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# Hearing on Telecommunications - Long Distance Competition and Equal Access

Senate Committee on Energy and Public Utilities

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CALIFORNIA LEGISLATURE  
SENATE COMMITTEE ON  
ENERGY AND PUBLIC UTILITIES  
SENATOR HERSCHEL ROSENTHAL, CHAIRMAN

HEARING ON  
**TELECOMMUNICATIONS -- LONG DISTANCE  
COMPETITION AND EQUAL ACCESS**



City of Santa Monica -- Council Chamber  
1685 Main Street  
Santa Monica, California

Tuesday, December 3, 1985  
9:30 a.m.

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86-7-40

# California Legislature

NEWTON R. RUSSELL  
VICE CHAIRMAN

ALFRED E. ALQUIST  
LEROY GREENE  
GARY HART  
BARRY KEENE  
HENRY MELLO  
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## SENATE COMMITTEE ON ENERGY AND PUBLIC UTILITIES

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### AGENDA

#### TELECOMMUNICATIONS -- LONG DISTANCE COMPETITION AND EQUAL ACCESS Senate Committee on Energy and Public Utilities

City of Santa Monica, Council Chamber  
1685 Main Street  
Santa Monica, California

Tuesday, December 3, 1985

#### I. LONG DISTANCE COMPETITION

##### General Overview

Bill Brownell  
Project and Program Supervisor  
Public Utilities Commission

S.R. Heath  
Director  
Executive Services and  
Communications Planning  
Pacific Telesis

##### Long Distance Companies

John Dennis  
Vice President  
Regulatory Matters  
AT&T

Larry Kamer  
Manager, Public Policy  
MCI

Robin Quiroz  
Western Regional Manager  
Legislative Affairs  
SPRINT

Dominic E. W. Archdale  
Vice President  
Revenue Requirements  
Starnet Corporation

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AGENDA, Page Two

### II. EQUAL ACCESS

#### Implementation

Bill Brownell  
Project and Program Supervisor  
Public Utilities Commission

S. R. Heath  
Director  
Executive Services and  
Communications Planning  
Pacific Telesis Group

#### Long Distance Companies

John Dennis, AT&T

Larry Kamer, MCI

Robin Quiroz, SPRINT

Gary Burgess  
President  
All State Communications

#### Consumer Concerns

Richard Elbrecht  
Supervising Attorney,  
Legal Services Unit  
Department of Consumer Affairs

Ken McEldowney  
Executive Director  
Consumer Action

CHAIRMAN HERSCHEL ROSENTHAL: Good morning. I'd like to welcome all of you to the fourth interim hearing of the Senate Energy and Public Utilities Committee during this legislative recess.

Today the committee will explore an issue which is being discussed and debated across the country, as well as in this state--the new long distance telephone system. Is the new competition working and how does it impact telephone subscribers?

We will also look into the process which is being played out throughout the state and will affect nearly every Californian--choosing a long distance company. How does this "equal access" process work, and are participating consumers and competing long distance companies satisfied with this important but confusing undertaking.

Next month will mark the second anniversary of the implementation of Judge Harold Greene's famous, or infamous, decision to breakup AT&T and his attempt to bring true competition to the telecommunications industry. So for two years now, the old, the new, the big, medium and small long distance companies have really been experimenting in a new arena. It has been a test of how well competition can be instituted where once a monopoly existed.

Have we reached the level of competition which Judge Greene had envisioned? Has AT&T been regulated long enough in attempts to allow other long distance companies to survive? Or is AT&T still the monolith which stifles a true choice to long distance customers? What is and what should be the state's regulatory role in seeing that the California's long distance market is truly competitive?

These are some of the issues we will discuss today. And in addition, we will look into exactly how the process of "equal access" works.

There will be no break in today's hearing as I would like to adjourn by 1:30. I certainly don't want to hinder the dialogue among our witnesses today, so I want to remind everyone to try and give brief and concise statements so the interplay can have a high priority.

The first part of the hearing will focus on long distance competition in general. I would like the representatives of the PUC and Pacific Bell to begin by giving a general overview of the issues and the new environment; and if the long distance companies listed in our agenda could also please come join us at the other table.

Also, I'd like to add here that I've just been notified that Ken McEldowney of "Consumer Action"--who was scheduled to testify on our consumer panel, had to cancel his



appearance for personal reasons; but as one of the experts in the state on the equal access process, I am pleased that he said he will submit a complete written statement that will be entered into the record.

Okay. We'll begin with Mr. Brownell of the PUC.

MR. BILL BROWNELL: Thank you, Senator Rosenthal. Good morning, Senator Rosenthal, Senator Hart. I appreciate the opportunity to appear here and represent the views of the Public Utilities Commission on the important issues of long distance telecommunications competition that you have identified.

I think this hearing is quite timely because the long distance market in California is in a period of important change and during that period it behooves the Legislature and the Public Utilities Commission to stay abreast of the changes in the market and guide the market in a direction that will best serve the long-run interests of consumers. I will make my remarks brief and be available for questions afterwards.

A starting point in any discussion of long distance competition is the breakup of the Bell System which occurred on January 1, 1984. The theory of the breakup, the theory of divestiture, of course, was that long distance competition in the United States was both possible and desirable and that long distance competition would only be effective if the bottleneck local exchange facilities of the Bell System were divested so that there was full access among all the long distance companies to the local exchange.

But we didn't start out at divestiture with an instantly competitive market. It was clear at divestiture that AT&T was by far the dominant player in the long distance market, so at the time of divestiture both the Federal Communications Commission and the California PUC established a transition framework for the market, a transition regulatory framework which has been called the dominant and non-dominant framework. Within that framework the dominant player in the market, AT&T, continued to be regulated on a traditional cost-of-service basis with fairly direct regulatory oversight of costs, operations, service quality, and prices. The rationale for this kind of continued regulation of course was that AT&T was presumed to have market power in the long distance market due to its dominant position, so that if it was to be deregulated, there was a potential that the company could overprice services to consumers across the board, or overprice some services so as to price predatorily in other areas. So for that reason, the stricter form of regulation of the dominant carrier was put in place, both at the state and the federal level.

For the new market entrants, like MCI, Sprint, Starnet, and the others, they were subject to much fewer regulatory restrictions under this initial post-divestiture framework. And again, the rationale relates to protecting consumers. The few restrictions that are in place in California, related to the smaller carriers, are aimed at consumer protection, such as notice requirements. These companies have to give advance notice of price changes to consumers, but the strict control of prices that is applied to AT&T is not applied to these companies and the rationale is that these companies are presumed not to have market power. In other words, they cannot overprice services. They will be disci-

plined by the market due to their small size.

So what has happened in California since this initial post-divestiture framework was established? Well, there have been three major developments worth noting, I think. One is that the level of competition has increased. AT&T is still dominant clearly, but it is somewhat less dominant than it was at the time of divestiture. As of last week there were 84 active certificated long distance carriers operating in California providing long distance telecommunications service. Together, these carriers carry roughly in the range of 10 to 20 percent of the calls, the long distance calls in California. The PUC does not have an official estimate of the various market shares of these companies, but I think it's fairly clear that the market share of the companies other than AT&T is in the 10 to 20 percent range right now.

In addition, the level of competition is very uneven right now across the market. It's the level of penetration by the new entrants in the market is higher in the business customer area and it's higher in the urban areas; lower in residential and lower in rural areas. A second--well before I go on one other thing worth noting is that even though the level of competition has increased, at the same time there's been somewhat of a change in the view of industry experts on the long-run potential for competition. At the time of divestiture it was thought that clearly this was going to eventually be a vigorously competitive market. Now there's a certain amount of doubt about that, about how vigorous competition will be in the long-run in this market.

A second development since divestiture worth noting is that the carriers other than AT&T are now beginning to receive equivalent access to customers, equivalent local access, and I know that we'll be talking about that later this morning but that process of implementing equal access is a critical part of establishing a level playing field for this long distance market.

A third development worth noting is that the Federal Telecommunications Commission, while sticking with this dominant/non-dominant framework, has loosened the regulation of AT&T somewhat. They have in recent months undertaken several moves which give AT&T somewhat more flexibility.

So given these developments, what regulatory issues does California face at this point towards the long distance market? Well I'd like to mention four areas of activity that the PUC will face in the coming year related to the long distance market. One is monitoring the equal access conversion process that is occurring across the state, and I know we'll talk about that more later this morning.

Secondly, the PUC is investigating right now whether to streamline even further the regulation that is applied to these smaller firms; easier tariff rules, things of that sort.

Thirdly, the PUC is embarking upon a rate case for AT&T, and fourth, the PUC is investigating whether to streamline and make more flexible the regulation of AT&T.

I'd like to conclude by focusing on this latter investigation because it's a very



important one in terms of the future regulatory structure of the long distance market. What we embarked upon is an investigation of on what basis to lessen the regulation of AT&T, and if we do lessen the regulation of AT&T, what forms should this flexibility take? Now on the one hand, there might be reasons for lessening the regulation of AT&T at this point. As I mentioned, competition is increasing and the equivalency of local access among the companies is improving. On the other hand, the equal access process is not complete and as I mentioned, there are some doubts about how truly competitive this market will be in the long run. So there are arguments either way and the PUC is embarking on this investigation of AT&T regulation from a neutral perspective, not presuming we're going to give AT&T more flexibility and not presuming that we're not going to give them more flexibility. But, in the next several months we will be going through this investigation and it may lead to changes in the dominant and non-dominant framework as applied to the market.

I have copies of the Commission's order instituting this investigation for the committee's use, if you would like them, and I'm available for any questions you may have.

CHAIRMAN ROSENTHAL: Let me ask a question. What was the reason that the PUC decided to open a new investigation into that AT&T rate request?

MR. BROWNELL: The investigation of AT&T regulatory flexibility?

CHAIRMAN ROSENTHAL: Right.

MR. BROWNELL: Well, at the time of divestiture when we set up this dominant/non-dominant framework, we said there were two reasons not to give AT&T flexibility at that point. One was their dominant market share and the other was that they had superior local access connections. So roughly almost two years later, the equal access process is moving on. At the end of this year, roughly half the customers in Pacific Bell's territory will have equal access, and the market share of the other companies has increased so that it seemed opportune to begin to look at this question. Again, though, from a neutral perspective as a measure of proactive regulation; looking forward, looking to occurrences that may need to take place in the next few years.

CHAIRMAN ROSENTHAL: Well, will this activity hinder the FCC's timetable?

MR. BROWNELL: No, I don't believe so. The FCC has not embarked on any particular timetable for AT&T flexibility. It's been a rather ad hoc process. They, too, have a broader investigation of AT&T regulation but they have not put out any rulings in that proceeding at this point. So there's no real direct connection with the FCC in our investigation.

CHAIRMAN ROSENTHAL: Okay. Thank you very much for the moment.

MR. BROWNELL: Thank you.

CHAIRMAN ROSENTHAL: Mr. Heath, Director of Executive Services and Communications Planning for Pacific Telesis.

MR. STEVE HEATH: Thank you. Good morning, Senator. Yes, I am Steve Heath. My responsibilities with Pacific Bell include management of the organization that plans how

we will communicate with customers about service changes, and management of two organizations very much involved in that process: Our customer instruction organization which does all the direct mail and bill inserts and those kinds of communications vehicles; and our corporate advertising program. I'm also a member of our executive level task force on equal and easy access and one of our primary missions is to help manage the equal and easy access implementation program, and of course the changes that were brought about in that program as a result of the recently mandated FCC changes.

We congratulate the committee for looking into this very important issue. There's no question that a lot of our customers remain confused despite a lot of effort on our part to communicate with them about the changes in their long distance service. It's an ongoing process and one we think that's vital, so we're glad to see the committee taking this interest, and of course with the FCC order mandating customer participation now, we think it's more important than ever before that customers do understand what's going on and make informed choices as consumers of the long distance companies they're going to use.

