills, indicating that the additional cost of multilingual billing and notice has been passed on to customers.
43. The PU-Code § 786 requires every telephone corporation to issue to each of its residential customers an annual listing of the residential telephone services that it provides, and the rates or charges for those services. Given this state's diversity, there will be more than one non-English speaking customer per carrier, which will necessitate that bilingual customer service representatives be on hand to serve the non-English speaking customers upon demand.

44. The offering of bilingual services will be a natural result of competition because all of the carriers will have to compete to attract the business of a finite group of customers.

45. The offering of bilingual services will be a natural result of competition because all of the carriers will have to compete to attract the business of a finite group of customers.

46. With the exception of requiring carriers to have a toll-free number to answer questions regarding the customer's calling area, and whether a call is a toll or long distance call, we should adopt the matrix proposed by UCAN in conjunction with TURN.

47. CSD should conduct a workshop to study ways in which new pricing packages can be compared and included in a consumer guide information matrix. The guide should include information from carriers.

48. The Commission should adopt UCAN's suggestion that an annual report summarizing the complaint history for each certificated carrier be compiled.

49. The annual report should also include Commission investigations that were opened against the carrier.

50. The Commission needs to take proactive steps to inform the public about regulatory changes taking place in the marketplace.

51. Two of the principles in AB 3643 expressed the intent that all customer segments, including certain kinds of institutions, benefit from the deployment of advanced technology. The Telco Act provides that public or nonprofit health care providers serving rural areas, as well as elementary and secondary schools and libraries, should receive discounted rates.
The Telco Act provides that a state may adopt regulations that are not inconsistent with the FCC's rules, and that the state can provide for additional definitions and standards that preserve and advance universal service.

54: A program of discounts for qualifying schools and libraries should be adopted.

55: Qualifying schools and libraries shall be entitled to a discount of 50% off the tariffed price for all MNP, switched, ISDN, and DS-3 services, or their functional equivalents.

56: Carriers who serve qualifying schools and libraries with these discounted services will receive a subsidy amount that is the difference between the tariffed rate for large businesses for such services and the tariffed discount rate for schools and libraries, or if the rate negotiated is below the tariffed discount rate, the carrier shall be entitled to the sum by which represents a 50% discount off of the negotiated rate.

57: The issue of discounts for rural health care providers should be deferred until the Joint Board and the FCC have had an opportunity to address this issue.

58: A program of discounts for municipal and county hospitals and health clinics should be adopted.

59: Municipal and county government-owned and operated hospitals and health clinics shall be entitled to a 20% discount off the tariffed price of the service for other businesses for switched, ISDN, and DS-3 services, or its functional equivalents, and the difference between the tariffed discount rate for these government-owned hospitals and health clinics, or (2) if the rate negotiated is less than the tariffed discount rate, the carrier shall be entitled to the sum by which represents the difference between the tariffed rate for large businesses and the negotiated rate.

60: Carriers who serve municipal and county government-owned and operated hospitals and health clinics with these discounted services will receive a subsidy amount that is the difference between the tariffed rate for businesses for such services and the tariffed discount rate for these government-owned hospitals and health clinics, or (2) if the rate negotiated is less than the tariffed discount rate, the carrier shall be entitled to the sum by which represents the difference between the tariffed rate for large businesses and the negotiated rate.
below the tariffed discount rate, the carrier shall be entitled to the sum that represents a 25% discount off of the negotiated rate.

By providing discounts to qualifying CBOs, we can work with position communities to take advantage of the benefits of the information age, and promote access to the technology and to the information.

62. Qualifying CBOs shall be entitled to a discount of 25% off the normal tariffed business price for switched 56, ISDN, and T-1 services, or their functional equivalents, in accordance with Rule 8.0(3) of Appendix B.

63. Carriers who serve qualifying CBOs for these discounted services will receive a subsidy amount that represents: (1) the price difference between the tariffed rate for businesses for such services, and the tariffed discount rate for CBOs, for: (2) if the negotiated rate is below the tariffed discount rate, the carrier shall be entitled to the sum that represents a 25% discount off of the negotiated rate.

64. In order to make the information superhighway accessible to all, and to ensure the success of the discount program which we adopt today, the telecommunications industry, computer and software manufacturers, and the information providers, must all take the lead and provide schools, libraries, hospitals, clinics, and CBOs with the necessary equipment and services at no cost or with substantially reduced prices.

65. D.95-07-050 noted that: in an era of competition, the incumbent LECs can no longer rely on internal subsidies between high cost and low cost exchanges, and the price differences between services, to help fund the cost of providing universal service in high cost areas. That decision did not address whether but instead just

66. (1) In the February 21, 1996 ALJ ruling, parties were directed to include in their prepared testimony the additional costs associated with subsidizing business customers in high cost areas.
No one presented any estimates of the cost of providing businesses in high-cost areas with telephone service. \(67\) And \(68\) and \(69\) proposed that the redesign of universal service should apply statewide.

California currently has seventeen smaller LECs, three mid-size LECs, and two large LECs. They all must apply for and be approved by the California Public Utilities Commission. \(70\) The Resale Act specifically exempts rural telephone companies from resale, number portability, dialing parity, and interconnection obligations.

When D.89-10-031 was issued, it noted that the smaller LECs were expected to face much lower levels of competition than GTEC and Pacific.

Local exchange competition may take a longer time to reach the service territories of the smaller LECs. \(72\) It noted that the areas in which GTEC, Pacific, CCI, Convergys, and Roseville operate in are in, or are located in close proximity to, urban areas.

The smaller LECs are regulated under rate of return regulation, while the large and mid-size LECs are, or have requested to be, regulated under an incentive based ratemaking framework.

The federal funding mechanisms for universal service are currently being studied by the Joint Board.

The smaller LECs, currently receive most, if not all, of the universal service funding needs through the federal funding mechanisms. \(76\)

Once the FCC decides what federal universal service funding mechanisms should be in place, \(77\) we should revisit the issue.

If a bona fide request to enter a smaller LEC's service territory is received, the Commission will make a determination in accordance with § 251(f) of the Telco Act.
In shaping the development of the proxy cost model for use in this proceeding, we have attempted to achieve some consistency with the TSLRIO studies being developed in the OANAD proceeding.

In D.95-12-016, the Commission adopted a set of costing principles to be used in the OANAD proceeding.

In D.95-07-050 proposed that the costs for all the GSAs be developed by way of proxy cost studies, and in D.95-12-021 we left open the possibility that there might be competing proxy cost models. In a prior order, however, the commission adopted a fact of cost for the GSA to be used in the OANAD proceeding.

In D.95-07-050 proposed that the costs for all the GSAs be developed by way of proxy cost studies, and in D.95-12-021 we left open the possibility that there might be competing proxy cost models.

In D.95-07-050, the Commission first proposed the use of CBGs as the basis for determining the cost to serve an area. In D.95-07-050, which was subsequently reaffirmed in D.95-12-021, we left open the possibility that the fund is neither oversized nor undersized.

The purpose of choosing the CBG as the GSA for estimating determining the subsidy is to reduce the cost averaging that would occur if a larger GSA was used.

The Commission first proposed the use of CBGs as the basis for determining the costs to serve an area in D.95-07-050, which was subsequently reaffirmed in D.95-12-021.
The CPM can generate cost data for the entire state on a CBG basis, while the HPM generates cost data based on density-based zones.

At the close of hearings, the joint sponsors of the BCM at the FCC were attempting to correct some of the problems with the BCM that others had identified by attempting to roll either roll.

The BCM erroneously assumes that the population in CBGs is evenly distributed throughout the CBG, and the CBG is evenly determined.

The BCM's grid cell design is able to identify the more precise location of population in a more precise manner than those identified.

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The BCM's grid cell design is able to identify the precise location of population in a more precise manner than those identified.
101. Certain critical assumptions and inputs to the BCM cannot be changed by the end user, whereas the CPM assumptions can be more readily changed.

102. Both the HPM and the CPM use a scorched node approach whereby the current topology of the central offices is assumed, and both models rely on historical LEC data to predict forward looking maintenance and repair costs. The current telephone entity BCM data set enforces the end user whereas the assumption changes are not readily changed.

103. Both models can estimate the cost of providing voice-grade residential service, but it is unclear whether the HPM fully accounts for directory assistance costs, and billing inquiry costs.

104. Regarding whether the inputs and assumptions can be verified, the HPM relies on: (1) assumptions in the BCM which Jotirib AT&T/KCI cannot alter or explain; (2) unnamed experts; and (3) selected portions of cost studies from other jurisdictions.

105. Regarding whether the inputs and assumptions can be verified, the CPM depends largely on Pacific's own data, but Pacific's reliance on some of its other models complicates the ability to verify some of this data.

106. With Pacific's original inputs and assumptions to the CPM, the CPM estimates an annual statewide subsidy of $1.3 billion, of which it is estimated that $1.2 billion would go to Pacific initially to recover cost of this increased state subsidy and potentially provide a risk reduction to Pacific.

107. The statewide CPM has been sponsored by Pacific, includes the cost of second lines in its subsidy calculation, and includes only cillo.

108. The subscribership rate for second lines among Pacific's customers is approximately 17%, based on one estimate during the

109. Subsidizing only one line per household keeps telephone rates affordable for those who live in high cost areas as well as for everyone who is obligated to support the fund. Only one subsidization per household is possible under this scheme, and the household in a high cost area may attempt to subscribe to more than one subsidized primary line.
The CPM assumes one buried drop per residence, whereas Pacific's standard engineering practice is to use two copper pairs in drops to each residential subscriber.

112. DRA's drop cost adjustment shares the costs of placing the drop between two lines, rather than being borne by a single line. Instead, it is borne only for each 110-119 foot 000 A. LSI.

113. The CPM accounts for, cable, conduit, pole, and pair gain costs in a table called A & B costs. 1991 000 A to 110-119 A. LSI.

114. AT&T/MOI contend that the PLAN COSTDEC data represents the average field conditions, rather than lower cost normal field conditions, and that when modifying factors are applied to average field conditions, the CPM overstates the effect of terrain and other sources of difficulty. Since the CPM, OTEC and some OTEC cost elements have been developed outside the CPM, AT&T/MOI contend that the revised A & B cable cost for conduit underestimates conduit investment for distances of less than 1973 feet, and overestimates conduit investment that is longer than 1973 feet.

115. When Pacific revised its A & B cost values, the copper cable cost for buried 25 gauge copper cable was reduced from $1.60 to $0.17 per foot. When DRA became involved, the revised cost was $0.17.

116. AT&T/MOI witness Selwyn contends that the revised A & B cable cost for conduit overestimates conduit investment for distances of less than 1973 feet, and underestimates conduit investment that is longer than 1973 feet.

117. Since the CPM inputs rely on extensive tables of unit costs, the CPM's assumptions such as the ratio of feeder to distribution and the mix of cable by density zone are based on averages or practices, specific to Pacific's labor and not specific to the CPM.

118. In addition to the unit costs, OTEC asserts that the CPM's assumptions such as the ratio of feeder to distribution and the mix of cable by density zone are based on averages or practices specific to Pacific's labor and not specific to the CPM.

119. The adjustment to the A & B cable cost is supported by Pacific's revised cost of copper cable to $0.17 per foot for distances longer than 1973 feet.

120. The conduit costs in the CPM appear overstated. The conduit costs in the CPM appear overstated.
The CPM assumes that if the feeder length exceeds 9000 feet, fiber is used; and if the feeder length is shorter than 9000 feet, copper is used. If the feeder length exceeds 9000 feet, copper is used.

A 9000 feet cut-off does not make sense in low density/rural zones, where demand and capacity requirements are smaller.

A cut-off of 9000 feet would shift the costs associated with higher bandwidth services onto the costs of providing basic services, and should be reconsidered.

The fill factor measures how much plant is being used to provide service to customers, to determine the size of feeder, service cables and related facilities, and how those costs are spread over the feeder.

The CPM uses economic lives for depreciation.

The proposed decision reasoned that shorter depreciable lives should not be used because the purpose of this proceeding is to model the cost of providing universal service, and not to model the cost of a state of the art network.

Prior to INDETEC's modification of the CPM at the request of GTEC, the CPM classified wire centers into seven zones; on the basis of the average population density of the grid squares associated with each wire center, to determine the cost of the central office switch, as well as the cost of the feeder.

GTEC recommends that the wire centers in the CPM be assigned to zones based on the number of business and residence odd lines in each wire center, so that the model can calculate the feeder size and the conduit cost of each central office consistent with the size of each office.

The CPM contains an outside plant factor adjustment which is set at greater than one when outside plant is placed in highly dense urban areas.
132. GTEC believes that the CPM's adjustment factor for outside plant is not supported by price quotes, and that the CPM of already has an adjustment for such factors.

133. The CPM's use of historically based cost estimates still represent average costs, which includes in the average the costs only for relatively densely populated areas.

134. Restrictions on construction appear to be more appropriate for business lines rather than residential lines.

135. Based upon an announcement made by Pacific in January 1993, AT&T/MCI witness Selwyn believes that switching costs in the CPM are overstated.

136. The CPM accounts for shared and common costs, which include Pacific states are attributable to universal service.

137. Pacific initially estimated the shared and common costs at $5.00 per line, and then subsequently increased the estimate to $6.70 per line.

138. In D.94-094065, the Commission agreed with the argument of GTEC and Pacific that the loop plant was built in response to the end user's subscription to basic telephone service, and therefore much of the loop plant should be characterized as NTS and assigned to basic exchange services.

139. The allocation of shared and common costs may be somewhat arbitrary.

140. Some of the shared and common costs are attributable to residential basic service.

141. The CPM includes expenses for the rearrangement of plant, and for the non-recurring burden.

142. 47 U.S.C. § 2283 requires every existing and newly installed residential connection to have continuing access to 911 until it would preclude providing service to residential subscribers.

143. As a result of 47 U.S.C. § 2283, a large percentage of residential lines are going to remain in place, and rearrangement
expense and the non-recurring burden expense are likely to be kept to a minimum. The net impact of those two items is as follows:

144. DRA noted in its opening testimony that a comparison of its CPM's estimates of GTEC's costs in OANAD to the costs shown in the CPM showed a significant difference. This difference was significant.

145. CACD staff determined that the CPM cost estimate for directory assistance was overstated after comparing Pacific's actual monthly volume of directory assistance calls to GTEC's estimated actual directory assistance costs in OANAD. Commission no longer believes...

146. In D/96-08-021, the Commission determined that Pacific should reduce its estimates of loop repair costs by 14% to account for the downward trend in loop repair costs in ANAD. Staff still believes...

147. The benchmark serves as the 'guide' for determining which GSAs are high-cost areas and serves to size the CHFR-B by limiting subsidy support only to those GSAs in which the proxy 'costs' of the GSAs serving that area exceed the cut-off.

148. The benchmark also serves as the 'guide' for determining how much support a designated COLR receives for serving high-cost areas. The Commission determined that the benchmark area has...

149. In D/95-07-050 proposed that a GSA should be considered high cost if the proxy cost of serving that GSA was above the revenues generated by the LEC offering basic service in that particular GSA.

150. A benchmark based on the national average loop cost estimates should not be used because the national average is not specific to California conditions.

151. The CPM, as adjusted by today's decision, results in a statewide average cost of $20.30. The adjusted CPM estimate shows that by using the benchmark, approximately 4.03 million lines out of approximately 12.7 million total lines, will be subsidized by the CHFR-B.
Due to the lengthy printout that would be required for a run result showing the adjusted CPM estimate of cost for each CBG, it is not included as part of this decision. The CBO has not been included.

