

## Memorandum 97-32

**Public Utility Deregulation: Telecommunications Industry**

---

This memorandum summarizes the current status of deregulation in the telecommunications industry, and the input of stakeholders and the California Public Utilities Commission on the need for code revisions. The material on the current status of deregulation was prepared by Deborah Muns, of Stanford Law School.

## CURRENT STATUS OF DEREGULATION

Competition was virtually non-existent in the telecommunications industry until the 1984 federal divestiture case broke up the AT&T monopoly on local and long-distance telephone service. The divestiture occurred because AT&T had the power, by virtue of its control of the local exchanges, to prevent competition in the long distance market. See *United States v. American Tel. and Tel. Co.*, 552 F. Supp. 131, 162 (D.D.C. 1982). The consent decree (known as the Modification of Final Judgment, or MFJ), allowed for competition in the long-distance market and left the regulation — and deregulation — of local companies to the states.

The MFJ prohibited the local exchange carriers (LECs) that were created out of the divestiture, including Pacific Bell in California, from providing long-distance service between service areas known as Local Access and Transport Areas (LATAs). LECs provide local exchange services and intraLATA toll. Local exchange services include: access line, dial tone, local calling, directory assistance, 911 emergency service, white page listing, and access to Interexchange Carriers. The MFJ also prevented the LECs from providing video-programming services. Although the LECs originally had monopolies on local exchange service in certain service areas, this service was opened to competition in California in 1993.

In 1994, the California Legislature passed several bills designed to open all telecommunication markets under the regulation of the California Public Utilities Commission to competition by January 1, 1997. Assembly Bill 3720 directed PUC to authorize fully open competition in the intrastate, interLATA

telecommunications market, provided such competition was authorized by federal law or court action. (Before the LECs created out of the divestiture could compete in intraLATA markets, the MFJ needed to be amended, Congress needed to pass legislation authorizing such competition, or the LEC needed to obtain a waiver from the D.C. District Court.) One of the goals of AB 3720 was to allow Pacific Bell into the intrastate long-distance market. In order to prevent Pacific Bell from unfairly using its position as a LEC, AB 3720 required that the opening of interLATA long-distance markets to Pacific Bell not precede the opening of competition within the local exchange markets.

Competition in the local exchange markets raises difficult issues regarding the provision and subsidy support of universal service: Competition makes the mechanisms to ensure universal service less functional because the profits available for the cross-subsidization of residential telephone service shrink. In addition, when an LEC operates as a monopoly, only the LEC is eligible for universal service support. But under a competitive scenario, multiple, competing providers of residential local telephone service should all be eligible for universal service support. Thus, AB 3643 directed PUC to study the definition and provision of universal service to ensure the feasibility of competition in the local exchange markets.

The Legislature also passed AB 3606 which directed PUC to permit any cable television corporation or telecommunications corporation to enter local telecommunications markets in the service territory of a local exchange telephone corporation once that local exchange telephone corporation obtains the right to offer cable television or video dialtone service within its service territory.

Congress replicated much of this legislation in 1996 in the Federal Telecommunications Act. The Act was intended to effect competition in the telecommunications market throughout the country. It opened all local exchange markets to competition and removed the MFJ restrictions from companies such as Pacific Bell that were created out of the divestiture, allowing those companies to provide interLATA services under specified conditions. It also removed the video-programming restrictions from the divestiture companies, enabling them to enter the cable business, and directed the FCC to redefine universal service. PUC is currently reviewing its policies to assure compliance with the Act.

California's telecommunication industry has undergone rapid change since the state and federal legislation was enacted. Carriers are now authorized to compete in the local exchange and to compete for intraLATA toll calls. But

competition is only now developing in local telephone markets. And although California's second largest LEC, GTE, now offers interLATA services, Pacific Bell, California's largest LEC, does not.

Despite the steps that have been taken toward a competitive market, PUC still retains a major regulatory role in the telecommunications industry. Its primary functions include setting rates, implementing public goods programs, and resolving customer complaints. In addition, PUC is currently examining the technical, legal, and financial issues that must be resolved before competitors can enter the market. Among the legal issues PUC must solve are those involving the sale and resale of telephone services. Among the technical issues are how to provide equal access to switching equipment and how to assign new phone numbers.

INPUT OF STAKEHOLDERS AND PUBLIC UTILITIES COMMISSION

PUC's request for input on code revisions required by deregulation of the telecommunications industry resulted in the following letters:

	<i>Exhibit pp.</i>
1. California Telecommunications Coalition .....	1
AT&T Communications of CA	
CalTel (CA Ass'n of Long Distance Telephone Co's)	
CA Cable Television Ass'n	
MCI Telecommunications	
Sprint Communications	
Time-Warner AxS of CA	
TURN (The Utility Reform Network)	
2. GTE California .....	4
3. Pacific Bell .....	41

All of these correspondents filed responsive letters:

	<i>Exhibit pp.</i>
4. CalTel (CA Ass'n of Long Distance Telephone Co's) .....	48
AT&T	
MCI	
Worldcom	
Brooks Fiber	
Frontier	
Ameritel	
GST Call America	

	America Communications Network	
	HCC Telemanagement	
	Priority 1+ Long Dist. & Intercont. Telephone	
5.	California Telecommunications Coalition .....	52
	AT&T Communications of CA	
	CalTel	
	CA Cable Television Ass'n	
	MCI Telecommunications	
	Time-Warner AxS of CA	
	TURN (The Utility Reform Network)	
6.	GTE California .....	67
7.	Pacific Bell .....	72

We have attached a chart as Exhibit pp. 74-103, based on tables provided by PUC, that shows by code section the conflicting views of the correspondents and the preliminary reactions of PUC.

Respectfully submitted,

Nathaniel Sterling  
Executive Secretary

**MCI Telecommunications  
Corporation**

201 Spear Street  
San Francisco, CA 94105  
415 978 1515  
415 978 1094 Fax

**Timothy G. Davis**  
Governmental Affairs Manager  
Western Public Policy Group

December 20, 1996

Kent W. Kauss, Chief  
Office of Governmental Affairs  
California Public Utilities Commission  
1227 'O' Street, Suite 404  
Sacramento, CA 95814

Re. Implementation of SB 960

Dear Mr. Kauss:

This letter reflects the initial response of the California Telecommunications Coalition to your request for information to assist the Commission in its preparation of two reports requested by the California legislature concerning possible revisions to the Public Utilities Code that may be needed as the result of the restructuring of the telecommunications and other utility industries, and changes to regulations or statutes that may be required as a consequence of the changing competitive environment.

The California Telecommunications Coalition is a diverse group representing the broad interests of competitive service providers, new market entrants and residential and small business consumers. The Coalition was formed two years ago to efficiently and effectively advocate the interests of competitive service providers and consumers in local competition proceedings before the CPUC. Coalition members joining in this letter include AT&T Communications of California, Inc., California Association of Long Distance Telephone Companies (CalTel), California Cable Telephone Association, MCI Telecommunications Corporation, Sprint Communications Co., Time-Warner AxS of California, L.P., and The Utility Reform Network (TURN).

We understand that, through its enactment of SB 960, the legislature intended to promote and enhance fairness, accountability and efficiency of Commission decision-making. As parties that frequently participate in CPUC proceedings, the Coalition members are vitally interested that Commission processes and procedures be fair and efficient. Toward that end, Coalition members have long advocated procedural reforms that enhance these goals. Any consideration of further changes to existing procedural rules and protections must ensure that these important goals and the due process rights of all parties are preserved.

As service providers, Coalition members are dependent upon incumbent monopoly local telephone companies for the provisioning of essential services and facilities and for access to our

end user customers; as consumers, we are legitimately concerned that utility rates be just, reasonable, and nondiscriminatory. For these reasons, the Coalition is deeply interested in assuring that necessary regulations remain in place to adequately protect consumers and the competitive process as California proceeds through the transition from a monopoly to competitive market for telecommunications services.

It is important to understand that, while the recent legislation refers to the "restructuring" and "changing competitive environment" of the telecommunications industry, in fact, we are only beginning to see the initiation of such changes in the local telephone market. The CPUC first authorized local service competition nearly a year ago, but new entrants are only beginning to provide limited services in the state, and relatively few consumers are being served by competitive firms. The incumbent local telephone companies ("ILECs") remain substantial monopolies. New entrants remain dependent upon the ILECs for the provisioning of critical interconnection and access arrangements, unbundled network elements and resold services. Indeed, it will take considerable time before new entrants are able to develop a presence substantial enough to begin to erode the incumbents' tremendous market power.

Because California is only at the onset of a competitive local services environment, any substantive changes to existing statutory provisions and Commission regulations that were designed to protect against monopoly abuse need to be considered with great care. The changed market conditions that the legislature envisioned, and that carriers and consumers will welcome and embrace, simply have not occurred yet. As California embarks on the transition from a monopoly environment to one of full, fair and effective competition, it is critical that the legislature and regulators not alter regulations in such a way as to tip the scales in favor of one party or interest group over another.

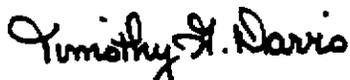
In the last stages of the legislative debate over SB 960, certain proposals for regulatory "reform" were advanced by the state's largest local phone monopoly. Those "reform" measures would, in fact, have eviscerated important procedural and substantive protections that have been designed and relied upon to ensure that utility rates paid by consumers are just and reasonable, to protect competitors from abuse by monopolies, and to provide regulators with ample tools and information to effectively regulate and audit the activities of utilities with significant market power. While the Coalition looks forward to a time in which full and effective competition can be fairly relied upon to supplant the need for such continued regulation, it is simply premature to consider such deregulatory proposals now, and the Coalition urges the Commission to be wary of ambitious, but misguided, recommendations.

The Coalition recognizes that there may be language or provisions of the Public Utilities Code that may be outdated or, by their terms, no longer applicable or appropriate. Eliminating such provisions would be a useful "housekeeping" measure. However, the Coalition urges the Commission to reject proposals which, under the guise of "housekeeping," would undermine essential consumer protections and the prevention of abuses of market power. As the telecommunications industry proceeds through and completes the transition to effective competition, it will be appropriate to re-examine regulations that may no longer be appropriate given the existence of actual, demonstrable competition that is serving the needs of California

consumers.

The Coalition will be pleased to review and reply to the comments and specific proposals that may be submitted by other interested parties. We believe that it is very important that the Commission maintain an open process as it undertakes the implementation of SB 960 and as it prepares its own reports and recommendations to the legislature. We look forward to working with you on these important tasks.

Very truly yours,

Handwritten signature of Timothy G. Davis in black ink.

Timothy G. Davis

On behalf of the California

Telecommunications Coalition



December 17, 1996

Mr. Kent Kauss  
Chief  
Office of Governmental Affairs  
California Public Utilities Commission  
1227 "O" Street, Suite 404  
Sacramento, CA 95814

Dear Kent,

Thank you very much for the opportunity to provide input to you regarding the implementation of Sections 12 and 14 of Senate Bill ( SB) 960 to revise the California Public Utilities Code (Code) and to provide new regulatory language needed in the competitive utility environment. We endorse your effort to solicit early input on both requirements as well as your plan to prepare an initial draft of your proposed recommendations for public comment. GTE believes this effort will allow the California Public Utilities Commission (CPUC) to obtain as broad a consensus as possible on needed statutory changes.

GTE continues to support policy efforts to restructure, and eliminate where applicable, California regulations in ways which rapidly bring to the State the benefits offered by competitive provisioning of communications and information services. The CPUC's Vision 2000 project, the Little Hoover Commission Study, as well as the effort of the California Legislature in passing SB 960, are based on the fundamental policy decisions of both the California Legislature and the U.S. Congress which have opened all communication and information markets to competitive supply. In short, the policy decisions to provide consumers with a choice of utility service providers have been made. Our goal now has to be to implement these policies efficiently and effectively. It is in this context that we recommend the responses required by SB 960 be submitted to the Legislature.

While we are in receipt of the recently issued recommendations of the Little Hoover Commission, which address issues associated with the emergence of competition in California utility markets, and while we recognize that the published findings and recommendations of this comprehensive study may bear directly on what statutory changes may be required, we wish to reserve specific comment regarding that report pending further review.

Mr. Kent Kauss  
December 16, 1996  
page 2

### The Need For Significant Revision To The PUC Code

Section 12 of SB 960 resulted from a general recognition of many parties to the legislative effort that existing sections of the Code are in need of a major overhaul and that they do not contain "enabling" sections which would allow the CPUC to accomplish the competitive transition of California utilities. Indeed, in many respects the Code currently represents a barrier to certain competitive providers subject to the out of date rules and a distinct and unfair competitive advantage to providers of new services and alternative technologies. Statutes bearing upon newly competitive communications markets must be minimized and made neutral to the provider. In addition, outdated regulatory requirements codified in law can prevent consumers from timely access to new providers and services by limiting the ability of all providers, new and old alike, to bid for the consumer's business.

In addition, the passage of the Telecommunications Act of 1996 (the Act) requires the CPUC to enforce a completely new set of rules regarding communications. Many existing statutes must be changed to allow the CPUC to enforce the requirements of the Act. In this regard, certain sections of the existing Code may represent a barrier to the introduction of competition into local telecommunications markets with which the CPUC must contend in order to assure that California is in compliance with federal law.

Finally, the current code places the CPUC in the uncomfortable position of supporting competition while simultaneously enforcing law defined for monopoly utility markets. Significant sections of the Code must be revised in order to eliminate the many contradictions and frustrations currently faced by the CPUC as it attempts to implement competitive policy as well as enforce the obsolete statutes. This represents a waste of valuable resources by the CPUC and the industry and it also results in delays which negatively impact the California consumer.

Small incremental changes will not accomplish this task. Nothing short of major "surgery" is required. In this regard, we are submitting for review a matrix (Exhibit 1 hereto) which identifies our proposed changes to the Code and the specific rationale for such changes.

Mr. Kent Kauss  
December 16, 1996  
page 3

### New Law Is Required To Enable Fair Competition

Section 14 of SB 960 resulted from the general recognition by the Legislature that there is a specific need to consider statutory changes required as a consequence of "the changing competitive environment in which regulated and unregulated entities are competitors." GTE's proposed statutory language which addresses the issues associated with the Section 14 requirements of SB 960 is attached and is labeled Exhibit 2.

As you are aware, the telecommunications environment has undergone a complete transition in recent years driven by the digital revolution. Voice, video and data communications are converging into data streams of bits distinguished only by their speeds of transmission and the widths of the paths along which they travel. This digital convergence combined with a worldwide movement toward open competitive markets for all services has resulted in an explosion of new providers and evolving digital services. The Internet phenomenon is one the best examples of how fast digital technology can transform services, markets and economies. The fact that voice and video services are now being transmitted between millions of home computers through the "net", which was once the domain of relatively slow communication among large computing centers, is an example of the power associated with the increase in computing capacity of the microchip combined with the increase in digital transmission capacity. This power is fueling a turbulent transformation in communications which is dramatically changing incumbent providers as well as creating many new providers - some regulated, some not. Most importantly, the transformation is dramatically increasing the array of consumer choices.

Consumers have already experienced significant increases in the choice of long-distance suppliers, telephone equipment suppliers (including players such as WalMart and the Good Guys), large business systems, mobile cellular suppliers, and home wiring providers. In each of these markets, regulation has abated if not disappeared.

As we have previously commented, the regulatory process is influenced by the dynamics of the industry it regulates.

Mr. Kent Kauss  
December 16, 1996  
page 4

The Legislature can facilitate the growth of competition by enabling the CPUC to "forebear" or stand aside in the presence of competition and by establishing regulatory benchmarks or "forbearance goals". This would ensure that regulation was relevant and at the same time ensure the basic standards that customers should expect. These basic standards include access to emergency services, availability of telephone devices for the hearing impaired, safe equipment, capable providers, and symmetric competitive rules which promote the broadest array of suppliers.

#### The Need To Forebear When Customers Have Choices

Therefore, the most important forbearance benchmark is whether customers have a choice of providers. This means simply that when a customer can choose among two or more competitive providers, regulation is unnecessary and in fact may be detrimental. This does not mean the establishment of pre-emptive market share goals generally promoted by new competitors wishing a "guaranteed" share in incumbent markets. Nor does it mean some ill-defined "public interest" test or barrier to limit the ability of incumbent providers to compete fairly until they have lost major sections of their markets to new competitors not by the skill or capability of the new entrant but rather by governmental mandate. It plainly means when the consumer can choose between two providers who may employ differing technologies (wireline and wireless, or Internet verses long-distance for example) and obtain a similar resulting service, regulation should be suspended or dramatically altered.

Congress and the California Legislature have deemed that the sale of retail "local dial-tone" service by multiple providers should be allowed. As a result of the resale, unbundling, interconnection and facilities sharing requirements of these actions, local telephone networks are open to new competitors. There are already numerous carriers authorized to provide such service. Over 80 carriers have obtained authority to provide competitive local service in California. Some new entrants may simply buy dial-tone from the incumbent telephone company, brand it with their name and resell it through their own marketing efforts at their own prices without investing or owning any network facilities at all. Alternatively, some players may buy the dial-tone on a wholesale basis and interconnect that service with their own network facilities in order to build a package of services to sell.