What I hope to do this morning is provide a little historical perspective, if you will, to help the committee with the mission it's set for itself this morning. I'd like to take us briefly through a little bit of history of how long distance service has evolved, moving through that very rapidly because Mr. Brownell covered a little bit of that; talk about the requirements of the modification of final judgment, the document that settled the antitrust case and broke up AT&T, and what it requires us to do in terms of implementation of equal and easy access; talk about how we had run the plan in California up until the point in time that the FCC issued it's allocation order that mandated customer participation and give you a little bit of a progress report as we go through that in terms of where we stand on the implementation.

So I'll begin by asking you to think back to the way it was before there was long distance competition, predivestiture. There was one long distance company and you dialed calls in one way and you got your bill from that one company, and there really wasn't a lot of thought given by customers how the service was provided. That began to change in 1968 when MCI was authorized to set up their first competitive long distance network, and eventually a number of other players got into the market. In my written testimony I had indicated we had slightly more than 60. I hadn't caught up with the fact that we had 84 long distance companies in California now, but they range from very large companies, such as AT&T and MCI, down to very small local carriers who are basically resellers. Most of them buy bulk capacity from the larger carriers on their networks and resell it to their customers. That's how most of those customers work and they frankly serve in terms of outgoing capability to very limited geographical areas.

Despite the disparities in size, though, between all those companies, there's one thing the non-AT&T carriers, large and small, have always had in common and that's the fact that they have not been very convenient for customers to use. In order to place a call over their system, you wind up having to dial 22 digits approximately, 22 to 23 digits

to complete the same call which can be completed over the AT&T network with an 11 digit dialing pattern, and in some cases, just 10 digits where we don't require customers to dial one before they dial a toll call. For the other carriers, you would dial a 7-digit local telephone number and that gave you access to their network, then you input your billing code, the area code, and number you wanted to call. And you have a touch-tone or push-tone telephone to do that because the other carrier's billing equipment couldn't deal with the dial pulses from a rotary dial set, and again, just not very convenient. So that's how it worked initially and I want to shift away now a little bit from the dialing patterns and talk more about the breakup of AT&T and the changes that caused in the way long distance service is provided, then I'll come back to explain what happens to dialing patterns as a result of equal and easy access.

When long distance service was changed, when AT&T was broken up, for the first time customers have had to think about the way long distance service was provided. It was largely not a conscious thing, even with the advent of the other carriers most customers of Pacific Telephone, when they wanted to place a long distance call dialed one, area code, number--the call went through and it mattered very little to them whether it went interstate, on AT&T's network, or intrastate on the network of a wholly-owned subsidiary like Pacific Telephone. They got their bill, the call went through and everything worked. But with the modification of final judgment, of course, the emphasis was then placed very much on creating that competitive marketplace that Mr. Brownell talked about, and so long distance was redefined by the MFJ. And then we've got a whole new lexicon in the industry now as a result of that. We talk about things like LATAs and POPS and LATA-POPS and all kinds of acronyms, but what it really basically said was the local companies, like Pacific Bell, divested from AT&T would no longer be allowed to provide interexchange long distance service. We could provide service that only stayed within the boundaries of what we call LATAs.

Let me briefly hold up a map to give you an idea of what that means. California was divided into 10 what we call LATAs. The boundaries are delineated there. Any call that starts and terminates within the LATA, Pacific Bell is allowed to provide and there are some long distance calls which fit that description. On the other hand, any call that goes between LATAs, for example, Sacramento to Chico, Los Angeles to San Diego, Pacific Bell is not the provider of that service. Our only role is to transport it from the customer's premises to the point of presence, the POP, of the long distance carrier the customer has chosen to use. From there it goes on the carrier's network, comes out on the other end through the local telephone company network. That's basically how it works but it basically then required customers to understand which kinds of calls are carried by which company and that's part of the decision process in choosing a long distance carrier.

CHAIRMAN ROSENTHAL: Just one question. After 10 LATAs or 11?

MR. HEATH: The eleventh area is technically not a LATA because the term LATA applies

only to areas affected by the modification and final judgment and those are Bell serving areas. The eleventh non-associated territory, something like that, is down in the Riverside/Palm Springs area, Palm Desert. It is, for all intents and purposes, a LATA but in terms of what Pacific Bell serves--I'm sorry, I should have made that clear--there are 10 that Pacific Bell serves. The eleventh is that non-associated territory down at Palm Springs. It functions the same way.

Publicly, by the way, we don't use the term LATA. We try to use the word service area because we think that's a little more user friendly than LATA, and the LATAs themselves, just for your information, were based on U.S. Department of Commerce standard metropolitan statistical areas, standard consolidated statistical areas; our own perceptions of community of interest, dialing patterns, switching configurations, those kinds of things that went into design of the LATA.

Service areas, again, are important because they cause a customer to have to think about what carrier can carry what call and part of that decision process at the moment from any customer still involves, "Am I willing to dial the 22 digit pattern?" But equal and easy access changed all of that for the customers. So maybe at this point it would be appropriate to just to give you what our definition is of equal and easy access.

Equal access is what the carriers get. They get the access to Pacific Bell's local network equal in quality to what AT&T has always enjoyed. They get access to our customers equal to what AT&T has always enjoyed. From the customer perspective, easy access means they have the ability to dial a call over the network of any available long distance carrier using the same dialing pattern historically available only through AT&T. That, in a nutshell, is what equal and easy access are. Pacific Bell is the only company that uses this term, easy access, but we think it is descriptive of the fact that it is easier for customers to use those other carriers than AT&T if they so choose. It's easier for another reason. Once we put in the easy access dialing capability, customers of those other companies are able to use either rotary dial or touch-tone sets. They're no longer limited to just touch-tone and so in a sense it really is much easier for them to access those carriers.

All this works because we use a computerized switch called a conforming office. What it does is it has the capability of remembering what each individual customer wants in the way of a long distance company and every time that customer dials a call that will go from one LATA to another, one state to another, the computerized switch automatically routes that customer's call to the carrier the customer's selected and then from there, it goes on the carrier's network.

The legal mandates for our implementation of equal and easy access again are contained in the Modification of Final Judgment. They're closely monitored by the U.S. Department of Justice and the Federal Communications Commission and by the California Commission as well. Again, one of the objectives of divestiture was to create competition in the long distance market, so we have some very set milestones which we must meet as a

company in terms of making this capability available to our customers.

The first of those milestones was September 1, 1984. We had to equip one of our switching offices with the capability for equal and easy access by September 1 of '84. We beat that by about a week. We implemented it in Alameda in late August of 1984. The next milestone was September 1 of 1985. We had to have made the capability available to one-third of all the access lines Pacific Bell serves in California by that date, and we did that. In fact, we had about 35 percent available by that date. The next milestone for us is September 1, 1986, by which point 100 percent of those conforming, if you will, switching offices have to be equipped with the capability. Conforming offices is industry jargon and I apologize for it, but what that means is there are certain local switches that have the capability of providing the service, computerized local switches, and certain that do not. We have to have provided the capability wherever there are conforming offices by the September 1, 1986 date, and we will have done so. We should have no problem meeting that mandate.

We do this on a switching office by switching office basis and to date, we've made the capability available in 174 switching offices in California that serve 4.25 million access lines. By the end of the year those figures will increase by another 13 offices and 212,000 access lines; and in 1986 we'll add 118 more switching offices and another 2.8 million lines. This is no small undertaking to implement equal and easy access.

That doesn't end the program. After September 1, 1986, we will have only equipped, as I said, about 70 percent of the access lines we serve in California. The remainder will be scheduled on an office conversion by conversion basis that will take us out well into the 1990s, and indeed, in some parts of California it may go beyond that into the next century because the Modification of Final Judgment says that we only have to provide equal and easy access where there is a conforming office and where there is bonafide carrier demand for the service. So if there is no demand from the carrier to provide equal access service in a community, we won't go to the expense of installing it. And as you're probably aware, a lot of the carriers don't go out and serve smaller rural communities, so it may be years before all of California has the benefit of this new service.

Let me close briefly with then how we implemented the equal and easy access plan originally and what the FCC did to change that. When we first made the service available Pacific Bell customers had the same options as the long distance companies had, they could or could not participate at their own option. They didn't have to do anything. The long distance companies, the carriers are not required to go into any one office if they don't want to to provide the service, and the customer has the option of saying I don't want to participate and have nothing affect their service because we used a process called defaulting that automatically routed long distance calls to AT&T. If the customer had made no other designation with us, they used the AT&T dialing pattern and so basically, an assumption was made that was what they wanted to do.

Most of the other Bell companies adopted the same plan and as you would probably

predict, most customers did exactly what that plan allowed them to do--nothing. At the time of conversion we would typically have only 20 percent of the customers served by a switching office actually subscribed to a carrier, the rest of them defaulting to AT&T with their long distance calling. And that, of course, was not conducive to what the FCC was trying to achieve in terms of a competitive marketplace and so they moved to change and that happened on May 31 of this year. They issued an order called the Allocation Order which made the customer participation mandatory for customers whose switching offices, serving switching offices were converted June 1 of this year or later. It does not apply to customers whose switching offices were converted prior to June 1 of this year; a little over a million lines, as I recall. But from June 1 forward, all customers served by one of those switching offices is being converted to provide equal and easy access must make a choice of a long distance carrier or Pacific Bell is mandated by the FCC to make one for them at random through a process that was initially invented by Northwestern Bell up in Minnesota, called allocation.

And the way it works is this. Sixteen days after we convert the office we take a snapshot, if you will, of the data base in that particular switching office. It doesn't apply companywide, it's only for that office we've just converted. We look at the basic customers who have subscribed to a carrier, have actually designated a carrier and we calculate the percentages of those customers who subscribed to each of the participating carriers in that office. And we take the same kind of a snapshot of the base of customers who made no choice and we randomly, through a computerized process, allocate those non-subscribed customers using the same percentages to the other carriers. So if, for example, 10 percent of the customers served by a switching office subscribed to XYZ, then 10 percent of the customers who've made no choice will be allocated at random to XYZ Long Distance Company. That's the way the process works from here on out. We just had our first allocation of customers in California. It happened on the 23rd of November. We actually physically did the work for the first eight switching offices involved in complying with the FCC order, but that in a nutshell is how we now are forced to make a random choice for the customer.

And that is why, again, I think it's very important that the customers do pay attention, do make informed choices because not all long distance companies can meet each customer's individual needs.

I should add at this point, before I sit down and let the carriers talk, that just because we've allocated you to a long distance company or you subscribe to a long distance company, it's not the only company you can use. There is a new process called company code dialing that's a five digit code which you use to precede a call that you'd like to have routed to a carrier other than the one you subscribe to. Let's say I allocated you to XYZ company but you wanted to use Brand B because Brand B serves foreign countries that you want to call that XYZ doesn't, or Brand B provides operators, or whatever the issue may be that you want, that maybe they're having a sale on calls from here to New York. What-



ever the reason you might want to use that other carrier, you would dial a five digit code preceding the number you want to call. The 10XX area code number. Even though there are a few more digits involved in that kind of a pattern, it's still much easier than the 22 digit dialing pattern currently associated with the other carriers and non-easy equal access areas.

So in a nutshell, that's how the system has evolved. That's what we're doing now and I'd be happy to answer any of your questions.

CHAIRMAN ROSENTHAL: Let me ask something. In your testimony before Senator Goldwater's Subcommittee on Communications in Washington, Pacific Telesis testified that it was committed to ensuring that all long distance carriers have the opportunity to compete on a fair and equal basis. Yet you also testified that the discount to the other carriers, the OCCs, should not be continued after equal access. Question: Does this mean that Pacific Telesis believes that the other long distance companies are close to equal and fair competitiveness with AT&T?

MR. HEATH: That's a, I'm trying to think back to the context of that, Senator. The basic theory is that as we provide equal and easy access capability in a switching office, then the tariffs that are applied to the carrier for that switching office as they have the equal access ought to be the same on the level playing ground.

CHAIRMAN ROSENTHAL: Another question. My understanding that although Pacific Bell presently operates on a quasi-monopoly basis continues to plan for a future competitive environment for local intraLATA service. Is this something Pacific Bell sees as inevitable or is it just defensive planning?

MR. HEATH: We, of course, are very gratified that the California Public Utilities Commission did see fit to grant us an exclusive status on the intraLATA competition issue because as I'm sure you recognize, Senator, that's very important to preserving affordable universally available telephone service, but the realities of that situation are that can be subject to change. We need to be ready to deal with that.