In D.95-07-050 and D.95-12-021, the Commission stated that other sources of revenue might need to be considered as an offset to the results of the proxy cost model. It is hoped that other sources of revenue might need to be included as part of this decision.

No offset to the CHCP-B is needed for monies received from the CHCP-A and other sources. 

PU Code §728(a) provides that the Commission shall investigate and consider the revenues and expenses with regard to the yellow pages advertising for purposes of establishing rates for other services offered by telephone corporations. 

An AEUS is a surcharge imposed on all customers for telecommunications services.

Under a net trans account, the surcharge is collected from carrier contributions based on a percentage of its gross revenues, net of payments made to other carriers for intrastate telecommunications access. 

D.95-07-050 proposed that a net trans account be adopted as the funding mechanism, although the Commission stated that it was still undecided as to whether the net trans account was preferable over an AEUS. 

Section 254(f) of the Telecommunications Act provides in part that "Every telco... shall contribute, on an equitable and nondiscriminatory basis, in a manner determined by the State..." 

With an AEUS, customers can see the amount of the surcharge; if they are concerned about the size of the surcharge, they can contact appropriate government officials if they are concerned about the size of the surcharge.
The AEUS method did already in place to collect both the ULTS and the CHCP-A, whereas the net income method is a new concept and has not been tested to date. As of June 1995, COLRs had

D. 94-09-065 held that all end users of every LEO/LEC and cellular, and paging companies in the state, receive value from the interconnection to the switched network and that they should be included in the billing base for the ULTS program and the Deaf and the Disabled Telecommunications program. D. 94-07-050 held on June 17, 1995.

165. The COLR is the regulatory concept that by accepting the franchise obligation from the state to serve a particular area, the public utility is obligated to serve all the customers in that area service area who request service. The COLR program not only gives the public the public utility a way to charge for service.

166. The COLR concept is important to universal service policy because that is the way in which customers are assured of receiving service. Therise in the call charges and the operation of the local exchange markets to competition, the 22 incumbent LECs served as the COLRs, going after the COLRs.

168. D. 95-07-050 noted that, with the introduction of competition, that may result in more than one COLR in certain areas, and only one COLR in other areas. D. 95-07-050 proposed that the COLR in all of their respective service areas, and that other carriers could be designated COLRs as well.

169. D. 95-07-050 proposed that only the designated COLRs would be able to receive a subsidy for providing service to residential customers in high cost areas.

170. D. 95-07-050 proposed that only the designated COLRs would be able to receive a subsidy for providing service to residential customers in high cost areas.

171. The COLR's obligation applies to both residential and business customers and in all areas of the state, regardless of whether it is a high cost area or a low cost area. D. 95-07-050.

172. The 95-07-050 proposed that the reference point in the proxy models from which cost data and high cost area subsidies are derived.

173. The purpose behind allowing only designated COLRs to draw from the CHCP-B is to attract competition into the high cost areas.
of the state and to provide consumers with the choice of more than one carrier, and assure mobile rate relief to all of the consumers that it represents.

174. In resolving the windfall issue, we must be cognizant of the motives of all the parties. We propose to make the following provisions:

1. Residential basic service should be excluded from the equal percentage reduction proposal to avoid widening the gap between residential rates and their cost.

2. Mortgages should be taken into account but a waiver or abatement could be.

3. Out-of-state EECs subject to the CHCF-B should be permitted to file applications describing what rates or price caps they seek to permanently rebalance downwards as a result of receiving monies from the CHCF-B fund. However, the terminal revenue could be maintained.

4. Proposed that the Commission should be the initial administrator of the CHCF-B so that if any adjustments and changes are necessary, they can be quickly incorporated into the fund.

5. At the end of one year, the Commission will evaluate the operations and administration of the CHCF-B and determine if neutral third parties should take over the administration of the two funds periodically reviewed.

6. The CHCF-B should be recalculated each year to account for changes in the billing base.

7. The Commission should re-run the CPM periodically using the actual reported line counts.

8. A review of the CHCF-B every three years will ensure that the overall size of the fund is within reason and that the fund will be adjusted as competition and technology evolve.

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With a subsidy mechanism in place, an auction mechanism appears at the moment to be the most efficient mechanism for reviewing the subsidy amounts in the future, particularly if...

The ULTS program is designed to promote the use of low-cost, affordable, statewide basic telephone service among low-income households, and continues to be highly criticized on several fronts.

With the introduction of local exchange competition, the Commission needs to review and revise the ULTS program so that all carriers who provide residential basic service to ULTS customers can avail themselves of the ULTS fund, thereby encouraging service providers to reduce their prices further.

The ULTS program currently has approximately 3 million ULTS customers, with a fund size of approximately $360 million, and a surcharge of 3.2% going to each local exchange provider.

Subdivision 3 of GO 153 provides that carriers may seek reimbursement for expenses incurred and revenues lost as a result of providing ULTS, including expenses for "Commercial/Marketing".

The group of potential customers who qualify under ULTS is a finite group, and every carrier who plans to offer residential service will be targeting the same group of customers as all the other carriers.

Multiple ULTS marketing campaigns by multiple carriers should not be subsidized by the ULTS program because it indirectly subsidizes each carrier's overall marketing strategy, and increases the ULTS program expenses.

In a competitive environment, a single entity should be responsible for the marketing of ULTS services in a competitively neutral manner.

A ULTS Marketing Working Group should be established to develop and oversee the implementation of competitively neutral marketing strategies for the ULTS program.

The ULTS discounted installation charge was previously discussed in D.94-09-065 and should not be reexamine here.

The Administrative Committee of the ULTS Trust should continue to oversee the administration of the ULTS program.
196. In The franchise obligation issue was addressed in the Local franchise impacts hearing of the Local Competition proceeding. in 197. Pacifi"c's comments to the August 5, 1996, proposed decision is the first time in this proceeding that Pacific requested that it be allowed to recover the implementation costs and associated with the universal service program. Conclusions of Law

1. GTEC's proposed transcript/considerations will be adopted, and the corrections will be made to the Commission's copy of the reporter's transcript/considerations. All of Exhibit 128 shall be received into evidence.

Conclusions of Law

1. GTEC's proposed transcript/considerations will be adopted, and the corrections will be made to the Commission's copy of the reporter's transcript/considerations. All of Exhibit 128 shall be received into evidence.

2. The objection to the receipt of Exhibit 117 into evidence is overruled, and shall be received into evidence.

3. AT&T/MCI's motion to strike the references in Pacific's opening brief to the article by Dr. Alfred Kahn is denied.

4. AT&T/MCI's motion to strike the references in Pacific's opening brief at pages 23, 42, and 44, regarding alleged conversations between US West and Pacific, is granted, and those references shall be stricken.

5. Rule 2's reference that the type be "no smaller than 10 point" is mistaken. The intent behind Rule 2 was meant to have all pleadings adhere to a uniform size and format to avoid a situation where a party could circumvent page limit requirements by using a smaller size typeface. The objection is the fact that the 12-point, 10 pica type size is readily readable, i.e., in 12 point-type, or 10 pica

6. Rule 2's reference that the type be "no smaller than 10 point" points" is mistaken. The intent behind Rule 2 was meant to have all pleadings adhere to a uniform size and format to avoid a situation where a party could circumvent page limit requirements by using a smaller size typeface. A uniform size definition of basic service should be adopted so that all residential telephone customers in California have consistent

7. AT&T/MCI's motion to strike the references in Pacific's opening brief to the article by Dr. Alfred Kahn is denied.

8. Rule 2 was intended to use a typeface in a size that is readily readable, i.e., in 12 point-type, or 10 pica

9. DCA's motion to accept its reply comments in excess of the 5-page limit is granted.

10. The motions of JCG and TURN for leave to late file their opening comments to the revised proposed decision are granted.

A uniform definition of basic service should be adopted so
regardless of their location or income, an expectation of a certain minimum level of service, for example to maintain a certain standard.

12. The term "free" in our adopted basic service definition is intended to recognize that as part of the bundled basic service package, that there are no additional charges incurred by the customer when that service element is used by a basic customer.

The incumbent LECs shall continue to offer the same number of free directory assistance calls as contained in their basic service tariffs until otherwise ordered by the Commission.

14. Except as provided for in subdivision (b) of Public Utilities Code § 728.2, yellow pages directory advertising is not subject to the Commission's jurisdiction.

15. The seventeen smaller LECs shall be exempted from the basic service element that they be required to offer customers the choice of flat or measured rate service, unless the smaller LECs currently offer that option.

The Commission only has jurisdiction over the telephone companies whose wires connect the computer to the information provider. The Commission can only order and require these companies.

17. A situation may arise that requires a review of the definition of basic service before the three year review period comes up. In order to trigger an immediate review of the definition of basic service, the proponent for the inclusion of a new service element shall be permitted to make a showing that at least three of the four review criteria have been met.

18. In order to trigger an immediate review of the definition of basic service, the proponent for the inclusion of a new service element shall be permitted to make a showing that at least three of the four review criteria have been met.

19. The Commission may use the summary denial procedure contained in Rule 47(h) of the Rules of Practice and Procedure when it is clear that the basic service definition should not be expanded or reduced. In cases where the Commission is not persuaded, based on the petition and the responses, that a service element should be included or deleted.

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20. The review criteria that we adopt in Rule 4:C.3, are consistent with the Code § 53709, and those enumerated in AB 3643 that there must be an ongoing evaluation of which services are deemed essential, and therefore a part of universal service.

21. In determining whether a new service element should be included in the definition of basic service, the Commission will not consider all of the listed review criteria in Rule (4:C.3), as well as the associated policy considerations, however, the weight to give to each criterion should be developed on a case-by-case basis.

22. The Commission can formulate incentives with respect to the telecommunication services being utilized for advanced technologies, but lacks jurisdiction over the non-regulated entities companies that are joining together to offer these advanced technologies. The burden should not fall on these telecommunication service providers and their ratepayers to fund the design and research of potential new services and applications that are not directly related to telecommunications.

23. The burden should not fall on the telecommunications services providers and their ratepayers to fund the design and research of potential new services and applications that are not directly related to telecommunications.

24. As the state agency in charge of regulating the telecommunications industry, we should take the initiative to ensure that the development and deployment of advanced telecommunications technologies do not pass certain customer segments by, for example, ensuring access to wireless technologies. The Commission should take advantage of these technologies and technologies.

25. The Commission should form the USWQ to address ways in which access and deployment of advanced telecommunications technologies can be provided to all customer segments, and how education, health care, community, and government institutions can be positioned to take advantage of these technologies.

26. The USWQ should be funded at $250,000 per year for a period of two years from monies in the California Teleconnect Fund.

27. In deciding whether new telephone service should be approved in unserved rural communities, the Commission should...
determine on a case-by-case basis whether it is reasonable and prudent to offer telephone service in those localities.

28. The CSD and the Telecommunications Division shall review the unserved area issues and present its written recommendations to the Commission within 6 months as to how this problem can be resolved.

29. The CSD and the Telecommunications Division shall jointly contact other state and federal agencies to explore the feasibility of increasing access to emergency communications services along rural remote state roads and highways.

30. Public Advocates call for targeted outreach and submission of marketing plans from all carriers goes beyond the basic requirements imposed on GTEC and Pacific in D.94-09-065, as integrated.

31. The ULTS Marketing Working Group is in a better position to assess how well the 95% subscription goal is being met.

32. If the ULTS Marketing Working Group detects that certain groups or communities do not have as high a subscription rate as they should, the ULTS Marketing Working Group can target those groups or areas that need improvement.

33. Utility redefining issues should be addressed by the Commission since it has the express power to prohibit that certain discrimination is to rates, charges, service, and facilities.

34. The Executive Director, in concert with the appropriate Commission divisions, shall develop a plan of action for implementing consumer education programs.

35. Although AB 3643 does not mandate discounts for schools, libraries, rural health care providers, and CBOs, that legislation made clear that these types of organizations are to be positioned as to be early recipients of the benefits of the information age and that incentives should be provided to promote the deployment of the advanced telecommunications services to all customer segments.

36. If the Commission waits until the FCC adopts its rules regarding discounts to schools and libraries, our rules on this
subject could be delayed until May 1997, well beyond the time contemplated in AB 3643, which would allow the state to consider it in its own time.

37. With respect to the discounts for schools, only, public or non-profit schools providing elementary or secondary education, and which do not have endowments or more than $50 million, may request the discounted rates. But, as noted above, the discounts may be available only if the federal government provides the funds directly.

38. In our reference to the term "nonprofit schools," we would include schools operated by a religious order that has been, from its incorporated as a nonprofit public benefit corporation or as a nonprofit religious corporation. But the latter ed have now. In 39.

39. With respect to the discounts for libraries, only those libraries which are eligible for participation in state-based plans for funds under Title III of the Library Services and Construction Act shall be eligible for the discounted rates. Thus, it is

40. Although the FCO has not yet adopted what services can be provided at a discount to schools and libraries, we believe that, at a minimum, it will include the service elements that make up a 4MB line, and that discounted rates for switched ISDN, T-1, and similar DS-3 services, or their functional equivalents, are a strong possibility as well.

41. We agree with DCA that the Telco Act intended to create a different rate discount for rural health care providers than the discount for schools and libraries.53

42. No one has submitted any evidence in this proceeding about what a reasonably comparable rate should be for a rural health care provider, nor is there any evidence to suggest that rural health care providers in rural areas are currently charged different rates than their urban counterparts.

43. With respect to the discounts for hospitals and clinics, only municipal and county government-owned and operated hospitals and health clinics shall qualify. Other health care providers in rural areas do not have the same control over the costs of the services they provide and the discounts that are available.
With respect to the discounts for CBOs, only tax-exempt organizations that offer health care, job training or job placement, or educational instruction shall qualify; or organizations described in Section 501(c)(3) or 501(d) of the Internal Revenue Code, Title 26 of the United States Code.

The phrase "tax-exempt organization" shall refer to any organization described in Section 501(c)(3) or 501(d) of the Internal Revenue Code, Title 26 of the United States Code.

Funding for these discount programs for qualifying the schools, libraries, and CBOs should be funded at $50 million per year through the California Teleconnect Fund, of which a maximum of $5 million shall be targeted for the CBOs, $5 million for local, and county government-owned and operated hospitals and health clinics, and the remainder for schools and libraries, including any unused portion of the CBO and hospital and clinic monies.

The only customer groups that should be excluded from the AEOS for the California Teleconnect Fund surcharge are ULTS of billings, co-insent paid calling, debit card messages, one-way video, radio paging, usage charges to COPTs, customers receiving services under existing contracts that were executed on or before September 15, 1994, and directory advertising, which shall be allowed.

The California Teleconnect Fund surcharge shall appear as a separate line item on each customer's bill beginning with the billing cycle that begins on February 15, 1997.

Beginning with the billing cycle that begins on February 15, 1997, carriers shall mail bill inserts to their customers informing them of the California Teleconnect Fund surcharge. The Telecommunications Division shall monitor the estimate of the size of the California Teleconnect Fund given the course of the coming year, and annually thereafter, and shall keep the Commission informed as to the amount of allocated monies that has been spent and whether any adjustments are needed.
provisions that the above described discount programs be used exclusively for the direct benefit of the qualifying entities and the population that they serve. None of the these discounted services may be resold, or shared with, any other non-qualifying entity or person.