Mr. Kent Kauss  
December 16, 1996  
page 5

It is fair to say that the number of different providers who will be acquiring the wholesale local telephone network and reselling their own version of retail local service will be extensive. Already, AT&T has announced a specific plan to provide such service in Sacramento employing interconnection agreements reached with Pacific Bell as well as the resale tariffs recently approved by the CPUC.

#### Eliminate Retail Regulation

Based on the fact that many statewide providers are now authorized to provide local dial-tone equivalent service on a retail basis, we believe that it be proposed to the Legislature that all rules associated with retail local telephone service be eliminated. The need to maintain regulatory oversight over "safety net" services such as E911, TDD, Lifeline and registration, however, will remain.

#### Maintain Wholesale Regulation

We also recommend that your proposed statutory language reflect that regulation be maintained at present over wholesale services which form the intermediate structure upon which the competitive transition is based. This recommendation is consistent with Section 252 of the Act, which grants state commissions a primary role in the regulation of wholesale relationships between carriers. We recommend that the statutory proposal include a requirement that these wholesale rates be cost-based for the interconnection services including the full costs of the services supplied by the telecommunications carrier plus a reasonable profit. Statutory language is necessary to avoid the establishment of any form of uneconomic incentive or cross-subsidy and to maintain competitive neutrality for the incumbent LEC to remain a viable competitor for the local customer.

Mr. Kent Kauss  
December 16, 1996  
page 6

### Establish Forbearance Authority

In addition, recognizing that the development of alternative local network facilities is already underway by many highly capable providers, we also recommend that you propose to the Legislature statutory changes which grant the CPUC the authority to forebear from regulating wholesale rates in the future. We believe the CPUC should have the authority to forebear from regulating by petition from the provider and on its own motion. This will allow any telephone corporation subject to regulation to petition for relief from regulation when it believes it is being competitively disadvantaged by the regulations as well as allowing the CPUC to act in this same fashion pursuant to its own market analysis.

### Other Legislative Preferences

Finally, we believe that your specific proposed statutory changes should address several other "preference" items. These include a restatement of California's preference or requirement for the competitive supply of telecommunications services, the need for competitive neutrality, the need for basic entry standards including capability and the authority to require performance bonds, a restatement of the rural telephone company exemption currently in the Act, and an exemption for any requirement to disclose trade secrets or competitive information to parties other than the CPUC.

### Summary And Conclusions

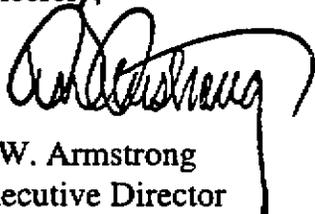
The requirements of Sections 12 and 14 of SB 960 present a needed opportunity to clear away significant barriers to competition to enable the CPUC to adjust its oversight role to the current condition of the telecommunications industry in California. We are convinced that this is a necessary process to realize the benefits of the mandates of the California Legislature and Congress to provide communications services on a competitive basis. We encourage the CPUC to act decisively in recommending changes which will be sustainable and bring about the significant change necessary.

Mr. Kent Kauss  
December 16, 1996  
page 7

The process also offers the opportunity to address other areas which are specific to the communications industry. These could include issues as broad as tax or other incentives to promote the development of a rich communications infrastructure in California, as well as state codification of relevant portions of the Act. We recommend that the attached statutory proposal along with other appropriate remaining laws which apply to telecommunications be established as a separate section of the Code. The entire telecommunications section should be subject to appropriate "sunset" review periods to allow continued regulatory streamlining.

Again, we wish to thank you for the opportunity to participate in this process with your office. I look forward to working with you and other parties to the process. Please call me at (916) 441-0486 if I can provide any additional information regarding this proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "A.W. Armstrong". The signature is stylized and cursive, with a long, sweeping underline that extends downwards and to the right.

A.W. Armstrong  
Executive Director  
Governmental Affairs

**GTE CALIFORNIA**

**EXHIBIT 1**

**NEEDED REVISIONS TO THE  
CALIFORNIA PUBLIC UTILITIES CODE  
PROPOSED BY GTE  
IN RESPONSE TO REQUEST FROM  
CALIFORNIA PUBLIC UTILITIES COMMISSION  
AS OF DECEMBER 17, 1996**

**Note: GTE reserves the right to modify or amend this proposal as may be necessary due to further code review and subsequent Legal/Regulatory action.**

## CALIFORNIA PUBLIC UTILITIES CODE

CODE SECTION	SUBJECT	REQUIREMENT	SUGGESTED ACTION	RATIONALE
216 Amended 1991	Definition of Public Utility	Includes a "telephone corporation" within the definition of a public utility.	Substitute the definition of a "telecommunications carrier" under Section 153(49) of the Telecommunications Act of 1996 (the Act) for that of a "telephone corporation".	To achieve consistency between state and federal definitions.
230.3 Enacted 1951	Service Area	LATAs are defined by Court Order.	Modify	This section should be revised to be consistent with Section 153(43) of the Act.
234 Amended 1995	Telephone Corporation	Definition	Substitute the definition of a "telecommunications carrier" under Section 153(49) of the Act for that of a "telephone corporation".	To achieve consistency between state and federal definitions.

## CALIFORNIA PUBLIC UTILITIES CODE

CODE SECTION	SUBJECT	REQUIREMENT	SUGGESTED ACTION	RATIONALE
314.a Amended 1986	General powers and duties of the Commission.	Any person employed by the Commission may at any time inspect the accounts, books, documents of any public utility. Any person employed by the Commission may examine under oath any employee of the public utility.	Modify to exclude telecommunications carriers.	To remove an inappropriate level of oversight in a competitive environment.
314.b Amended 1986	General powers and duties of the Commission	Subdivision (a) also applies to an affiliate of a public utility.	Modify to exclude telecommunications carriers.	To remove an inappropriate level of oversight in a competitive environment.

## CALIFORNIA PUBLIC UTILITIES CODE

CODE SECTION	SUBJECT	REQUIREMENT	SUGGESTED ACTION	RATIONALE
314.5 Added 1975	General powers and duties of the Commission	The Commission shall inspect and audit the books and records for regulatory and tax purposes at least once in every three years for corporations serving over 1,000 customers and once every five years for corporations serving 1,000 or fewer customers.	Modify to exclude telecommunications carriers.	To remove an inappropriate level of oversight in a competitive environment.
461 Enacted 1951	Establishment of Rates	Prohibits greater aggregate charges/compensation from short distance calls compared to longer distance calls on same route without Commission authorization.	Eliminate	This section of the code is antiquated and inappropriate for any class of services provided (Wholesale or Retail). Restricts competitive pricing. Prices in the competitive marketplace are moving to a non-distance sensitive rate structure and market driven rates.

## CALIFORNIA PUBLIC UTILITIES CODE

CODE SECTION	SUBJECT	REQUIREMENT	SUGGESTED ACTION	RATIONALE
461.2 Enacted 1987	Establishment of Rates	Requires that revenues and expenses associated with simple inside wire be included for establishing rates.	Modify to apply only to those utilities subject to cost of service regulation.	To remove an inappropriate for utilities subject to incentive based regulation.
489 (a) Amended 1992 Amended 1995	Tariffs - Filing Requirements	Requires the Commission to order that every public utility file schedules containing rates, charges, classifications, rules, etc.	Modify to direct the Commission to exempt telecommunications retail services from tariffing requirements.	This section makes no distinction between the tariffs required of telecommunications carriers and other utilities. It further does not recognize any differences between classes of telecommunications providers or the types of service (Wholesale/Retail) offered.

## CALIFORNIA PUBLIC UTILITIES CODE

CODE SECTION	SUBJECT	REQUIREMENT	SUGGESTED ACTION	RATIONALE
491 Enacted 1951	Customer Notification: Rate, Classification, and Rule Changes	Requires 30 days notice for rate, rule, and classification changes unless the Commission approves less.	Modify to provide that notice requirements for non cost-of- service telecommunications carriers is applicable to only those services provided on a wholesale basis, lifeline, Deaf and Disabled Telecommunications Program ("DDTP") and basic services. The notification period for such carriers should be reduced to be equal to the notification requirements imposed on CLCs. Other retail services should be exempt from any customer notification requirements.	This section makes no distinction between the customer notification required of telecommunications companies and other utilities. It further does not recognize any differences between classes of telecommunications providers or the types of service (Wholesale/Retail) offered.
495 Amended 1992 Amended 1995	Tariffs: Filing Requirements	Requires that telephone corporations file rate and classification schedules for intra and interstate routes.	Modify to apply to only those services provided on a wholesale basis, lifeline, DDTP and basic services. Other retail service should not be subject to tariff regulation.	This section makes no distinction between classes of telecommunications providers or the types of service (Wholesale/Retail) offered. This section also duplicates Section 489.

## CALIFORNIA PUBLIC UTILITIES CODE

CODE SECTION	SUBJECT	REQUIREMENT	SUGGESTED ACTION	RATIONALE
495.7 Added 1995	Tariffs: Exemption of Certain Services	Allows the Commission to exempt certain services if competitive alternatives exist and service complies with rules promulgated by the Commission with respect to consumer protection.	Eliminate	If retail services are detariffed, this section is unnecessary.
529b Amended 1984	Common Carrier Rates	Allows discounted travel and mail service on common carriers by telephone companies.	Eliminate	Express authority to grant passes or franking privileges is no longer relevant or necessary in a competitive environment.
530c Amended 1955	Telephone Company/Common Carrier Contracts	Allows common carriers to enter into contracts with telephone corporations for exchange of service.	Eliminate	This Code Section is antiquated. Express authority granted in this section is unnecessary.

## CALIFORNIA PUBLIC UTILITIES CODE

CODE SECTION	SUBJECT	REQUIREMENT	SUGGESTED ACTION	RATIONALE
587	Report of significant transactions between affiliates	Annual requirement to report significant transactions between the corporation and subsidiary affiliates. Requirement applies to electric, gas, and telephone corporations	Modify to limit the reporting of affiliated transactions associated with the provisioning of wholesale services. This section should be applicable to all telecommunications carriers.	Consistent with GTEC's position to limit regulation to wholesale services.
701.5 Enacted 1987	Financing Arrangement Restrictions	No corporation whose rates are set by the Commission on a cost-of-service basis shall issue any indebtedness of any kind pledging the utility assets or credits for or on behalf of any subsidiary or affiliate of, or corporation holding a controlling interest in the utility.	Modify to expressly state that the entire statute refers only to cost-of-service regulated telecommunications carriers.	To clarify and ensure that this statute only applies to cost-of-service regulated telecommunications carriers, because it would be unnecessary regulation for a non-cost-of-service carrier.

## CALIFORNIA PUBLIC UTILITIES CODE

CODE SECTION	SUBJECT	REQUIREMENT	SUGGESTED ACTION	RATIONALE
708 Added 1987	ID cards	Requirement for employees who enter customer premises to have photo ID cards.	Modify to include all telecommunications carriers.	This section provides protection for consumers and its effectiveness would be compromised if it did not apply to all carriers.
708.3 Added 1995	Business transactions between telephone corporations and customers.	Certain utilities must provide reasonable non business hour alternatives to customers for business transactions.	Modify to remove references to telephone corporations.	State law has declared this market as competitive and as such this requirement becomes a differentiator in a competitive market.
709.5 Added 1994	Competition in Video and Intraexchange Markets	Legislature's intent to open all markets to competition by January 1, 1997	Eliminate	The Commission has completed this requirement; therefore, this Section may be eliminated.
728 Amended 1963	Rate Setting.	Requires the Commission to evaluate rates and service quality in adjacent territories when setting rates.	Modify to eliminate requirements for telecommunications carriers.	With multiple service providers competing within the same territory this section is unnecessary for either wholesale or retail services.

## CALIFORNIA PUBLIC UTILITIES CODE

CODE SECTION	SUBJECT	REQUIREMENT	SUGGESTED ACTION	RATIONALE
728.2 (a,b1-3) Amended 1982	Rate Setting: Directory Advertising	Limits the CPUC's jurisdiction over directory publication with the exception of rates and charges for commercial directory advertising and impact of those revenues on other rates.	Modify to limit application to cost-of-service regulated telecommunications carriers.	Directory publishing is a highly competitive, market-driven business. Commission regulation is inappropriate for non-cost-of-service regulated telecommunications carriers.
728.3 Added 1987	Public Telephones: Removal	Requires 30 days' notice prior to removal of a public phone.	Eliminate.	The pay phone business is highly competitive with many service alternatives. No similar requirement exists for competitive pay telephone providers. This requirement is inappropriate.

## CALIFORNIA PUBLIC UTILITIES CODE

CODE SECTION	SUBJECT	REQUIREMENT	SUGGESTED ACTION	RATIONALE
728.4 Added 1990	Listing of Facsimile machine numbers in directories.	A telephone corporation shall list a telephone number as the number for a facsimile machine in its directory only if requested by the subscriber.	Eliminate.	Inclusion of customers' fax numbers in directories should be a competitive differentiator.
728.7 (a&b) Added 1986	Rate Changes: Customer Notification	Requires customer notification of rate or surcharge changes that result from changes in intercompany payments.	Eliminate for non-cost-of-service telecommunications carriers.	This regulation is inappropriate in a competitive market. Sufficient customer notification requirements are set forth in Code Section 491.
739.3	Support for small independent telephone corporations	Requires COMMISSION to establish a transfer program to promote universal service and discourage rate disparity.	Modify. This section should be incorporated into Code section Part 1, Article 8, para 871-878.	All universal service requirements should be addressed in one single section.

## CALIFORNIA PUBLIC UTILITIES CODE

CODE SECTION	SUBJECT	REQUIREMENT	SUGGESTED ACTION	RATIONALE
740 Added 1973	Rate Setting	Allows Commission to include research and development costs when setting rates.	Modify to exclude non-cost-of-service regulated telecommunications providers.	R&D cost are appropriately recoverable costs; however, expressed authority is no longer relevant or necessary in a competitive environment.
742 (b) Amended 1989	Non-public Utility Coin & Credit Card Activated Phones	Requires telephone corporations to include rules for coin and credit card operated phone in its phone books.	Eliminate.	Determination of contents of customer information pages in telephone books should not be mandated by the Commission.
742.1(a) Added 1988	Non-public Utility Operator Services	Prohibits Operator Assisted Services (OAS) unless the Commission finds in public interest. Requires OAS information in Phone books.	Eliminate.	This Section is outdated because OAS service has already been approved by the Commission.

## CALIFORNIA PUBLIC UTILITIES CODE

CODE SECTION	SUBJECT	REQUIREMENT	SUGGESTED ACTION	RATIONALE
767.5 Repealed and Added 1980	Pole attachment and conduit occupancy.	Public utilities shall provide surplus pole space and excess conduit capacity to cable television corporation at an annual recurring fee that is computed in the statute.	REPEAL	Under the Act, regulations concerning pole attachment and conduit occupancy must be applicable to all telecommunications carriers, not merely cable t.v., and the current statutory rates are grossly non-compensatory in a competitive market. Under 47 U.S.C. 224(c) the CPUC may regulate such rates, terms, and conditions, and the CPUC is in the process of promulgating such regulations in the Local Competition Docket.
779.2 Added 1984 Added 1986	Termination of service	Prohibits a telephone corporation from disconnecting service for non payment under certain conditions	Modify to exclude telecommunications carriers.	This section is unduly burdensome when operating in a competitive market. Consumers who are disconnected for non-payment may obtain service from other carriers with less stringent credit and/or payment requirements.

# CALIFORNIA PUBLIC UTILITIES CODE

CODE SECTION	SUBJECT	REQUIREMENT	SUGGESTED ACTION	RATIONALE
779.5 Added 1989	Deposit requirements	Decision to require deposit for non-residential applicant is based solely on the credit-worthiness of applicant.	Modify to exclude telecommunications carriers.	Deposit requirements should be a business decision determined at the discretion of each telecommunications carrier.
786 Amended 1991	Listing of services and associated rates.	Annual requirement to provide a listing of services and associated charges to every residential subscriber. Also requires FCC charges be separately identified on the bill for residential and business subscribers.	Eliminate.	Requirement to provide list of rates and services is inappropriate in a competitive environment. Universal Service requirements are set forth in Article 8 of the Code.

## CALIFORNIA PUBLIC UTILITIES CODE

CODE SECTION	SUBJECT	REQUIREMENT	SUGGESTED ACTION	RATIONALE
788 Added 1991	Inside wire	Annual notification to subscribers detailing inside wire responsibilities and options.	Eliminate	Inside wire has been deregulated and/or detariffed for more than thirteen years, and consistent with the Commission's goal of fostering a competitive market. This requirement should be lifted
792 Enacted 1951	System of accounts	Grants the Commission authority to establish its own system of accounts	Eliminate	For consistency across all telecommunications and jurisdictions, this section should require all telecommunications carriers to maintain their books of account in conformance with the FCC's Part 32 uniform system of accounts.
795 Amended 1970	Depreciation	Depreciation must be carried in accordance with Commission rules.	Amend to remove telecommunications carriers from this section.	In a competitive environment, telecommunications carriers should have the ability to set depreciation lives at market rates.