CHAIRMAN ROSENTHAL: Then, in this morning's edition of the New York, yesterday morning's New York Times, would you speak to the concept of providing long distance that Bell systems seem to be anxious to move to?

MR. HEATH: I didn't see the article yesterday, Senator, so I'm not really able to respond. Are they...?

CHAIRMAN ROSENTHAL: Let me just read the first paragraph. "The seven Bell telephone regional holding companies are mounting an intense campaign here to end government restrictions on their ability to compete with the rest of the industry in businesses ranging from selling interstate long distance services to manufacturing equipment."

MR. HEATH: Okay. In terms of the long distance business, setting aside the issue of equipment and whether we'd want to be a manufacturer of that, I don't think we've made any secret of the fact that we see that as a viable business for us to get back into and there are a lot of people who agree with us. There was a report from the Department of Commerce,

NTIA report, that indicated that once equal access has been implemented and there is a level playing field, if you will, and once the mandates of the Modification of the Final Judgment are met, that that issue ought to be revisited and ought to be looked at as a potential additional line of business for the divested companies.

CHAIRMAN ROSENTHAL: You don't see any problem, for example, with cable competing with you in some of those other areas?

MR. HEATH: In terms of competing with us for local switch services within the LATA?

CHAIRMAN ROSENTHAL: No, no. Not local. You're moving into, you want the local and the long distance and you really want everything back again the way it used to be, basically. What about cable competing with you in some other areas, data and everything else? Is that okay?

MR. HEATH: They basically are. Of course, where it jeopardizes our ability to provide universal access, where it jeopardizes that system of subsidies that we still have some of that in the LATA, we have problems with that. As it affects interstate, intercity traffic, that's no longer a concern for us.

\* CHAIRMAN ROSENTHAL: But you still want to hold on to interLATA, right?

MR. HEATH: Absolutely.

CHAIRMAN ROSENTHAL: Okay.

MR. HEATH: I would add, I think, you know.

\* CHAIRMAN ROSENTHAL: It just seems to me that if you're really talking about an open field with everybody competing, then that means everybody's competing, even for interLATA, but you want to maintain that for yourself and have everything else open.

MR. HEATH: My honest answer to that, Senator, is I think we recognize that when that day comes, we're allowed back into the other marketplace, if it comes, that the intraLATA issue is going to have to be addressed.

CHAIRMAN ROSENTHAL: Okay. Thank you very much.

MR. HEATH: Thank you.

CHAIRMAN ROSENTHAL: Now we'll hear from our long distance companies in the order of the agenda--Mr. John Dennis, Vice President, Regulatory Matters for AT&T.

MR. JOHN DENNIS: Thank you, Senator. I will be brief and I will not repeat what I have already heard from Mr. Heath and Mr. Brownell, but I would like to make a few additional points.

It is my opinion that the interexchange telecommunications industry in the State of California and in the nation, for that matter, is today a very highly competitive industry. In California, for example, there are almost 100 interexchange companies competing for the business in the state. That happens to be about three times the number of competitors in any other state in the United States. Nationwide, there are approximately 400 companies competing for that interexchange business, and they're not all small companies. Many of them are large and well capitalized firms. It's my opinion that this volume of competitive activity clearly illustrates that AT&T does not have market power, that we are not

2 dominant. AT&T has no control over entry and exit in the market, nor do we have any control over the price of the services.

Pervasive regulation, continued pervasive regulation in this industry will only tend to inhibit the benefits that competition could bring and provide none of the benefits that monopoly pricing, or social pricing under the old scheme would provide. I'm of the opinion that the current regulatory practices that exist in the state are obsolete. Conceptually, the idea of regulating on a rate-of-return basis is not practical for the corporation that is structured as AT&T is today. It was practical under the old scheme where you had a very large investment, a large rate base, and huge or large capital requirements. That's not true with the AT&T of today. It is a relatively small rate base, a small investment. It does have large revenue streams, but extremely large extent streams most of which, the majority of which are also regulated by the California Commission.

I would point out that there are 22 state commission and some 14 state legislative bodies that have taken action to lessen regulation in their state jurisdictions and have done so successfully. We have conducted a study here in the State of California by the Lou Harris polling group, that demonstrates that there are 22 percent of the customers that spend more than \$50 per month on toll, are using competitors of AT&T; 38 percent of all business customers use competitors of AT&T, and I think it's very interesting that of those customers who have toll bills that exceed \$300 a month, 61 percent of the customers use competitors of AT&T. I suggest to you that competition is alive, it is well, and it is thriving in the State of California and I believe it is thriving in the entire United States. Thank you, Senator.

CHAIRMAN ROSENTHAL: Well, why do you need more flexibility if it's alive and...?

MR. DENNIS: I indicated to you that the benefits, the real benefits of competition are not going to accrue to the consumer in the State of California as long as there is regulation. We're prohibited from introducing new services, as an example, that customers want, consumers would use if we were able to provide them. Current regulatory schemes preclude our doing that and there are long delays in our ability to introduce new services. That's an example.

CHAIRMAN ROSENTHAL: The committee has received numerous complaints that AT&T has been overly aggressive in its advertising campaign, especially with respect to telephone solicitation and solicitors. Can you explain what the approach of your promotions are and where consumers can complain if they have to?

MR. DENNIS: Well, obviously, during the process of the introduction of equal access, we are advertising and we are campaigning just as our competitors are for the customers in those jurisdictions, in those specific areas. We are sending out mailings to most of the customers. We are, where possible, making calls to customers advising them of the advantages of AT&T. We feel not only is it our right, but it's our responsibility to ensure that we convey the message to the customers of the State of California and to the entire nation.

CHAIRMAN ROSENTHAL: Have there been cases where AT&T's advertising literature appears in the Pacific Bell billings. Are other long distance companies offered the same service?

MR. DENNIS: Yes, they are. Yes, they are.

CHAIRMAN ROSENTHAL: They are? Okay. Would you tell us about your interest in moving closer to competing in the intraLATA market? X

MR. DENNIS: Our posture has been we are not interested at this point in time in competing for the intraLATA business at all. We do feel that it is necessary in some instances to offer certain kinds of services to have the ability to provide incidental intraLATA service. We offer a service, or attempting to offer a service that we characterize as software defined network. It is a service for large business customers who have need for a private line network of their own, that they can reconfigure at their will and as a result of that capability, it would be possible for them in some instances to complete calls that would have otherwise been intraLATA calls. It's simply incidental to the nature of the service and should be allowed. We should not prevent customers from obtaining the kinds of service they want by virtue of an arbitrary question like that.

CHAIRMAN ROSENTHAL: May I ask Pacific Bell, would you consider that bypass?

MR. HEATH: I would.

CHAIRMAN ROSENTHAL: So there's some differences of opinion in terms of...

MR. DENNIS: Well, bypass is a much overly used word. Pacific Telephone would suggest to you that private line service is bypass. They would characterize that as service bypass. Pacific Telephone is one of the biggest providers of that bypass service within their own territory. Any time you have a situation where a given service is going to be in the best interest of a customer and it avoids the switched network, it's going to be characterized as bypass. I don't consider that negative. I consider that a positive.

CHAIRMAN ROSENTHAL: Well, let me suggest to you that my concept of bypass--where I come into the picture is that my homeowner has to pay more for anything that takes somebody off that line, and that's bypass in my opinion. You may not consider it bypass from your point of view, but if in fact that means that my homeowner has to pay one cent more because of what you have done, then I will be fighting to prevent you from doing that.

MR. DENNIS: I understand that, Senator, and I appreciate that. I personally believe that it is impossible to legislate or regulate against bypassing of the network. I don't even think that bypassing of the network is a negative thing as long as it is economic bypass. I think that it is inappropriate to bypass the local exchange network for un-economic reasons, and we have that condition today. The access charges that are imposed on all the interexchange carriers are not borne by those carriers. Those access charges are borne by the customers of those carriers and it is the customer, it is the customer who is going to refuse to pay that subsidy if it continues for very much longer. And I do believe, it is my opinion that the local exchange companies are in a position to be

the best providers of access to the network and that they can provide it in the most economical and efficient manner. And it is our intention to use them but it is important, it is important to recognize, and I believe that they do and I believe that the California Commission recognizes, that they cannot continue to bear the level of subsidy that they do today. And I guess that that ultimately does mean that the local rates are going to have to come more nearly to their costs. But it isn't we that will be bypassing, Senator. It's going to be the customers who will be bypassing and all consumers will lose if that occurs.

CHAIRMAN ROSENTHAL: Okay. Mr. Larry Kamer, Manager of Public Policy, MCI.

MR. LARRY KAMER: Good morning, Senator Rosenthal and Senator Hart. Once again, MCI is pleased to be given the opportunity to present its views before this committee. The committee could not have picked two more timely issues for discussion this morning. The very future of the interexchange carrier business, and the ultimate impact on California consumers, is dependent on the smooth transition to equal access and arrival at the proper degree of regulation of the long distance marketplace. I have prepared for you written testimony and I promise I will not read it all. I will skip over the highlights.

With the announcement of the AT&T divestiture agreement, this nation dedicated itself to the end of monopoly in long distance. MCI and other companies who offered alternative services hailed both the spirit and the promise of divestiture. The promise of competition of market forces supplanting government regulation is the most effective method of protecting consumer choice and the public interest was great. At last, America could get about the business of building the kind of affordable information-age communication system that would increase productivity, security, and ultimately, prosperity.

This committee has picked an ideal time to gauge how well this competitive process is working and whether or not the great promise of competition is being kept for California telephone consumers.

In the current long distance environment, AT&T continues to dominate the industry to a degree unheard of in any other sector of American business. It still retains 85 to 90 percent of the long distance business and is by any reasonable standard still a monopoly. It is still in a position to offer services priced below cost, raise prices for those consumers in markets where there is not yet competition and drive its fledgling competitors out of the market altogether. It is important to remember that AT&T attained the size and power by more than 100 years of a guaranteed rate of return to build a network that goes from anywhere to anywhere.

Despite the advantages afforded AT&T by its size and market power, the company has staged a relentless drive since divestiture for total and immediate deregulation, which brings me to the first of the many questions posed by the committee in its letter announcing the hearing about the FCC's correctness in removing regulatory constraints on AT&T. Quite frankly, MCI has no objection to the eventual deregulation of AT&T. At the proper time, in fact, we would support such efforts when there is viable and sufficient

competition which affords customers a choice and clear evidence that AT&T cannot use its monopoly power to the detriment of the entire industry.

And the FCC has been assigned this responsibility for overseeing the transition to the competitive marketplace, but the FCC has caught a bad case of deregulationitis. It has approved several below cost offerings of AT&T and through its actions which cut the lead-time for tariff filing and through new cost standards and its flexible pricing rulemaking, the FCC has made its own effective oversight of AT&T's rates virtually impossible.

I agree with Mr. Brownell that the FCC's approach to the deregulation of AT&T has been ad hoc. Frankly, it has been entirely too rapid and absolutely lacking in rules or standards, and while it may achieve the goal of rapid and total deregulation of AT&T, it will have done so without really giving thought to the long-term effects on consumers or the marketplace.

As for roadblocks for medium and small interexchange carriers, there are several. First of which, of course, is that the largest company in this market still retains such an enormous share of the customer base, but inherently the telecommunications business requires extremely high capital investment, and ultimately, for companies that really want to play in the long-term, the management and capacity of their own networks.

AT&T maintains that it has hundreds of competitors, but quite frankly, all but a handful continue to lease their capacity from AT&T, pay AT&T's prices, and under AT&T's conditions. Aside from that, the cost of capital and the requirement of years of leadtime for planning in the future is something that not too many companies can afford. MCI itself is spending about \$1 billion a year building and refining its own network.