53: The Telecommunications Division shall convene a workshop within 60 days to develop the type of information that must be reported by carriers who seek reimbursement from the California Teleconnect Fund, and the type of information that qualifying entities may have to report. Each plan shall be的工作 and compare the FCQ's plan for discounts to certain designated entities. With respect to the rules we adopt today, and shall inform us of any inconsistencies, we need to weigh the costs of such a subsidy, and the burden on ratepayers. In deciding whether basic service for business customers in high cost areas should be subsidized or not, the Commission needs to weigh the cost of such a subsidy, and the burden on ratepayers. The costs associated with providing telephone service to business customers in high cost areas of the state should not be included as part of the CHP's. City of San Francisco has assumed that (e) for

54: The Legislature in PUC Code §709.5 clearly intended that the local exchange market be opened to competition, and that the rules and regulations regarding universal service be in place by January 1, 1997.

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57: The Legislature in PUC Code §709.5 clearly intended that the local exchange market be opened to competition, and that the rules and regulations regarding universal service be in place by January 1, 1997.

58: At the present time, only GTEC, Pacific GTCC/Contel, and Roseville should be included in the CHP's, for the purpose of determining universal service subsidy support in their high cost areas.
60. The seventeen smaller LECs should be excluded from the CHCF-B for the purpose of determining universal service subsidy support in their high cost areas. Although the proposed
funding for the purpose of determining universal service subsidy support in their high cost areas
61. The seventeen smaller LECs should continue to be eligible to draw from the CHCF-A fund under our existing procedures continued to
62. For the most part, we should follow the TSLRC/CCPs as the cost standard for the development of a proxy model as a
63. Although the CCPs advocate that forward looking and least cost technology be used in the proxy model, CCPs not use a HFQ on the network because such technology is unproven for even the seating
64. A new technology does not have to be deployed universally before it is incorporated into a universal service cost study.
65. In evaluating which proxy cost model should be used to best estimate the cost of providing residential basic service throughout the state, the following criteria should be used:
(1) the ability to estimate costs for the entire state on a CBG level; (2) the degree to which the design of the model can accurately reflect actual costs; (3) the openness and accessibility of the model to changes in assumptions and inputs; (4) the ability to model costs based on today's placement of technology; (5) the ability to model the initial proposed definition of basic service and subsequent changes to this definition; and (6) the verifiability of inputs and assumptions.
66. The CPM should be adopted as the proxy model to develop the cost of providing basic service to all residential customers in California.
67. Subsidizing one residential line per household in high cost areas allows each household to have essential telephone service.
68. An adjustment to the CPM estimate of $128 million should be adopted to reflect the subsidy of only one primary line to each household in a high cost area.
69. TURN's suggestion that all subscribers requesting residential basic service in high cost areas be required to certify
that they are not presently receiving residential basic service through any other telephone company will be adopted, and GSD and the Telecommunications Division shall convene a workshop to discuss ways in which the self-certification process in GO-153 can be adapted for use with the CHCP discipline.

70. An adjustment to the CPM estimate to spread the cost of the drop over two pairs instead of one should not be made.

71. An adjustment to the A & B cable cost of $48 million that should be adopted due to Pacific's revision of this cost, but not be adopted.

72. An adjustment to the A & B conduit costs should be made in the amount of $40 million.

73. An adjustment to the feeder and distribution cable sizes should not be adopted.

74. An adjustment to the CPM estimate to extend the cabling offside of copper feeder to 12,000 feet should be adopted. This change results in a $78 million reduction to the estimated subsidy.

75. The proxy cost model should be reasonably consistent with the practices adopted in the OANAD proceeding.

76. The 76% fill factors that were adopted in OANAD for outside plant and pair gain should be adopted, and Pacific's distribution fill factors should be used, not the surrogate method.

77. The adopted fill factor adjustments result in a $64.5 million reduction in the estimated subsidy.

78. The economic life depreciation method should be used because it is consistent with the forward-looking cost allocation principles.

79. GTEC's switch reordering proposal should not be adopted at this time.

80. GTEC's adjustment to the outside plant factor in the CPM estimate should be adopted.

81. The adoption of the adjustment to the outside plant factor results in an adjustment to the estimated subsidy of $37.5 million.
82. Pacific's estimate of switch costs should be used in the CPM estimate, because it is consistent with the depreciation method adopted for the CPM. We have shown in D.94-09-064 that the 16 allocation factors called into question the reliability and reasonableness of those allocations.

83. Given our previous determination in D.94-09-064, we now decline to conclude in this proceeding that the loop is a shared service.

84. Pacific has not demonstrated that the costs allocated by the CPM to basic service were caused by residential service, as opposed to the other services offered by Pacific.

85. Pacific's modification of only two of the sixteen allocation factors calls into question the reliability and reasonableness of those allocations.

86. Section 254(k) of the Telco Act places a limitation on the share of joint and common costs that should be borne by the service elements that make up basic service.

87. The modification of the two allocation factors results in a shifting of costs onto basic service, which results in basic service bearing more than its reasonable share of the joint and common costs in the CPM.

88. The unmodified PI allocation factors that Pacific used initially for the proprietary version of the CPM were more reliable and reasonable allocations of shared costs than those proposed by Pacific, and should be adopted as an adjustment to the CPM.

89. An adjustment to the CPM's shared costs results in an adjustment of $282 million to the estimate of the required subsidy.

90. The Telco Act contemplates that universal service should bear no more than a reasonable share of joint and common costs.

91. Consistent with the Telco Act, the Commission should reduce the common costs per line from $2.91 to $2.00 to safeguard against cross subsidy and anticompetitive behavior.

92. An adjustment to the CPM's common costs results in an adjustment of $118 million to the estimate of the required subsidy.
93. Any party seeking to modify the imputation rules established in D.96-03-020 should file a petition to modify that decision.

94. An adjustment to the CPM's estimate of rearrangement costs should be made, which results in an adjustment of $170 million.

95. An adjustment to the CPM's estimate of the non-recurring burden should be made, which results in an adjustment of $43 million.

96. An adjustment to the CPM's estimate of the directory assistance expenses should be made, which results in an adjustment of $50 million.

97. An adjustment to the CPM's estimate of the repair and maintenance costs of $14 million should be made, which reduces the subsidy estimate by $46 million.

98. Selection of the benchmark will have ramifications in other proceedings that seek to address competitive pricing issues.

99. In developing the benchmark, the Commission must balance the economic and social burden of subsidizing basic service and the universal service policies of encouraging subscribership and maintaining rates at affordable levels.

100. The benchmark for determining COLR support should be the statewide proxy model weighted average of $20.30, or the carrier's flat rate plus EUCB, whichever is higher.

101. The statewide average cost of $20.30 should be used as the cut-off point in determining which CSGAs are high cost areas.

102. Those CSGAs whose adjusted CPM estimate of the cost of providing residential basic service is greater than the $20.30 cut-off point shall be deemed to be a high cost area and eligible for COLR subsidy funding through the CHCF-B.

103. Those CSGAs whose adjusted CPM estimate of the cost of providing residential basic service is less than the $20.30 cut-off point shall be deemed to be a low cost area and not eligible for COLR subsidy funding.
104. The August 5, 1996 proposed decision suggested that certain carriers receive a subsidy for high-cost areas based on the difference between the CPM cost estimate of serving a particular CBG and the benchmark price, less the offsets for revenues from residential basic service, the EUCL charge, the CCLC, and the interstate USF, if any. The August 5, 1996 proposed decision's methodology for calculating the subsidy support would not fund the gap between the benchmark and carrier per-line revenues.

105. By funding the gap, some of the pressure to increase existing rates should be alleviated.

106. The Commission should adopt a methodology for calculating the subsidy support that allows for funding of the gap when the revenues that a carrier receives are less than the cost benchmark.

107. Because it recovers a large share of the interstate portion of the LECs' NTS embedded-loop costs, the EUCL charge is an appropriate offset to the CHCF-B and for calculational purposes, it is assumed that the flat-rate is incorporated in the benchmark.

108. The EUCL charge is an appropriate offset to the CHCF-B because it recovers a large share of the interstate portion of the LECs' NTS embedded-loop costs. To the extent that the EUCL charge is incorporated in the benchmark.

109. The CCLC is an appropriate offset to the CHCF-B because it recovers the remaining portion of residential and single-line business NTS costs that are not recovered by the EUCL charge.

110. The CCLC offset will be deducted from the COLR's total USF draw from the CHCF-B and will include only the CCLC revenue for 310 subsidized lines, and the amount of the offset will not exceed the amount of the subsidy that would have been received without the offset.

111. The USF offset will be deducted from the COLR's total USF draw from the CHCF-B and will include only the USF revenue for 310 subsidized lines.
To the extent that any of the LECs receive support from the interstate USF, that is an appropriate offset to the CHCF-B tariff and should be offset by the carrier's per-line-monthly USF draw down multiplied by the percentage of lines eligible for high-cost assistance in California. Rebut AB 3643 and this proceeding on one.

114. For calculational purposes, the USF offset shall be treated in the same manner as the CCLC offset as set forth in 851.

115. Yellow pages revenues should not be included as an offset to the CHCF-B because this proceeding is only establishing a fund to subsidize high-cost areas of the state and is not establishing rates for other services offered by telephone corporations.

116. The use of yellow pages revenues would significantly reduce the contribution of others to support the fund, which would be contrary to the intent in the TCA and AB 3643 that such high funding be equitable.

117. In deciding which type of funding mechanism to adopt, the following criteria should be met:

1. It is competitively neutral;
2. It clearly identifies the source of the subsidy;
3. Consumers have the information they need to make informed choices.

118. An AEUS conforms with AB 3643 because it clearly identifies the source of the subsidy, customers can see how much they are paying into the fund, and customers are informed as to the amount of the surcharge.

119. With a net trans account funding mechanism, if the carrier decided to absorb some or all of the fund charge, or chose not to disclose that part of their bill pays to support the CHCF-B, then the AB 3643 principle that the subsidy be imposed in a manner that clearly identifies the source of the subsidy would not be met.

120. The AEUS method of funding is a more competitively neutral method of funding than the net trans account method because it is imposed on virtually all telecommunications services and for all customers.
121. We are not persuaded by TURN's argument that Section 254(k) of the Telco Act limits our ability to impose an ABUS to fund the CHCF-B by since Section 254(f) of the Telco Act permits the states to adopt regulations pertaining to universal service that are not inconsistent with the FCC's rules to preserve and advance universal service. We believe 320 ABUS, accordingly, is not an appropriate CHCF-B.

122. Carriers who collect the ABUS contribute to the CHCF-B because they incur administrative expenses to assess, collect, and remit the monies to the fund. In addition, carriers assessed a CHCF-B surcharge are not inconsistent with section 254 (f) of the FCC's rules to preserve and advance universal service.

123. An ABUS should be adopted to collect the surcharge for the CHCF-B.

124. In D.94-09-065, the Telecommunications Division considered and rejected CCAC's argument that they should be exempt from subsidizing the 'landline' network in any manner, and that same argument should be rejected for the CHCF-B.

125. In addition to ULTS billings, the following should also be exempted from the CHCF-B surcharge:

- credit card messages
- debit card messages
- one-way radio paging
- usage charges
- COPTs
- customers receiving services under existing contracts that were in effect on or before September 15, 1994
- directory advertising
- advertising

126. For purposes of collecting the funds for the CHCF-B, the CHCF-B may appear next to the CHCF-A as a single line item on each customer's bill beginning with the billing cycle that begins on or before October 1, 1997; and

127. Carriers shall be responsible for remitting the CHCF-A and the CHCF-B to separate bank accounts, and shall account for these two funds separately.

128. The carriers shall mail bill inserts beginning on or after February 15, 1997 notifying customers of the new surcharge amount.

129. In The Telecommunications Division shall convene a workshop as soon as possible to develop a bill insert notifying customers of the CHCF-B surcharge.
130. Pacific Bell shall provide for an orderly transfer to the Telecommunications Division of all the responsibilities associated with the CHCF-AM released basic service pilot program. 

131. The GSAs are not intended to serve as the service area for all CLCs, because CLCs are free to designate the service area that they intend to serve once they are permitted by law.

132. A designated COLR who is the incumbent LEC, in order to avail themselves of the subsidy for a high cost GSA, shall be required to serve all the high cost GSAs that are within the incumbent LEC's existing exchange area boundary as defined in Appendix C.

133. All CLCs who are designated COLRs in order to avail themselves of the subsidy for a particular high cost GSA shall be required to serve the entire GSA(s) that is within the CLC's designated service territory for which it has elected COLR status.

134. The selection of CBGS to serve as the GSAs will not act as a barrier to entry, because the CBGS tend to be smaller, in other geographic areas than exchanges, service areas and distribution of services.

135. A reseller may draw from the CHCF-Bin accordance with Rule 6.G of Appendix B technical data and services without charge.

136. A designated COLR in a high cost GSA shall be entitled to draw subsidy support in accordance with Rule 6.C.2.w of Appendix B.

137. In order to receive the subsidy for serving high cost areas, the designated COLR shall submit on a monthly basis the required report showing, among other things, the number of residential service lines over which it provided service during the prior month as set forth in Appendix B.

138. The Telecommunications Division shall convene a workshop within 60 days to develop the type of monthly information that designated COLRs must report, in accordance with Rule 6.D.4.w of Appendix B.

139. CLCs seeking to be designated a COLR shall follow the procedures set out in Rule 6.C.4.w of Appendix B.

140. The incumbent LECs listed in Attachment A of Appendix B are designated the COLRs in their existing service areas.
AT&T/MCI's suggestion that essential monopoly inputted functions be reduced to their direct economic costs on TSLRIC was an issue that the OANAD proceeding should handle, rather than this proceeding, since it is an issue of beginning new rates and not an issue of reassessing whether a proceeding should handle.

The testimony that was offered regarding rate rebalancing and deaveraging was properly excluded from this proceeding.

In order to make subsidies for high-cost areas explicit, there must be a correlating downward adjustment of rates through an surcredit or reduction in tariffed rates so as to prevent the LECs from recovering implicit subsidy support as well. At the same time, CCCTA's proposal of an equal percentage reduction for all prices, except for residential basic service and rates covered by contracts, results in the most competitively neutral outcome in the short term.

To avoid double recovery of universal service support, the five large and middle-size LECs shall reduce all of their rates, except for residential basic service and existing contracts, by an equal percentage reduction in an amount that equals the anticipated monthly draw that they anticipate receiving from the fund, beginning on June 30 and increasing by 10.2% per annum.

The equal percentage rate reduction shall be accomplished by a monthly surcredit to each customer's bill through an advice letter. Filing of a petition is no longer required for surcredit.

The large and middle-size LECs shall establish memorandum accounts to track the rate reductions, so that a true-up is possible to ensure that the total rate reductions equal the total amount the LECs receive from the fund can occur, if necessary.

A review of the true-up memorandum accounts may take place after the new application filings to permanently rebalance certain rates for price gaps and to improve service. The Telecommunications Division shall provide quarterly updates at the Commission's meetings regarding the administration of the new filing service areas. The granting of new rates is upon existing service areas.
and operation of the CHCF-A, the CHCF-B, and the California Teleconnect Fund.

150. The Telecommunications Division shall prepare a report for the Commission within one year with its recommendations as to how the CHCF-A, CHCF-B, and the California Teleconnect Fund should be administered in the future.

151. The Telecommunications Division staff will monitor how the competition develops in high-cost areas of the state over the next two years in order to determine if an auction mechanism should be used as a means of reviewing the CHCF-B subsidy support.

152. The Telecommunications Division staff shall conduct some workshops within the next six months concerning the auction mechanism, and shall prepare a workshop report for the Commission's review upon completion of the workshops. (for Rule 152, see 8) of Appendix B.

153. After review of the workshop report on the auction mechanism, the assigned ALJ, after consulting with the assigned ALJ, shall issue a ruling detailing the steps to be taken toward developing auction mechanism rules. (for Rule 153, see 6) of Appendix B.