## CALIFORNIA PUBLIC UTILITIES CODE

CODE SECTION	SUBJECT	REQUIREMENT	SUGGESTED ACTION	RATIONALE
797 Added 1988	Audits of significant transactions.	<p>The Commission shall periodically audit all significant transactions between an electrical, gas, or telephone corporation and every subsidiary or affiliate of, or corporation holding a controlling interest in that electrical, gas or telephone corporation. The Commission may utilize the services of an independent auditor. Nothing in this section prohibits the Commission from auditing any transaction as otherwise permitted by law.</p>	<p>Modify to limit audits of non-cost-of-service telecommunications carriers to provisioning of wholesale services.</p>	<p>This Section is inappropriate for telephone corporations that are subject to incentive regulation.</p>

## CALIFORNIA PUBLIC UTILITIES CODE

CODE SECTION	SUBJECT	REQUIREMENT	SUGGESTED ACTION	RATIONALE
798 Added 1987	Penalties for improper payments to or from corporation.	Establishes a penalty that the Commission can levy against a corporation if a finding is made that a payment was made or received by the corporation for the purpose of benefiting its subsidiary, affiliate or holding company.	Modify to limit penalties to transactions involving wholesale services. This section should also be made applicable to all telecommunications carriers.	This Section is inappropriate for telephone corporations that are subject to incentive regulation.
816-830 Initially Enacted 1951. Latest amendment 1977	Stocks and Securities Transactions	Upon an application for an order to issue stock or debt, the Commission may approve the terms and conditions of such issuance and exchange and the fairness of such terms and conditions.	Modify to exclude telecommunications carriers from the provisions of this chapter.	This Section impairs a company's ability to raise capital on favorable terms available in the financial markets. Additionally, in a competitive market, access to capital will require a shorter turnaround period or risk losing growth opportunities.

## CALIFORNIA PUBLIC UTILITIES CODE

CODE SECTION	SUBJECT	REQUIREMENT	SUGGESTED ACTION	RATIONALE
851-856 Initially Enacted 1951. Latest amendment 1995	Transfer or Encumbrance of utility property	Establishes criteria the Commission must consider before authorizing a merger or acquisition of any utility with gross annual California revenues exceeding \$500 million.	Modify to exclude telecommunications carriers from the provisions of this chapter.	Inappropriate level of oversight in a competitive environment. Transfer issues and consumer safeguards are already reviewed by other agencies.
879.5 Amended 1992	Universal Service	Instructions for initial surcharge	Eliminate	This Section is no longer necessary because the surcharge process required by this Section has been implemented.
882 Added 1993	Universal Service-Advanced Telecommunication Service	Requires Commission to initiate a investigation and submit a report to the Legislature	Eliminate	This Section is no longer necessary because this requirement has been completed and the Commission has issued its Universal Service Decision.

## CALIFORNIA PUBLIC UTILITIES CODE

CODE SECTION	SUBJECT	REQUIREMENT	SUGGESTED ACTION	RATIONALE
1802.5 Added 1992	Intervenor Participation / Contributing to the position of another party	Eligibility for Compensation.	Modify to add that when said participation results in jointly filed comments, any intervenor compensation award should be borne by the aligned telecommunications carrier.	Significant contribution of the intervenor is difficult to isolate when they align themselves with a particular telecommunications carrier(s).
1807 Added 1984	Payment of Intervenor Compensation	Identifies the responsible utility for intervenor payment and authorizes recovery of said payment.	Modify to add a provision which requires the Commission to equitably allocate payment to intervenor among all participants.	In a competitive proceeding the intervenor funding requirement should be borne equally by all participants in the proceeding.

## CALIFORNIA PUBLIC UTILITIES CODE

CODE SECTION	SUBJECT	REQUIREMENT	SUGGESTED ACTION	RATIONALE
2881, 2881.1, Amended 1994 Amended 1989	Deaf and Disabled Telecommunication services	Requires the Commission to establish a program whereby each telephone corporation will provide access to the telephone network for deaf, hearing impaired and disabled subscribers (the Deaf and Disabled Telecommunications Program) for free or at discounted rates. Establishes a rate recovery mechanism through a surcharge. Requires the CPUC to study the feasibility of reasonable toll call discounts for public pay telephone calls made using a TDD.	Modify to remove reference to telephone corporation as entity which physically provides telecommunications devices.	Allows the Commission to design the DDTP program in the most cost- effective and efficient manner in today's competitive environment.

**CALIFORNIA PUBLIC UTILITIES CODE**

CODE SECTION	SUBJECT	REQUIREMENT	SUGGESTED ACTION	RATIONALE
2882.3 Added 1996; Repealed 1/1/98	Enhanced Services	No cross-subsidy by non-comp. services and anti-competitive behavior. Hearings required prior to offer services and the Commission may impose safeguards, if appropriate. The Commission shall conduct annual audits on services exempt from Section 489. To extent necessary to ensure competition in enhanced service market is fair, the Commission shall ensure nondiscriminatory access by ESPs to the LEC's network capabilities, including	Eliminate.	This section will be repealed as of January 1, 1998, by its own provisions.

## CALIFORNIA PUBLIC UTILITIES CODE

CODE SECTION	SUBJECT	REQUIREMENT	SUGGESTED ACTION	RATIONALE
2882.3 (cont.)	Enhanced Services	billing, on equivalent terms and conditions.		
2882.5 Added 1994	Billing increments	Requires Commission to investigate billing in increments of less than one minute.	Eliminate	This Section is no longer necessary because the investigation was completed December 31, 1995.
2884.2 Amended 1993	Information Access Services	Establishes reporting requirement for the Commission to the Legislature regarding information access services.	Eliminate	Repealed January 1, 1996, by its own provisions.
2884.3 Added January 1, 1994	Network infrastructure	Requires Commission to assemble task force to evaluate the telecommunications network infrastructure	Eliminate	This was repealed by the Legislature January 1, 1995

## CALIFORNIA PUBLIC UTILITIES CODE

CODE SECTION	SUBJECT	REQUIREMENT	SUGGESTED ACTION	RATIONALE
2885 Added 1986	Notification regarding customer privacy on cellular telephone calls	The Commission shall determine before July 1, 1987 if a cellular telephone call notification system should be enacted to be placed on cellular calls to notify recipients that the conversation may not be totally private.	Eliminate	The requirements of the statute are no longer timely since Commission action was required approximately 10 years ago.
2889.8 Added 1992	Network Reliability	Directs the Commission to assess network reliability and report to legislature by December 31, 1993	Eliminate	This action was completed in 1993 and the Section should therefore be deleted.
2893(b) Added 1989	Caller ID	No charge for blocking	Modify to allow for assessing resellers charges for blocking functions after the initial order.	Costs incurred by the facility-based carrier should be borne by the reseller receiving the economic benefit of the customer.

## CALIFORNIA PUBLIC UTILITIES CODE

CODE SECTION	SUBJECT	REQUIREMENT	SUGGESTED ACTION	RATIONALE
7902 Enacted 1951	Sale or transfer of property of telephone corporation.	A telephone corporation may sell, transfer, assign, etc., any property, rights, privileges, except its corporate franchise, upon the consent of two-thirds of the shareholders.	Eliminate	The conditions governing the sale or transfer of property by any telecommunications carrier should be the same for all carriers and should be governed by state corporations law.
7902.5 Added 1983	Lines of business	Requires every telephone corporation to file a report with the Commission by 5/1/84 indicating its existing as well as future lines of business	Eliminate	Outdated by its own provisions.

**CALIFORNIA PUBLIC UTILITIES CODE**

CODE SECTION	SUBJECT	REQUIREMENT	SUGGESTED ACTION	RATIONALE
7930 Added 1990	New Area Code	24 months' advance notification; within 6 months after giving notice, hold at least 3 public meetings; give written notice of the specific geographic area to be included in the new area code to all affected subscribers at least 15 months prior to the new code going into effect.	Modify to reduce the 24-month advance notification to 12 months due to accelerated pace of number exhaustion. Eliminate requirement for 3 public meetings. Reduce 15-month notice requirement to 6 months prior to new code going into effect.	Notifications need to be compressed due to accelerated pace of number exhaustion.

**GTE CALIFORNIA**

**EXHIBIT 2**

*The people of the State of California do enact as follows:*

SECTION 1. Section \_\_\_\_\_ Is added to the Public Utilities Code, to read:

\_\_\_\_\_. (a) Except as expressly set forth in this section, the Public Utilities Code shall not apply to telephone corporations.

(b) The commission shall, if not agreed upon by the parties to an interconnection agreement, pursuant to the federal Telecommunications Act of 1996 (P.L. \_\_\_\_\_), establish cost-based prices for interconnection services which are sufficient to recover the full costs of the services supplied by the telephone corporation to another interconnecting telephone corporation plus a reasonable profit. For purposes of this subsection, cost-based shall be the actual cost, including historical investment costs, produced by a cost study provided by the offering telecommunications company.

© Any incumbent local exchange telephone corporation that qualifies as a rural telephone company under the federal Telecommunications Act of 1996 (P.L. \_\_\_\_\_) shall remain regulated under the Public Utilities Code; provided that, at the option of the incumbent local exchange telephone corporation, it may opt for regulation under this section by delivering a written notice to that effect to the commission if it voluntarily relinquishes the exemption from complying with certain portions of the federal Telecommunications Act of 1996 (P.L. \_\_\_\_\_) granted to rural telephone companies or the exemption is removed in whole or in part by the commission.

(d) The following Public Utilities Code citations shall apply to all telephone companies: Division 1 Part 1 Chapter 5 Article 1 Section 1013 (b-e), and Division 1 Part 2 Chapter 10 Article 1, and Division 1 Part 2 Chapter 10 Article 2, Sections 2881-2881.1, 2883-2884, 2884.5-2884.6, 2887(b), 2889-2889.2, 2889.5, 2889.6, 2891-2894, and Division 4 Chapter 3 Sections 7901, 7903-7907, 7930-7931, and Division 4 chapter 4, and Division 4 Chapter 5 Articles 2-3.

(e) Notwithstanding subsection (d), a telephone corporation may petition directly to the commission for forbearance from any order, rule regulation, or other commission imposed requirement in any way relating to subsection (d). The commission shall have the authority and shall forbear from applying any order, rule, regulation, or other requirement to a telephone corporation or service when any one of the following exist relative to such order, rule, regulation, or other requirement:

(1) consumers are otherwise adequately protected;

(2) a telephone corporation subject to regulation is competitively disadvantaged by such order, rule, regulation, or other requirement.

(f) The commission shall render a final decision on a petition submitted under subsection (e) within 180 days from the time of its submission.

(g) Any person, including the commission, seeking to justify the continuation of any order, rule, regulation, or other requirement imposed on any telephone corporation, that is the subject of a petition under subsection (e), shall have the burden of proof in justifying that such continuation is necessary. Such burden of proof shall demonstrate that all of the following exist:

(1) consumers are not otherwise adequately protected;

(2) continuation of the order, rule, regulation, or other requirement does not disadvantage or have the effect of disadvantaging the ability of a telephone corporation subject to regulation to provide any intrastate telecommunications service.

(h) No telephone corporation shall use revenues earned from or allocate expenses to regulated services to subsidize unregulated services. The commission shall not require revenues earned from or expenses attributed to unregulated services or affiliates to be attributed to regulated services.

(i) Except under the terms of a mandatory protective order, trade secrets and commercial or financial information submitted under this section are exempt from disclosure to parties other than the commission.

(j) If the provisions of this section conflict with any other California statute, the provisions of this section shall control. If any provision of this section is held invalid because of federal law, such invalidity shall not affect other provisions of this section, and to that end the provisions of this section are declared to be severable.

**NOTE:** Under subsection (d) regulated services/activities include - PUC fees (D1. P1. C2.5.A3), universal service (D1. P1. C4. A8), condemnation (D1. P1.C3.A7.S616), backfill (D1.P1.C4.A3.5.S787), registration (D1.P1.C5.A1.S1013(b-e), automatic dialing-announcing devices (D1.P2.C10.A1), telephone relay service (D1.P2.C10.A2.S2881-2881.1), E911(D1.P2.C10.A2.S2883), 900/976/IP/800 services (D1.P2.C10.A2.S2884), slamming (D1.P2.C10.A2.S2889.5), directory information for emergency situations (D1.P2.C10.A2S2889.6), right of privacy (D1.P2.C10.A2.S2891-2894), telephone line construction (D4.C3.S7901), telephone employee practices - privacy (D4.C3.S7903-7907), new area codes (D4.C3.S7930-7931), injury to public utility property (D4.C4), surface and underground transmission (D4.C5.A2-3).

December 13, 1996

Kent W. Kauss  
Chief, Office of Governmental Affairs  
California Public Utilities Commission  
1227 'O' Street, Suite 2000  
Sacramento, CA 95814

Dear Mr. Kauss:

I am responding on behalf of Pacific Bell to your November 7, 1996, letter to Dennis LeBlanc. The following reflects our current views on the substantive content of both reports that the PUC must submit to the Legislature. With regard to the process for bringing each report to finalization, we urge the Commission to continue to seek input from the entire industry through a forum designed to encourage open communication and dialogue on the substantive issues of the two reports.

#### **IT'S TIME FOR A FRESH START**

We appreciate this opportunity to participate in the review of regulations and statutes proposed in SB 960. There is an obvious need for a comprehensive revision of the many Public Utilities Code provisions designed originally to apply to monopolies. We firmly believe such a re-examination should result in a "fresh start" with a new legislative and regulatory approach to communications regulation, focusing only on what is truly justified.

Pacific Bell has invested considerable effort in examining the restructuring we believe must take place in communications regulation to ensure California enjoys all the benefits of competition. Many states, Michigan most recently, have already undertaken the kind of rethinking we are suggesting. We strongly urge the Commission to pursue broad, structural change comparable to that in the electric industry rather than settle for only non-controversial, cosmetic modifications. Anything less will be a disservice to communication providers and consumers.

Everything has changed since the PU Code was written. Both the California Legislature and the U.S. Congress have opened all telephone markets, including local service, to competition. Over seventy new local exchange competitors are already certified in California, the largest number of any state. All kinds of industries with vastly different levels of regulatory oversight are entering each other's businesses, including cable TV, long distance, wireless cable and telephone, Internet providers, and local telephone companies. Many players are huge, all are sophisticated, and many plan to enter all of these lines of business.

#### **CUSTOMERS NEED CHOICES THAT REGULATION WON'T LET THEM HAVE**

The regulatory playing field is overdue for a complete overhaul to keep up with advancing competitive pressures, and to assure that California consumers don't fall behind in enjoying the benefits of genuine competitive choice. Outdated regulatory requirements are keeping customers from timely access to new services and from benefiting through competitive contracts and offers from all providers. Regulation needs to be streamlined to fit the new competitive realities, not the old monopoly era from which most existing law dates. Regulatory oversight is costly and burdens the market with uncertainty. It must be minimized, and made to be competitively neutral.

While supporting competition, the PUC has not been allowed to reduce regulation to match the new environment. There is now a full set of competitive protections required by Congress that the PUC must enforce, adding to the need to remove the old, inefficient regulatory burdens. Additionally, the PUC will now need to focus more on consumer protection to assure quality service from all competitors.

Since the PU Code defines the PUC's obligations and responsibilities, the Commission's ability to deregulate is limited in some fundamental respects. In these instances the responsibility for reform necessarily belongs to the Legislature. It's time to define a new and more appropriate role for the PUC as California moves ahead in an open and competitive environment, a role focused on consumer benefits.

**EXISTING STATUTES DON'T ADDRESS TODAY'S NEEDS; A COMPLETE  
PU CODE REVISION IS REQUIRED**

The present code could vanish almost entirely without affecting consumer protection in communications. The PU Code was written to regulate a communications environment that no longer exists, either in law or in reality. Virtually all the boundaries have eroded or vanished as new technologies and services come on-line and converge. The bottom line is that these statutory provisions demand resources from both regulators and the regulated that could be better allocated for the benefit of consumers.

There is a great disparity between the level of change in the regulation of communications and the rapid change in the communications market itself. This is largely a matter of timing because many of the changes with the most dramatic impact on the industry have occurred within the last two years, and the pace of change is still accelerating. The PU Code must be reformed and designed for today's environment. Small, incremental code revisions might avoid controversy but will not align the Code with present needs. Incremental revisions also leave the PUC burdened with hotly contested issues complicated by attempted arbitrage by competitors.

Attached is a list of outdated and, in many cases, inappropriate PU Code Sections that I distributed during the discussions around SB 960 last summer. This list is offered as an illustration of the broad range of provisions in the Code that lock the Commission into the historical regulatory scheme based on micro-regulation of "monopoly" utility services. I am sure the Commission is well aware of the many major changes in communications that make these provisions unnecessary, irrelevant and redundant to other statutes, federal laws and regulations. **In light of these conditions, Pacific makes the following suggestions for reform.**

**REAL DEREGULATION THROUGH "FRESH START" LEGISLATION**

California needs omnibus regulatory reform legislation to redraft competitive and customer safeguards, to permanently eliminate the productivity factor and related offsets, to authorize price rebalancing over time, and to direct the PUC to provide full universal service support where prices are held below cost plus contribution. The legislation should give all competitors the freedom to introduce, modify, and price competitive services; eliminate obsolete PUC requirements and rules; enact a mandate to support discounted basic service prices in full, or permit increases; and reduce outdated general regulatory requirements.