Real competition in the long distance industry can only be said to truly exist when AT&T's competitors have sufficient capability to garner enough of the market to make AT&T think twice about behaving like a monopolist. And what do I mean by behaving like a monopolist? Well, AT&T is spending about \$580 million a year in advertising and it is not, quite frankly, always playing by the rules. We have all been made aware of reports in the 9X region, in New York and New England, where we believe that 61,000 of our business orders were erroneously placed with 9X for AT&T. The local Bell companies believe that that number across the country may be in the hundreds of thousands. This has brought about an investigation by the United States Department of Justice and even with this Justice Department investigation, letters like this--which I'll be glad to share with the committee--are still going out in the mail. This is a letter thanking a customer for selecting AT&T as his long distance company. Unfortunately, this customer is MCI's senior manager for equal access order processing in the State of California [Laughter.] and I can assure the audience that he is not an AT&T customer. He has indicated on his Pacific Bell bill as being an MCI customer. He has called our 700 number and it is verified that he is an MCI customer, and here is a letter, "Thank you for selecting AT&T as your long distance company."

Now letters like this, whether sent out by omission or as part of some marketing



strategy only serve to further confuse consumers in the middle of this equal access process and are quite frankly just not playing fair. I'll be glad to share this letter, by the way, with the committee.

CHAIRMAN ROSENTHAL: May I just break in here for a moment?

MR. KAMER: Sure.

CHAIRMAN ROSENTHAL: PUC, are you aware of these kinds of things going on?

MR. BROWNELL: Well we have several forums in which we're overseeing the equal access process, one of which is a workshop process that's been going on the past month and this coming month. We have a workshop process at the PUC that's going on right now in which we're looking at disputes of this sort and the carriers and the local companies are sitting down together with the staff going over these problems associated with equal access implementation. So yes, we are looking at those.

CHAIRMAN ROSENTHAL: Thank you. You may continue.

MR. KAMER: Thank you. Moving along to the question regarding congressional hearings and the state's role, as Mr. Brownell has pointed out, the state, especially the PUC, does have a clear role with respect to the long distance industry and that is in the area of consumer protection. The vast majority of telephone customers in California are still served by a monopoly carrier despite the current transition to the competitive market. This industry needs and will continue to need informed and effective government regulation to protect customers who could be victimized should the monopolists decide to flex its muscle.

You will remember that Congress from the legislative side made the determination that any rule changes coming out of the Legislature at this time in the middle of transition to competition would only serve to further confuse the situation and decided that it would be best to monitor the progress of competition and keep the option open for getting in a bit later on.

CHAIRMAN ROSENTHAL: Let me ask a question here at this point. As you're aware, a congressional hearing found that no new legislation was needed to enhance competition. That's for long distance carriers in the state. Do you believe that the State Legislature ought to do something about this?

MR. KAMER: While there are some fine tuning kinds of things that might be appropriate, we do not see the need for major legislation in this area at this time.

On the question of protecting a variety of choices by the state--on the fundamental issue of long distance competition, which really is the deregulation of AT&T, the CPUC does have broad authority and you have heard of the CPUC's plans in this area over the next few months. We believe that the Commission should be in the driver's seat with regard to policies which smooth the transition to a competitive marketplace. The Commission, frankly, took a bold step in opening up its investigation on the proper level of regulation of AT&T and under what conditions it would deregulate the dominant carrier. We find this to be in stark contrast with recent FCC actions in that the Commission has

sought to establish a set of objective standards to measure AT&T true share and power in the intrastate market.

In this regard, we find that the Commission has sent out the clear message that any decision to deregulate AT&T will have to be justified by more than the company's rhetorical claim about market share or regulatory shackles. We think that this report will go a long way and we plan to participate fully.

I'll stop and be glad to answer your questions and get into equal access a bit later.

CHAIRMAN ROSENTHAL: Well let me ask you something. You take a position somewhat different than some of the other companies since you've become part of IBM.

MR. KAMER: That's not true. IBM has become or will become a stockholder, a 16 percent stockholder in MCI, but we are in no way becoming a part of IBM.

CHAIRMAN ROSENTHAL: Well, okay. This particular relationship probably means that you can survive better than some of the smaller companies. Would you like to comment about that?

MR. KAMER: Well, we certainly can't complain about that situation. It's unfortunately the sad fact that in this business to compete and to survive one needs capital and deep pockets to some extent. It is a move that was recognized by GTE and Sprint when they formed their agreement. AT&T certainly has its historical advantage and we have found that the arrangement in acquiring SBS will strengthen our long-term competitive edge in the areas where we see a real future in the business market, increasing our satellite capability, and so on.

CHAIRMAN ROSENTHAL: Does the state have any role in protecting the smaller companies that don't have the kinds of support that you and the other larger companies have?

MR. KAMER: I think it does although I would probably cede that question to the representatives of the Commission, but I imagine that the state has a number of options that it can exercise to strengthen the competitive marketplace, yes.

CHAIRMAN ROSENTHAL: Okay. Thank you very much.

SENATOR GARY HART: May I ask a question, Senator?

CHAIRMAN ROSENTHAL: Yes. Senator Hart.

SENATOR HART: You mentioned, sir, that in New York State that you felt there was an erroneous 61,000 customers that were lost from MCI. Could you elaborate on that a bit and what is the nature and the specificity of your allegation?

MR. KAMER: I will share with you two articles that I brought along from the October 17th Washington Post and Wall Street Journal. The Journal article is headlined, "AT&T Improperly Assigned Thousands of Business Telephone Users, U.S. says." This is a finding by the Justice Department that AT&T basically relied on an error-prone computer system to assign business customers to its network as opposed to other networks. In other words, the orders have to ultimately be placed with the local carrier. The orders were placed with AT&T when in fact those customers had selected MCI, Sprint, SBS, and a number of other carriers. Our numbers were 61,000 in the 9X region, the regional

operating company in the region. AT&T acknowledged 17,500 as the number, but some department officials in the Justice Department said that the number could have been as high as several hundred thousand.

Now in fairness to AT&T, and I do want to be fair at least once in my presentation today...[Laughter.]...AT&T has made efforts to correct its erroneous computer program, but unfortunately, as I pointed out, letters are still going out to customers assigning them to AT&T.

CHAIRMAN ROSENTHAL: Let me, Senator Hart, do you want to continue?

SENATOR HART: Well, I'm missing the point. In California, as I understand it, the decision is administered as to which company you're going to choose, is administered by Pacific Bell. And so AT&T is not, I mean, Pacific Bell is in charge of the ballots and I presume in New York there's someone similar to Pacific Bell that's in charge of the ballots. It's not AT&T and so I don't understand how AT&T is the guilty party here.

MR. KAMER: Well, up until very recently, and we can get into this in the implementation aspect of the equal access discussion, but up until recently there have been a number of problems associated with actual order placement and customers' order fulfillment in the Pacific Telesis region and other regions in the country. We have, quite fortunately, worked out a number of these problems and are beginning to turn the corner with Pacific Bell, which is the company that my division deals with, but it was entirely possible and it still is in certain parts of the country that an order will be placed with MCI with a local operating company; an order for that same customer, AT&T will call and say this is our customer, and there's a conflict. Now one of the companies is going to lose out.

SENATOR HART: I would presume that the Pacific Bell of New York would listen to the customer and not to AT&T?

MR. KAMER: There are any number of problems that have placed a real burden on the local operating companies to try and resolve these conflicting order situations. It is not always as simple as just calling the customer, although it does sound like a pretty straight forward way to do it. That hasn't always been the way that the local companies operate. For example, in some cases the first order--if you get two orders from the same customer for different companies, some of the local exchange companies will take the first order in. Others will take the last order in. Others will call the customer and say what do you really want here. There is no uniformity, at least there has not been historically any kind of uniformity in trying to resolve these conflicts.

CHAIRMAN ROSENTHAL: Let me--you've pointed out where you thought there was unfair activities by one company. I read recently that MCI has enlisted the support of Amway distributors in their selling of soap, for example, to ask the lady at the household as they're selling an Amway product to sign up with your company as far as long distance. Do you want to respond to that?

MR. KAMER: MCI has a number of partnership marketing agreements one of which is with Amway, one of which is with American Express, one of which is with Sears. There are

quite frankly, I think 500,000 Amway representatives representing the largest single sales force in the United States and...

CHAIRMAN ROSENTHAL: You don't think that's confusing to the subscriber?

MR. KAMER: No, not really.

CHAIRMAN ROSENTHAL: Okay. Do you want to make a comment?

MR. DENNIS: I would like to make just a brief comment relative to the allegations. First of all, I would point out that there were a few thousand customers that were incorrectly assigned to AT&T through a computer program failure. Bear in mind, though, if you would, that there were literally millions of customers being subscribed at this point in time. AT&T discovered the problem themselves and AT&T announced the problem and AT&T discontinued the use of those programs until we were able to solve that problem.

SENATOR ROSENTHAL: Okay.

SENATOR HART: Mr. Chairman, can I ask the representative of the PUC--I'm facinated by this ballot and as a politician, you know they're always interested in elections, but as I understand what's being part of this problem is you have a very aggressive marketing campaign that's going on. The AT&T on television, the barrage, and we've got Amway. Everyone is out there really hustling and as I understand it some people are signing up in some kind of pledge system that's not a real--I mean, there's only one ballot as I understand it. Correct me if I'm wrong. People are shaking their heads, but staff is indicating that part of the problem is that people are getting pledges and you're getting all kinds of information that's coming in and it's very confusing. I'm curious as to whether you view it as confusing and if you do, what steps are you taking to ensure that there's only one ballot? That there isn't all kinds of information that's coming in that's saying someone wants three or four different companies because obviously, many people don't understand this process and they want to be nice to people on the phone or at the doorway, and they'll sign it just as they sign initiative measures in the shopping center.

MR. BROWNELL: Well, we've tried to take steps to ensure the customers are informed about the equal access process by dictating certain aspects of the ballot; that they include certain information, that for non-English-speaking people there's accessibility for them, and that there's more than one ballot. There's not just one ballot, so people have a couple of chances to look over this decision and can switch carriers for a several month period at no cost afterwards if they change their mind. But outside of the ballot process there is going to be a barrage of marketing from the various carriers and thus far the PUC hasn't seen fit to try to control the marketing process. It's part of the competitive market that we're in.

SENATOR HART: Well, are there pledges that are made that have some legal standing as opposed to--I mean, I understand what you're saying. Someone marks a ballot and a week later or a month later they don't like the decision that they made or they don't like the service they're getting and they want to change. And so you're saying you've got in the system a no-cost ability to change. I think that's probably appropriate. Are there

other mechanisms before a ballot goes out where AT&T or MCI or someone can get people to sign up? Really there's a chance to vote two or three times. It's not a legal ballot.

MR. BROWNELL: I can't really address the legality of the letters of agreement that people sign. Perhaps I should direct that question to Mr. Heath. Would you know the...?

MR. HEATH: Let me at least, Senator, give you a feel for the fact that yes, we mail the customer the ballot, but that's not the only means by which a customer can subscribe to a long distance company. They can subscribe directly through the carrier, either by telephone or by responding to something the carrier sent them in the mail to their home. My home is going through this process right now, so I've received mailing from AT&T and MCI and Sprint, and I've forgotten which one now calls one of their mailing a ballot as well. But there are two additional ways besides the ballots that customers can sign up for long distance. They can call Pacific Bell business office and represent to one of our service representatives which carrier they want. We will also take their order if they are Spanish or Chinese speaking and they call one of the two hotlines, the 800 numbers indicated on the front of the ballot. So there are really five potential sources from which an order for a customer can come to us.

We frequently get a situation where maybe the husband has responded to one of the mailings and the wife to another and they pick different carriers. Roommates pick different carriers. The same person picks a different carrier because they've forgotten that they've already done it. So that's when we get into the process of resolving the disputes and the discrepancies and what did the customer really want, and we currently have what we call an easy access center where we have people who call out and attempt to contact the customer and attempt to find out which carrier they really want.

SENATOR HART: It just strikes me that you have a potential for mass confusion and a lot of finger pointing, and I'm not sure it makes a lot of sense to do it this way. If you call something a ballot--a ballot to a lot of people is a ballot. You vote once and that's it. This word, I mean it's a word that a lot of people understand and I guess I just need to hear more about how these problems are going to be resolved. I guess my own feeling would be that if you limit people's--you don't limit in the marketing, you know, people can go out and try to persuade but when people make a decision they have to be clear that there are only certain ways that you maybe can make that decision. Or that that decision is final and subject to change maybe through the same mechanism, but if you allow people --well.