154. No auction will be held in accordance with Rule 6.R.3 of Appendix B until the Commission has established the auction proposal process.

155. The Telecommunications Division staff shall revise the ULTS Monthly Report and Claim Statement to have the carrier report the number of ULTS customers that it serves each month. (for Rule 155, see 21) of Appendix B.

156. Our analysis of the ULTS statutes leads us to conclude that the ULTS subsidy cannot be applied as a credit to a carrier's higher priced basic service rate, nor can the customer be billed for the subsidy. (for Rule 156, see 28) of Appendix B.

157. Until the Moore Act is amended by the Legislature, the ULTS program funds should not be used to subsidize a mobile exchange telephone service that can be used anywhere. (for Rule 157, see 8) of Appendix B.

158. The Moore Act contemplates the offering of basic nationwide telephone service at affordable rates which enables a user to have...
a class of service necessary to meet minimum residential use but communication needs.

159. The Moore Act was not meant to include access to enhanced telecommunications services, nor was PU Code § 8382 intended to create a ULTS entitlement to advanced telecommunications services.

160. The ULTS program will not be broadened to include Lifeline rates for enhanced services nor LCoda § -intended to create a merit to advanced telecommunications services.

161. A two-tiered ULTS program should not be adopted because of the increased funding requirements and concern over the size of the program. Require existing LECS to participate to ensure a merits based approach.

162. The advertising agency selected to do work for the ULTS program shall permit the Commission to audit its records and operations in connection with all ULTS related work has performed.

163. The CSD shall convene a workshop as soon as practicable to determine who is interested in serving on the ULTS Marketing Working Group, and to discuss other details concerning the group's mission.

164. The ULTS Marketing Working Group shall submit a budget for approval by the Commission. The advertising agency shall be hired by the Commission.

165. The ULTS Marketing Working Group shall submit an annual report to the Commission regarding its activities during the prior year.

166. ULTS advertising outreach, and related marketing expenses by individual carriers will no longer be reimbursed by the ULTS fund except as provided for Rule 5.A.2 of Appendix B of Tariff 87.

167. Should the incumbent LECS decide to continue using any existing advertising campaigns to market ULTS after the contract has expired or after the three months has elapsed, whichever occurs first, the LECS shall reimburse the ULTS program for the production expenses associated with producing that material. such a process shall be adopted for the ULTS program. CACD and the Legal Division shall investigate whether such a process will lead to additional.

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federal monies for universal service support, and the Commission should hold meetings to assess the impacts of such a change.

169. The Telecommunications Division staff shall provide quarterly updates to the Commission at its meetings regarding the Administrative Committee and the UTS program.

170. Rate and revenue rebalancing issues should be given a higher priority in the months to come.

171. The five large and mid-size LECs shall be authorized to establish memorandum accounts to record actual implementation costs associated with the universal service program that we adopt today.

172. Recording of these implementation costs shall be on a going forward basis.

173. The assigned ALJ and/or Commissioner shall establish a schedule in six months to consider whether recovery of these implementation costs should be recovered or not.

IT IS ORDERED that

1. Exhibits 117 and 128 shall be received into evidence.

2. The motion of AT&T Communications of California, Inc. (AT&T) and MCI Telecommunications Corporation (MCI) to strike the references in Pacific Bell's opening brief to the article by Dr. Alfred Kahn is denied.

3. The motion of AT&T and MCI to strike the references in Pacific's opening brief regarding certain alleged conversations, is granted, and those references shall be stricken from Pacific's brief.

4. The motion of the California Department of Consumer Affairs (DCA) to accept its reply comments in excess of the page limit is granted, and the Docket Office is directed to file DCA's reformatted reply comments as it was filed on September 3, 1996.
The motion of ICG Telecommunications, Inc. (ICG) to late file its opening comments to the October 9, 1996 revised proposal decision is granted, and the Docket Office is directed to accept the late filing of ICG's opening comments.

The motion of Toward Utility Rate Normalization (TURN) to late file its opening comments to the October 9, 1996 revised proposal decision is granted, and the Docket Office is directed to accept the late filing of TURN's opening comments.

The universal service rules attached hereto as Appendix B, are adopted.

a. All incumbent local exchange carriers (LECs), and all competitive local carriers (CLCs), who offer local exchange residential service, shall provide all of the service elements listed in Rule 4 of Appendix B.

b. All telecommunications carriers providing eligible low income customers with residential basic service, as defined in Rule 4.B of Appendix B, under the Universal Lifeline Telephone Service (ULTS) program, shall be eligible to receive ULTS subsidy support for those customers from the ULTS program in accordance with Rule 5 of Appendix B.

c. Effective immediately, telecommunications carriers will no longer be able to claim reimbursement for their advertising and marketing expenses associated with the ULTS program except as provided for in Rule 5.A.2 of Appendix B.

d. Except as provided for in Rule 5.B.2 of Appendix B, all telecommunications carriers are required to charge their end users the ULTS surcharge, as set by the California Public Utilities Commission (CPUC), and to remit such monies to the ULTS program.

e. The 22 incumbent LECs shown in Attachment A of Appendix B are designated the carriers of last resort (COLRs) in their respective
8. The Cost Proxy Model (CPM), as adjusted by this decision, is chosen as the proxy model from which to develop an explicit universal service funding mechanism to support the high cost areas of the following incumbent LECs: \( \text{California Incorporated (GTEC), Pacific Citizens Telecommunications Company of California, Inc. (CTCC), and \text{Contel California Inc. (Contel) and Roseville}} \) Telephone Company (Roseville)

a. The funding mechanism to support the high cost areas within the service areas of GTEC, Pacific, CTCC, Contel, and Roseville shall be known as the California High Cost Fund B (CHCF-B).

b. The applicable rules for the CHCF-B are contained in Rule 6.D. and Rule 6.A.

c. The cut-off benchmark for determining whether an area is high cost for purposes of the CHCF-B shall be $20.30. A geographic study area (GSA) shall be considered high cost if the cost of serving residential customers in that GSA, as generated by the adjusted CPM, is above the benchmark price.

d. The benchmark for purposes of determining COLR support shall be the statewide average proxy cost of $20.30, as derived by the adjusted CPM, or the carrier's flat rate plus an equal percentage rate reduction for all service areas for residential basic
service, and rates (set by contracts). Such rate reductions shall be accomplished through a monthly surcharge equal to the expected receipt of funds for that month, and shall continue until terminated by a Commission order.

f. GTEC, Pacific, CTCC, Cotel, and Roseville shall establish memoranda accounts to track the rate reductions that they may make to offset funds they may receive from the CHCP-B for high cost area support. Review of whether any true up is necessary shall occur in a subsequent phase of this proceeding, or in the proceedings where the applications to rebalance certain rates and price caps to offset the CHCP-B are addressed.

g. All telecommunications carriers are required to charge all end users the CHCP-B surcharge as set by the Commission, except for ULTS billings, coin-sent paid calling, debit card messages, one-way radio paging, usage charges to COPs, customer receiving services under existing contracts that were executed on or before September 15, 1994, and directory advertising.

h. The CHCP-B surcharge is set at 2.87%, and shall be collected from end users beginning with the billing cycle that begins on February 1, 1997.

i. The CHCP-B surcharge may be shown side by side with the CHCP-A surcharge as a single line item on a customer's bill, or as separate line items.

j. Effective with the billing cycle that begins February 1, 1997, and until such time customers have been sent the bill insert, all telecommunications carriers shall include in their billing statement, a bill insert notifying customers of the CHCP-B surcharge.

k. Pacific shall incorporate the adjustments to the CPN that this decision has adopted, and shall tender the adjusted CPN to the
CPUC within 45 days from the effective date of this decision for the CPUC's use in administering the CHCF-B.

1. After the issuance of this decision, the Telecommunications Division staff shall meet with interested parties to review the adjusted GPM results for any geographical placement or mathematical errors.

9. The seventeen smaller LECs whose names appear on Attachment A of Appendix B, shall continue to be eligible to receive universal service support through the existing California High Cost Fund (CHCF-A); a smaller LEC shall not be eligible for funds from the CHCF-B to support high cost areas unless it becomes a designated LEC outside its existing service area in accordance with Rule 6.D.4. of Appendix B.

10. Qualifying schools, libraries, hospitals, and health clinics, and community based organizations (CBOs) shall be eligible for discounts for certain services as provided for in Rule 8 of Appendix B.

a. All telecommunications carriers offering the services described in Rule 8.B.1., Rule 8.C., and Rule 8.D., shall revise their tariffs within 45 days from the effective date of this decision to reflect these discounts.

b. Reimbursement of telecommunications carriers from the California Teleconnect Fund for these discounts shall begin on February 1, 1997.

c. This discount program shall be funded through the California Teleconnect Fund and will be set initially at $50 million per year, with $5 million allocated to qualifying CBOs, $5 million to qualifying hospitals and health clinics, and $40 million to qualifying schools and libraries. In the event the monies allocated in the first year for the hospitals and health clinics and CBOs are not exhausted, those excess funds shall be
All telecommunications carriers are required to charge all end users the California Teleconnect Fund surcharge, as set by the Commission, except for UNTS billings, coin-sent paid calling, debit card messages, one-way radio paging, usage charges to COPTs, customers receiving services under existing contracts, and directory advertising.

The California Teleconnect Fund surcharge in set at 0.41% and shall be collected from end users beginning with the billing cycle that begins on February 1, 1997.

The California Teleconnect Fund surcharge shall appear as a separate line item on a customer's bill.

Effective with the billing cycle that begins February 1, 1997, and until all customers have been sent the bill insert, all telecommunications carriers shall include in their billing statements to customers a bill insert notifying customers of the California Teleconnect Fund surcharge.

The Telecommunications Division shall monitor the estimate of the size of the discounts and shall inform the Commission as to whether any adjustments are needed in accordance with the text of this decision.

The Executive Director shall meet with the various divisions of the CPUC as soon as possible to coordinate the establishment and administration of the CHCF-A, the California Teleconnect Fund, and to take over the administration of the CHCF-A.

The CHCF-B and the California Teleconnect Fund shall become operative as of February 1, 1997.
12. The Executive Director shall meet with the various divisions of the CPUC within 90 days to develop a plan of action for implementing consumer education programs.

13. The Commission shall compile an annual report regarding the complaint history and open investigations for each certificated carrier. The first report shall be available for dissemination on or about January 30, 1997, and shall cover the reporting period of July 1, 1995 to June 30, 1996. Subsequent annual reports shall be available by August 15 of each year thereafter. Unless extended by the commission, the last annual report will be for the reporting period of July 1, 1998 to June 30, 1999.

14. Workshops shall be convened by the Consumer Services Division for the following purposes:

a. A workshop to determine who is interested in participating in the Universal Service Working Group (USWG) and on the Steering Committee, and to discuss the purpose and organizational framework of the USWG shall be convened within 90 days from the effective date of this decision.

   (1) Upon completion of the workshops, the staff shall submit a workshop report, along with the names of persons interested in serving on the USWG Steering Committee. The Commission will then issue a decision regarding the composition of the USWG Steering Committee, and its role and purpose.

   (2) The USWG shall be funded through the California Teleconnect Fund, and will be set initially at $250,000 per year.
b. A workshop to determine how different types of pricing packages and discounts can be accommodated in the customer information matrix shall be convened within six months from the effective date of this decision.

(1) Upon completion of the workshop, the staff shall prepare for the Commission a workshop report containing its recommendations.

c. A workshop shall be convened within 45 days to determine who is interested in serving on the Universal Lifeline Telephone Service Marketing Working Group (ULTSMWG) and to discuss its goals, purpose and organizational framework.

(1) Upon completion of the workshops, the staff shall submit a workshop report, along with the names of persons interested in serving on the ULTS WG. The Commission will then issue a decision regarding the composition of the ULTS WG, and its role and purpose.

(2) The ULTSWG shall be funded through the ULTS program in accordance with the discussion in the text of this decision.

15. Workshops shall be convened by the Telecommunications Division for the following purposes:

a. A workshop to formulate a joint bill insert to advise end users of the CHCP-B and the California Teleconnect Fund surcharges shall be convened within 20 days from the effective date of this decision. The assigned Administrative Law Judge (ALJ), in conjunction with the Public Advisor's office, shall review the draft(s) of the bill insert, and shall notify the service provider(s) in an ALJ ruling as to which bill insert to use.

b. A workshop shall be convened within 60 days to develop the types of monthly information that designated COLRs must report, and the types of information that qualifying
schools, libraries, hospitals and health clinics, and CBOs may be required to, or report on. The staff's workshop report and recommendation shall be forwarded to the Commission and to the assigned ALJ for review and consideration.

1. The assigned ALJ, in consultation with the assigned Commissioner, shall issue a ruling prescribing the monthly reports the COLRs must submit to the Commission.

2. The Commission shall decide whether qualifying entities and CBOs and public or private organizations should be required to submit reports, describing how the discounts were used to directly benefit the qualifying entities and the population they serve.

A workshop shall be convened within 60 days to develop the type of monthly information that carriers, who serve qualifying schools, schools, libraries, hospitals, health clinics, and CBOs, must submit. The staff's workshop report and recommendation shall be forwarded to the Commission and to their assigned ALJ.

1. The assigned ALJ, in consultation with the assigned Commissioner, shall issue a ruling detailing the steps to be taken toward developing auction mechanism rules.

16. The Consumer Services Division, in conjunction with the Telecommunications Division, shall do the following:
a. A workshop shall be convened within 90 days to explore ways in which the self-certification format contained in General Order 153 can be used by residential customers in high cost areas of the state to ensure that each household is receiving only one subsidized line. Following the workshops, the staff shall prepare a Commission resolution to address the manner in which this certification shall take place.

b. The staff shall review and develop written recommendations on the issue of providing service to previously unserved areas. The staff shall present these recommendations to the Commission within six months.

c. The staff shall initiate contact with other state and federal agencies within 30 days to form an interagency task force to investigate the feasibility of increasing access to emergency communications services along remote state roads and highways. The staff shall report back to the Commission about the status of the task force within six months.

17. The Telecommunications Division shall review and compare all the universal service rules that the Federal Communications Commission may adopt, and shall identify issues that are inconsistent with the universal service rules adopted today, or which have not yet been addressed by the CPUC. Upon the completion of the staff's review, the staff shall recommend to the Commissioners what issues need to be resolved.

18. The CPUC staff shall conduct the necessary reviews and provide the reports as indicated in this decision.
19. GTEC, Pacific, CTCC, Contel, and Roseville shall establish memorandum accounts to record actual implementation costs incurred on and after the effective date of this decision. This order is effective today.

Dated October 25, 1996, at Sacramento, California.

I will file a dissent.

/s/ JOSIAH L. NEEPER
Commissioner
UNIVERSAL SERVICE RULES AS PROPOSED IN D. 95-07-050

DEFINITIONS

A. All-End User Surcharge (ABUS): A funding mechanism used to collect money for Commission-mandated programs. The ABUS is applicable to all telecommunications providers, with the exception of one-way paging companies. The surcharge is a percentage of the customers' total expenditures on telecommunications services. The surcharge is visible on customers' bills as a line item charge.

B. Basic Service: A certain defined minimum level of telecommunications service available to virtually everyone in each telephone exchange. Sometimes referred to as basic exchange service.

C. California High Cost Fund (CHCF): A fund established by the Commission to ensure that customers in areas served by small and mid-size LECs have access to telephone services at reasonable rates. The Commission collects money for the CHCF through an ABUS and distributes it to the small and mid-size LECs based on the individual need of the companies as authorized by a Commission resolution. The fund is intended to improve the availability of wireline telephone services, particularly for low-income and rural customers.