**SOME SPECIFIC PROPOSALS FOR LEGISLATIVE REFORM  
OF PU CODE PROVISIONS**

**A Fresh Start for Competitive Telecommunications in California.**

- Separate telecommunications PU Code created, with a defined sunset.
- All prior PU Code and PUC decisions preempted where inconsistent with new provisions.
- All providers at full risk for investments and expenses.
- Elimination of rate of return regulation.
- USOA and related practices and protections to conform to federal law and FCC rules, and to apply equally to all providers of same services.
- Settlement of franchise impacts and transition costs.
- A comprehensive end to prior revenue-related proceedings and "holdovers."

**Consumer Protection for All Customers of Essential Services**

- All PUC service quality and consumer protection rules are applied equally to all providers on a service-by-service basis.
- Specific new rules are drafted regarding tariffing, customer complaint procedures and grounds, standard billing practices, information disclosure to customers, limitation of liability, noticing of price changes, etc. PUC can interpret, apply, and forebear from these rules on an industry wide basis.
- All customers are entitled to competitive prices and service offerings from all providers. Related contracting, bundling, and marketing limits must apply equally to providers of the same service or be defined in the legislation.
- Basic service and its components are defined; all other services are considered non-basic.
- Prices for basic service are limited by a statutory price cap of inflation minus two percent. Larger price increases can be approved by the PUC based on specific criteria focusing on costs and capabilities, and not including earnings. PUC can approve rate rebalancing, and must give priority to price transitions to raise prices above incremental cost. Deaveraging is authorized.
- Universal service support must cover full subsidy amounts where regulation limits basic service prices. The PUC must monitor and adjust its program to assure that all regions develop facilities-based competition.

- Non-basic service prices are deregulated subject to applicable competitive safeguards on a compliance basis, with freedom to introduce and withdraw services, and price discrimination restrictions reformed or dissolved to allow full benefits of competition.

#### **Conformance with the New Federal Law**

- A specified list of competitive protections and prohibited “bad acts” (drawn from the Federal Act) is codified and applies to all providers, superseding contrary PUC policies and prior decisions.
- Access charges are flexibly priced, but not to exceed comparable federal tariffs.

#### **The 21st Century Role of the PUC**

- Regulation moves to a service basis, not a provider basis. All rules apply equally to all providers of a given service.
- Focus on monitoring, complaints and compliance—not preapproval.
- Specified, expedited procedures for handling consumer complaints.
- Price-setting role is limited to assuring compliance with legislative formulas and making discretionary determinations where provided (e.g., rebalancing applications).
- Emphasis on developing and disseminating consumer information, identifying and challenging misleading advertising, fraud, etc.
- Actively track the development of competition—keep Legislature and Governor informed. Be a genuine expert in market trends and innovation.

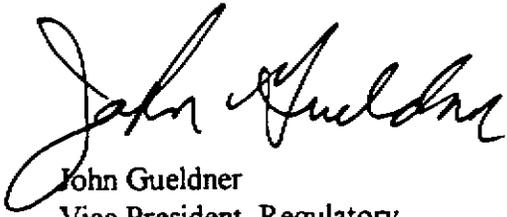
#### **Potential Consumer and Infrastructure Benefits**

- Higher/better basic service quality standards for all carriers.
- Establish a state tax credit for new facilities investment that delivers modern telecommunications capabilities to customers.
- Augment state Attorney General’s charter/capabilities to pursue anticompetitive wrong doing, where and if necessary.
- Universal service support for special needs or circumstances.

## CONCLUSION

We are convinced that the consumer benefits of a healthy and competitive communications market can be realized only if there is significant revision to the PU Code consistent with changes in the telecommunications industry. We are as firmly convinced that the Commission, industry and consumer groups must start designing this change immediately. The two reports the Commission must make to the Legislature provide an opportunity for these interested parties to begin that work.

Our proposal for a "fresh start" in regulation to meet dramatically changed circumstances, combined with the new federal act and existing anti-trust laws, will provide comprehensive protections and oversight of what is really important to consumers, competitors, and the general public. With telecommunications competition so far ahead of competition in the electric industry (where the legislature and the PUC have already addressed many of these issues), reform is long overdue. We look forward to working with you, other industry members and consumer groups in this effort. Please call me on 415-542-4916 if you have any questions about this proposal.



John Gueldner  
Vice President, Regulatory

cc: President P. G. Conlon, Commissioner H. M. Duque,  
Commissioner D. W. Fessler, Commissioner J. J. Knight, Jr.,  
Commissioner J. L. Neeper, D. Duda, F. Fenikile, J. Jimenez, R. Lane,  
J. Scadding, T. Sullivan, L. Wong, W. M. Franklin, J. M. Leutza,  
P. Arth, Jr.

Attachment

**PU Code Sections in Need of Reform**

- §314.5. Audit for regulatory and tax purposes.
- §451. Just and reasonable charges; Service; Rules.
- §453. (a) and (c). Preferential rates.
- §454. Rate increases; Establishment of rules as to showing required to support proposed increases; Testimony by customers.
- §455. Rate hearing: Suspension pending hearing; Effective date of rates.
- §457. Sliding scale of charges; Revocation of approval.
- §489. Rate schedules for public utilities; Provision of information on service options.
- §491. Requirement of notice prior to change in rates; Waiver; Notice filed with commission.
- §495. filing of schedules by common carriers, telegraph companies, and telephone companies.
- §495.7. Exemption from tariffing requirements.
- §532. Rate at variance with that specified in schedule.
- §585. Access to computer models used to substantiate showing in rate proceeding; Procedures and safeguards.
- §587. Report to transactions between utility corporation and subsidiary, affiliate or holding company.
- §728. Determination of rates and classifications by order of commission; Considerations in determination of telephone rates.
- §728.2. Telephone directory advertising.
- §728.7. Procedure for imposition of charge or rate change resulting from long-distance deregulation.
- §729. Commission's authority upon hearing.
- §729.5. Changing group of customers to other rate schedule.
- §797. Audit of transactions between utility corporation and subsidiary, affiliate or holding company.
- §§816-827.  
and §830. Oversight of stocks and security transactions.
- §851. Approval of disposition of property; Effect of approval on franchise; Exception as to unnecessary property; Application to interchange of equipment in course of transportation.
- §852. Holding stock of other public utility.
- §854. Acquisition or control of public utility without approval of Public Utilities Commission.
- §1821. Definitions.
- §1822. Verification; Testimony; Rules and procedures; Access to programs and models of other parties.
- §1823. Duty of commission to review and monitor; Output of operations model as evidence.
- §1824. Studies; Report to Legislature.



California Association of Long Distance  
Telephone Companies

925 L Street, Suite 220  
Sacramento, CA 95814  
(916) 441-4166

February 19, 1997

**Officers**

*President*

James A. Smith, Jr.  
Brooks Fiber Communications

*Vice President*

Jeff Buckingham  
Call America of San Luis Obispo

*Secretary*

Michael Nighan  
Frontier Communications

*Treasurer*

Sam Medina  
Ameritel

**Directors**

Jim Bowman  
American Communications  
Network

Douglas F. Brent  
LDDS Worldcom

Kenneth F. Melley, Jr.  
U.S. Long Distance

Richard Severy  
MCI

Katherine Stokes  
AT&T

**Regulatory Counsel**

Thomas J. MacBride

**Legislative Advocate-  
Executive Director**

Gerald J. Desmond, Jr.

Mr. Kent W. Kause, Chief  
Office of Governmental Affairs  
California Public Utilities Commission  
1227 "O" Street  
Sacramento, CA 95814

Re: Stakeholder Comments on SB 960 Revisions

Dear Kent:

The California Association of Competitive Telecommunications Companies [CALTEL] appreciates the opportunity to respond to the comments presented by Pacific Bell and GTE California in the document entitled "Stakeholder Comments on SB 960 Revisions."

CALTEL is the trade association for the variety of participants in the rapidly-evolving telecommunications industry. Our forty-eight member companies are large facilities-based carriers [including ATT, MCI, and Worldcom], competitive local exchange companies [such as Brooks Fiber, Frontier]; medium-sized, California-based interexchange carriers [including Ameritel, GST Call America, and America Communications Network]; and resellers \ agents \ aggregators [such as HCC Telemangement, Priority 1+ Long Distance, and Intercontinental Telephone Corporation].

The comments submitted by Pacific Bell and GTE California are of great concern to the competitive industry. Both companies propose to significantly revise - if not eliminate - many of the statutory provisions that provide the fundamental statutory and regulatory framework for the telecommunications industry. These are clothed in the proposed concepts of "necessity to forebear when customers have choices" and "fresh start" legislation.

The basic assumption upon which these concepts are based is false. As I testified at the February 13 hearing of the Assembly Committee on Utilities and Commerce, full competition does not exist in the local telecommunications marketplace. Despite statutory provisions that require that open competition be implemented, the incumbent local exchange carriers are placing severe obstacles before the efforts of the numerous telecommunications companies to provide California's telecommunications consumers with services.

While there may be superficial appeal to an approach that would "clear the decks" of the clutter of statutes and regulations that govern the industry, it is premature to embrace these far-reaching concepts. To the contrary, CALTEL emphasizes the several provisions of the Public Utilities Code that continue to be important to California's telecommunications consumers as well as the evolving industry. We believe the Commission should maintain these provisions in its role of developing a competitive telecommunications industry. These statutory provisions include:

**PUC INSPECTIONS AND AUDITS** - Sections 314(a) and (b), Section 314.5 - these provisions provide the authority for the Commission to inspect the books and documents of public utilities, and require the Commission to inspect and audit books and records. The Commission needs this statutory authority to investigate complaints. CALTEL disagrees with the recommendation that the section not apply to telecommunications carriers.

**TARIFF FILINGS** - Section 489(a) and 495 - these sections require public utilities to file schedules of rates, charges, classifications and other items. These filings provide important consumer information. CALTEL disagrees with the recommendation that the provisions be revised to exempt telecommunications retail services from these requirements.

**AFFILIATE TRANSACTIONS** - Sections 587, 797 and 798 - these provisions require an annual report of any significant transactions between corporations and their affiliates, require periodic Commission audits of significant transactions, and provide penalties for transgressions

Section 272 of the federal Telecommunications Act of 1996 requires that this oversight occur. It is important that the Commission implement these sections and examine transactions between affiliates. CALTEL disagrees with the recommendation that these sections be modified to apply only to the provisioning of wholesale services. As the local telecommunications marketplace moves towards a competitive environment, protections against cross-subsidization and discrimination are critical.

**OPEN ALL MARKETS TO COMPETITION** - Section 709.5 - this section requires the opening of all markets to competition by January 1 of this year. Although this calendar deadline has passed, the local telecommunications market is far from open to competition. CALTEL believes this mandate is critical and that the statute, with its clear expression of legislative intent on this issue, should not be eliminated.

To date, the incumbent local exchange companies have not established the critical operations support systems that are required by the Telecommunications Act and the FCC and that are crucial for new entrants to compete head-on with the incumbent local exchange companies. Local competition cannot succeed when new entrants are not provided the electronic operations support system that would allow them to obtain customer information and process customer orders. Several conditions must be in place for this competition to exist. Among them: customers must be able to easily order service from the new

competitors; the local exchange companies must promptly accept orders from the new competitors for processing; the customer must obtain what was ordered on time; the customer must receive a timely, accurate bill; and all customers on the network must receive the same quality of service.

**TELEPHONE DIRECTORIES** - Section 728.2 - this section provides the authority for the Commission's jurisdiction over directories. The incumbent local carriers [ILECs] continue to enjoy monopoly control over these informational materials. Without this section, the competitive local carriers that are attempting to enter this market would be dependent upon the ILECs for listings. CALTEL disagrees with the recommendation that this section be revised.

**OPERATOR-ASSISTED SERVICES** - Section 742.1 - this provision provides the authority for the Commission's jurisdiction over operator-assisted services and for the inclusion of information concerning these services in telephone directories. With competitive local carriers entering into the local telecommunications market, it is increasingly important that this information be provided in the directories.

**PROVISION OF ENHANCED SERVICES BY LOCAL EXCHANGE TELEPHONE CORPORATIONS** - Section 2882.3 - this section establishes several important requirements in order to protect consumers against the threats of cross-subsidization and anticompetitive behavior, and to ensure that there is fair competition in the provision of enhanced services. The section provides authority for the Commission to take action against companies that violate these requirements.

CALTEL believes that the provisions of this section are as important today, and will be as important through the next few years, as they have been previously. The Legislature should act to continue the provisions of this section after the statutory sunset on January 1 of next year.

**CHARGES FOR BLOCKING OF CALLER ID** - Section 2893 (b) - this section prohibits charges to the caller who requests that his or her telephone number be withheld from the recipient. This requirement was added by the Legislature to ensure that telecommunications consumers are able to exercise any interests they may have in the privacy of this information, without expense.

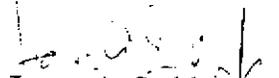
It would not be consistent with this intention to amend this section to allow resellers to be charged for these blocking functions.

Thank you for the opportunity to provide CALTEL's response to the Stakeholders' Comments on SB 960. We look forward to working with the Commission as it carries forward the legislative mandate set forth in that significant 1996 measure, to ensure that the original intentions of that legislation are furthered.

Mr. Kent Kause  
February 19, 1997  
PAGE FOUR

If you have any questions, please contact me at [916] 431-1830, or CALTEL's legislative advocate, Jerry Desmond, Jr., at [916] 441-4166.

Sincerely,

  
James A. Smith, Jr.,  
President

caltell-sb960.doc

February 24, 1997

Direct: (415) 393-2575  
apfeiffer@mdbe.com

**VIA FACSIMILE &  
FEDERAL EXPRESS**

Kent W. Kauss  
Chief  
Office of Governmental Affairs  
California Public Utilities Commission  
1227 "O" Street, Suite 404  
Sacramento, CA 95814

**Implementation of SB 960**

Dear Mr. Kauss:

The California Telecommunications Coalition ("Coalition")\* submits this letter in response to the proposals of GTE California ("GTEC") and Pacific Bell ("Pacific") to "revise" the Public Utilities Code.

GTEC and Pacific's comments reveal their primary objective for this legislative session: they hope to eviscerate the existing Public Utilities Code and eliminate the regulatory safeguards that protect consumers and foster competition. Pacific asserts that the "present code could vanish almost entirely." GTEC believes that "nothing short of major 'surgery' is required," and asks the Commission and its staff to agree to "forebear" from performing its regulatory functions.

The Coalition strongly opposes GTEC and Pacific's campaign. We represent a broad range of interests in the telecommunications industry, including interexchange

---

\* The Coalition members joining in this letter are AT&T Communications of California, Inc., California Association of Long Distance Telephone Companies (CalTel), California Cable Telephone Association, MCI Telecommunications Corporation, Time-Warner AxS of California, L.P., and The Utility Reform Network (TURN).

ATTORNEYS AT LAW

Three Embarcadero Center  
San Francisco, California 94111-4067  
Tel. (415) 393-2000 Fax (415) 393-2286  
<http://www.mccutchen.com>

San Francisco  
Los Angeles  
San Jose  
Walnut Creek

Palo Alto  
Washington, D.C.  
Taipei

providers, competitive local exchange providers, cable companies and consumer groups seeking to protect consumer choice and quality service. As stated in the Coalition's opening comments of December 20, 1996, we feel it is far too soon in the course of the emerging telecommunications marketplace to make a sweeping regulatory retreat that would threaten both consumers and competitors. We doubt that *any* consumer group or carrier, other than GTEC and Pacific, supports these sweeping changes to the code. We are confident that the Commission will agree with us and reject many of GTEC and Pacific's fantastic recommendations.

In advocating major legislative reform, GTEC and Pacific have "put the cart before the horse." The existing code cannot have "major surgery" and change its focus to the preservation of a developed competitive market until effective competition in the local exchange and local access markets is found to exist. Until such competition in those markets exists, the major legislative reforms sought by GTEC and Pacific are premature. GTEC suggests that there is need for significant legislative reform, that new law is required to allow competition to succeed and that this new law should enable the Commission to "forbear" from carrying out its duties and applying its regulations. The Coalition opposes these dangerous recommendations. Like GTEC, Pacific proposes both an affirmative agenda of new legislative initiatives while at the same time advancing a hit list of existing statutory provisions purportedly "in need of" some unspecified "reform." Pacific provides very little description of the legislation it would like to see enacted, and no discussion at all of the existing statutes it seeks to "reform."

We address below the proposals made by GTEC and Pacific. For the most part, they offer only skeletal descriptions of the changes they seek. To accurately assess the full implication of such changes, there is no substitute for reviewing actual draft language. Without such language, we are only able to offer tentative, and perhaps incomplete, reactions to their proposals. Each of the Coalition members reserves the right to present more definitive assessments in the event that any of these offered changes develop into proposed legislation.

**A. Response to GTEC's Forbearance Legislation**

The Coalition urges the Commission to reject outright GTEC's proposed forbearance statute (Exhibit 2 to GTEC's December 20, 1996 letter). We oppose GTEC's oft-repeated effort to define prices based upon historical costs; we oppose the selective application of the statute to portions of the Public Utilities Code (without any separate analysis for such selectivity); and we oppose the imposition of the burden of proof on the party opposing the request for forbearance rather than on the telephone company requesting the forbearance. The result of this section would be to make forbearance the norm, and regulation the exception. More to the point, such a forbearance statute should not even be considered until effective competition in the local exchange and local access markets has developed.