MR. HEATH: I'm playing the devil's advocate for a moment, Senator. On the other hand, we want our customers to be able to call the various carriers, talk about rate structures and do some comparison shopping before they make their choice. It would be a little awkward for the carriers at that point not to be able to take the order if that's what the customer wanted to do. It's not a clear cut situation by any stretch of the imagination, but you're right. It does create a potential for confusion and these kinds of conflicts and we attempt to deal with them the best way we can and we think that is to

call the customer and say which carrier did you really want.

CHAIRMAN ROSENTHAL: There's no question that there's a lot of confusion in the whole area. As a matter of fact, I tried to establish with a bill, Gary, which would set up an 800 number at the state where people could call in terms of trying to find out who to call, or what, and the Administration didn't care for that particular approach on the basis that it might cost some money to inform people. Anyway, let's move on to the next one. Robin Quiroz, Western Regional Manager, Legislative Affairs for Sprint.

MS. ROBIN QUIROZ: Good morning, Chairman Rosenthal and Senator Hart. I'm really pleased to be here, not only because it's sunny and I'm tired of being in the rain in Sacramento, but to talk about the issue of competition in the long distance marketplace.

The key issue for GTE Sprint is that the development of a truly competitive environment in the marketplace is threatened by any kind of premature deregulation of AT&T. AT&T is still very much a monopoly and the monopoly must be demonopolized before you can move toward deregulation.

I was interested in Mr. Dennis' comments about the number of OCCs that are in the marketplace. He made reference to some-100 or so. That is not a true indicator of competition. We need only to look at the market share to determine that AT&T is still very much of a dominant carrier in the marketplace. The PUC made reference to that in earlier testimony this morning. There's evidence that AT&T has somewhat between an 85 and a 90 percent share of the market.

AT&T also has other significant advantages from its longstanding monopoly position. In addition to market share, it has access to nationwide historical traffic data. That traffic data is something that we don't have access to. They can use that to accurately forecast where their facilities will be needed the most. Peak hours of traffic, for example. They can design their rates and their programs around the customer's needs. We simply can't do that because we don't have access to that information.

When they build their facilities, for example, they can determine through this historic traffic data where the facilities are most needed. Again, we have to second guess that and as you know, that can be very difficult in the marketplace because if you make an error, you have either overbuilt for an area or you've underbuilt.

AT&T still has a monopoly on some very highly sophisticated systems, such as the 800 and 900 calling, and the coin operated calls. It would take us years and years and lots of money to develop that kind of technology. AT&T already has a completely built system throughout the United States. They have access to every telephone in America. It was developed over 100 years as a monopoly at ratepayers expense, government sanctioned.

AT&T also has the name idea. Everyone associates with AT&T. It's going to take some time for us to be able to catch up to 100 years of a monopoly.

Sprint commends the PUC for its wisdom in pursuing a streamlined regulatory approach rather than outright deregulation. What we ask for is a rationale and realistic transition from a monopoly to a competitive environment. It's going to take us some years to



catch up. It can't be done overnight.

CHAIRMAN ROSENTHAL: Sprint and MCI have different views on the discounts which are offered to the other carriers. Sprint would like to continue discounts even after equal access, yet MCI does not believe they should be continued. Would you like to give us your explanation?

MS. QUIROZ: The equal access differential is something that has been a point of contention with us. We currently have a petition filed before the PUC asking them to review the access charge differential. We would like to see it brought up to 55 percent. First of all, I'd like to say that dealing with the present the FCC has imposed a 55 percent rate differential on what we pay versus what AT&T pays for local access connections. California has only given us a differential of 17 percent. The FCC in its wisdom determined that 55 percent was a differential that was necessary because we are given inferior connections, and if you've ever used Sprint you'll know that you occasionally can get echo and voice problems, you have to dial 22 to 23 digits. We would like to see that access differential brought up to the 55 percent.

CHAIRMAN ROSENTHAL: Okay. Now Dominic Archdale, Vice President of the Revenue Requirements, Starnet Corporation, which are the smaller competitors.

MR. DOMINIC E. W. ARCHDALE: Good morning, Senator Rosenthal, Senator Hart. Starnet Corporation, a subsidiary of Ford Aerospace and Communications Corporation, was founded in 1981 to provide medium to large businesses with high quality voice and data services. Headquartered in San Diego, Starnet is rapidly approaching 600 employees and is nearing \$100 million per year in revenue.

Starnet has installed a nationwide network of switches interconnected by leased circuits. Our goal is a fully digital, high quality "backbone" which can support a variety of metered services. Starnet BusinessWATS and Starnet HotelWATS are examples of current offerings. Starnet also provides services to resellers, many of whom are members of CalTel, a California association of 26 long distance service suppliers.

Because of geographic limitations on the supply of low cost leased circuits, Starnet, to survive, has been forced to concentrate like airlines on those routes which are heavily used, and therefore have leased circuits available at very cost effective rates. As more and more telecommunications companies have installed satellite, microwave, and fibre optic facilities, Starnet has been able to expand its "on-net" coverage by contracting for long-term leases on high quality, low cost transmission circuits.

For areas not served by low cost leased circuits, Starnet, like all other carriers, is totally dependent on AT&T for WATS and similar services. Thus, our biggest competitor is also our largest supplier until our own network coverage can grow significantly.

Today we are exploring competition and how well it's working. The wonderful thing about competition is that it very rapidly shows where the problems exist. I would like to mention just three areas of concern.

First, despite all our efforts to provide the customer with cost effective long

distance services, the lack of competition in the local service area causes anomalies of monumental proportions. With fibre optics facilities becoming available, Starnet circuit cost to provide service between Los Angeles and San Francisco, say 400 miles, can be projected at 2 to 3 cents per minute for the long-haul portion; and an incredible 15 to 20 cents per minute for access. How can anyone run a truly cost effective business when 80 percent of your biggest cost element is controlled by a regulated monopoly? Even AT&T is moving to service offerings which allow the customer to bypass local Telco access costs.

The subject of competition in local service areas may be considered taboo, but we offer for your consideration that that step is the only sure way to get local costs to the point where you know if they are real. Nobody can truly tell if a monopoly is operating efficiently. Who do you compare it to? Another monopoly? Historic rate of return and revenue requirements based rate setting processes are highly artificial because no cost effective comparison has been available until now.

A case history is in the making as AT&T has had to grapple with an alien world--competition. If we examine recent events we find several keys. First, an unprecedented array of proposed products and services with very competitive prices. Second, implementation of massive cost reductions and lower cost technology in time frames unheard of in the days of Ma Bell. Surely there's a strong message here. The consumer is benefiting. Regulated monopoly has given way to regulated competition which at some point will give way to observed competition. The question for California is not whether there should be competition. The economic case of it is overwhelming. The question, obviously, is how to deregulate and foster a true competitive marketplace.

Our second area of concern relates to regulation. For competition to flourish in California, you must find a way to avoid over-regulating the services and rates of non-dominant carriers. Once they are registered and determined to be "non-criminal," they should be allowed to participate. Observed by all means, but don't regulate. The burden of regulation in California is awesome for any carrier. Incidentally, you can imagine the cost for us when all the other states are considered. Let services and rates flow freely from non-dominant suppliers. Forcing the same rates for the same distance may seem logical, but causes economic disaster for companies like Starnet.

Our third area of concern is over the timing of deregulation of AT&T. Already they are pressing. Their proposed tariff changes consistently contain competitive squeeze plays based on their historic network coverage and their position as a low-cost provider. Requiring AT&T to price consistently is mandatory. A proposed tariff with little overall change seems to drop rates on longer routes where competition exists, and raise them on shorter routes when no competitive facilities are available.

We suggest then, that the fundamental measure of competitiveness relates to network coverage. If at least four carriers offer and have available leased circuits to 75 percent of California's service areas, it would be reasonable to begin deregulating AT&T. Debates about market share are red herrings, while long-term market share data is significant,

short and medium-term data can be wholly misleading. In a market as dynamic, yet fragile as telecommunications, we must focus on the underlying factors which will permit long-term competition to evolve. We must somehow get local services to be more cost effective. We must minimize rules and regulations for non-dominant carriers and we must base dominant carrier deregulation on degree of availability of competing network facilities.

In conclusion, I would add that the competitive drive to enter the business came from deregulation, not divestiture. That came later and to date, the most we have seen is a heightened cost awareness by AT&T, and while deregulation has resulted in 2 to 3 cents per minute long-haul costs, divestiture has saddled us with 15 to 20 cents per minute access costs. Thank you.

CHAIRMAN ROSENTHAL: Do you think that any legislation is needed?

MR. ARCHDALE: It's unclear to me exactly what form of legislation is needed at this time. If--I believe that possibly legislation might be required to streamline the regulatory requirements because I believe some of those derive from statute.

CHAIRMAN ROSENTHAL: Well, isn't that what the PUC's been asked to do?

MR. ARCHDALE: That's under review. Yes, I believe that's the case.

CHAIRMAN ROSENTHAL: Okay. We'll now move to the second part of our hearing: Equal Access and Implementation. And Gary Burgess from All State will replace Mr. Archdale. The others, Mr. Dennis, Mr. Kamer, and Robin Quiroz will remain. Yes, and we don't need formal statements for the second part of the hearing, but I ask each witness to comment on the process and to relate to us any problems that they see in moving toward equal access, the implementation of equal access. So Mr. Heath, why don't you describe the process.

MR. HEATH: All right. What I'd like to focus on primarily, Senator, because I've described for you in a little bit of detail already how we have implemented the, not only the former equal easy access plan, but the FCC Allocation Order is focused primarily on how we communicate with the customer, how we try to help our customers understand what's happening with their long distance service and help them to make an informed decision while trying to remain what we really are in that whole scenario, which is an impartial third party; the provider of the capability, if you will, but not an influencer one way or the other as to how the customer makes a choice.

It's not been an easy task in terms of how you communicate with customers on this issue because it's a very complex issue and it's an issue that in terms of the implementation happens in very small pieces of geography at a time over a long period of time. It makes mass media advertising for our customer instruction effort relatively expensive, inefficient, and relatively ineffective. We've taken a look at television, for example. Television creates a phenomenon called "media spill." In a market the size of Los Angeles, for example, we've done something like 36 conversions of central offices so far on 21 different dates over the last year. That says that at any one time if you were to advertise those conversions on television, you'd be delivering the message to more custo-

mers who weren't really involved than to customers who were. You create customer confusion. You create irritation because you've created the expectation with that kind of a mass media broad brush campaign, that the customer is about to get a service that may not be available for months or years.

The same thing applies to radio, of course, because radio tends to reach the same kind of a broad brush kind of an audience. As I indicated to you earlier, we still will have roughly 30 percent of our access lines in California not equipped for the service, even after completion of our Modification of Final Judgment requirements, and even in an area like Los Angeles there'll be nine switching offices and, let me see, the line count is something like 120,000 lines which we currently don't even have a scheduled conversion date for equal and easy access. In order to provide the service we need to have those computerized switchers in place and those switching office are still served by electro-mechanical equipment and we haven't yet scheduled them for replacement with the computerized equipment. So again, in terms of being able to deliver this message efficiently in mass media, Pacific Bell, it just doesn't work well.

Newspapers work a little better for us because you can explain complex issues a little more clearly in a newspaper ad than you can on a 30-second broadcast spot, but they have to be---those newspaper ads have to be tailored and very specific to a given piece of geography and I'll show you in a few minutes some of the ads we've done that do that, that become specific to a piece of geography. We've look at things like transit, Teleguide and outdoor boards, but again, they are complex issues and not easily done in that kind of a medium.

So for us, we've arrived at the conclusion that direct mail is the way for Pacific Bell to go in terms of reaching our customers because we get good penetration with direct mail; that direct mail is the way to go and we do mail the customer the ballot package. And let me share copies with everyone. I don't know whether you've all seen them or not. This is what we call "Ballot 1" and it is mailed to every customer about 90 days prior to the office actually going through the conversion process and every customer served by that particular switching office. It is customized to each individual customer through a process called Compuwrite, so that on the inside they will find their name, they'll find a specific date by which they'll have to respond, they'll know when the service is going to convert.