D. Carrier of Last Resort (COLR): A local exchange service provider that stands ready to provide basic service to any customer requesting such service within a specified area. To be a COLR, the provider must meet Commission-approved qualifications. The idea is that one should be able to receive services from the universal service programs on an equitable basis.

E. Census Block Group: An area defined by the United States Census Bureau which serves as the geographic service area.

F. (Common Carrier) Provision of telecommunications service available to the public on a non-discriminatory basis.
I. Geographic Study Area (GSA): A Commission-designated geographic area that will serve as a reference point from which cost data and high cost subsidies can be derived for the designated carrier or carriers of last resort.

II. High Cost Voucher Fund: The fund developed in this proceeding to subsidize high cost areas of the state. The fund includes a collection mechanism, a distribution mechanism, and a method for calculating the amount of the required subsidy.

K. Local Exchange Carrier (LEC): The incumbent carrier or carriers whose names appear on Attachment A of these rules.

L. Loop: A transmission path capable of delivering analog voice-grade signals or digital signals at less than 1.544 Mbps between a network interface at a customer's premise and the main distribution frame or any other point of interconnection to the LEC network. Also known as the basic access channel.

M. Net Trans Account: A funding mechanism which may be used to collect money for the Commission's high cost voucher fund. Under this mechanism, the Commission bills carriers a percentage of their transmission path revenues after netting out the carrier's access charges and contributions to a universal service fund.


O. Proxy Factor: A factor associated with costs, such as loop length or population density, which can be used to estimate costs when direct measurement is unavailable or impractical.

R. Rate Cap: Upper limit or a ceiling level on prices.

S. Total Service Long Run Incremental Costs (TSLRIC): The definition of TSLRIC that is developed in the OANAD OIR/OII.
APPENDIX A

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T. Transmission path revenues: All carriers' revenues from local service; intralATA toll; interLATA toll; mobile telephone calls, access, interconnection, and collocation payments received, resale payments, private lines and high capacity business services, transmission services for information providers, packet-switched transmission services, etc.

The transmission parts of integrated systems packages, basic but Centrex services, and central office switching functions.

U. Universal Lifeline Telephone Service (ULTS): The ULTS program is a statewide explicit customer subsidy that ensures low-income households have access to basic telephone services at a fixed and affordable rate. The ULTS program was created in response to the Moore Universal Telephone Service Act which became law in September, 1983. The ULTS program is sometimes referred to as Lifeline.

V. Universal Service: The provision of basic service to virtually everyone in California at a reasonable rate.

W. Voucher: A mechanism used to distribute a credit to a customer for the connection with the Commission's universal service funding program. The credit to the customer is based on the difference between the cost of serving the customer and the rate deemed affordable by the Commission.

III. SCOPE OF RULES

These rules govern universal service to California telecommunications users. For the purposes of funding universal service, these rules apply to all California telecommunications carriers. For the purposes of providing universal service, these rules apply to all California telecommunications carriers providing basic service.

1. If it is the objective of the Commission to provide the Commission with the authority to require and regulate

2. UNIVERSAL SERVICE: PRINCIPLES AND OBJECTIVES

A. Principles:

The following principles shall guide the implementation of the provisions of the Commission's universal service policies:

1. It is the policy of the Commission to ensure that high-quality basic telecommunications services remain available and affordable to all Californians regardless of linguistic, cultural, ethnic, or geographic considerations.

2. Service policies shall reflect the Commission's vision of a community that assists those who are unable to pay for the services or the information they seek.
2. It is the policy of the Commission to provide for the progressive expansion of the definition of basic service as service capabilities advance and the need for it advances. As advanced service submarkets become prevalent, in order to avoid information rich and information poor stratification, the Commission should adopt regulatory policies to ensure that consumers have access to information needed to make timely and informed choices about basic service and ULTS.

3. It is the policy of the Commission to ensure that universal service providers adhere to interconnectivity, interoperability, including carriage, reliability, privacy, and security guidelines.

4. It is the policy of the Commission to provide incentives for efficient provisioning of universal service, and which will reduce the aggregate subsidy required for universal service over time.

5. It is the policy of the Commission to ensure that universal service providers adhere to interconnectivity, interoperability, privacy, and security guidelines.

6. It is the policy of the Commission to provide incentives for efficient provisioning of universal service, which will reduce the aggregate subsidy required for universal service over time.

7. It is the policy of the Commission to provide a competitively neutral universal service mechanism which will minimize market distortions. The mechanism must provide for competitive provisioning of basic service, financing source and distribution mechanism no later than January 1, 1997. The funding mechanism must provide efficiency incentives to significantly reduce the aggregate subsidy required for universal service over time.

B. Objectives:

1. It is the objective of the Commission to develop a fully operable, competitively neutral, universal service financing source and distribution mechanism no later than January 1, 1997. The funding mechanism must provide efficiency incentives to significantly reduce the aggregate subsidy required for universal service over time.

2. It is the objective of the Commission to adopt universal service policies which allow education, health care, community and government institutions to be in a position that allows them to be early recipients of the benefits of the information age.

3. It is the objective of the Commission to improve the penetration rate of basic service to non-English speaking and low income households by means of the following mechanisms:
a. All LECs and CLCs shall be responsible for pursuing the objective of achieving a 95% penetration rate among low income and non-English speaking households in their service territories.

b. LECs and CLCs shall have the flexibility to develop innovative strategies to contribute to the attainment of this objective.

c. All LECs and CLCs shall submit the required annual reports describing their efforts to attain this objective.

d. In service territories where there is a substantial population of non-English speakers, a carrier's efforts to communicate with such customers in their native languages shall be a factor that the Commission considers in assessing each local carrier's contribution to pursuit of universal service targets.

4. **BASIC SERVICE**

a. All carriers providing residential service shall, at a minimum, provide all elements of basic service.

b. Basic service includes the following services:

1. access to single party local exchange service
2. access to interexchange carriers
3. ability to place and receive calls
4. touch tone dialing
5. free access to emergency services; 911/811
6. access to directory assistance
7. lifeline rate for eligible customers
8. customer choice of flat or measured rate service
9. access to directory assistance
10. access to a directory listing
11. access to operator services
12. Voice grade connection to public switched telephone network.

13. Access to information services and 800 services.

14. One-time free blocking for information services and one-time billing adjustments for charges incurred inadvertently, mistakenly, or that were unauthorized.

15. Access to telephone relay services as provided for in Part 209.


17. Free access to customer service for information about tariffs, service activation, service termination, service repair, and billing inquiries.

C. Periodic Review of Basic Service

1. Parties may petition for a new review of the composition of basic service three years after the conclusion of a review of basic service. The adoption of final universal service rules in this proceeding (R.95-01-020 and I.95-01-021) will constitute the first review of basic service. The petition for modification shall be filed on or before the 360th day before the review date.

2. In evaluating whether services should be added to or deleted from basic service the Commission will consider the following criteria:
   a. The service is essential for participation in society.
   b. A substantial majority, 65%, of residential customers subscribe to the service.
   c. The benefits of adding the service outweigh the costs.
   d. Availability of the service, or subscription rates, would not increase without intervention.

3. Providers will maintain and make available to the Commission upon request sufficient information for the Commission to determine whether the above criteria have been satisfied.

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5. UNIVERSAL LIFELINE TELEPHONE SERVICE (ULTS)

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All carriers providing basic service will have access to the ULTS fund.

a. Carriers are required to inform customers of the option for ULTS service when customers first inquire or sign up for basic exchange service.

b. Carriers must charge no more than the statewide ULTS rate, as set by the Commission, to qualifying low income customers.

c. Carriers may collect the difference between their tariffed rate for other residential customers and the Lifeline rate from the ULTS fund, but they may collect more on a per customer basis than the incumbent LEC.

B. ULTS Funding Source

1. All telecommunications carriers are required to charge all end users of telecommunications services.

2. End users of one-way paging companies are excluded from the collection of the surcharge.

3. Carriers shall submit the number of customers who sign up for the ULTS program to CACD's Telecommunications Branch on a monthly basis.

6. THE HIGH COST VOUCHER FUND

Identifying The Cost To Serve High Cost Areas

1. High cost voucher fund subsidies will vary according to the cost of providing service within the GSA.

2. The GSA is used for the purposes of identifying the cost of providing universal service to a particular area. A census block group shall serve as the GSA.
3. Total Service Long-Run Incremental Cost (TSLRC) will serve as the measure of costs for providing basic service to residential customers. The methodology for determining the TSLRC will be developed as part of this proceeding and the OANAD proceeding.

4. Costs for providing customers with basic service in individual GSAs will be determined by factors which serve as proxies for the characteristics associated with costs, including but not limited to, population density and average loop length. The methodology for determining proxy costs and the initial proxy factors will be developed in this proceeding and the OANAD proceeding.

5. Small and medium sized LECs can develop their own TSLRC studies or use the proxy costs developed by one of the large LECs.

6. A GSA will be considered a high-cost GSA if the average cost of serving residential customers in that GSA is above the average revenue generated by the LEC offering basic service in that particular GSA.

7. Subsidy amounts will be reviewed periodically. This review will consider the amount which subsidies should be reduced due to efficiencies gained through technological advances and competitive pressures.

**Carrier Responsibilities**

1. Carriers shall report the following information to CACD's Telecommunications Branch on a monthly basis:
   a. The number of residential basic exchange customers being served by the carrier in each GSA.
   b. The rate for basic exchange service the carrier is charging in each GSA.

2. A calculation of the subsidy amount that the carrier should receive for providing basic exchange service to the high cost areas.

3. The GSA may seek the approval of the Commission for the carrier to provide universal basic exchange service to a higher cost area. A carrier may seek approval as the GSA
C. Subsidy Applicability

The high cost voucher fund will apply only to residential basic services priced at the tariffed rate in high cost GSA.

2. The Commission will periodically review the subsidy in each GSA in order to determine if a COLR is entitled to the high cost voucher fund subsidy.

D. Carrier of Last Resort

1. All incumbent LECs will be designated as the COLR in all their service areas at least until such time that another carrier of carriers are designated as the COLR.

2. Other qualified providers may seek to become a designated COLR, or to compete in a GSA without being designated a COLR.

3. Only designated COLRs will have access to the high cost voucher fund subsidy.

4. Those carriers seeking to become designated COLRs shall file a Notice of Intent to be designated COLRs.

a. The facilities the carrier has in place or the arrangements that the carrier plans to enter into in order to provide local service;

b. The financial ability of the carrier to undertake the COLR obligation;

c. The ability of the carrier to promote the goals of universal service in low income and non-English speaking communities.

5. A designated COLR will be required to serve the entire GSA.

6. A designated COLR may opt of its obligations in one GSA by written advice letter unless it is the only carrier remaining in the GSA, in which case it must file an application to withdrawing as the COLR, and continue to act as the COLR until the application is granted. A new COLR has been designated as a result of an auction.
E. Competitive Bidding To Serve As The COLR

1. If there is only one carrier in a GSA and that carrier has filed an application to withdraw as the COLR in that GSA, and no other provider is willing to assume the COLR responsibility at the current subsidy level:

   a. The Commission will initiate an auction whereby service providers bid to be the COLR.

   b. Providers will bid for an amount, over and above the previously established per-line subsidy. The lowest bidder would become the subsidized COLR prepared to provide service to all customers for three years. Competitive entry would be allowed, but only 1/2 the subsidy would be available.

2. A COLR who loses the bid shall have the option to sell its facilities in the area to any interested party at book value and file a COLR withdrawal.

3. 180 days prior to the expiration of the three-year COLR obligation, other carriers desiring to become a designated COLR in the GSA shall file a designated COLR NOI. The Commission will then determine whether the same designated COLR should be retained, whether multiple carriers of last resort should be permitted, or if another auction should be held.

F. Funding The High Cost Voucher Fund

1. The Commission will require all telecommunications service providers to contribute to the high cost voucher fund.

2. The Commission will collect and distribute money for this fund through the net account method.

3. Carriers will be required to submit records to the Commission regarding all non-COLR COLR

   a. all transmission path revenues, and
   b. access payments to other carriers.

4. The Commission will be the administrator of the high cost voucher fund mechanism.
5. The Commission will calculate each carrier's payment (or receipt) from the fund and will bill (or distribute) the appropriate amount to carriers.

G. Distributing The High Cost Area Subsidy In A Resale Economy

1. If resale of basic exchange service or loops is allowed, the subsidy for residential basic exchange service for that customer shall be treated as follows:

a. If the price of the service or facility resold is below its cost, the underlying facilities based provider receives the subsidy for the services sold.

b. If the price of the service or facility resold is market based or based upon actual deaveraged costs, then the carrier who sells basic exchange service to the end-user residential customer shall receive the subsidy provided that the basic residential service is priced at the affordable (but below cost) price set by the Commission.

7. CONSUMER INFORMATION RULE

A. All providers of basic exchange services must provide the following information to consumers in any marketing information that targets residential customers and which explains the telecommunication service offerings available. The required information will be set apart from other marketing information with the following statement: "The following information is required by the California Public Utilities Commission to allow comparisons with rates charged by other providers for the same type of service."

B. The required information shall consist of the following:

<table>
<thead>
<tr>
<th>BASIC SERVICES</th>
<th>ONE TIME CHARGE TO INSTALL</th>
<th>COST PER MONTH</th>
</tr>
</thead>
<tbody>
<tr>
<td>Flat Rate Service: A set monthly rate for unlimited local calling, within a minimum of 12 miles.</td>
<td>$___</td>
<td>$___</td>
</tr>
<tr>
<td>Measured Rate Service: A reduced monthly rate plus per-minute charges for each local call above a minimum $3.00 allowance.</td>
<td>$___</td>
<td>$___</td>
</tr>
<tr>
<td>Universal Lifeline Telephone Service: Subsidized, low-priced service for qualifying limited income customers.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
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Measured Rate Universal Lifelines

$ $ provides unlimited local calling.

- Local calls over 60 minutes cost cents each.

- Provided at a minimum monthly charge of $.

- Price information is current as of month, date, and year.

- Flat-rate unlimited local calling.

- Service is included in monthly charge.

- Local calls over 60 minutes cost cents each.

- Measured Rate Universal Lifeline.

- Service is included in monthly charge.

- Local calls over 60 minutes cost cents each.
ADOPTED UNIVERSAL SERVICE RULES

1. DEFINITIONS

A. All End User Surcharge (AEUS): A funding mechanism used to collect money for Commission-mandated programs. The AEUS is applicable to all telecommunications carriers with the exception of one-way paging companies. The surcharge is a percentage of the customer's total expenditures on telecommunications service. The surcharge is visible on customers' bills as a line-item charge.

B. Basic Service: A certain defined minimum level of telecommunications service which each carrier of local exchange service is required to provide to all of its residential customers who request local exchange service. Basic service is sometimes referred to as "basic exchange service."

C. California High Cost Fund (CHCF-A): An existing fund established by the Commission to ensure that customers in areas served by small and mid-size LECs have access to telephone services at reasonable rates. The Commission collects money for the fund through an AEUS and distributes it to the small and mid-size LECs based on the individual need of the companies, as authorized by the Commission in its resolution, to ensure that the cost of providing universal service will be recovered in rates charged to all LECs. CHCF-A is funded through the "conditional AEUS, and it is listed on the Commission's website.

D. California High Cost Fund-B (CHCF-B): The fund developed in this proceeding to subsidize high cost areas of the state. The fund includes a collection mechanism, a distribution mechanism, and a method for calculating the amount of the required subsidy. CHCF-B is referred to as "CHCF-B in section 561 of the Commission's rules."

E. California Teleconnect Fund: The fund developed in this proceeding to provide discounts for telecommunications services to qualifying schools, libraries, hospitals, health clinics, and community-based organizations. 