**B. Response to Pacific's Specific Proposals for New Legislation**

**Separate Telecommunications Public Utilities Code with Sunset**

This proposal is altogether unnecessary and a poor use of the Commission's and the Legislature's scarce time and resources. The existing Public Utilities Code covers all telecommunications issues relevant to California. Its regulations and safeguards protect and serve the public well. The Coalition sees no legitimate reason to abandon the existing code. Indeed, a separate Public Utilities Code for each regulated industry would only create duplication and waste, since many provisions of the existing code apply to all industries. We can only surmise that Pacific believes that a "new" code will give it a better chance to impose its preferred conditions and language at the expense of other providers and California customers. The Commission should reject this proposal.

**Preempt Existing Code Sections and PUC Decisions Inconsistent with New Proposed Telecommunications Code**

For the same reasons outlined immediately above, the Coalition strongly believes that this proposal is unnecessary and a waste of time and money. The Commission should reject this proposal.

### **All Providers at Full Risk for Investment and Expenses / Settlement of Franchise Impacts and Transition Costs**

These two proposals bear witness to Pacific's hypocrisy. Pacific wants everyone to share the risk, but none of the profits. Pacific proposes that everyone should share the risk for investments in this evolving competitive market, but asserts that California taxpayers must pay Pacific some \$4 billion for relinquishing its monopoly hold over the local exchange market. The Commission should reject this proposal.

A 1996 study by the Consumer Federation of America ("CFA") concluded that the local telephone monopolies earn \$4.5 billion annually in excess profits at the expense of ratepayers. The CFA study shows that the RBOCs have not used these billions of dollars to lower prices, improve service or invest in the company's core infrastructure. Instead, they have increased their shareholder dividends and diverted large chunks of their profits to unregulated, non-core businesses. While the RBOCs' cash flow has increased by 50 percent since divestiture, their capital expenditures have actually decreased in absolute value. For example, per-line investment in the local network has decreased by 20 percent over the past decade.

These issues are presently before the Commission in the local competition proceedings (R.95-04043/I.95-04044). We see no need for special legislation to second-guess the Commission on these highly complex and technical issues. The Commission has the experience and expertise to deal with these issues; they should remain within the province of the Commission.

### **Elimination of Rate of Return Regulation**

The Coalition opposes this proposal, because it is premature to eliminate the Commission's authority to regulate telephone rates at a time when competition has not yet taken hold. In addition, earnings can be an important means of assessing the extent to which incumbent LECs are exerting monopoly power. At the very least, the existing PUC rules and policies should remain in effect, pending the FCC's determination on local competition issues. Until the California local exchange and local access markets are fully competitive, the Commission should continue its current rate of return regulation.

**USOA and Related Practices to Conform to Federal Law, and to Apply Equally to All Providers**

Today, GTEC and Pacific remain the incumbent local exchange monopolies in California. Because of it, they enjoy distinct competitive advantages over other providers at this infant stage of local competition. The incumbent LECs have the unique opportunity to leverage their huge market shares and market power to the detriment of consumers and other providers. Until real competition exists in California, applying all Commission rules equally to all providers doesn't make sense. The Commission must retain its authority to regulate these incumbent LECs in a manner consistent with its goal of developing competition.

**End Prior Revenue-Related Proceedings and "Holdovers"**

We do not understand what Pacific proposes. If Pacific means that it will no longer claim that it is entitled to a guaranteed revenue return each year, the Coalition supports the objective of this proposal. If not, the Commission should reject this proposal.

**PUC Service Quality and Consumer Protection Rules Applied to All Same-Service Providers**

The Coalition supports the principle of this objective. However, the Commission must retain its authority to refrain from imposing regulations on competitive, non-dominant carriers who are already subject to market forces.

**New Rules Regarding Tariffing, Customer Complaint, Billing Practices, Information Disclosure, Limitation of Liability, Noticing of Price Changes, etc. PUC Can Forebear These Rules if it Wishes**

Commission rules already exist on these issues. We see no need for some undisclosed "specific new rules." We are particularly concerned that Pacific and GTEC's hopes at "forbearance" will, in any case, effectively make the new rules immaterial. The Commission should reject this proposal.

**Competitive Pricing and Service Offerings. Contracting, Bundling and Marketing Limits Must Apply Equally to All Providers**

Today, GTEC and Pacific remain the incumbent local exchange monopolies in California. Because of it, they enjoy distinct competitive advantages over other providers at this infant stage of local competition. The incumbent LECs have the unique opportunity to

leverage their huge market shares and market power to the detriment of consumers and other providers. Until real competition exists in California, applying all Commission rules equally to all providers doesn't make sense. The Commission must retain its authority to regulate these incumbent LECs in a manner consistent with its goal of developing competition.

#### **Define Basic Services; All Other Services are Non-Basic**

The Commission has already defined basic service and components in the Universal Service decision and the ongoing OANAD proceeding (R.93-04-003/I.93-04-002). We see no need for special legislation second-guessing the Commission on these highly complex and technical issues.

Congress did not define basic service or unbundled elements in the '96 Telecom Act. It recognized that the state commissions and the FCC should use their experience and expertise to define basic service and its elements. The Legislature should not second-guess the Commission, Congress and the FCC.

#### **Pricing for Basic Services**

The Commission has already addressed and determined the costing elements and is developing the pricing for basic service. There is no need for legislation to second-guess the Commission's decisions. Price determination is precisely the type of issue best suited for the Commission. It requires flexibility, speedy and decisive action, and exceptional, up-to-date knowledge of the issues. We believe that the Commission and its staff are the proper decision-makers in this instance. The undesirable alternative would be Legislative attempts to codify prices in an evolving competitive market where prices and the factors which set those prices can vary and change.

#### **Universal Service Support Must Cover Full Subsidy Amounts**

This proposal is Pacific's latest attempt to side-step the Commission's Universal Service Order and place the burden of its excessive cost estimates squarely on the backs of Pacific's competitors and California consumers. The Commission, at the Legislature's direction, has exhaustively reviewed and determined what costs should be subsidized and what subsidy amounts are necessary to achieve universal service. We see no reason for the Legislature to second-guess the Commission's universal service decision.

### **Deregulate Non-Basic Prices; Eliminate Restrictions on Price Discrimination**

We do not understand what Pacific proposes. We agree with Pacific to the extent that Pacific proposes that all existing competitive safeguards must remain in place for non-basic services. It is premature to eliminate any competitive safeguards since competition has not yet taken hold. We strongly disagree with any suggestion that the Legislature should take away the Commission's monitoring authority over non-basic services, particularly over price discrimination. Protections against price discrimination must be maintained in this newly evolving competitive market.

### **List of Protections and Prohibited "Bad Acts" Applying to All Providers**

The Coalition supports the principle of this objective, with the understanding that this list would supplement, not supplant, existing PUC policies and decisions.

### **Flexibly Priced Access Charges**

The pricing of access charges is presently before the Commission in the OANAD proceeding and before the FCC in a separate proceeding. The Legislature should follow the lead of Congress and defer to the expertise and experience of the Commission and the FCC.

### **All PUC Rules Apply Equally to Same-Service Providers**

Today, GTEC and Pacific remain the incumbent local exchange monopolies in California. Because of it, they enjoy distinct competitive advantages over other providers at this infant stage of local competition. The incumbent LECs have the unique opportunity to leverage their huge market shares and market power to the detriment of consumers and other providers. Until real competition exists in California, applying all Commission rules equally to all providers doesn't make sense. The Commission must retain its authority to regulate these incumbent LECs in a manner consistent with its goal of developing competition.

### **PUC Should Focus on Monitoring, Complaints and Voluntary Compliance; Not Pre-Approval**

Monitoring, complaints and compliance should supplement the existing PUC rules. They cannot take the place of existing protections. To replace existing PUC safeguards would greatly disadvantage competitors and customers in light of the dominant positions occupied by GTEC and Pacific. For example, a typical competitor complaint

against Pacific or GTEC takes more than a year from filing to a resolution; the incumbents could greatly hinder the development of competition by taking advantage of such delays. We cannot rely on the incumbent's unenforceable promises of compliance to ensure that telephony competition exists in California. Instead, the Commission should retain its existing authority to require prior approval of certain actions.

**PUC Should Establish Special Procedures to Handle Customer Complaints**

The Coalition supports the principle of this objective.

**Limited Price-Setting Role of PUC to Assuring Compliance with Legislative Formulas**

The Commission should reject this proposal because it asks the Commission to accept that the Legislature is in a better position to perform the Commission's duties, including setting prices. Other than Pacific and GTEC, we doubt that any other carrier or consumer group supports these related proposals. They are unnecessary and counterproductive.

**PUC Should Develop and Disseminate Consumer Information**

The Coalition supports the principle of this objective.

**PUC Should Monitor the Development of Competition**

The Coalition supports the principle of this objective.

**Higher/Better Service Quality Standards for All Carriers**

We interpret the following four proposals under Pacific's "Potential Consumer and Infrastructure Benefits" heading to mean that Pacific agrees with us that the Commission should retain its regulatory authority to ensure consumer protection, consumer choice and quality service.

The Coalition supports the principle of this objective

**State Tax Credit for New Facilities Investment**

The carrier members of the Coalition support the principle of this objective.

### **Attorney General to Pursue Anticompetitive Practices**

The Coalition supports the principle of this objective, with the understanding that this should supplement and not supplant the Commission's authority.

### **Special Universal Service Support**

The Commission and the Legislature have already addressed this issue by establishing funds to cover special support for universal service, including the Universal Service Lifeline Fund for low income customers and the Deaf Trust Fund for distribution of equipment to disabled customers. We do not understand what Pacific proposes.

### **C. Existing Code Sections GTEC/Pacific Say Are in Need of "Reform"**

The code revisions recommended by GTEC and Pacific assume a fully competitive local market. But as the Coalition stated in its previous comments, we are only beginning to see the initiation of changes that may eventually bring about full competition. Many of these code changes would seriously impede the Commission's ability to ensure the development of a truly competitive telecommunications industry. Moreover, some of the proposals would allow the LEC monopolies to discriminate against the competitive local carriers, or remove important consumer protections. GTEC and Pacific have each listed code sections which they claimed need reform. Pacific, however, simply lists the code sections without explaining what it means by "reform" -- is Pacific arguing that these code sections should be revised, or eliminated? Nonetheless, its intentions remain clear: to limit the code and hobble the Commission's oversight of the telecommunications industry. The Coalition's comments to GTEC and Pacific's proposed code revisions are below. For ease of reference, we have combined the separate lists of GTEC and Pacific, and ordered the code sections sequentially.

#### **Section 216; Section 234**

GTEC's proposed revisions would jeopardize the Commission's jurisdiction over ancillary business operations such as voice mail, enhanced services and yellow pages. Moreover, it would allow the LECs to discriminate against competitive local carriers. The Commission should reject these proposed revisions.

**Section 314(a)&(b); Section 314.5**

The California local exchange and local access markets are not yet competitive. Without these code sections, how will the Commission investigate service quality and consumer complaints and conduct audits? Do GTEC and Pacific propose that California citizens will have to look to Washington for any relief (under the '96 Telecom Act)? Section 314(b) is the backbone of the Commission's authority to examine affiliates and prevent cross subsidization. The Commission must retain its regulatory authority.

**Section 451; Section 455; Section 457; Section 491; Section 532; Section 585; Section 740; Section 767.5**

These code sections concern rate structures and regulation, topics which are currently being considered by the Commission in the OANAD proceeding. In addition, the Universal Service decision (D.96-10-066) mandates that the Commission monitor such rates. Until a truly competitive environment is achieved, the Commission and the code should continue to safeguard consumers' level of service and their voice in determining rates. These code sections should remain in force.

**Sections 453(a)&(c); Section 454; Section 461; Section 461.2; Section 7902.5**

These sections also deal with rate setting, but concern issues currently being considered by the FCC in its Local Competition proceeding, specifically regarding preferential rates and rate increases. It would be premature for the Legislature to modify these provisions, which could result in California law being at variance with federal mandates. Unreasonable differences in rates must be prohibited as long as any incumbent local carrier retains monopoly power.

**Section 489(a); Section 495; Section 495.7**

Tariffs should remain a necessary part of regulation and doing business in the state. They inform and protect consumers, and they provide the only way for competitive carriers to compare access charges.

**Section 529(b); Section 530(c)**

These sections provide important protections for competitors. Until real competition has matured in California, these sections should remain in place. In addition,

proposing to eliminate a law that gives parties the freedom to contract is contrary to GTEC's position that we live in a vibrantly competitive market.

**Section 587**

GTEC's proposal is inconsistent with Section 272 of the '96 Telecom Act. Given the nascent stage of local competition, it is still necessary for the Commission to examine transactions between affiliates.

**Section 701.5**

We see no reason to modify the existing statute. The Commission must retain its authority to regulate the financing arrangements of regulated companies. GTEC's proposed revision would undermine the Commission's authority to ensure that shareholders bear the responsibility for business decisions made by cost-of-service regulated companies.

**Section 708.3**

This section should not be changed because it remains an important consumer protection. A minimum level of customer service must be regulated and mandated by the Commission, even in a completely developed competitive environment.

**Section 709.5**

This section should remain. The Commission has not completed this requirement.

**Section 728**

The Commission should take quality into consideration when setting rates.

**Section 728.2**

The incumbent LECs have a near monopoly over directories, and these revenues remain available to support the LECs' basic service. Competitive local carriers will be dependent upon LECs for listings.

**Section 728.3**

Public payphones impact access for many customers who do not have phone service. Until telephone penetration levels have reached their objective, the thirty-day removal requirement should remain. Pay phones may be the only outlet for an emergency call.

**Section 728.4**

This section should certainly remain. It is the customer's choice to list a facsimile number in a directory. The statute comports with customer expectations.

**Section 728.7; Section 729.5**

These sections require public utilities to notify customers of proposed rate changes. The Coalition believes that in this volatile and emerging competitive market, notice to customers is vitally important. The Coalition is mystified by Pacific's position that these provisions should be changed or eliminated.

**Section 729**

Although Pacific imagines a world where no regulation is necessary, that is not the real world at present, where the ILECs are entrenched monopolists and will be for years to come. Because local competition is nonexistent, the Commission should remain the arbiter of rate fairness. The Coalition urges that the Commission retain its regulatory authority until total rate freedom becomes possible through true competition.

**Section 739.3**

If this proposal mean that GTEC would like to reorganize this section to conform with other universal service code sections, the Coalition has no objection.

**Section 742(b)**

In its Order 97-01-042, the Commission issued certain requirements regarding customer information pages (i.e., supply of customer service numbers). This section is not inconsistent with this recent order, and should be maintained.

**Section 742.1(a)**

This statute must remain. OAS services are provided by companies who are not telecommunications providers. The section provides the Commission with the authority to regulate these non-telco providers.

**Section 779.2**

This statute remains important, even if we assumed that competition were fully developed in California. The Commission needs the authority to regulate when and how a provider can terminate service. Regulation is important to prevent disconnection of service to a reseller and to protect consumers from being terminated without notice and without adequate safeguards.

**Section 779.5**

Deposit requirements are another important consumer protection safeguard. We see no reason to eliminate the application of this provision to telecommunications providers.

**Section 788**

The Commission should reject this proposed revision; notice to consumers has nothing to do with GTEC's alleged competitive marketplace. This requirement remains an important consumer protection safeguard.

**Section 792**

Until a time when California enjoys a fully developed competitive market, the Commission should continue to oversee the accounting of regulated companies.

**Section 795**

Interconnection rates are still based on cost; competitive carriers are buying a monopoly service. Until there is an ubiquitous connection, the "bottleneck" problem remains.

**Section 797; Sections 816-830; Sections 851-856; Section 7902**

GTEC's proposed revision would be inconsistent with '96 Telecom Act. At this point in time, it is still important to have Commission oversight of transactions involving regulated providers.

**Section 798**

There is no real competition in GTEC and Pacific's monopoly markets. It is vitally important for the Commission to continue to regulate against cross subsidy and discrimination.

**Section 879.5; Section 882**

As a result of the Universal Service Order, many implementation issues will soon be resolved. These code sections should not be eliminated until new competitors have fully entered the local market and all parties have complied with the Universal Service Order.

**Section 1802.5; Section 1807**

The participation and alignment of intervenors should be encouraged. No change is necessary. The Commission has requested comments on this issue in 97-01-009.

**Section 1821; Section 1822; Section 1823; Section 1824**

These code provisions all concern the use of computer models in proceedings before the Commission. The decisions in the OANAD and Universal Service (R.95-01-020) proceedings both rely upon computer models, which are still being used. Eliminating these sections (or modifying them in some way unspecified by Pacific) would introduce an unacceptable element of confusion to an already complicated situation.

**Section 2882.3**

This section is necessary to maintain consumer protection and to ensure fair competition. This provision should be extended beyond January 1, 1998 sunset date.

**Section 2882.5; Section 2884.2; Section 2884.3**

These code sections should be updated, not eliminated, to reflect the Commission's task force reports.

**Section 2885**

Privacy issues surrounding wireless services remain important within the industry. This section should be updated to reflect the current feasibility of the program.

**Section 2889.8**

The Commission should maintain the responsibility of overseeing network availability and reliability. This is a critical component of the Commission's duties, and this section provides the avenue for recourse if "reliability" fails and becomes an issue.