The first page is some brief explanation that long distance service is changing. There's a message that was mandated by the Public Utilities Commission in terms of notifying customers that it's no longer an optional process, that default is no longer an option, that customers must make a choice and this is by order of the Federal Communications Commission. And then page 2 is the ballot that we talked about earlier and I might add that the ballot looks different for every central office that's converted because the mix of available carriers is different for every central office that converts. The carriers look at each office as we get ready to convert it and made a business case

judgment as to whether they want to serve that office. We then put the ballot together with the carriers who've indicated they do indeed want to participate.

The next few pages are some questions and answers which we think are helpful to the customers. We tried to anticipate what kinds of questions customers might want to ask about equal and easy access and provide answers, again, without trying to tip the scales towards one carrier or another. We walk a very fine line because we don't want to be perceived as supporting any one carrier. Our mission is to try to help customers make an informed choice without unduly influencing.

In this regard, we work very closely with a number of consumer organizations that are named on about the fourth page in, we worked with six of them to develop something called a Shopper's Guide, which is also part of this package. We've gotten a little criticism, to be honest with you, because some people feel that the package is a little unwieldy in terms of its size, but there is an awful lot of information contained in this that we think is important to customers as they try to make a choice of a long distance carrier. The Shopper's Guide features most of the major carriers in the California marketplace and gives you some basis as a consumer for comparison of their services. The only thing we cannot do in a publication like the Shopper's Guide, of course, is to quote rates. It would be impossible to quote all the various combinations of specific rates that a customer might want to look at, but one of the consumer groups that we worked with, Consumer Checkbook, will for a very nominal fee do a computer analysis of three months of your long distance billing for you if rates are a primary consideration in terms of what carrier you want to use. And they will show which of the major carriers would have been the least expensive for you to use on the calls that you typically make as a customer. So there's that kind of service as well.

The back page of the ballot package is the map that I showed you earlier, blown up, and it's there to help customers understand a little better the service area concept and make it a complete package. So again, this is Ballot 1. It goes out 90 days prior to conversion.

If customers don't respond to this or through the carrier or through the business office, then of course, we get into a situation where 16 days after the conversion we take our snapshot. We take a look at the data base of customers who did make a choice and we begin the allocation process and we send them a second version of this package. That second version, also customized to them, not only tells them that they are now technically defaulting to AT&T--that's what happens until we actually do the allocation, they default to AT&T--it tells them what carrier they're going to be randomly assigned to if they don't respond with a choice of their own by a given date. It's not just a "you will be assigned to a carrier" kind of a message. It says specifically if we don't hear from you by this given date, your service will be assigned to whatever carrier, and that carrier's name and then we give them the phone number and encourage them to, if nothing else, call that carrier and find out about that carrier's service. And if they like that carrier, get the

ballot in indicating that's fine, that's the choice they want.

So those two pieces of direct mail go from Pacific Bell at those intervals, both at prior to conversion, roughly 90 days, and roughly 45 days after conversion is when Ballot 2 is mailed. The actual allocation of a customer to a long distance carrier takes place about 90 days after conversion of the switching office and as Mr. Brownell indicated, even after that happens the customers continue to have a time period. It goes out another 90 days, as I recall--something like that--in which they can change from the carrier they're allocated to to another carrier if they're not happy with the service and not pay the \$5.26 per line conversion charge that we would normally charge a customer for that kind of a change.

CHAIRMAN ROSENTHAL: What problems are you having in implementing this equal access?

MR. HEATH: Problems in terms of...?

CHAIRMAN ROSENTHAL: Consumers.

MR. HEATH: The honest answer to that, Senator, is I'm not hearing a lot of uproar from consumers or confusion. Our research recently--I had some done to try to understand what some of the barriers were. The customers signing up long distance companies in the past, and honestly, the research indicated a very high level of awareness that default was a viable way to get a carrier under the old system. No choice was a choice. A very conscious choice on the part of the customers. Now that we're into the allocation system mandated by the FCC and we're mailing materials that say that you now must make a choice or one's going to be made for you, instead of 20 percent of the customers being presubscribed, or subscribed at the time we convert an office, it's in the 80 percent range. Customers are making choices.

CHAIRMAN ROSENTHAL: So it's no burden on you then?

MR. HEATH: I wouldn't want you to think that it's not a lot of work because it is. There's a tremendous volume of activity for us, especially with the Allocation Order which now mandates participation of customers, so instead of dealing with 20 percent of customers subscribing to carriers and having to do work for 20 percent of the customers, we're having to do work for 100 percent and that creates tremendous burdens for our internal systems. But in terms of what the public has seen as a result of all that, my perception is they don't have any problem. The service is, by and large, being put in and the customers are getting the carriers they wanted.

CHAIRMAN ROSENTHAL: Who do you look for for answers in terms of this equal access? What's your relationship, for example, with the PUC and \_\_\_\_\_ the program?

MR. HEATH: Of course, we operate under their oversight. We're working very closely with them on some of the concerns. As Mr. Brownell indicated earlier, there's currently a workshop in process in which some of my people, both from the advertising and the customer instruction group and from our marketing organizations, they're working with the carriers and the Commission staff to try to resolve some of those issues.

CHAIRMAN ROSENTHAL: What's the process by which another carrier can insert in your



envelope?

MR. HEATH: They have to come forward and indicate they would like to do that and be willing to pay the fee that we charge for that. It's not a free service, it's an advertising service just like any other paid insert.

CHAIRMAN ROSENTHAL: Okay. Question?

SENATOR HART: Yes. Do you have easy access to a geographical description of when these various elections will be taking place? And you mentioned earlier, for example, that 30 percent will not be part of the process, that you're not technologically able to respond. Can I find out, what is the 30 percent of your area that is not going to be subject to this election and when is my Senate District, the City of Ventura as opposed to the City of Santa Paula, going to go through this process?

MR. HEATH: I can show you that. Some of the problem that I didn't share with you is that these wire center boundaries, these switching office boundaries don't conform very well to political boundaries or to media market boundaries. They are something that were engineered years ago before some of these political boundaries or media markets existed. They were set up on the basis of how you provide quality local telephone service and never really looked at from that perspective. So what I'm telling you is the kind of map that would show you the boundaries of a wire center that is being converted, as opposed to one that isn't, is going to be very difficult to associate at times to a street map, for example, because it's an engineering drawing as opposed to a regular map.

SENATOR HART: Let's take a rural community like Santa Paula. It's got 20,000 people. Are they all going to vote at the same time or because of the engineering that part of the city is...?

MR. HEATH: In a community of that size, probably one switching office serves and they would all get the service at one time as opposed to Los Angeles where there are multiple.

SENATOR HART: So you can't provide me, then...

MR. HEATH: I can give you a list that would show you our conversion schedule and the prefixes sitting in that central office that are associated with that, but the map for the reasons I indicated is a little tougher.

SENATOR HART: I'd appreciate seeing that.

MR. HEATH: All right. We can get that for you.

CHAIRMAN ROSENTHAL: What's the reason why equal access isn't implemented on a service area-wide basis?

MR. HEATH: Senator, in order to provide the service we have to have in place, a computerized switch with the generic programming that allows the capability to make possible, and that computerized switch has to have the capability of remembering what each customer has selected as a long distance company and routing the call to that appropriate long distance company. The older generation electro-mechanical switching equipment isn't capable of doing it, even some of the computerized switches are not capable of doing that kind of thing. So it becomes a function of when we have depreciated a piece of equipment

and when we begin to change it out and replace it with the newer piece of equipment.

SENATOR HART: Another question that I had, Mr. Chairman, was you mentioned that there's some computerized service that will be able to tell people what their billings would have been under the various companies over a three-month period, I believe it was?

MR. HEATH: That's right.

SENATOR HART: And how does a person know of that service? Is that on the ballot?

MR. HEATH: Yes. If you'll look on the page that is pink just ahead of the Shopper's Guide, Consumer's Checkbook, a nonprofit research organization that offers a computerized long distance cost comparison service for a fee that depends upon the size of your phone bill. Typically, for a residential customer, as I recall, it would be somewhere in the range of \$25 to perform that service, will analyze your long distance phone bill and tell you how much your bill would be.

Okay, if I could...

SENATOR HART: One other question.

MR. HEATH: Okay. Sorry, Senator.

SENATOR HART: General Telephone, I hate to be so parochial, but General Telephone covers most of Santa Barbara County. Now do they have a, are they going through the same process that you are? Do they have a similar ballot? An identical ballot or are they on the same time line that you are?

MR. HEATH: I haven't seen their materials and I'm not really familiar with what kinds of mandates they're under in terms of implementing. Maybe Mr. Brownell could answer the question.

MR. BROWNELL: My understanding is that they're undertaking a similar plan. However, they're not as far along in terms of their schedule as Pacific Bell, so their customers will not be converted as quickly as Pacific Bell customers, but they are under a similar mandate.

MR. TOM GARCIA: Mr. Tom Garcia, General Telephone. Mr. Chairman and Senator Hart, yes, we are on basically the same program. That's why we did not testify today. We had agreed with staff that it would be just all repetitive information. But we do have the type of ballots and we do have some other ballots that we have available at our service offices. Our implementation dates are pretty much on target with Pac Bell's.

SENATOR HART: So you don't have a major, sort of policy or strategic difference in how you are approaching this issue?

MR. GARCIA: Very similar. Very similar to Pac Bell.

CHAIRMAN ROSENTHAL: May we have copies of your ballot?

MR. GARCIA: Certainly.

MR. HEATH: Senator, I just realized that I had in my stack of ballots, or copies of our ballot, too. I thought maybe you'd like to see those just to see the difference in the two.

CHAIRMAN ROSENTHAL: Yes, I'd like to.

SENATOR HART: I wish some of our Democratic constituents had a chance to vote twice.  
[Laughs.]

CHAIRMAN ROSENTHAL: "Last chance."

MR. HEATH: Last chance. It does a pretty good job of calling customer's attention to the fact that something's happening that they need to pay attention to. It's not the world's slickest piece of direct mail, as I'm sure you recognize, but we do that on purpose. We try not to look too slick because customers recognize that we don't send them a lot of solicitations to buy vacuum cleaners, or whatever, through the mail. And so we do get a pretty good readership, and in fact, I wouldn't want to be held to this totally, but my recollection is that close to 35 percent of the customers who are subscribing today are using the ballot and that would be considered phenomenal in the direct mail business, so we are getting a good response to it.

CHAIRMAN ROSENTHAL: What are the kinds of things you're doing to address the bilingual concerns in California?

MR. HEATH: Senator, we're really concerned about that, especially with the allocation issue because we could have a monolingual Hispanic customer, for example, allocated to a carrier that might not be able to meet their needs. And I have to be careful how I phrase this because our attorneys get real nervous, but there's an issue of how many carriers can provide service into Mexico. There's an issue of \_\_\_\_\_ operator assistance because a lot of the calls that go into Mexico, particularly Northern Mexico, involve operator assistance because there aren't a lot of phones in Northern Mexico and it's person-to-person and they have to go get the person being called and bring them back to the telephone. These are things that customers haven't really had to think about in the past as they're selecting a long distance carrier, but in my bringing up the subject is going to make my attorneys very nervous because it looks like I'm trying to favor my corporate parent. But we've done a lot of advertising without raising that issue specifically just to raise awareness in the Hispanic community that equal and easy access are coming.

I'll show you a couple of print ads and I'd like to play a television spot for you that we've done to build awareness. Well, I'm missing something. I'm wondering if the package didn't make it. As I mentioned, this really has to be a prefix, specific kind of a message because not everybody's involved at any one time. This is in Spanish and it specifically shows the area codes and the prefixes involved at that point in time. Those customers will know that the ballot is coming and they need to pay attention. This ad ran in a series of Hispanic papers, primarily in the Los Angeles area. And of course, by the way, we've done the same thing in Chinese. The idea of these ads being merely to explain that the ballot's about to arrive and then, in fact, show them what the ballot looks like and call attention to the fact that there is an 800 number that customer's can call in order to get information, or even place the order if that's what they want to do.