F. Carrier of Last Resort (COLR): A carrier who provides local exchange service and stands ready to provide basic service to any customer requesting such service within a specified area. To be a COLR, the provider must meet Commission-approved qualifications. R. Rules 561 and 562 of the Commission's rules apply to COLR. The COLR is responsible for providing service in the area where the service is not available from any other carrier.

G. Census Block Group (CBG): An area defined by the United States Census Bureau for purposes of the CHCF-B. The CBG serves as the geographic study area.

H. Common Carriage: Provision of telecommunications services available to the public on a non-discriminatory basis.

I. Competitive Local Carrier (CLC): A common carrier which has been issued a Certificate of Public Convenience and Necessity effective on or after January 1, 1996, to provide...
local exchange telecommunication service for a geographic area specified by such carrier.

J. Competitive neutrality: The concept that regulation of the telecommunication industry should be structured in such a way that it neither favors nor impedes one telecommunications carrier or group of telecommunications carriers over any other carrier or group of carriers.

K. Geographical Study Area (GSA): A Commission designated geographic area that serves as a reference point from which cost data and high cost subsidies can be derived for the designated carrier/carriers of last resort.

L. Local Exchange Carrier (LEC): The incumbent local exchange carrier, or carriers, whose names appear on Attachment A of these rules, listed in the geographic areas in which the Commission determines residential and access services are provided.

M. Loop: A transmission path capable of delivering analog voice grade signals between 300 and 3,000 Hz only, between the network interface at a customer's premises and the main distribution frame or any other point of interconnection to the LEC network. Also known as the basic level network access channel.

N. Open Access Network Architecture Development (OANAD):

1. Order Instituting Rulemaking: and Order Instituting Investigation (R.93-04-001 and I.93-04-002) to govern access to bottleneck services and establish a framework for network architecture development of dominant carrier networks.

O. Proxy Costs: Geographically specific costs developed using proxy factors rather than direct measurement of costs.

Proxy Factors: Factors associated with costs, such as loop length, or population density, which can be used to estimate boilerplate costs when direct measurement is unavailable or impractical.

R. Total Service Long Run Incremental Costs (TSR LIC): The definition of TSR LIC that is developed in the OANAD OIR/0II.

S. Common Carrier (CC): A common carrier which provides interconnection services. Common carrier interchange is a common carrier service.
T. Universal Service: The concept that basic service should be available to virtually everyone in California at affordable rates to provide for universally available service. The ULTS program is sometimes referred to as Lifeline.

2. SCOPE OF RULES: These rules govern universal service to California telecommunications users. For the purposes of funding universal service, these rules apply to all California telecommunications carriers. For the purposes of providing universal service, these rules apply to all California telecommunications carriers providing basic service.

3. UNIVERSAL SERVICE PRINCIPLES AND OBJECTIVES: The goals of universal service are to provide basic service to all California consumers in a manner which:

A. Principles:

1. It is the policy of the Commission to ensure that high-quality basic telecommunications services remain available and affordable to all Californians regardless of linguistic, cultural, ethnic, physical, geographic, or income considerations.

2. It is the policy of the Commission to avoid information stratification between information-rich and information-poor consumers.

3. It is the policy of the Commission to ensure that consumers have access to information needed to make timely and informed choices about basic service and the deployment of advanced telecommunications technology.

4. It is the policy of the Commission to provide consumers with the ability to choose among competing carriers.

5. It is the policy of the Commission to ensure that basic service carriers adhere to interconnectivity, interoperability, common carriage, reliability, privacy, and security guidelines.
6. It is the policy of the Commission to provide incentives as needed to promote deployment of advanced telecommunications technology to all customer segments, and to position health care, community, and government institutions to be early recipients of the benefits of the information age.

7. It is the policy of the Commission to provide a competitively neutral universal service mechanism which will minimize market distortions. The mechanism must provide for competitive provisioning of basic service, access to universal service funds, and a funding source which is broad-based and sustainable.

B. Objectives

It is the objective of the Commission to adopt universal service policies which allow education, health care, community, and government institutions to be in a position that allows them to be early recipients of the benefits of the information age.

It is the objective of the Commission to improve the subscribership rate of basic service to all customer groups, including low income, disabled, non-white, and non-English speaking households, by means of the following mechanisms:

a. All LECs and CLCs shall be responsible for pursuing the objective of achieving a 95% subscribership rate among all customer groups, including low income, disabled, non-white, and non-English speaking households in their service territories.

b. LECs and CLCs shall have the flexibility to develop innovative strategies to contribute to the attainment of this objective.
4. Basic Service includes the following service elements:

- Ability to receive free unlimited incoming calls;
- FreeTouchTone dialing;
- Free and unlimited access to 911/9911; and
- Access to local directory assistance and access to foreign NAPs.

8. Lifeline rates and charges for eligible customers:

9. Customer choice of flat or measured rate service;

10. Free provision of one directory listing per year as provided for in D.96-02-072;

11. Free white pages telephone directory;

12. Access to operator services;

13. Voice grade connection to public switched telephone network;

14. Free access to 800 or 800-like toll free services;

15. One-time free blocking for information services and one

16. Access to telephone relay service as provided for in PUC

17. Free access to customer service for information about

18. Repair and bill inquiries.
C. The seventeen smaller LECs shall be exempted from the basic service element that they are required to offer customers the choice of flat or measured rate service, unless the smaller LECs currently offer that option.

D. Periodic Review of Basic Service

1. Except as provided for in paragraph 2 below, petitioners may petition for review of the service elements which make up basic service three years after the conclusion of a review of basic service. The adoption of final universal service rules in this proceeding (R.95-01-020 and I.95-01-021) will constitute the first review of basic service. The petition shall be filed on or before the 180th day before the review date.

2. Petitioners may petition the Commission to review the service elements which make up basic service at any time provided that the petitioner makes a prima facie showing that at least three of the four criteria contained in paragraph 3 below have been met. Petitions for review will be acted upon in accordance with subdivisions (c), (e), (f), (g), and (h) of Rule 47 of the Commission's Rules of Practice and Procedure.

3. In evaluating whether service elements should be added to or deleted from basic service, the Commission will consider the following criteria:

a. the service is essential for participation in society;

b. a substantial majority, 65%, of residential customers subscribe to the service; 

(1) The degree to which the service has been promoted by the carrier;

(2) The qualitative and quantitative benefits of adding the service to the service base; 

(3) the communities which are presently being targeted for marketing and use of the service;

(4) the communities which are presently being targeted for marketing and use of the service;

(5) the number of subscribers who would not increase without intervention.
A. Carrier Responsibilities

1. All carriers providing eligible low income customers with residential basic service, as defined in rule 4.B. shall have access to the ULTS fund.

2. The Office of the Secretary of the Department of Commerce is instructed to adopt the rules and regulations for the operation of the Lifeline program. The carrier is required to inform customers of the option for ULTS service when customers first inquire by signing up for basic exchange service and annually by the month thereafter. The carrier is required to report the number of customers served throughout the year. The carrier shall charge more than the statewide ULTS rate, as set by the Commission.

c. Carriers, on a per ULTS customer basis, shall be entitled to collect from the ULTS fund the difference between their tariffed rate for other residential customers for the corresponding service, and their ULTS rate.

d. Carriers must serve each eligible customer requesting Lifeline service within the carriers' specified serving areas.

e. Pursuant to provisions established in GO 153, Resolution T-15826, and the workshops held on April 11,1995, carriers shall submit the required "monthly report and claim statement" for reimbursement. In addition to the information required by GO 153, Resolution T-15826, and the April 1995 workshops, the monthly report shall include the number of ULTS customers served that month. The ULTS customer categorization shall indicate the number of ULTS customers with measured service and those with flat-rate service;

f. Individual carriers will no longer be able to claim reimbursement for its marketing expenses associated with the ULTS program except as provided for below:

The Office of ULTS (advertising campaigns) outreach activities, and related marketing expenses, that are the subject of existing contracts which call for the continued display for commercial airing at time of the advertising medium, or other continuing ULTS activities, after the effective date of this decision, shall continue to be reimbursed by the ULTS fund for the period called for in the contracts until three months after the effective date of this decision, whichever occurs first. It is our intent that there will be
no carrier specific ULTS reimbursement for these kinds of activities after the third month from the effective date of the decision adopting this rule.

A. Carrier Reimbursement

B. ULTS Funding Source

All telecommunications carriers are required to charge the appropriate ULTS surcharge, as set by the Commission, on all end users of telecommunications services, and to remit such monies to the ULTS program. The services excluded from the collection of the ULTS surcharge are those set forth in D.94090-065 and D.95-02-050, specifically: ULTS billings, coin-sent paid calling, debit card messages, one-way radio paging, usage charges to COPs, and customer receiving services under existing contracts, that were executed on or before September 15, 1994 and directory advertising.

II. THE CALIFORNIA HIGH-COST FUND-BILLING

6. THE CALIFORNIA HIGH-COST FUND-BILLING

 utens the California High-Cost Fund for the purpose of identifying the CostToServe:

1. CHCF-B subsidies will vary according to the cost of providing service with the GSA.

2. The GSA is used for the purpose of identifying the cost of providing universal service to a particular area. A GSA shall serve as the GSA for an area of 5,000 or more in population.

3. Costs for providing service with the GSA shall be determined by factors which serve as proxies for the characteristics associated with costs, including but not limited to: call density and average loop length. The methodology for determining proxy costs and the initial proxy factors will be developed in the Cost Proxy Model.

4. The five large and mid-size LECs shall be included in the CHCF-B. The seventeen smaller LECs shall be excluded from the CHCF-B and instead be eligible for high-cost support through the CHCF-A. The mid-size LECs are to develop forward-looking studies of their own, to identify existing cost experiences, and to cooperate with the Commission to develop contract revenue models for the Commission.

The objective is to find the most accurate proxy costs generated by the CPM.

A GSA will be considered a high-cost GSA if the cost of providing residential customers in that GSA is above the statewide average cost as generated by the CPM.
Carriers Responsibilities:

(a) The Commission grants the following

1. Carriers shall report the following information to the Telecommunications Division on a monthly basis:

   a. The number of eligible residential basic service lines being served by the carrier in each high cost GSA. An eligible residential basic service line is a line that is used to provide service to a residential customer in a high cost GSA.

(b) The rates for residential basic service the carrier is charging in each high cost GSA.

(c) A calculation of the subsidy amount that the carrier is claiming for providing its residential customers with basic service in each high cost GSA.

If the subsidy support provided by the Commission is not enough to cover the cost of the carrier, the carrier shall be required to obtain additional funding, through any other telecommunications carrier.

Subsidy Applicability:

1. The CHCF-B will apply only to residential basic service, priced at the tariffed rate, in high cost GSAs. Only one residential line per household shall be subsidized. For purposes of this rule, the term "household" shall have the same meaning as provided for in General Order 1532. Carriers shall be required to obtain from their high cost area customers, a certification, in a form to be prescribed by the Commission, that the household is not presently receiving residential basic service.

2. The subsidy that a designated COLR shall be entitled to will be based on the following:

   (a) The benchmark will be defined as the greater of the statewide average cost, as determined by the CPD, or the incumbent's flat rate plus EUCL. The benchmark will be defined as the greater of the statewide average cost, as determined by the CPD, or the incumbent's flat rate plus EUCL.

   (b) If the per line cost of serving a COLR exceeds the benchmark, the COLR's remaining monthly COLR cost will be eligible in Year 1. For Year 2 and beyond, the COLR's remaining monthly COLR cost will be eligible in Year 2 if the COLR pays the difference between the benchmark and the COLR's per line cost. The COLR will receive the difference between the benchmark and the COLR's remaining monthly COLR cost in Year 3 and beyond.

(c) In areas where the incumbent's flat rate plus EUCL is less than the benchmark, the COLR will receive the difference between the benchmark and the incumbent's flat rate plus EUCL, in addition to the subsidy described in subdivision (2) above.

In other areas below the benchmark, the carrier shall be required to offer the COLR a rate equal to the benchmark.
The COLR's draw from the COLF-C will be offset by the COLR's revenue per subsidized line from the CCFC and the federal Universal Service Fund. The amount of the offset will not exceed the amount of subsidy the carrier would have received without the offset.

3. The incumbent LECs shall adjust the prices of all services, other than basic service and rates covered by contracts that were executed on or before September 15, 1994, downward in an equal amount across all of those services to reflect the receipt of the explicit subsidy through the COLF-C. The downward adjustment shall equal the subsidy support received by the incumbent LEC from the COLF-C.

4. The Commission shall periodically review the subsidy in each GSA. The initial review shall take place in three years from the date of the establishment of the fund, and every three years thereafter.

a. The review process may be in the form of an auction mechanism, with specific auction mechanism rules to be developed at a later time.

b. Carrier of Last Resort:

1. All of the incumbent LECs listed in Attachment A of these rules shall be designated as the COLR in all their respective service areas at least until such time that another carrier or carriers are designated as the COLR.

2. Other qualified CLCs may seek to become designated COLR, or to compete in a GSA without being designated a COLR, by the procedures set forth in §1.95-01-020, 1.95-020.

3. Only designated COLRs shall have access to the COLF-C subsidy, and shall be entitled to the funds allocated to the incumbent COLR.

4. Designated COLR NOIs: Those CLCs seeking to be designated as COLR shall file an advice letter in compliance with GO 96-A, stating that the carrier intends to be designated a COLR. The advice letter shall become effective in 30 days from the date of filing unless a protest to the Commission is filed. The advice letter shall contain a statement of the following which the Commission will consider in deciding whether the COLR status should be granted:

   a. the facilities the carrier has in place or the arrangements that the carrier plans to enter into in order to provide basic service;
The ability of the carrier to promote the goals of universal service to all customer segments throughout the COLR’s service area.

5.6 A designated COLR shall be required to serve all customers upon request, both residential and business, who are located within the COLR’s designated service area as specified in subsection 6.1.1. below.

6.1.1 A designated COLR shall be required to serve the following:

a. Until such time as provided for in rule 6.D.1. above, all incumbent LECs in order to avail themselves of the subsidy for a high cost GSA, shall be required to serve all the high cost LECs that are within the incumbent LECs existing exchange area boundaries, as specified in subsection 6.1.1 above.

b. All COLRs who are designated COLRs in order to avail themselves of the subsidy for a particular high cost GSA, shall be required to serve the entire GSA(s) that is (are) within the COLR’s designated service territory for which it has elected COLR status.

c. The designated COLR may opt out of its obligations in a GSA by advice letter, unless it is the only carrier remaining in the GSA, in which case it must file an application to withdraw as the COLR and continue to act as the COLR until the application is granted or a new COLR has been designated as a result of an auction.

1. If there is only one carrier in a GSA and that carrier has filed an application to withdraw as the COLR in that GSA, and no other provider is willing to assume the COLR’s obligations at the current subsidy level, then the Commission will initiate an auction whereby service providers shall bid on the amount of subsidy at monthly intervals. Each would be required to operate as the COLR. Such an auction will be held within 180 days from the time of receiving an application to withdraw as the COLR is filed.

2. If there is a qualified bidder who places a bid representing the lowest amount of subsidy required to offer service in the GSA would become the subsidized COLR for a period of three years. Competitive entry would be allowed, but only 1/2 the subsidy would be available to the competitive provider.
P. Funding The CHCF-B: In a Resale Environment

1. If resale of basic exchange service or loops is allowed, the subsidy for residential basic exchange service for that customer shall be treated as follows:

2. If the price of the service or facility resold is equal to or below the cost, the underlying facilities based bill to the provider receives the subsidy for the services sold.