**Section 2893(b)**

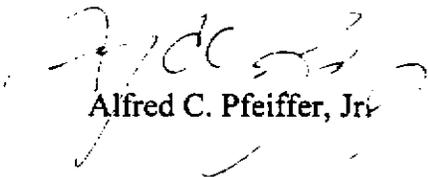
GTEC's suggested revision would be inconsistent with '96 Telecom Act. A carrier cannot impose a charge on resellers not borne by the wholesaler.

**Section 7930**

The Coalition agrees that the time interval to notify the Commission of a carrier's intent to establish a new area code should be less than twenty-four months.

We appreciate the opportunity to comment on GTEC and Pacific's proposals, and we look forward to working with you throughout this legislative session.

Very truly yours,



Alfred C. Pfeiffer, Jr.

cc: Attached Service List



February 13, 1997

Mr. Kent Kauss  
Chief,  
Office of Governmental Affairs  
California Public Utilities Commission  
1227 "O" Street, Suite 404  
Sacramento, CA 95814

Dear Kent:

GTE California Incorporated (GTE) appreciates this opportunity to reply to the comments of Pacific Bell, the Union Pacific Railroad Company, and the California Telecommunications Coalition concerning the implementation of Sections 12 and 14 of Senate Bill 960. The California Legislature has presented the Commission and the telecommunications industry with the necessary yet challenging task of reforming the Public Utilities Code and telecommunications regulations to reflect the competitive marketplace. This mandate will best be accomplished by the development of a comprehensive conceptual framework which can serve as a guide for the Commission and industry participants throughout the reformation process. GTE submits that the principle of competitive neutrality balanced with an appropriate level of consumer protection should constitute the governing principles of the reform.

Consistent with these principles, GTE's proposal replaces the Commission's role from the managed regulation of the monopoly era to one of oversight regulation. The proposal advocated by Pacific Bell echoes this long term, forward looking view of reforming California's telecommunications regulations and statutes, although the specific structuring of the reform differs in some aspects. GTE also believes that a separate Code section should be established for telecommunications. This is necessitated by the divergent restructuring of the telecommunications industry from that of the electric and, as Union Pacific notes in its comments, the transportation industry.

The clear import of the Coalition's comments is that reform under Sections 12 and 14 should not take place at any time in

the discernable future. The Coalition states that, "it is critical that the legislature and regulators not alter regulations in such a way as to tip the scales in favor of one party or interest group over another." However, as GTE's December 17, 1996 letter and attached matrix demonstrate, if the current regulations and Code are not expeditiously revised, the competitive scales will be tipped overwhelmingly in favor of the Coalition members and other competitive carriers. The areas in which such competitive discrepancies between incumbent LECs and other carriers exist are numerous and pervasive -- tariff filings, cost study standards, new service introductions, target marketing, pricing flexibility, affiliate transactions, financing arrangement and restrictions, payment of intervenor compensation, and many other areas. In enacting Section 14, the Legislature wisely provided a mechanism by which the voluminous, monopoly era Code and regulations must be reviewed and revised "in order to enhance fair competition."

The Coalition's comments are marked by a lack of any concrete proposals for reviewing California's statutes and regulations for consistency with the competitive telecommunications environment. To this end, the Coalition's comments are composed simply of rhetoric designed to preserve the yoke of monopoly era restrictions upon incumbent local exchange carriers for as long as possible. However, a delay in the meaningful revision of monopoly based regulations clearly works to the competitors' significant advantage and to the incumbent carriers' serious detriment.

This status quo mind set must be recognized as the antithesis of the intent of the Legislature in enacting Sections 12 and 14. Consistent with the Telecommunications Act of 1996 (the Act), the Commission has opened California's local market to competition. Over 78 carriers have been granted certificates of public convenience and necessity to provide local service. The Commission has approved numerous interconnection agreements filed by GTE and by Pacific, and competitors and incumbents are exchanging traffic in various locales. Wholesale prices have been established in several arbitrations, and some competitors have begun aggressive advertising campaigns in the State. There is no requirement in Senate Bill 960, (as the Coalition's comments would suggest), that incumbent carriers must lose some as yet to be quantified market share before any meaningful reform of the Code can be instituted. As Commissioner Duque aptly remarked at a recent Commission meeting, the Commission has accomplished its objective of opening local markets to competition. It is now up to the competitors to utilize the competitive stage that has been set for them and to fulfill the pledges that they made to enter the California market once the

Commission opened local service to competition. In the case of telecommunications, regulatory reform that is delayed will translate into a denial of effective competition for consumers. Thus, rather than attempting to delay the legislative mandate of regulatory and statutory reform, telecommunications participants should propose specific, constructive revisions in accordance with Sections 12 and 14. While consensus is not likely to be reached, it is clear that suggested reforms which balance the principle of competitive neutrality with the needed level of consumer protection are to be accorded serious review by the Commission and the Legislature.

The Coalition states that it recognizes that there may be Code provisions that are "outdated, or by their terms, no longer applicable or appropriate. Eliminating such provisions would be a useful 'housekeeping' measure." It is obvious, however, that in enacting Sections 12 and 14, the Legislature envisioned more than just a cosmetic cleanup of the Code and regulations to eliminate provisions which contain, for example, reporting requirements which have long since expired. Section 14 directs the Commission to submit a report to the Legislature by March 31, 1997 concerning its recommendations for changes to regulations or statutes that may be required as a consequence of the changing competitive environment. This is clearly designed as the mechanism by which all such proposed reforms that "may be required" should be raised so that they can be considered. This Section provides for only one such report to be submitted, which evidences the Legislature's intent that the report be a comprehensive submission of suggested reform. The submission of mere housekeeping of clearly outdated, non-controversial regulations or statutes would not fulfill the Commission's responsibility to the Legislature under Section 14.

By its submission, GTE has provided an overview of the reforms which are necessary to establish competitive neutrality, provide consumer protection, and remove outdated and irrelevant code sections. The key components of GTE's proposal are:

1. deregulate the provisioning of retail services;
2. maintain the Commission's authority to regulate wholesale services;
3. provide the Commission with the authority to forebear from regulating when consumers are adequately protected, or when a regulated carrier demonstrates that

it is competitively disadvantaged by a particular provision or rule; and

4. establish a separate Code section for the telecommunications industry.

This framework is consistent with Sections 12 and 14, as well as the Act. A distinction should be made between the regulation of wholesale and retail services. Section 252 of the Act grants the Commission the authority to regulate aspects of inter-carrier wholesale business by approving all negotiated agreements and resolving disputed issues through arbitration. However, with the exception of "safety net" social programs that must continue to be regulated, the competitive market will discipline retail services. As the Commission itself noted when it began the process of opening local markets to competition in California:

First, command and control planning rarely, if ever, works well amidst the immutable market forces of the sort currently underway in telecommunications.

Second, the breadth and scope of central planning and coordination necessary to respond to the immense diversity of consumer demands make this approach far more difficult in California than would be the case in other, more homogeneous states.

Third, command-and-control planning is incompatible with the astounding rate, vast scope and unpredictable nature of technological innovation within the telecommunications industry. The state of the art in telecommunications technologies are evolving so rapidly that recent advances are quickly eclipsed. This presents a hostile environment for conventional command-and-control government planning.

Finally, a command-and-control style telecommunications strategy would put California greatly at odds with the evolving policy at the federal level, where the shortcomings of such an approach have been recognized for some time.

Mr. Kent Kauss  
February 13, 1997  
Page 5

(The Commission's November, 1993 Report to the Governor, Enhancing California's Competitive Strength: A Strategy For Telecommunications Infrastructure, pp.10-11).

The suggested legislation that GTE included with its December 17, 1996 letter is an approach that balances the need for the elimination or revision of statutes that will obstruct competition, and the continuing need for consumer protection and some wholesale regulation. This legislation would not require automatic regulatory forbearance by the Commission. Instead, any telephone carrier may petition the Commission for forbearance from any order, rule or regulation, and the Commission would be granted forbearance authority in the event that it determines that consumers would be adequately protected and the telephone company is competitively disadvantaged by the requirement. This legislation thus provides a process whereby a carrier may present a regulation that it believes to be anti-competitive to the Commission for review, while correspondingly granting the Commission the authority to determine the appropriateness of the regulation in the competitive environment, and to forbear from regulating when the Commission finds that such a course is proper.

In summary, GTE believes that its proposed legislation provides the Commission with the conceptual foundation necessary to implement the Legislature's mandate to reform the Code and regulations in order "to enhance fair competition." GTE's matrix provides a starting point for the specific Code sections that must be revised consistent with this mandate. Please call me at (916) 441-0486 if you wish to discuss this matter or any aspect of GTE's proposal.

Very truly yours,



Anthony W. Armstrong  
Executive Director  
Governmental Affairs

February 10, 1997

Mr. Kent W. Kauss  
Chief, Office of Governmental Affairs  
California Public Utilities Commission  
1227 'O' Street, Suite 2000  
Sacramento, California 95814

Dear Mr. Kauss:

In reply to your letter of January 10, 1997, we wish to make the following response to the comments filed by others on code revision requirements in SB 960.

We believe that GTEC's comments are consistent with Pacific's in advocating a "fresh start" and comprehensive revision of the Public Utilities Code. We wholeheartedly support this approach for making the code revision process consistent with emerging competition in the telecommunications industry in California. The CPUC has not been free to reduce regulation in the competitive environment due to outmoded and unnecessary statutory constraints. We strongly believe it's time to change the code and to define a more appropriate role for the CPUC in this new competitive world, a role protecting consumers and assuring quality service.

The recommendations from the California Telecommunications Coalition fail to assist the Commission in obtaining any useful guidance for modernizing an antiquated Public Utilities Code. The critical issue is how to square the Code with a competitive marketplace in both the present and the future. Without a complete revision, the outmoded Code is a serious impediment to the significant changes contemplated by both the CPUC on the state side and required by Congress as part of the Federal Telecommunications Act. The Coalition offered no recommendations on change required to move California into the 21st Century and a competitive marketplace; rather it focused, as usual, on attacking and hamstringing the local exchange community.

The marketplace will protect consumers much more effectively than government regulation, if given a chance. If prices are too high or service is deficient, customers can change providers and close accounts; that's as it should be under competition where customer choice and customer demand fuel markets. Consistent with this theme, we believe comprehensive Code revision is both necessary and critical to providing balanced treatment of all competitors on a service basis approach to competition in California. Undertaking substantial code revision is the first step in breaking away from competitive gaming at the CPUC.

Thank you for the opportunity to work with your office and the Commission on this important issue. We look forward to continuing this dialogue in the months ahead as we work with the Commission and with other industry members.

Sincerely,

A handwritten signature in black ink, appearing to read "J. A. Gueldner". The signature is fluid and cursive, with a large initial "J" and "G".

J. A. Gueldner  
Vice President  
Regulatory

cc: President P. G. Conlon, Commissioner H. M. Duque,  
Commissioner R. A. Bilas, Commissioner J. J. Knight, Jr.,  
Commissioner J. L. Neeper, D. Duda, F. Fenikile, J. Jimenez, R. Lane,  
J. Scadding, T. Sullivan, L. Wong, W. M. Franklin, J. M. Leutza,  
P. Arth, Jr.

## Suggested Revisions to Public Utilities Code

Telecommunications				
Code Section	Suggested Action	Rationale	Opposition	CPUC
<p><b>216</b> Defines a public utility. Includes a "telephone corporation" within the definition of a public utility.</p>	<p><b>Amend:</b> GTE &amp; *PacBell suggest substituting the definition of a "telecommunications carrier" under Section 153(49) of the Telecommunications Act of 1996 (the Act) for that of a "telephone corporation."  Union Pacific also suggests amending section. See discussion below.</p>	<p>To achieve consistency between state and federal definitions.</p>	<p>Coalition feels change would allow LECs to discriminate against competitive local carriers and would jeopardize the Commission's jurisdiction over ancillary business operations such as voice mail, enhanced services, and yellow pages.</p>	<p>Opposes amendment--the definition of a "telecommunications carrier" is broader than "telephone corporation." For example, telecommunications carriers include one-way paging companies which have been deregulated in California.</p>
<p><b>230.3</b> Defines service areas as the local access and transport areas defined by the MFJ in the AT&amp;T case.</p>	<p><b>Amend:</b> GTE &amp; *PacBell suggest revising this sections so that it will be consistent with § 153(43) of the Act.</p>	<p>To achieve consistency between state and federal definitions.</p>	<p>None reported</p>	<p>Opposes amendment--competition has not yet sufficiently developed.</p>

<p><b>234</b> Defines telephone corporation.</p>	<p><b>Amend:</b> GTE &amp; *PacBell suggest substituting the definition of a "telecommunications carrier" under Section 153(49) of the Act for that of a "telephone corporation."</p>	<p>To achieve consistency between state and federal definitions.</p>	<p>Coalition feels change would allow LECs to discriminate against competitive local carriers and would jeopardize the Commission's jurisdiction over ancillary business operations such as voice mail, enhanced services, and yellow pages.</p>	<p>Opposes amendment--the definition of a "telecommunications carrier" is broader than "telephone corporation."</p>
<p><b>314(a)</b> Allows any person employed by the Commission to examine under oath any employee of a public utility and, at any time, to inspect the accounts, books, papers, and documents of any public utility.</p>	<p><b>Amend:</b> GTE &amp; *PacBell suggest modifying this provision to exclude telecommunications carriers.</p>	<p>To remove an inappropriate level of oversight in a competitive environment.</p>	<p>Coalition &amp; CalTel feel that since local exchange and local access markets are not yet competitive, the Commission must retain this authority to investigate service quality and consumer complaints and conduct audits.</p>	<p>Opposes amendment--the right to review a company's books is still necessary as competition is just beginning.</p>
<p><b>314(b)</b> Applies subdivision (a) (power to inspect utility documents) to an affiliate of a public utility.</p>	<p><b>Amend:</b> GTE &amp; *PacBell suggest modifying this provision to exclude telecommunications carriers.</p>	<p>To remove an inappropriate level of oversight in a competitive environment.</p>	<p>Coalition &amp; CalTel feel that Commission must retain the authority to examine affiliates to prevent cross subsidization.</p>	<p>Opposes amendment--affiliate transactions are critical ways to track anti-competitive behavior.</p>

<p><b>314.5</b> Requires Commission to inspect and audit books and records for regulatory and tax purposes every three or five years depending on number of customers corporation serves.</p>	<p><b>Amend:</b> GTE &amp; PacBell suggest modifying this provision to exclude telecommunications carriers.  Union Pacific also suggests amending this section. See discussion below.</p>	<p>To remove an inappropriate level of oversight in a competitive environment.</p>	<p>Coalition &amp; CalTel feel Commission should be required to conduct these audits since local markets are not yet competitive.</p>	<p>Agrees with amendment--does not want to be required to perform audits every 3 years. However, still wants authority to audit books of affiliates as competition has not sufficiently developed to eliminate the need.</p>
<p><b>451</b> Requires public utilities to charge just and reasonable rates for services.</p>	<p><b>Unclear:</b> PacBell states that this section is in need of reform.  SoCalGas also suggests amending this section. See discussion below.</p>		<p>Coalition feels that Commission should continue to monitor rates and safeguard consumers' level of service and their voice in determining rates until a truly competitive environment is achieved.</p>	<p>Opposes any change-- regulation should remain in place to protect consumers and the competitive process as California proceeds though the transition from a monopoly to a competitive market.</p>

<p><b>453(a)&amp;(c)</b> Prohibits public utilities from providing preferential rates or services to any customer.</p>	<p><b>Unclear.</b> PacBell states that this section is in need of reform.  SoCalGas also suggests amending this section. See discussion below.</p>		<p>Coalition feels that since this issue is currently being considered by the FCC, it would be premature for the Legislature to modify these provisions, which could result in California law being at variance with federal mandates. Coalition feels that unreasonable differences in rates must be prohibited as long as any incumbent carrier retains monopoly power.</p>	<p>Opposes any change-- regulation should remain in place to protect consumers and the competitive process as California proceeds though the transition from a monopoly to a competitive market.</p>
<p><b>454</b> Prohibits public utilities from changing rates, except upon showing to Commission that the new rate is justified. Commission may adopt rules regarding the showing required and shall permit customers affected by the proposed rate change to testify at any hearing on the proposed change.</p>	<p><b>Unclear.</b> PacBell states that this section is in need of reform.  SoCalGas also suggests amending this section. See discussion below.</p>		<p>Coalition feels that since this issue is currently being considered by the FCC, it would be premature for the Legislature to modify these provisions, which could result in California law being at variance with federal mandates.</p>	

<p><b>455</b> Rules for implementing rate change after Commission action.</p>	<p><b>Unclear.</b> PacBell states that this section is in need of reform.</p>		<p>Coalition feels that Commission should continue to monitor rates and safeguard consumers' level of service and their voice in determining rates until a truly competitive environment is achieved.</p>	<p>Opposes any change-- regulation should remain in place to protect consumers and the competitive process as California proceeds though the transition from a monopoly to a competitive market.</p>
<p><b>457</b> Permits establishment of sliding scale of charges if schedule has been filed with and approved by the Commission. Permits Commission to revoke approval at any time.</p>	<p><b>Unclear.</b> PacBell states that this section is in need of reform.</p>		<p>Coalition feels that Commission should continue to monitor rates and safeguard consumers' level of service and their voice in determining rates until a truly competitive environment is achieved.</p>	<p>Opposes any change-- regulation should remain in place to protect consumers and the competitive process as California proceeds though the transition from a monopoly to a competitive market.</p>