If you'll give me half a second, I'll turn on that monitor and show you a very brief Spanish language T.V. spot that we're using on a Spanish international network in four markets in order to again heighten customer awareness that there's a change...[Showing film.]...This moves very rapidly, but it gets the point across that the customer does need to pay attention. It doesn't really try to explain anything other than the fact that a change is coming and to watch for that ballot, which is depicted behind the lady who's supposed to be hanging the billboard or something, and \_\_\_\_\_, all you have to do is mail that in and the little mailbox nods. But it's doing great things for us just because we've got that 800 number across the bottom of the screen through the entire commercial and it has driven the volume of calls into those hotline numbers from an average of 35 a day to an average of 435 a day, so we know that it's being seen and we know that it's being effective.

I think we can conclude it there, Senators, and just respond to any further questions you may have.

CHAIRMAN ROSENTHAL: All right. Let me ask General Telephone a question. I've looked through your ballot and I can't tell, even if I answer the questions, I can't tell what company is going to solve my problems. What do I do?

MR. GARCIA: Senator, that's the first time I've seen the ballot, this morning, so I'm really in no position to answer your question. I can check into it for you.

CHAIRMAN ROSENTHAL: Okay, because in this other ballot which has the easy access Shopper's Guide, it gives each company and some features of each one of those companies. Yours doesn't and I'm trying to figure out how anybody would know which company to choose.

MR. GARCIA: I'll be happy to look into it and get back to you, Senator. This is the first time I've seen it. I haven't even looked at it that close myself.

CHAIRMAN ROSENTHAL: Okay. All right. Do you have anything further to add to that?

MR. BROWNELL: I have a couple of brief comments on one aspect of the equal access process which you raised in your hearing notice, which is the issue of regulatory oversight over the process. What I'd like to emphasize there is that the requirement for equal access and the plan for equal access grows out of the modified final judgment, which led to the breakup of the Bell System. Therefore, the ultimate authority over the plan for equal access is with the U.S. District Court and Judge Greene, and indeed, some carriers have taken certain disputes to the District Court. MCI, for example, took some of their problems to the Justice Department which is involved with the divestiture agreement. But given that Judge Greene and the court have limited resources and are not inclined to be a day-to-day equal access regulator, both the FCC and the PUC have also stepped in.

As I believe Mr. Heath mentioned, the FCC in June of 1985 mandated a new equal access plan under which customers that don't sign up for a given carrier, that don't presubscribe are allocated randomly to carriers in proportion to those who do sign up. In many ways

the equal access conversion process and the regulatory oversight process is federally driven. The PUC disagreed in principle with this FCC allocation plan, but since it doesn't make sense to have one equal access conversion process for interstate long distance service and another for intrastate, and the customer is realistically going to just sign up for one company for both services, PUC went along with the FCC. So we see ourselves being constrained to a certain extent in regulatory oversight by the federal authorities.

On the other hand, we did add certain additional requirements to the FCC plan which we felt would protect consumers more adequately, including some of the bilingual notice requirements, the additional explanatory language on ballots, additional safeguards against high minimum fee and deposit requirements among carriers. So additional requirements of that sort in our view strengthen the FCC plan while we were reluctantly going along with it.

Now that we have this plan in place and it's being implemented, the PUC is pursuing general oversight of the process in three ways. There's staff review of some of the ballot materials that are put together by the companies on an informal basis. There are, as I mentioned, a series of workshops that are now undertaken to resolve disputes between carriers and the local companies. And in addition, there's active resolution of consumer complaints by the PUC Consumer Affairs Branch. The PUC Consumer Affairs Branch address and phone number is on the back of every telephone bill, so a consumer with a complaint can call them.

CHAIRMAN ROSENTHAL: Is there staff to answer the telephone?

MR. BROWNELL: We have seven people working on communications in the San Francisco Consumer Affairs Office and four in the Los Angeles Consumer Affairs office. I should mention, however, that I have checked with them and the actual volume of complaints is very low. In October there were only 12 complaints registered with the PUC statewide, and in November this number is similar which would indicate, I think,...

CHAIRMAN ROSENTHAL: It might indicate that nobody knows that the PUC has anything to do with it.

MR. BROWNELL: It could indicate that to a certain extent, but it might also indicate that the process is working reasonably well. There have been some problems, as Senator Hart mentioned, the consumer confusion; and there have been some disputes among carriers, but I think many parties believe that given the enormity of the equal access conversion process, given the enormity of the task, that it's working reasonably well. And as I mentioned, there is regulatory oversight from both the federal and state levels.

CHAIRMAN ROSENTHAL: Are you satisfied with your present authority in the area? Do you need anything further from the Legislature that you don't already have?

MR. BROWNELL: Well, the one thing that we might need is preemption of the FCC, but that's rather hard to gain. [Laughter.]

CHAIRMAN ROSENTHAL: Okay. I won't try that one.

MR. BROWNELL: Thank you.

CHAIRMAN ROSENTHAL: Okay, we'll go now to the long distance companies and let me start, since Gary Burgess of All State Communications is new to this particular panel, let me start with him.

MR. GARY BURGESS: Good morning, Senator, Senator Hart.

CHAIRMAN ROSENTHAL: That's the smaller companies.

MR. BURGESS: Yes. I'd like just for a moment to talk a little bit about All State. We are really a different fish in this bowl. All State is an independent company. We're not associated with the insurance company or with Sears and Roebuck. You can tell how old I am. We were founded in 1983 to serve small and medium sized business customers in the Bay Area. We employ about 15 people and we presently serve approximately 750 business customers in the San Francisco Bay Area. We're a very small growth company. We grow about 20 customers a month.

With respect to resellers in California, and resellers are different than OCCs, we're about medium size and in terms of how we operate, we operate pretty much like most of the resellers do through the state, from the very small to the very large resellers. We all operate in the same mode in how we run our businesses. All State is what I call a classical reseller. We own no facilities. We own no telephone lines. We lease all of our facilities from OCCs or other common carriers. We are, in fact, a broker of bulk telecommunications services and provide the ability to take large amounts of telecommunications services that in theory, at least, are inexpensive and distribute them to the user population and sort of split the difference in what we save the customer.

Resellers tend to serve the smaller communities, areas like Ukiah, Chico, Auburn, Rancho Bernardo here in Southern California, places where typically the OCCs do not generally, for economic reasons, serve. I think it's important that we do draw a distinction between OCCs, or what are called facility based carriers, and the reseller. We are, in fact not able to control the cost of our transmission, that is the cost of those lines that go from one city to another through economic and capital investment because we lease all those lines.

I'd like to speak just briefly about how equal access has affected the reseller in California and has been stated before. Equal access is really a court ordered process of converting Pacific Telephone's facilities into a type of connection that is "equal to what AT&T has enjoyed over the years." The idea is good in theory, but in practice it's a disaster. Let's talk about this conflict between the theory and the practice.

The theory are that resellers can use equal access to better market their product to the consumer. The practice is that because of the way that equal access was implemented in a spot process, that being that one central office in my area where I am from up in San Francisco and San Jose is converted one month, and then a little small area in San Francisco's converted another month, then one little area in Oakland is converted a month later. It makes it almost impossible for a reseller to market those areas. As

Pacific pointed out earlier in their testimony, there's no cohesive marketing group that we can go after. There's not even an address boundary that is really distinctly identified that we could send some sales people out to visit. It's done by telephone number which has no relationship to anything else in marketing practice. So the cost for a small reseller to market equal access is prohibitive.

If you're an AT&T or MCI where you have a statewide organization, you can spend \$1 and advertise and to a large group of those central offices that are distributed across the state, but we have to spend that same \$1 to advertise that one central office because that's all the area that we cover.

I'd like next to talk about the implementation of equal access. The theory being that the equal access was easy to implement. That resellers could go to their utility tariff and order services and those services would provide them with equal access. Well the practice of implementation is that it takes extremely large staffs of planners, of network engineers, of administrators, and of marketeers that small companies can't possibly afford. As a matter of fact, some of the bigger companies are bending under the strain of that kind of support to implement equal access.

Again, even Pacific Telephone has admitted that the problems in this widely scattered implementation of equal access have caused even them a tremendous amount of problems and they have now embarked upon what they're calling grouping of central offices and they're trying to now convert central offices in bigger geographical areas to make it more economical for everybody, including them.

Equal access implementation was designed for companies with huge capital budgets and could afford to spend tremendous amounts of dollars in the implementation. Unfortunately, most resellers in California don't have large capital budgets and can't afford to compete in that marketplace. The theory that equal access provides a cost effective service to help resellers compete with AT&T is just a myth. The practice is the real cost of equal access is extremely high. It's extremely high in the cost of the service and it's extremely high in the cost of the overhead to implement by the reseller.

To give you an example, my company, who by the way like most companies in Cal Tel do not use equal access--if I was to convert my unequal access today to equal access, my cost of goods would go up by 25 percent. The typical reseller in California gross margins are between 20 and 30 percent. If their cost of goods goes up 25 percent, that gives them two choices. One, to close the doors and the other one is to raise the prices to the point where they no longer provide an economic alternative.

CHAIRMAN ROSENTHAL: Let me ask a question. Why are resellers important?

MR. BURGESS: Well, resellers, as I said earlier, do something that OCCs don't do and that is they serve the small communities that are not economically capable of being served by the OCCs. We have resellers in communities that have less than 15,000 people. In those communities if the resellers go away, there will be no competition and AT&T will end up being the monopoly carrier that they've always been. And that competition is what

forces prices down.

CHAIRMAN ROSENTHAL: I guess the next question might be what can we do to make that market more profitable for you to stay in business, if in fact the OCCs are not going to service those areas, and does the PUC have any responsibility in that area to protect that competition for all?

MR. BROWNELL: I think I can address that. We have a responsibility to develop a level playing field for competition in the long distance market. In the case of resellers, if the conversion to equal access means that they're going to more expensive access connections, that's because the traditional access connections that they've used have been discounted below the cost of those access connections. It's not often recognized that the cost of inferior access is about the same as the cost of the new feature group D equal access. The reason for the traditional discount has been that they haven't had the opportunity to go toward equal access. It hasn't been there, but the PUC has signaled as equal access comes into play the various long distance companies, including the OCCs and resellers would be expected to either take advantage of that or pay for the other type of inferior access connection at prices that are closer to costs. So competition is useful but you don't want to go overboard in promoting competition that's not economic and that's a fine line. It's a difficult line to tread but that's what the PUC is attempting to do in this area.

MR. BURGESS: Senator, if I might respond to that I will categorically say right here that we would be more than happy to pay the costs of unequal access to Pacific Telephone. As a matter of fact, we've held discussions with them and even from their numbers that they have given us, the cost of unequal access is nowhere near in the neighborhood of equal access. I think we have a situation where we're kind of put in a squeeze. Number one, the difference between the quality issue, which was the big, big selling point back in late 1983 is when they were selling us equal access and saying this is where you want to go, was the quality. Well, I'll be very happy to have every member of the committee come up to my area and make a telephone call over my system that is unequal access and over an equal access system and if you can tell me which one is which, which you can't, there is not substantially, now with new technology, a difference in the quality of those circuits.

The advantage of equal access is supposedly the saving of the 21 or 23 digits that has to be dialed. Again, technology has provided the ability to avoid doing that. I provide every business customer that is signed up on my service in a fact equal access as far as dialing. They pick up the phone and they dial one plus ten digits and through technology we take care of that dialing program. So what I'm saying is that, I suppose what I'm saying is I think there needs to be a second level of service for resellers that is not equal access. We don't need it. It takes away our ability to provide an alternative cost effective method of making telephone calls within the State of California.

CHAIRMAN ROSENTHAL: Does that suggest special treatment?

MR. BURGESS: What I suggest is that there are products that are capable of being



provided by the local telephone company that would allow us cheaper connection than equal access, and that they should be provided and could be provided.

CHAIRMAN ROSENTHAL: See, if perhaps you were willing to serve rural areas, as well as business, I might be interested in pursuing it.

MR. BURGESS: Well we are.

CHAIRMAN ROSENTHAL: Yes, but you're only interested in the businesses in those rural areas, not the average telephone user.