3. If the price of the service or facility resold is rolloff or market based or based upon actual deaveraged costs, the carrier who sells the basic exchange service to the end user, the end-user residential customer shall receive the subsidy, provided that the basic residential service is priced at the affordable (but below cost) price set by the Commission.
The Commission shall form the Universal Service Working Group (USWG), which shall:

A. The purpose of the USWG shall be to address ways in which access and deployment of advanced telecommunications technologies can be provided to all customer segments, and how education, health care, community, and government institutions can be positioned to take advantage of these technologies.

B. The USWG shall be composed of 24 members. There shall be eight representatives from the telecommunications industry representing a spectrum of telecommunications carriers. There shall be two representatives each from the following kinds of concerns: education; health care; community/libraries; and local government; for a total of ten representatives. There shall be two representatives from the business sector, two representatives from this Commission, one representative from the disabled community, and one representative from another state agency.

D. The USWG will be funded at $250,000 per year for a period of two years from monies in the California Teleconnect Fund. These funds are intended to provide administrative support, and reimbursement for a participant's reasonable expenses related to their participation in the USWG. Absent Commission action, the USWG shall terminate on December 31, 1998.

A. The Steering Committee of the USWG shall prepare an annual report of a summary of the USWG meetings, their objectives, the issues raised, their accomplishments, and their recommendations. The report shall be submitted to the Commission and forwarded by the Commission to the Legislature for their information.

B. Qualifying schools and libraries shall be entitled to a discounted rate for measured business service, switched 56, integrated services digital network (ISDN) service, T-1 service, and DSS. As the findings of the Commission are appropriate,
(1) Only public or nonprofit schools providing elementary or secondary education, and which do not have endowments of more than $50 million, shall qualify for the discounted rates for schools.

(2) Only those libraries that are eligible for participation in state-based plans for funds under Title III of the Library Services and Construction Act (20 USC §3506 et seq.) shall qualify for the discounted rates for libraries.

(3) All carriers offering the services listed in subdivision B above, shall provide in their tariffs that the rates for qualifying schools and libraries for such services shall be 50% below the rates charged to other businesses for those services.

(4) There is no limit on the number of subsidized lines that a school or library can have.

C. Qualifying municipal and county government owned and operated hospitals and health clinics shall be entitled to a discounted rate for switched 56/ISDN, T-1, and DS-3, or their functional equivalents.

(1) All carriers offering the services listed in this subdivision, shall provide in their tariffs that the rates for qualifying government-owned hospitals and health clinics for such services shall be 20% below the rates charged to other businesses for those same services, or their functional equivalents.

D. Qualifying community-based organizations (CBOs) shall be entitled to a discounted rate for switched 56/ISDN service, and T-1, or their functional equivalents.

(1) Only a tax-exempt organization offering health care, job training, job placement, or educational instruction, shall qualify for the discounted rates for CBOs. A "tax exempt organization" shall refer to an organization described in section 501(c)(3) of the Internal Revenue Code, Title 26 of the United States Code.

(2) In order to qualify for the CBO discount, the CBO must provide proof at the time of application that it is a tax exempt organization, and that it offers health care, job training, job placement, or educational instruction.

(3) All carriers offering the services listed in this subdivision, shall provide in their tariffs that the rates for qualifying CBOs for such services shall be 25% below the rates charged to other businesses for those same services, or their functional equivalents.
(4) The CBO shall be limited to a total number of:
two switched 56 lines or their functional equivalents;
two ISDN lines or their functional equivalents;
one switched 56 line or its functional equivalent; and one
ISDN line or its functional equivalent, or one T-1 line
or its functional equivalent. How long does

B. If carriers who provide the above-referenced services with
don't discounted services shall receive a subsidy for each
qualified entity that it serves. The subsidy amount shall
be: (1) the difference between the tariffed rate for
businesses for such services and the tariffed discount
rate; or (2) if the rate negotiated is below the tariffed
discount rate, the carrier shall be entitled to the sum that
represents the percentage discount off of the negotiated
rate.

c. California Teleconnect Fund

F. These discounted rates may not be resold to, or shared with,
any other non-qualifying entity or person.

d. Funding the California Teleconnect Fund

The Commission will require all end users of
telecommunications services to contribute to the
California Teleconnect Fund, except for: VTSS billing,
coin-sent paid calling, debit card messages, one-way
radio paging, usage charges to COPTs, customers
receiving services under existing contracts that were
entered into on or before September 15, 1994, and
directory advertising.

2. All telecommunications carriers are required to charge
the appropriate California Teleconnect Fund surcharge,
as set by the Commission, on all end users of
telecommunications services in accordance with Rule
8.0.1. above.

3. The Commission shall be the administrator of the
California Teleconnect Fund until such time the
Commission may decide otherwise.

4. Carriers supplying telecommunications services to
qualifying institutions and organizations at discounted
rates shall report the information required by the
Commission to the Telecommunications Division on a
monthly basis.

5. The Commission will calculate each carrier's support
from the California Teleconnect Fund, and distribute the
appropriate amount to the carriers.
9. **CONSUMER INFORMATION RULE**

A. The Commission shall compile an annual report that summarizes the complaint history of each certificated carrier, and any open investigations into such carrier. Such report shall be made available to the public.

B. All I.C.C. and C.C. must provide the applicable information contained in subsection 6 below to residential consumers:

(1) Whenever any marketing information regarding telecommunications service offerings described in the matrix is mailed to residential customers or (2) upon request by a consumer. The required consumer information must be on a separate sheet and contain the following statement at the beginning: The following information is required by the California Public Utilities Commission to allow comparisons with rates charged by other carriers for the same type of service.

C. The required consumer information shall consist of the following:

The following information is required by the California Public Utilities Commission to allow comparisons with rates charged by other carriers for the same type of service.
<table>
<thead>
<tr>
<th>SERVICE</th>
<th>DESCRIPTION</th>
<th>INSTALLATION</th>
<th>DESCRIPTION</th>
<th>INSTALLATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Flat Rate</td>
<td>set monthly $</td>
<td>$</td>
<td>After</td>
<td>$</td>
</tr>
<tr>
<td>Service</td>
<td>rate for</td>
<td>unlimited local calling in your local calling area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Measured Rate</td>
<td>A reduced monthly rate plus per-minute charges for each local call above a minimum $</td>
<td></td>
<td>After</td>
<td>$</td>
</tr>
<tr>
<td>Universal Lifeline</td>
<td>Low priced service for customers on limited income.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unlimited Rate</td>
<td>Unlimited local calling</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Measured Rate</td>
<td>60 untimed local calls. After 60 calls, a per call charge of</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Limitations:
- [NAME OF CARRIER] local calling area consists of any calls within a ___ mile radius of the rate center for your location.

- Universal Lifeline service is limited to qualifying customers on limited income.
- Unlimited Rate is available for a ___ month minimum.
- Measured Rate is limited to ___ local calls.
- Local calling area is defined to be an area within ___ miles of the rate center.
- Universal Lifeline is limited to ___ per year.
- Unlimited Rate exceeds $5.62.
- Measured Rate exceeds $3.00.
- Local calling area is defined to be an area within ___ miles of the rate center.

- [NAME OF CARRIER] local calling area is defined to be an area within ___ miles of the rate center.

- Local calling area is defined to be an area within ___ miles of the rate center.

- Local calling area is defined to be an area within ___ miles of the rate center.

- Local calling area is defined to be an area within ___ miles of the rate center.

- Local calling area is defined to be an area within ___ miles of the rate center.

- Local calling area is defined to be an area within ___ miles of the rate center.

- Local calling area is defined to be an area within ___ miles of the rate center.
2. TOLL CALL/INTRALATA CALL: A toll call, or what is sometimes referred to as an intralATA toll call, consists of any call made beyond your local calling area, but within your Local Access Transport Area (LATA), or a call made to a local area code within your LATA.

<table>
<thead>
<tr>
<th>SERVICE</th>
<th>DESCRIPTION</th>
<th>INSTALLATION</th>
<th>FEE PER MONTH</th>
<th>COST PER MINUTE</th>
<th>COST PER CALL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Int'l LATA</td>
<td>A call made beyond your local</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Toll Call</td>
<td>calling area, but within your</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>local LATA.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Int'l LATA</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Toll Call</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

3. LONG DISTANCE CALLS/INTERLATA CALLS: A long distance call, or what is sometimes referred to as an interLATA call, consists of a call made outside your LATA.

<table>
<thead>
<tr>
<th>SERVICE</th>
<th>DESCRIPTION</th>
<th>INSTALLATION</th>
<th>FEE PER MONTH</th>
<th>COST PER MINUTE</th>
<th>COST PER CALL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Int'l LATA</td>
<td>Calls made outside your LATA.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Toll Call</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*carrier to describe rate structure by variables used such as time, distance, charge for first minute and each additional minute.*
### 4. OTHER CHARGES:

<table>
<thead>
<tr>
<th>CHARGE</th>
<th>WHEN ASSESSED</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Late Payment Charge</td>
<td>Payment not received by due date.</td>
<td>Call in your phone company.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$25.00 Care of Classification Inc.</td>
</tr>
<tr>
<td>Returned Check Charge</td>
<td>Customer's check returned to the carrier from the bank.</td>
<td>Call in your phone company.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$25.00 Care of Classification Inc.</td>
</tr>
<tr>
<td>Switching Fee</td>
<td>Charge for changing your long distance carrier.</td>
<td>Call in your phone company.</td>
</tr>
<tr>
<td>Reconnect Charge</td>
<td>Charge for reconnecting service after service has been terminated for late payment.</td>
<td>Call in your phone company.</td>
</tr>
</tbody>
</table>

*This informational brochure does not reflect the prices associated with the various kinds of discount calling plans that might be offered.*

Price information current as of [month, date, and year].
ATTACHMENT A

END OF APPENDIX B

1 Now known as Citizens Telecommunications Company of the Golden State.
2 Now known as Citizens Telecommunication Company of Tuolumne.
## APPENDIX C

### Impact of Changes on Pacific Bell's Initial Estimate of Subsidy Amount

<table>
<thead>
<tr>
<th>Modification To CPM</th>
<th>Incremental Change in Subsidy ($ millions)</th>
<th>Percent Decrease</th>
<th>Per Line</th>
</tr>
</thead>
<tbody>
<tr>
<td>Original Pacific Bell Estimate ($1,720 million)</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Feeder and Pair Gain Utilization</td>
<td>$64</td>
<td>3.7%</td>
<td>$0.42</td>
</tr>
<tr>
<td>Fiber/Copper Feeder Cut Off at 12,000 feet</td>
<td>78</td>
<td>4.5%</td>
<td>0.51</td>
</tr>
<tr>
<td>Revised A&amp;B Cable Costs</td>
<td>48</td>
<td>2.6%</td>
<td>0.31</td>
</tr>
<tr>
<td>Conduit Cost</td>
<td>40</td>
<td>2.3%</td>
<td>0.26</td>
</tr>
<tr>
<td>Outside Plant Adjustment Elimination</td>
<td>37</td>
<td>2.2%</td>
<td>0.24</td>
</tr>
<tr>
<td>Non-Recurring Burden Adjustment</td>
<td>43</td>
<td>2.5%</td>
<td>0.28</td>
</tr>
<tr>
<td>Repair and Maintenance Productivity Adjustment</td>
<td>46</td>
<td>2.7%</td>
<td>0.30</td>
</tr>
<tr>
<td>Rearrangements Adjustment</td>
<td>170</td>
<td>9.9%</td>
<td>1.10</td>
</tr>
<tr>
<td>Directory Assistance Adjustment</td>
<td>50</td>
<td>2.9%</td>
<td>0.32</td>
</tr>
<tr>
<td>Shared Cost</td>
<td>282</td>
<td>16.4%</td>
<td>1.84</td>
</tr>
<tr>
<td>Common Cost</td>
<td>118</td>
<td>6.9%</td>
<td>0.77</td>
</tr>
<tr>
<td>Only Price Cap LECs</td>
<td>$54</td>
<td>3.2%</td>
<td>NA</td>
</tr>
</tbody>
</table>

**Cumulative Effect of Cost Related Adjustments** | $988 | 60.5% |

**Compared to Cumulative Effect of Cost Related Adjustments** | $128 |

**Single Line Adjustment**

Note: The per line column is calculated using the total number of lines including lines for small, non-price cap local exchange carriers.
## Initial Subsidy Amount by Company

**Statewide Average Cost Benchmark:** $20.30  
**First Lines Only**

<table>
<thead>
<tr>
<th>Company</th>
<th>CPM Estimated Total Lines</th>
<th>Subsidized Lines (C)</th>
<th>Basic Rate/Line (D)</th>
<th>Cost/Subsidized Line (E)</th>
<th>Annual Subsidy Pre-Offset Line (F)</th>
<th>Effective Rev/Line (G)</th>
<th>Offset (H)</th>
<th>Annual Subsidy Pre-Offset (I) = (F) - (H)</th>
</tr>
</thead>
<tbody>
<tr>
<td>CTCC</td>
<td>69,926</td>
<td>42,649</td>
<td>21.35</td>
<td>33.94</td>
<td>6,441,920</td>
<td>35.36</td>
<td>3,928,518</td>
<td>2,513,402</td>
</tr>
<tr>
<td>ConTel</td>
<td>278,198</td>
<td>224,556</td>
<td>20.35</td>
<td>30.79</td>
<td>28,139,107</td>
<td>25.65</td>
<td>11,039,431</td>
<td>17,099,676</td>
</tr>
<tr>
<td>GTEC</td>
<td>2,685,264</td>
<td>1,048,508</td>
<td>20.75</td>
<td>25.54</td>
<td>60,301,583</td>
<td>24.20</td>
<td>33,836,507</td>
<td>26,465,058</td>
</tr>
<tr>
<td>Pacific</td>
<td>9,620,458</td>
<td>2,671,814</td>
<td>14.75</td>
<td>25.28</td>
<td>337,620,588</td>
<td>15.76</td>
<td>32,382,391</td>
<td>305,238,198</td>
</tr>
<tr>
<td>Roseville</td>
<td>68,421</td>
<td>40,199</td>
<td>20.35</td>
<td>25.93</td>
<td>2,287,771</td>
<td>26.97</td>
<td>1,772,288</td>
<td>615,473</td>
</tr>
</tbody>
</table>

**Total**  
12,712,267  4,027,727  
434,790,949  351,831,804  
2.87%

(B) Total Lines estimated by the CPM.
(C) Estimated Subsidized Lines includes First Lines in CBGs above the Benchmark.
(D) Basic Rate = Flat Rate + End User Common Line Charge.
(G) Effective Rev = Flat Rate + EUCL + Federal Carrier Common Line Charge per Residential and Single Line Business Line + Federal Universal Service Fund per Total Access Lines.
(H) Offset reduces subsidy by the amount of revenue collected for subsidized lines from the CCLC and USF. This offset is capped at the total cost of the CBG.
### Calculation of Surcharges

<table>
<thead>
<tr>
<th>Fund Amount (millions)</th>
<th>Surcharge</th>
</tr>
</thead>
<tbody>
<tr>
<td>California High Cost Fund</td>
<td></td>
</tr>
<tr>
<td>California High Cost Fund A</td>
<td>$26.66</td>
</tr>
<tr>
<td>California High Cost Fund B</td>
<td>$351.83</td>
</tr>
<tr>
<td><strong>Total California High Cost Fund</strong></td>
<td><strong>$378.49</strong></td>
</tr>
<tr>
<td>California Teleconnect Fund</td>
<td></td>
</tr>
<tr>
<td>Schools and Libraries</td>
<td>$40.00</td>
</tr>
<tr>
<td>Community Based Organizations</td>
<td>$5.00</td>
</tr>
<tr>
<td>Health Care</td>
<td>$5.00</td>
</tr>
<tr>
<td>Universal Service Working Group</td>
<td>$0.25</td>
</tr>
<tr>
<td><strong>Total California Teleconnect Fund</strong></td>
<td><strong>$50.25</strong></td>
</tr>
<tr>
<td>California Relay Service and Communications Device Fund</td>
<td>$43.04</td>
</tr>
<tr>
<td>Universal Lifeline Telephone Service</td>
<td>$383.0</td>
</tr>
<tr>
<td><strong>Total For California Universal Service Programs</strong></td>
<td><strong>$524.8</strong></td>
</tr>
</tbody>
</table>