<p><b>461</b> Prohibits greater aggregate charges/compensation from short distance calls compared to longer distance calls on same route without Commission authorization.</p>	<p><b>Delete:</b> GTE &amp; *PacBell suggest eliminating this section.</p>	<p>Section is antiquated and inappropriate for any class of services provided. Section restricts competitive pricing.</p>	<p>Coalition feels that since this issue is currently being considered by the FCC, it would be premature for the Legislature to modify these provisions, which could result in California law being at variance with federal mandates. Coalition feels that unreasonable differences in rates must be prohibited as long as any incumbent carrier retains monopoly power.</p>	<p>Agrees with deletion--section is no longer necessary.</p>
<p><b>461.2</b> Requires that revenues and expenses associated with simple inside wire be included for establishing rates.</p>	<p><b>Amend:</b> GTE &amp; *PacBell suggest modifying this section so that it applies only to those utilities subject to cost of service regulation.</p>	<p>To remove an inappropriate requirement for utilities subject to incentive regulation</p>	<p>Coalition feels that since this issue is currently being considered by the FCC, it would be premature for the Legislature to modify these provisions, which could result in California law being at variance with federal mandates. Coalition feels that unreasonable differences in rates must be prohibited as long as any incumbent carrier retains monopoly power.</p>	<p>Agrees with amendment--section should apply only to cost-of-service telephone corporations.</p>

<p><b>489(a)</b> Requires the Commission to order public utilities to file schedules containing rates, charges, classifications, rules, etc.</p>	<p><b>Amend:</b> GTE &amp; PacBell suggest modifying this section to exempt telecommunications retail services from tariffing requirements.</p>	<p>Section currently makes no distinction between the tariffs required of telecommunications carriers and other utilities. It also fails to recognize differences between classes of telecommunications providers or the types of service (wholesale/retail) offered.</p>	<p>Coalition &amp; CalTel feel that tariffs should remain a necessary part of regulation and doing business in the state as they inform and protect consumers, and provide the only way for competitive carriers to compare access charges.</p>	<p>Opposes amendment—regulation should remain in place to protect consumers and the competitive process as California proceeds though the transition from a monopoly to a competitive market.</p>
--	---	---	---	---

<p><b>491</b> Requires 30 days notice for rate, rule, and classification changes unless the Commission approves less.</p>	<p><b>Amend:</b> GTE &amp; PacBell suggest modifying this section to provide that notice requirements for non cost-of-service telecommunications carriers is applicable to only those services provided on a wholesale basis, lifeline, Deaf and Disabled Telecommunications Program ("DDTP"), and basic services. In addition, they suggest that the notification period for such carriers should be reduced to be equal to the notification requirements imposed on CLCs, and that other retail services should be exempt from any customer notification requirements.</p>	<p>Section makes no distinction between the customer notification required of telephone companies and other utilities. Section also fails to recognize any differences between classes of telecommunications providers or the types of services (wholesale/retail) offered.</p>	<p>Coalition feels that until a truly competitive environment is achieved, code section should remain in place so the Commission will be able to continue safeguarding consumers level of service and their voice in determining rates. Coalition also notes that rate structures and regulation are currently being considered by the Commission in the OANAD proceeding.</p>	<p>Opposes amendment-- modification unnecessary because they have recently amended GO96A to reflect the growth in competition.</p>
---	--	---	--	--

<p><b>495</b> Requires telephone corporations to file rate and classification schedules for intra and interstate routes.</p>	<p><b>Amend:</b> GTE &amp; PacBell suggest modifying this section so it applies only to those services provided on a wholesale basis, lifeline, DDTP, and basic services. Other retail service should not be subject to tariff regulation.</p>	<p>This section makes no distinction between classes of telecommunications providers or the types of service (wholesale/retail) offered. This section also duplicates Section 489.</p>	<p>Coalition &amp; CalTel feel that tariffs should remain a necessary part of regulation and doing business in the state as they inform and protect consumers, and provide the only way for competitive carriers to compare access charges.</p>	<p>Opposes amendment-- regulation should remain in place to protect consumers and the competitive process as California proceeds though the transition from a monopoly to competitive market.</p>
<p><b>495.7</b> Allows Commission to exempt certain services from tariffing requirements if competitive alternatives exist and the service complies with rules promulgated by the Commission with respect to consumer protection.</p>	<p><b>Delete:</b> GTE &amp; PacBell suggest deleting this section.</p>	<p>This section is unnecessary if retail services are detariffed.</p>	<p>Coalition feels that since retail services should not be detariffed, section remains necessary.</p>	<p>Opposes amendment-- regulation should remain in place to protect consumers and the competitive process as California proceeds though the transition from a monopoly to competitive market.</p>

<p><b>529(b)</b> Allows discounted travel and mail services on common carriers by telephone companies.</p>	<p><b>Delete</b> GTE &amp; PacBell suggest deleting this section.</p>	<p>Express authority to grant passes or franking privileges is no longer relevant or necessary in a competitive environment.</p>	<p>Coalition feels that section should remain in place until real competition has matured as it provides important protections for competitors.</p>	<p>Opposes deletion- -no need to change code section has been show and deletion is potentially anti-competitive.</p>
<p><b>530(c)</b> Allows common carriers to enter into contracts with telephone corporations for exchange of service.</p>	<p><b>Delete</b> GTE &amp; PacBell suggest deleting this section.</p>	<p>Section is antiquated; express authority granted in section is unnecessary.</p>	<p>Coalition feels that section should remain in place until real competition has matured as it provides important protections for competitors. Also notes that proposing to eliminate a law that gives parties the freedom to contract is contrary to GTE's position that we live in a vibrantly competitive market.</p>	<p>Opposes deletion- -no need to change code section has been show and deletion is potentially anti-competitive.</p>
<p><b>532</b> Prohibits public utilities from charging rates different from those specified in its schedule on file. Permits Commission to establish exceptions to section by rule or order.</p>	<p><b>Unclear:</b> PacBell states that this section is in need of reform.</p>		<p>Coalition feels that Commission should continue to monitor rates and safeguard consumers' level of service and their voice in determining rates until a truly competitive environment is achieved.</p>	<p>Opposes any change--section prohibits rate discrimination.</p>

<p><b>585</b> At any rate proceeding, requires public utilities to provide the Commission with access to all computer models used by the public utility to substantiate their showing.</p>	<p><b>Unclear:</b> PacBell states that this section is in need of reform.</p>		<p>Coalition feels that Commission should continue to monitor rates and safeguard consumers' level of service and their voice in determining rates until a truly competitive environment is achieved.</p>	<p>Opposes any change--provision is critical to the OANAD &amp; Universal Service proceedings ongoing at the Commission.</p>
<p><b>587</b> Requires electric, gas, and telephone corporations to report significant transactions between the corporation and subsidiary affiliates.</p>	<p><b>Amend:</b> GTE &amp; *PacBell suggest modifying section to limit the reporting of affiliated transactions associated with the provisioning of wholesale services. Also suggest that section should apply to all telecommunications carriers.</p>	<p>Consistent with GTE's position to limit regulation to wholesale services.</p>	<p>Coalition &amp; CalTel feel that this change is inconsistent with Section 272 of the Act. Also feel that it is still necessary for the Commission to examine transactions between affiliate given the nascent stage of local competition.</p>	<p>Opposes amendment-- affiliate transactions must be monitored as competition develops.</p>

<p><b>701.5</b> Prohibits corporations whose rates are set by the Commission on a cost-of-service basis from issuing any indebtedness that pledges the utility assets or credits for or on behalf of any subsidiary or affiliate of, or corporation holding a controlling interest in the utility.</p>	<p><b>Amend:</b> GTE &amp; *PacBell suggest modifying to expressly state that the entire statute refers only to cost-of-service regulated telecommunications carriers.</p>	<p>To clarify and ensure that his statute only applies to cost-of-service regulated communications carriers, because it would be unnecessary regulation for a non-cost-of-service carrier.</p>	<p>Coalition feels that revision would undermine the Commission's authority to ensure that shareholders bear the responsibility for business decisions made by cost-of-service regulated companies. Also notes that Commission must retain its authority to regulate the financing arrangements of regulated companies.</p>	<p>Opposes amendment-- unnecessary since section clearly applies only to cost-of-service utilities already.</p>
<p><b>708</b> Requires employees of electric, gas, and telephone corporations who enter customer premises to have photo ID cards.</p>	<p><b>Amend:</b> GTE &amp; *PacBell suggest modifying section so it applies to employees of all telecommunications carriers.</p>	<p>Section provides protection for consumers and its effectiveness would be compromised if it did not apply to all carriers.</p>	<p>None reported</p>	<p>Opposes amendment-- unnecessary as section already applies to all telecommunications corporations.</p>

<p><b>708.3</b> Requires certain utilities to provide reasonable, non business hour alternatives to customers for business transactions.</p>	<p><b>Amend:</b> GTE &amp; *PacBell suggest modifying section to remove references to telephone corporations.</p>	<p>State law has declared this market competitive and as such this requirement becomes a differentiator in a competitive market.</p>	<p>Coalition feels requirement remains an important customer protection and that a minimum level of customer service must be regulated and mandated by the Commission, even in a completely developed competitive environment.</p>	<p>Opposes amendment-- section provides an important consumer protection.</p>
<p><b>709.5</b> States intent of Legislature that all telecommunications markets be opened to competition by Jan. 1, 1997; provides some direction on how to accomplish this.</p>	<p><b>Delete:</b> GTE &amp; PacBell suggest deleting this section.</p>	<p>Section may be eliminated since Commission has completed requirement of opening telecommunications markets to competition.</p>	<p>Coalition and CalTel feel that since the Commission has not completed this requirement, the section should remain.</p>	<p>Opposes amendment-- regulation should remain in place to protect consumers and the competitive process as California proceeds though the transition from a monopoly to a competitive market.</p>
<p><b>728</b> Requires Commission to evaluate rates and service quality in adjacent territories when setting rates.</p>	<p><b>Amend:</b> GTE &amp; PacBell suggest modifying to eliminate requirements for telecommunications carriers.</p>	<p>Section is unnecessary for either wholesale or retail services with multiple service providers competing within the same territory.</p>	<p>Coalition feels Commission should take quality into consideration when setting rates.</p>	<p>Opposes amendment-- service quality continues to be a concern.</p>

<p><b>728.2</b> Limits the Commissions jurisdiction over directory publication with the exception of rates and charges for commercial directory advertising and impact of those revenues on other rates.</p>	<p><b>Amend:</b> GTE &amp; PacBell suggest modifying section to limit application to cost-of-service regulated telecommunications carriers.</p>	<p>Directory publishing is a highly competitive, market-driven business. Commission regulation is inappropriate for non-cost-of-service regulated telecommunications carriers.</p>	<p>Coalition and CalTel feel that incumbent LECs have a near monopoly over directories, and these revenues remain available to support the LEC's basic service. Also, competitive local carriers will be dependent upon LECs for listings.</p>	<p>Opposes amendment-- failure to consider yellow page revenues in setting rates is anti-consumer.</p>
<p><b>728.3</b> Requires telephone corporations to provide 30 days' notice prior to removal of a public telephone unless removed for public safety or public nuisance purposes or at request of property owner.</p>	<p><b>Delete:</b> GTE &amp; *PacBell suggest deleting this section.</p>	<p>Requirement is inappropriate since the pay phone business is highly competitive with many service alternatives. Additionally, no similar requirement exists for competing pay telephone providers.</p>	<p>Coalition feels the notice requirement should remain until telephone penetration levels have reached their objective. Notes that public pay phones impact access for many customers who don't have phone service.</p>	<p>Opposes deletion-- customers are entitled to a notice prior to a pay phone being removed.</p>
<p><b>728.4</b> Prohibits a telephone corporation from listing a telephone number as the number for a fax machine in its directory unless requested to do so by the subscriber.</p>	<p><b>Delete:</b> GTE &amp; *PacBell suggest deleting this section.</p>	<p>Inclusion of customers' fax numbers in directories should be a competitive differentiator.</p>	<p>Coalition feels that statute comports with customer expectations since it is the customer's choice to list a fax number in a directory.</p>	<p>Opposes deletion-- customers have a right to decide whether to have their fax numbers published in directories.</p>

<p><b>728.7</b> Requires customer notification of rate or surcharge changes that result from changes in intercompany payments.</p>	<p><b>Delete:</b> GTE &amp; PacBell suggest eliminating this provision for non-cost-of-service telecommunications carriers.</p>	<p>This regulation is inappropriate in a competitive market. Sufficient customer service requirements are set forth in section 491.</p>	<p>Coalition feels that in this volatile and emerging competitive market, notice to customers of proposed rate changes is vitally important.</p>	<p>Opposes deletion -customer notification is an important consumer safeguard.</p>
<p><b>729</b> Permits the Commission, upon a hearing, to investigate rates, practices, etc., of a public utility and to establish new rates, practices, etc.</p>	<p><b>Unclear:</b> PacBell states that this section is in need of reform.</p>		<p>Coalition feels that since local competition is nonexistent and the ILECs are entrenched monopolists, the Commission should retain its regulatory authority until total rate freedom becomes possible through true competition.</p>	<p>Did not address.</p>
<p><b>729.5</b> Prohibits a public utility from changing a group of customers from one rate schedule to another without first notifying customer if change would result in an increase of more than 10 percent. Permits Commission to hold hearing upon request of affected customer.</p>	<p><b>Unclear:</b> PacBell states that this section is in need of reform.</p>		<p>Coalition feels that in this volatile and emerging competitive market, notice to customers of proposed rate changes is vitally important.</p>	<p>Did not address.</p>

<p><b>739.3</b> Requires Commission to establish a transfer program to promote universal service and discourage rate disparity.</p>	<p><b>Amend:</b> GTE, *PacBell, &amp; Coalition suggest incorporating this section into Part 1, Article 8, para 871-878.</p>	<p>All universal service requirements should be addressed in a single section.</p>	<p>None reported.</p>	<p>Agrees that all provisions relating to Universal Service should be together in PUCODE.</p>
<p><b>740</b> Allows Commission to include research and development costs when setting rates.</p>	<p><b>Amend:</b> GTE &amp; *PacBell suggest modifying to exclude non-cost-of-service regulated telecommunications providers.</p>	<p>R&amp;D costs are appropriately recoverable costs; however, expressed authority is no longer relevant or necessary in a competitive environment.</p>	<p>Coalition feels that until a truly competitive environment is achieved, code section should remain in place so the Commission will be able to continue safeguarding consumers level of service and their voice in determining rates. Coalition also notes that rate structures and regulation are currently being considered by the Commission in the OANAD proceeding.</p>	<p>Agrees with amendment-- non-cost of-service telecommunications corporations should be excluded from this provision.</p>
<p><b>742.b</b> Requires telephone corporations to include instructions for public phones in its phone books.</p>	<p><b>Delete:</b> GTE &amp; *PacBell suggest deleting this provision.</p>	<p>Determination of contents of customer information pages in telephone books should not be mandated by the Commission.</p>	<p>Coalition argues that the Commission recently issued certain requirements regarding customer information pages. Current section is not inconsistent with this recent order and should be maintained.</p>	<p>Opposes deletion--section provides an important consumer protection.</p>

<p><b>742.1(a)</b> Prohibits Operator Assisted Services (OAS) by other than a telephone corporation unless Commission finds such services in public interest. Requires OAS information in Phone books.</p>	<p><b>Delete:</b> GTE &amp; *PacBell suggest deleting this provision.</p>	<p>Section is outdated because OAS service has already been approved by the Commission.</p>	<p>Coalition &amp; CalTel argue that statute must remain since OAS services are provided by companies who are not telecommunications providers and this section provides the Commission with authority to regulate these non-telephone company providers.</p>	<p>Opposes deletion--section allows for oversight over OAS providers.</p>
<p><b>767.5</b> Requires public utilities to provide surplus pole space and excess conduit capacity to cable television corporations at an annual recurring fee that is computed in the statute.</p>	<p><b>Delete:</b> GTE &amp; *PacBell suggest deleting this provision.</p>	<p>Under the Act, regulations concerning pole attachment and conduit occupancy must be applicable to all telecommunications carriers, not merely cable TV., and the current statutory rates are grossly non-compensatory in a competitive market. Under 47 U.S.C. 224 (c), the CPUC may regulate such rates, terms, and conditions, and the CPUC is in the process of promulgating such regulations in the Local Competition Docket.</p>	<p>Coalition feels that until a truly competitive environment is achieved, code section should remain in place so the Commission will be able to continue safeguarding consumers level of service and their voice in determining rates. Coalition also notes that rate structures and regulation are currently being considered by the Commission in the OANAD proceeding.</p>	<p>Disagrees with deletion--section ensures fair treatment of competitors on pole usage. Recommends an amendment to this section that would include television as well as cable companies, consistent with the non-discrimination provisions of the Act.</p>