*: California High Cost Fund A, California Relay Service and Communications Devices Fund and Universal Lifeline Telephone Service Fund 1996 budgeted expenditures and surcharge rates are provided for illustrative purposes, actual 1997 levels will differ.
APPENDIX F
Page 1

List of Appearance


Interested Parties: Mitchell, Silberberg & Knupp, by Alan L. Pepper, for California Alarm Association; Glenn Semow and the Law Office of Peter A. Casciato, by Peter A. Casciato, for California Cable Television Association; Virginia J. Taylor, and Richard A. Elbrecht, for California Department of Consumer.
APPENDIX F

Page 2

Affairs, Sharon Haynes-Creswell, and Jeff Kositsky, for California/Nevada Community Action Association; William C. Harrelson, Thomas J. Long, Michael Morris, Alfred C. Pfeiffer, Jr., and Glenn Semow, for California Telecommunications Coalition; Stanley W. Hultert, for Californians for Advanced and Affordable Telecommunications; Wright & Talisman, by Michael B. Day, Jeanné M. Bennett, and Jerome P. Candélaria, for Cellular Carriers Association of California; Ken McElroy, for Consumer Action; Dhiruv Khanna, for Intel Corporation; Edward J. Perez, for City of Los Angeles; Swidler & Berlin, Chartered, by Andrew D. Lipman, and Russell M. Blau, for MPS Communications Company, Inc.; Public Advocates, Inc., by Mark Savage, Camelia Castellano, and Abigail Trillin, for Southern California Leadership Conference, National Council of La Raza, Korean Youth and Community Center, Filipinos for Affirmative Action, Filipino Civil Rights Advocates Association of Mexican American Educators, California Association for Asian Pacific Bilingual Education, California Association for Bilingual Education, California Rural Indian Health Board, Chicano Federation of San Diego County, Council for the Spanish Speaking, El Progreso del Barrio, Escuela de La Raza Unida, Foundation Center for Phenomenological Research, Hermandad Mexicana Nacional, Korean Community Center of the East Bay, Lawyers' Committee for Civil Rights of the San Francisco Bay Area, Motivating Adolescents to Succeed, Mountain View Community Health Center, Multicultural Area Health Education Center, Spanish Speaking Citizen's Foundation, and Spanish Speaking Unity Council; Armando Valdez, for Telecommunications Education Trust; Law Office of Peter A. Casciato, by Peter A. Casciato, for Time Warner Communications, Inc.; Thomas J. Long, for Toward Utility Rate Normalization; Office of the Judge Advocate General, by Robert N. Kittel and Cecil O. Simpson, Jr., for the United States Department of Defense and all other Federal Executive Agencies; Jacquelyn Brand, and Markham & Oshiro, by Carl K. Oshiro, for Universal Service Alliance; Michael Shames, and Lisa Briggs, for Utility Consumers' Action Network.

Commission Advisory and Compliance Division, Jonathan Hakritz, Brian Roberts, and Cory Texeira.

Division of Ratepayer Advocates, Rufus G. Thayer, Patrick S. Berge, Janice Gray, Ira Kalinsky, Helen M. Nieiewicz, and Angela Young.
Commissioner Josiah L. Neeper Dissenting

I dissent, in part, but only in part, from the Order adopted by the majority of the Commission, providing for a subsidy to educational, community, and health care facilities for particular telephone services. The subsidy will be funded by ratepayers. In my view, there is no sufficient statutory or record support for the program. There is no adequate definition of the need the program is to satisfy. There is no mention of any point in time when need will be satisfied and the subsidy can be ended. There is no limitation against the subsidy growing over time. There is no explanation as to what extent schools and libraries need to be supplemented beyond what the Boards of schools and libraries decide to provide. The decision by this Commission to fund these subsidies is ill-advised, under an unstated business under its existing jurisdiction to engage in what amounts to open-ended subsidization of chosen social programs or entities. What the Commission is doing is taxing the public if the basis for these subsidies is embodied in AB 3643, I fail to see it the way the majority Order adopts it describes it. The statute does not say that we establish a dollar-based incentive program for these groups. Nor does it say that we periodically review the funding level to determine increasing the spending. Is it sound policy to lock a connection between user fees and cost recovery?

The statute simply says these entities must be positioned to be early recipients of the benefits of the Information Age. These entities are positioned to be early recipients of these benefits. Schools, libraries, and health care facilities have capital and operating budgets. They have established revenue sources. Their Boards decide how to spend their revenues and determine what to spend to raise more. They can and do decide what to spend to be early recipients of the benefits of the Information Age.

If the Legislature wanted the Commission to provide discounts and subsidies to schools, libraries, community-based organizations (CBOs), and health care facilities, I would expect the legislative language in the statute to have said that. In plain terms, it does not. The ye bonit for the Telecommunications Act of 1996 does not at this time provide a basis for the discount levels. The Federal Communications Commission (FCC) has yet to act.
Requiring telecommunications customers to finance the connection of schools and libraries to the "information highway" is a controversial idea, not because the idea is inherently unacceptable to the public but because a question is among others regarding who will carry the burden of cost. The idea is ambitious and imaginative. It is also complex. Apparently, the FCC may establish a federal program requiring carriers to spend as much as $2 billion on discounts for schools and libraries to provide T-1 and high speed data services, which are essentially the same type of services. The Universal Service Order, discounts. When and if the FCC adopts a proposal, will Californians be required to pay their share of that subsidy, as well? The answer is, in all likelihood, yes. Will the $50 million subsidy proposed by this decision partly offset the amount that will be required of Californians to pay, or are the two subsidies separate and unrelated? The majority Order is silent on this issue. When the matter is decided, my expectation is that Californians will be required to make contributions to fund the federal program as well. It is under these uncertain and unknown circumstances that the majority has adopted an Order that appropriates funds for the California Teleconnect Fund, which is also a federal program.

The majority decision epitomizes to me the fallacy of certain publicly funded social programs whose goals may be desirable but because of a lack of a connection between need and mitigating policies, the need is never satisfied and the mitigation, often throwing money at projects results in self-sustaining ever-expanding public expenditures. In this regard, I find the $50 million fund, which is bound to balloon over time, lacking in the following areas:

1) This Order did not benefit from inputs by the governing bodies (including the State of California) and the potential beneficiaries of the program. In fact, there is no evidence in this case from schools and libraries that shows whether any efforts have been undertaken by the beneficiaries to be connected to advanced telecommunications network. The subsidy for these entities is not determined by this Order without direct knowledge of the amount needed for subsidy. The Federal Communications Commission (FCC) for the discount levels. The Federal Communications Commission (FCC)
(2) The Order, without justification, excludes for-profit schools while it offers a 50% discount to public schools and non-profit schools but excluding those run by religious orders as long as they do not receive endowments in excess of $60 million. In this regard, the order appears unfair to a class of students.

(3) The Order fails to consider the extent to which competition for these segments of the market will be affected by the adoption of a subsidy program. For example, the 50%, 25%, and 20% subsidies (for schools, CBOs, and health care facilities, respectively) have no cost basis.

(4) It is uncertain what services the FCC will require states to discount for schools and libraries because the FCC is still awaiting its recommendations from the Joint Board.

(5) The Order imposes social program obligations on carriers under the guise of regulatory compliance by requiring them to process and validate qualifying entities for these subsidies, which is a function outside of their normal business calls in and imposing a monthly reporting requirement in order to claim reimbursements.

(6) The Order does not define to what extent telecommunications customers should be encumbered with surcharges to finance the teleconnect fund leaving all options including elevation of the surcharge open for future consideration.

(7) Our legislative authorization for this subsidy program, if it exists, is time constrained. We are authorized to position the recipients to be “early” recipients. “Early” lasts for a few years, not forever.

The Order adopted by the majority has increased the fund for the program by 160% from the amount in the original proposed decision. This was done without any additional justification either for the increased fund or the additional recipients. To my puzzlement, I find no more justification for the $30 million increase in the fund than what existed for the $20 million total subsidy proposed in the proposed decision. This is
troubling all the more because the decision implies that the $50 million fund is an initial level of funding, which means subsequently the fund is subject to review and increased as needed. I suppose this is a fair assessment given three factors: (1) the subsidy amount is not capped; (2) there is no mention in this decision of any desire to reduce the subsidy amount for these purposes in the future; and (3) the type of subsidy the decision proposes to establish is, by its very nature, expected to balloon over time due to the resource-intensive nature of this subsidy.

What is lacking in this effort is a legal and record basis to establish a discount fund in the first place, let alone to open an uncapped, undefined sinking fund mechanism that essentially is a tax on the consuming public. In this manner, it appears to me that the Commission has taken the task, on its own, to "teleconnect" California schools without due consideration to alternative ideas, and the specifics of the program's implementation.

As such programs grow, if no limits are set, users would end up the demand schools, libraries, hospitals, and CBOs will place on a growing and more complex telecommunications market.

For all the above reasons, I will dissent in part.

/s/ Josiah L. Neeper
Josiah L. Neeper
Commissioner
Sacramento, California
October 26, 1996

The $30 million total subsidy proposal in the proposal decision is not forever.

The Other reasons why the majority has increased the funding for the program by 50% from the amount in the original proposal decision.

This has gone without any substantial justification either for the increased funding or the additional techniques to my knowledge. I find no more justification for the $30 million increase in the fund than was existent for justification for the $30 million increase in the fund than was existent for the $30 million increase in the fund.
Commissioner Josiah L. Neper Dissenting

I dissent in part, but only in part, from the Order adopted by the majority. I dissent to that part of the decision providing for a subsidy to educational, community, and health care facilities for particular telephone services. The subsidy will be funded by ratepayers. In my view, there is insufficient statutory or record support for the program. There is no definition of the need the program is to satisfy. There is no mention of any point in time when need will be satisfied and the subsidy can be ended. There is no limitation against the subsidy growing over time. There is no explanation as to what extent schools and libraries budgets need to be supplemented beyond what the Boards of schools and libraries decide to provide.

Underlying this issue is my belief that the Commission has no business under its existing jurisdiction to engage in what amounts open-ended subsidization of chosen social programs or entities. What the Commission is doing is taxing the public. If the basis for these subsidies is embodied in AB 3643, I fail to see it the way the majority Order describes it. The statute does not say that we establish a dollar-based incentive program for these groups. Nor does it say that we periodically review the funding level to determine increasing the spending.

The statute simply says these entities must be positioned to be early recipients of the benefits of the information age. These entities are positioned to be early recipients. Schools, libraries and health care facilities have capital and operating budgets. They have established revenue sources. Their Boards decide how to spend their revenues and determine what revenues to raise. They can and do decide what to spend to be early recipients of the benefits of the information age.

If the Legislature wanted the Commission to provide discounts and subsidies to schools, libraries, community based organizations (CBOs), and health care facilities, I would expect the legislative language in the statute to have said that in plain terms. It does not. The Telecommunications Act of 1996 does not at this time provide a basis for the discount levels. The Federal Communications Commission (FCC) has yet to act.
Requiring telecommunications customers to finance the connection of schools and libraries to the “information highway” is a controversial idea not because the idea is inherently unacceptable to the public but because of questions, among others, as to who will carry the burden of cost. The idea is ambitious and imaginative. It is also complex. Apparently, the FCC may establish a federal program requiring carriers to spend as much as $2.0 billion on discounts for schools and libraries to provide T-1 and high speed data services which are essentially the same type of services the Universal Service Order discounts. When and if the FCC adopts a proposal, will Californians be required to pay their share of that subsidy as well? The answer is, in all likelihood, yes. Will the $50 million subsidy proposed by this decision partly offset the amount that will be required of Californians to pay, or are the two subsidies separate and unrelated? The majority Order is silent on this issue. When the matter is decided my expectation is that Californians will be required to make contributions to fund the federal program as well. It is under these uncertain and unknown circumstances the majority has adopted an order that appropriates funds for the California Teleconnect Fund.

The majority decision epitomizes to me the fallacy of certain publicly funded social programs whose goals may be desirable, but because of lack of a connection between need and mitigating policies, the need is never satisfied and the mitigation, often throwing money at projects, results in self-sustaining ever-expanding public expenditures. In this regard, I find the $50 million fund -- which is bound to balloon over time -- lacking in in the following areas:

(1) This Order did not benefit from inputs by the governing bodies (including the State of California) and the potential beneficiaries of the program. In fact, there is no evidence in this case from schools and libraries that shows whether any efforts have been undertaken by the beneficiaries to be connected to advanced telecommunications network. The subsidy for these entities is determined by this Order without direct knowledge of the amount needed for subsidy.
(2) The Order, without justification, excludes for-profit schools while it offers a 50% discount to public schools and non-profit schools including those run by religious orders as long as they do not receive endowments in excess of $50 million. In this regard, the order appears unfair to a class of students.

(3) The Order fails to consider the extent to which competition for these segments of the market will be affected by the adoption of a subsidy program. For example, the 50%, 25%, and 20% discounts (for schools, CBOs, and health care facilities, respectively) have no cost basis.

(4) It is uncertain what services the FCC will require states to discount for schools and libraries because the FCC is still awaiting the recommendations from the Joint Board.

(5) The Order imposes social program obligations on carriers under the guise of regulatory compliance by requiring them to process and validate qualifying entities for these subsidies - which is a function outside of their normal business calls - and imposing a monthly reporting requirement in order to claim reimbursements.

(6) The Order does not define to what extent telecommunications customers should be encumbered with surcharges to finance the teleconnect fund leaving all options including elevation of the surcharge open for future consideration.

(7) Our legislative authorization for this subsidy program, if it exists, is time constrained. We are authorized to position the recipients to be “early” recipients. “Early” lasts for a few years, not forever.

The Order adopted by the majority has increased the fund for the program by 150% from the amount in the original proposed decision. This was done without any additional justification either for the increased fund or the additional recipients. To my puzzlement, I find no more justification for the $30 million increase in the fund than what existed for the $20 million total subsidy proposed in the proposed decision. This is
troubling all the more because the decision implies that the $60 million fund is an initial level of funding, which means subsequently the fund is subject to be reviewed and increased as needed. I suppose this is a fair assessment given three factors: (1) the subsidy amount is not capped, (2) there is no mention in this decision of any desire to reduce the subsidy amount for these purposes in the future, and (3) the type of subsidy the decision proposes to establish is, by its very nature, expected to balloon over time due to the resource-intensive nature of this subsidy.

What is lacking in this effort is a legal and record basis to establish a discount fund in the first place, let alone to open an uncapped, undefined sinking fund mechanism that essentially is a tax on the consuming public. In this manner, it appears to me that the Commission has taken the task, on its own, to “teleconnect” California schools without due consideration to alternative ideas, and the specifics of the program’s implementation.

As such programs go, if no limit is set, I see no end to the demand schools, libraries, hospitals, and CBOs will place on a growing and more complex telecommunications market.

For all the above reasons, I will dissent in part.

Josiah L. Neeper
Commissioner

Sacramento, California
October 25, 1996