<p><b>779.2</b> Prohibits a telephone corporation from disconnecting service for nonpayment under certain conditions.</p>	<p><b>Amend:</b> GTE &amp; *PacBell suggest modifying to exclude telecommunications carriers.</p>	<p>This section is unduly burdensome when operating in a competitive market. Consumers who are disconnected for nonpayment may obtain service from other carriers with less stringent credit and/or payment requirements.</p>	<p>Coalition feels statute would be important, even if competition were fully developed because the Commission needs the authority to regulate when and how a provider can terminate service. Notes that regulation is important to prevent disconnection of service to a reseller and to protect consumers from being terminated without notice and without adequate safeguards.</p>	<p>Opposes amendment-- customers should receive advance notice of termination of services.</p>
<p><b>779.5</b> States that the decision to require a deposit for a new residential applicant shall be based solely upon the credit worthiness of the applicant as determined by the corporation.</p>	<p><b>Amend:</b> GTE &amp; PacBell suggest modifying to exclude telecommunications carriers.</p>	<p>Deposit requirements should be a business decision determined at the discretion of each telecommunications carrier.</p>	<p>Coalition feels deposit requirements are another important consumer protection safeguard. Coalition sees no reason to eliminate the application of this provision to telecommunications providers.</p>	<p>Opposes amendment-- deposits are an important consumer safeguard.</p>

<p><b>786</b> Requires telephone corporations to provide a listing of services and associated charges to every residential subscriber annually. Also requires FCC charges be separately identified on the bill for residential and business subscribers.</p>	<p><b>Delete:</b> GTE &amp; PacBell suggest deleting this section.</p>	<p>Requirement to provide list of rates and services is inappropriate in a competitive environment. Universal Service requirements are set forth in Article 8 of the Code.</p>	<p>None reported.</p>	<p>Opposes deletion- -annual notices of available services are an important consumer safeguard.</p>
<p><b>788</b> Requires telephone corporations to provide annual notification to subscribers detailing inside wire responsibilities and options.</p>	<p><b>Delete:</b> GTE &amp; PacBell suggest deleting this section.</p>	<p>Inside wire has been deregulated and/or detariffed for more than thirteen years, and consistent with the Commission's goal of fostering a competitive market, this requirement should be lifted.</p>	<p>Coalition feels this requirement remains an important consumer protection safeguard. Coalition notes that notice to consumers has nothing to do with GTE's alleged competitive market place.</p>	<p>Opposes deletion- -annual notices are important consumer safeguards.</p>
<p><b>792</b> Grants the Commission authority to establish its own system of accounts.</p>	<p><b>Delete:</b> GTE &amp; PacBell suggest deleting this section.</p>	<p>For consistency across all telecommunications and jurisdictions, this section should require all telecommunications carriers to maintain their books of account in conformance with the FCC's Part 32 uniform system of accounts.</p>	<p>Coalition feels the Commission should continue to oversee the accounting of regulated companies until California enjoys a fully developed competitive market.</p>	<p>Opposes deletion- -use of a consistent accounting system is critical to regulatory oversight.</p>

<p><b>795</b> Requires that depreciation be carried on in accordance with Commission rules</p>	<p><b>Amend:</b> GTE &amp; *PacBell suggest amending to remove telecommunications carriers from this section.</p>	<p>In a competitive environment, telecommunications carriers should have the ability to set depreciation lives at market rates.</p>	<p>Coalition feels that interconnection rates are still based on cost; competitive carriers are buying a monopoly service. Until there is an ubiquitous connection, the "bottleneck" problem remains.</p>	<p>Opposes amendment--if a company is allowed to set its own depreciation rates, ratepayers could be affected.</p>
<p><b>797</b> Requires the Commission to periodically audit all significant transactions between an electrical, gas, or telephone corporation and every subsidiary or affiliate of, or corporation holding a controlling interest in that electrical, gas, or telephone corporation.</p>	<p><b>Amend:</b> GTE &amp; PacBell suggest modifying to limit audits of non-cost-of-service telecommunications carriers to transactions associated with provisioning of wholesale services.</p>	<p>Section is inappropriate for telephone corporations that are subject to incentive regulation.</p>	<p>Coalition and CalTel feel that revision would be inconsistent with the Act, and that at this point, it is still important to have Commission oversight of transactions involving regulated providers.</p>	<p>Opposes amendment--affiliate transaction audits are important until markets are competitive.</p>

<p><b>798</b> Establishes a penalty that the Commission can levy against a corporation if a finding is made that a payment was made or received by the corporation for the purpose of benefiting its subsidiary, affiliate, or holding company.</p>	<p><b>Amend:</b> GTE &amp; *PacBell suggest modifying to limit penalties to transactions involving wholesale services. Also suggest that the section be made applicable to all telecommunications carriers.</p>	<p>Section is inappropriate for telephone corporations that are subject to incentive regulation.</p>	<p>Coalition &amp; CalTel feel that since there is no real competition in GTEC and Pacific's monopoly markets, it is vitally important for the Commission to continue to regulate against cross subsidy and discrimination.</p>	<p>Opposes amendment--affiliate transaction audits are important until markets are competitive. ???</p>
<p><b>816-830</b> Upon an application for an order to issue stock or debt, allows the Commission to approve the terms and conditions of such issuance and exchange and the fairness of such terms and conditions.</p>	<p><b>Amend:</b> GTE &amp; *PacBell suggest modifying to exclude telecommunications carriers from the provisions of this chapter.</p>	<p>Section impairs a company's ability to raise capital on favorable terms available in the financial markets. Additionally, in a competitive market, access to a capital will require a shorter turnaround period or risk losing growth opportunities.</p>	<p>Coalition and CalTel feel that revision would be inconsistent with the Act, and that at this point, it is still important to have Commission oversight of transactions involving regulated providers.</p>	<p>Opposes amendment--such oversight ensures that captive customers are not adversely affected. CPUC would support an expedited approval process.</p>

<p><b>851-856</b> Establishes criteria the Commission must consider before authorizing a merger or acquisition of any utility with gross annual California revenues exceeding \$500 million.</p>	<p><b>Amend:</b> GTE &amp; PacBell suggest modifying to exclude telecommunications carriers from the provisions of this chapter.  SoCalGas also suggests amending section. See discussion below/</p>	<p>Inappropriate level of oversight in a competitive environment. Transfer issues and consumer safeguards are already reviewed by other agencies.</p>	<p>Coalition and CalTel feel that revision would be inconsistent with the Act, and that at this point, it is still important to have Commission oversight of transactions involving regulated providers.</p>	<p>Opposes amendment--ratepayer interests must be protected.</p>
<p><b>879.5</b> Provides instructions for Commission for adopting required rates and initial surcharges for universal service.</p>	<p><b>Delete:</b> GTE &amp; *PacBell suggest deleting this section.</p>	<p>Section is no longer necessary because the surcharge process required by the section has been implemented.</p>	<p>Coalition feels that although many implementation issues will soon be resolved as a result of the Universal Service Order, this section should not be eliminated until new competitors have entered the local market and all parties have complied with the Universal Service Order.</p>	<p>Opposes deletion--section provides the authority to impose the ULTS surcharge.</p>

<p><b>882</b> Requires Commission to initiate an investigation on the availability of advanced telecommunication service and to submit a report to the Legislature.</p>	<p><b>Delete:</b> GTE &amp; *PacBell suggest deleting this section.</p>	<p>Section is no longer necessary because this requirement has been completed and the Commission has issued its Universal Service Decision.</p>	<p>Coalition feels that although many implementation issues will soon be resolved as a result of the Universal Service Order, this section should not be eliminated until new competitors have entered the local market and all parties have complied with the Universal Service Order.</p>	<p>Opposes deletion--section should remain in force until new universal service program is fully implemented.</p>
<p><b>1802.5</b> Provides that participation by a customer that materially contributes to the presentation of another party, including the Commission staff, may be fully eligible for competition if the participation makes a substantial contribution to a Commission order or decision.</p>	<p><b>Amend:</b> GTE &amp; *PacBell suggest modifying to add that when said participation results in jointly filed comments, any intervenor compensation award should be borne by the aligned telecommunications carrier.</p>	<p>Significant contribution of the intervenor is difficult to isolate when they align themselves with a particular telecommunications carrier(s).</p>	<p>Coalition feels that no change is necessary as participation and alignment of intervenors should be encouraged. Also notes that the Commission has requested comments on this issue in 97-01-009.</p>	<p>Unclear-- CPUC has opened up a Rulemaking and Investigation to look at the Intervenor program and will be reviewing these issues. (R.97-01-009, I.97-01-010).</p>

<p><b>1807</b> Requires intervenor awards by paid by the public utility that is the subject of the hearing; authorizes recovery of any payment through rates the utility charges.</p>	<p><b>Amend:</b> GTE &amp; *PacBell suggest modifying to add provision requiring the Commission to equitably allocate payment to intervenors among all participants.</p>	<p>In a competitive proceeding, the intervenor funding requirement should be borne equally by all participants in the proceeding.</p>	<p>Coalition feels that no change is necessary as participation and alignment of intervenors should be encouraged. Also notes that the Commission has requested comments on this issue in 97-01-009.</p>	<p>Unclear-- CPUC has opened up a Rulemaking and Investigation to look at the Intervenor program and will be reviewing these issues.</p>
<p><b>1821-1824</b> Rules regarding use of computer models for forecasting.  Sections require computer models that are used as the basis for any testimony or exhibit in a hearing or proceeding before the Commission be available to the Commission and parties for review and verification. Also require Commission to periodically review and monitor the development and use of any operations model used by any public utility.</p>	<p><b>Unclear:</b> PacBell states that this section should be reformed.  Edison also suggests amending this section. See discussion below.</p>		<p>Coalition feels that modifying or eliminating Sections 1821-1824, concerning the use of computer models in proceedings before the Commission, would introduce an unacceptable element of confusion to an already complicated situation since the decisions in the OANAD and Universal Service proceedings both rely upon computer models.</p>	<p>Opposes any change--computer models are being used in OANAD and Universal Service proceedings and CPUC needs continued access to them.</p>

<p><b>2881, 2881.1</b> Requires the Commission to establish a program whereby each telephone corporation will provide access to the telephone network for deaf, hearing impaired and disabled subscribers (the DDTP) for free or at discounted rates. Establishes a rate recovery mechanism through a surcharge.</p>	<p><b>Amend:</b> GTE &amp; *PacBell suggest modifying to remove reference to telephone corporation as entity which physically provides telecommunications devices.</p>	<p>Allows the Commission to design the DDTP program in the most cost-effective and efficient manner in today's competitive environment.</p>	<p>None reported.</p>	<p>Agrees with amendment-- remove reference to telephone corporations as entities that physically provide telecommunications services.</p>
<p><b>2882.3</b> Prohibits LECs from cross-subsidizing enhanced services with non-competitive services. Prohibits anti-competitive behavior by LECs with respect to enhanced services</p>	<p><b>Delete:</b> GTE &amp; *PacBell suggest deleting this section.</p>	<p>Section will be repealed as of January 1, 1998, by its own provisions.</p>	<p>Coalition and CalTel feel that this section is necessary to maintain consumer protection and to ensure fair competition. Also feel that provision should be extended beyond 1998 sunset date.</p>	<p>Opposes deletion--section should be extended beyond 1998 sunset date.</p>

<p><b>2882.5</b> Requires Commission to investigate billing in increments of less than one minute.</p>	<p><b>Delete:</b> GTE &amp; *PacBell suggest deleting this section.</p>	<p>Section is no longer necessary because the investigation was completed December 31, 1995.</p>	<p>Coalition feels that instead of being deleted, this section should be updated to reflect the Commission's task force report.</p>	<p>Agrees with deletion--in its report in response to this section, CPUC recommended no legislative action in this area and instead allow the competitive markets to evolve.</p>
<p><b>2884.2</b> Requires the Commission to report to the Legislature regarding information access services. ("900" and "976" numbers)</p>	<p><b>Delete:</b> GTE &amp; *PacBell suggest deleting this section.</p>	<p>Section repealed January 1, 1996, by its own provisions.</p>	<p>Coalition feels that instead of being deleted, this section should be updated to reflect the Commission's task force report.</p>	<p>Opposes deletion--section remains today because sunset provision was eliminated by SB 664. CPUC supports section.</p>
<p><b>2884.3</b> Requires Commission to assemble task force to evaluate the telecommunications network infrastructure.</p>	<p><b>Delete:</b> GTE &amp; *PacBell suggest deleting this section.</p>	<p>This was repealed by the Legislature January 1, 1995.</p>	<p>Coalition feels that instead of being deleted, this section should be updated to reflect the Commission's task force report.</p>	<p>Section repealed as of January 1, 1995.</p>

<p><b>2885</b> Requires the Commission to determine before July 1, 1987 if a cellular telephone call notification system should be enacted to be placed on cellular calls to notify recipients that the conversation may not be totally private.</p>	<p><b>Delete:</b> GTE &amp; *PacBell suggest deleting this section.</p>	<p>Requirements of the statute are no longer timely since Commission action was required approximately 10 years ago.</p>	<p>Coalition feels that privacy issues surrounding wireless services remain important within the industry and that this section should be updated to reflect the current feasibility of the program.</p>	<p>Opposes deletion--section should be updated, not deleted. The privacy of cellular calls is still an issue.</p>
<p><b>2889.8</b> Directs the Commission to assess network reliability and report to the Legislature by December 31, 1993.</p>	<p><b>Delete:</b> GTE &amp; *PacBell suggest deleting this section.</p>	<p>This action was completed in 1993 and the section should therefore be deleted.</p>	<p>Coalition feels that the Commission should maintain the responsibility of overseeing network availability and reliability, and that this section provides the avenue for recourse if "reliability" fails and becomes an issue.</p>	<p>Partially agrees with deletion--section (d) should be deleted. The rest of the section is still a needed consumer safeguard.</p>
<p><b>2893(b)</b> Prohibits telephone corporations from charging customers for blocking caller ID.</p>	<p><b>Amend:</b> GTE &amp; *PacBell suggest modifying to allow for assessing resellers charges for blocking functions after the initial order.</p>	<p>Costs incurred by the facility-based carrier should be borne by the reseller receiving the economic benefit of the customer.</p>	<p>Coalition and CalTel feel that the revision would be inconsistent with the Act</p>	<p>Opposes amendment-- amendment inconsistent with the Act.</p>

<p><b>7902</b> Permits a telephone corporation to sell, transfer, assign, etc., any property rights, privileges, except its corporate franchise, upon consent of two-thirds of the shareholders.</p>	<p><b>Delete:</b> GTE &amp; *PacBell suggest deleting this section.</p>	<p>The conditions governing the sale or transfer of property by any telecommunications carrier should be the same for all carriers and should be governed by state corporations law.</p>	<p>Coalition feels that revision would be inconsistent with the Act, and that at this point, it is still important to have Commission oversight of transactions involving regulated providers.</p>	<p>Opposes deletion-section provides protection for stockholders.</p>
<p><b>7902.5</b> Requires every telephone corporation to file a report with the Commission by May 1, 1984 indicating its existing as well as future lines of business.</p>	<p><b>Delete:</b> GTE &amp; *PacBell suggest deleting this section.</p>	<p>Section is outdated by its own provisions.</p>	<p>Coalition feels that since this issue is currently being considered by the FCC, it would be premature for the Legislature to modify these provisions, which could result in California law being at variance with federal mandates. Coalition feels that unreasonable differences in rates must be prohibited as long as any incumbent carrier retains monopoly power.</p>	<p>Agrees with amendment--has sought legislation to effectuate the change.</p>

<p><b>7930</b> States required notice schedule for area code changes. Requires 24 months' advance notification; at least 3 public meetings held within 6 months after giving notice; written notice of the specific geographic area to be included in the new area code to all affected subscribers at least 15 months prior to the new code going into effect.</p>	<p><b>Amend:</b> GTE, *PacBell, &amp; Coalition suggest modifying to reduce the 24-month advance notification to 12 months due to accelerated pace of number exhaustion. Suggest eliminating requirement for 3 public meetings and reducing the 15-month notice requirement to 6 months prior to new code going into effect.</p>	<p>Notification needs to be compressed due to accelerated pace of number exhaustion.</p>	<p>None reported.</p>	<p>Opposes amendment-- proposed schedule is too tight. CPUC would instead offer a reduction of advance notice to 18 months and reduce final notice from 15 to 12 months while maintaining the requirement for 3 public participation hearings to be held within 3 months of the final notice.</p>
---	--	--	-----------------------	---

<p><b>Proposed New Section regarding forbearance.</b></p>	<p><b>Add:</b>  GTE suggests adding a new section that will establish regulatory benchmarks or "forbearance goals" and enable the CPUC to "forebear" or stand aside in the presence of competition.  (For proposed language, see GTE letter dated Dec. 17, 1996, Exhibit 2.)</p>	<p>This section would facilitate the growth of competition and ensure that regulation was relevant, while at the same time ensure the basic standards that customers should expect.</p>	<p>Coalition feels that section would make forbearance the norm, and regulation the exception and that a forbearance statute should not even be considered until effective competition in the local exchange and local access markets has developed.</p> <p>Coalition opposes the effort to define prices based upon historical costs, the selective application of the statute to portions of the PUCODE, and the imposition of the burden of proof on the party opposing the request for forbearance rather than on the telephone company requesting the forbearance.</p>	<p>Did not address.</p>
---	--	---	---	-------------------------

\* Pacific Bell, in its reply comments filed on February 10, 1997, stated that "GTEC's comments are consistent with Pacific's," but did not specifically endorse GTEC's recommendations by code section.