MR. BURGESS: That's not true, Senator. I think that we are interested in residential customers in the rural areas. I think in the metropolitan areas there's a tendency to stay away from residential customers because of the conditions of the marketplace there, but I think you'll find resellers that are in rural areas have a very high percentage of residential customers. Through Cal Tel and the members that I have associated with there, I know that to be a fact. The problem that we perceive is that staying in the unequal access environment, as someone pointed out here, won't save us from the cost of equal access. The rates for unequal access are being artificially driven up to be essentially equal to cost in equal access without providing all the whats and jingles, if you will.

I think--you said something and I want to go back and go over it again, is why are resellers of benefit to California and I think we're a benefit because we can provide that competition, that downward pressure on pricing for the consumer in the small areas. And the reseller is really the only viable alternative in small communities to AT&T. I think that a simple statement has to be said about equal access and that is that equal access as provided now benefits only one company. It doesn't benefit the reseller. It really doesn't benefit the local telephone company, and it certainly isn't benefiting the consumer of California. It does apparently benefit very much AT&T and the reason why I say that is most of the resellers in California, as I said, don't participate in equal access and in fact, recommend to their customers to pick AT&T to save this confusion that's out in the marketplace.

We find that our customers are terribly confused. They may not be making phone calls about it but we certainly get them. We find that the confusion exists from the fact that they don't understand the ballots. The ballots are cumbersome and large and no one has time to read them. They get so many pieces of advertisement that when the ballot arrives they just think it's another one and it goes right in file 13 with everything else. The confusion is particularly high on the unallocated customers who are afraid they're going to end up with a phone company that doesn't make anything but local phone calls, or doesn't make anything but interstate phone calls, or they don't know what. And just to add to the confusion--although they were talking about New York--I'd like to point out that in the State of California we have a reseller who recently did a poll of his pre-subscribed customers. Those customers that picked him as their primary carrier under equal access, and found that 20 percent of those customers had in fact been put on AT&T

as AT&T customers. Now imagine that happening to you if you were home and you expected to make calls over my system and receive a 20 percent savings just to come find out at the end of the month you get a bill from AT&T and you didn't save anything. And that's what going on, not in New York, but right here in the State of California. I would like to clarify for you, Senator Hart, one other thing and that is the way that the election process was set up allows carriers to make those decisions for customers as long as they certify that the customer made them. That is not a problem in the paper environment that resellers and OCCs are involved in, but with AT&T having so many customers that they provide that information on magnetic tape, that's seems to be where the problem comes. That magnetic comes in and there's no verification of it. It's just run off and whatever's on there is accepted by the local telephone company. And that's happening here. Not in New York, it's happening here in California. So I don't know if they fixed their computer problem but those are things that are happening today.

CHAIRMAN ROSENTHAL: I'd like each one of you, as you make your comments, to tell the committee if you have any complaints about how the local phone companies are fulfilling the obligations of equal access. Do you want to make a comment while you finish up?

MR. BURGESS: Yes. I can't do anything but applaud Pacific Telephone for taking on an effort that is essentially taking a system that took 107 years to build and trying to change it in three. I think they have tried under the restraints that have been there to do the job. I think that there's some inherent problems that they are incapable of coping with and that is the fact that they're trying--we've sort of blurred the line between the deregulation of long distance and divestiture. They're not the same thing and so they're trying to cope with both those problems at the same time and I don't think they can. They really need to split them apart and deal with the fact that they now are a separate company and they have to deal with things different than they did before, and the fact that it is for the benefit for the citizens of California to foster a competitive environment, and that can't be done in 24 months. I mean, AT&T, after all, had the 107 years to build its market base and we've had 23 and-a-half months to try to eke out something in this marketplace.

But I think in the main, Pacific Telephone actually needs to be commended on what it's done. I think they've done under the circumstances the best they could. Unfortunately, they were forced into a situation that's created large problems.

CHAIRMAN ROSENTHAL: Thank you very much. We'll now go again to Mr. Dennis.

MR. DENNIS: Thank you, Senator. I would begin by pointing out I share his opinion that Pacific has done in the area of equal access provisioning, I think has done an outstanding job given the magnitude of the task that they were faced with. I wanted to point out though, Senator Hart, to you that AT&T mails to all potential customers a separate mailing piece advising them, as well as the ballot, that the access change is coming about, offering them an opportunity to sign up for AT&T. And we do receive back these authorization cards with the customer's signature and that is the basis on which

we enter the data into the computer that allows them to forward that information magnetically to Pacific Telephone, and in fact to all of the Bell operating companies.

In addition to the mailing piece, we do place a call to all residence customers who use in excess of \$3 a month in toll and business customers who use in excess of \$10 a month toll attempting, once again, to advise them of the advantages of AT&T and soliciting them as customer of AT&T. And if they choose AT&T during the course of that telemarketing call, we send them a document and ask them to provide us with a signed document authorizing us to claim them as a customer.

CHAIRMAN ROSENTHAL: Now let me just break in there. That appears to be where some of the problem may be. Not in the one that's signed, but in your phone call to the telephone user there appears to be some misrepresentation.

MR. DENNIS: I'm not aware of any misrepresentation because we do advise the customer that we are going to forward them a document that requires their signature and request that they return it. If they do not, we follow up with a second call and a second document.

CHAIRMAN ROSENTHAL: So that is, somebody says to you over the telephone, "Yes, sign me up for AT&T," that doesn't automatically take place until the form comes for them to sign?

MR. DENNIS: That's correct.

CHAIRMAN ROSENTHAL: I see some heads shaking the other way.

MR. DENNIS: I concede that, as Mr. Heath suggested earlier, the call may have been received by one member of the family and the document received a different member of the family. That's a possibility. And it's conceivable, in fact, it does occur where different members of the family will sign documents from different firms and forward them back. Both firms believe then that they have a valid and a legitimate and authorized selection for their corporation. And a third document might directly go back to Pacific Telephone yet indicating a different choice. That does occur. I have heard a number of allegations, though, this morning that suggest that there has been some willful intent on the part of AT&T to deceive and I'm telling you that that is not the case, that we admittedly did have a program problem some months ago that did affect some Eastern parts of the United States. We detected the problem, we announced the problem to everyone and we set about correcting the problem and in fact did discontinue using those programs. I'm simply attempting to clarify.

In addition to that, we have made use of Pacific Telephone's availability of billing search and we have included a billing search in one of their mailings during the equal access process, and where possible we participate in special events, such as fairs, and that kind of thing with brochures, etc., explaining to customers. And once again, attempting to make a sale and I thank you for the opportunity.

SENATOR HART: May I ask a question, Mr. Chairman?

CHAIRMAN ROSENTHAL: Yes, Senator Hart.

SENATOR HART: May I ask Mr. Heath, AT&T or any other company will give you infor-

mation that says that this is one of our customers and you basically accept that information unless you get contrary information from the customer or some other contact.

MR. HEATH: We'd have nothing to tell if that wasn't the case unless we had that kind of a conflict, a discrepancy I described earlier where maybe we've got orders from two different carriers for the same service.

SENATOR HART: I hate to sound so cynical, but what would prevent a company from saying, "Well, we know there's going to be a number of people that are just apathetic. They're just not going to play this game, so we'll sign them up and we'll know that maybe they can do some kind of demographic or analysis of what kind of people we're talking about and they just sign them up and we know that we're going to get called on a number of them. But we're going to pick up a lot of customers that way, and they're probably not going to know or care that much whether it's us or another company," Is that scenario possible?

MR. HEATH: I suppose it's possible but I don't know that it would ever work out that way. Customers do pay attention to what comes in their bills to them and it would be fairly recognizable to them if something were different and I think we'd be hearing a lot more than we have been. As Mr. Dennis indicated, they had the problem, they recognized it, they came forward with it. If there were willful intent on anybody's part, because they are not the only one's who had problems, I think we'd be hearing from a lot more customers than we have been.

SENATOR HART: Before, Mr. Dennis, you enter the name on the computer, you have a signed authorization in your possession?

MR. DENNIS: Yes, we do.

SENATOR HART: And so if you have any questions you can always go and review the documentation?

MR. HEATH: Of course, and again sometimes the discrepancy, we have that piece of paper too.

MR. DENNIS: They've returned our ballot, they've returned their document and that's when we call the customer and get the customer's authorization to do one or the other.

SENATOR HART: I'd like to ask Mr. Dennis another question, if I could. Knowing so little about this but watching television on occasion, not a big television watcher, but I'm really impressed by the advertisements that AT&T has on. They're extremely effective I think. I don't watch television that much but I never see an MCI or a Sprint or other corporation's advertisements on television. You say you're for competition. If you go through this ballot process and all you hear is Cliff Robertson over and over again, is that really fair?

MR. DENNIS: It's interesting that you would have that experience. It seems to me I see another individual on television a substantial amount of the time suggesting that there are other carriers that ought to be chosen.

SENATOR HART: I don't watch television that much. Maybe it's just certain programs.

MR. DENNIS: Well, and it might be that I'm just allergic to...[Laughs.] the other commercials. That's a possibility too. I think, I would liken it to the condition that exists between IBM and \_\_\_\_\_. As an example, I think you probably see more advertising than you do by \_\_\_\_\_. IBM possesses probably in excess of 80 percent of the computer mainstream market today. I would suggest to you no one in the room believes they should be regulated. No one in the room, I don't think, that they dominate the computer mainstream market, and clearly it is crystal clear that they do not set prices in the mainstream market. In fact I would venture a guess that if there is a price leader, if there is a price leader in the mainstream market today, it isn't IBM. It may well be one of their smaller competitors and that is \_\_\_\_\_. I don't see any difference between AT&T in its efforts to compete for the market than I see for IBM and that has just been a tradition. I think it's perfectly legitimate. I don't see anything unfair about it at all.

SENATOR HART: Okay, thank you.

CHAIRMAN ROSENTHAL: I see it completely different. [Laughs.] And it just seems to me that the whole concept of creating competition, which incidentally, I didn't agree with the breakup, divestiture, as completely different because not everybody has to have a computer, but everybody needs a telephone. And such a good job was done over the years in promoting that concept that was the reason it was regulated and it was a monopoly. Okay? As a matter of fact, I think, I originally thought that if people didn't make a choice that it would automatically go to AT&T, and I've since changed my mind. And as a matter of fact, I think that there ought to be a requirement of the television stations for equal--just as in a political campaign--for equal time. Now, I'm not going to be able to bring that about but I think that's what really ought to happen if, in fact, we're really talking about competition. Because people have been with AT&T forever, they do have an advantage. There's no question about it in my mind. But that's, I'm not going to be able to change that except that I do think that the others in the business ought to have, in other words, maybe it ought to be public announcements of alternating ads on the television stations of all the major OCCs, and then people would really be able to make a determination on the basis of whatever that message was.

The message which says, and I, as a matter of fact, must tell you that I signed up with AT&T because of some problems I've had in trying another system. But the beautiful argument, you know, we were here, we gave you the good service and don't you like the sound, and all those kinds of things are really very creative and positive in terms of your company. And before I became a legislator I used to be involved in the advertising business and so I understand what's happening. But I don't think that that's really creating competition, that really ought to exist if, in fact, that's really what we want to do. Competition for the large user is not, in my opinion, competition. It may be competition for that group of users, but it has affected in a terrible way the competition for the homeowner, for most of us and I think that that's kind of unfortunate as far as

I'm concerned. But anyway, that's just my own thing.

MR. DENNIS: May I? First of all, I agree with you in principle and suggest to you it wasn't my idea either. I spent a good number of years, in fact, attempting to convey the message to the people what was going to be brought about if this did occur. What we said would occur is in the process of occurring. I don't frankly...

SENATOR HART: What did you say was going to occur?

MR. DENNIS: I'm sorry.

SENATOR HART: What did you say was going to occur?

MR. DENNIS: I said that if competition is introduced into the industry it will cause local rates to rise to their cost. It will force them to. Competition will bring that about. We attempted to say that. We attempted to explain how the services were priced in a social fashion, not based upon costs, not based upon markets, but in a social fashion. If anything, I would suggest to you it was probably AT&T's idea to achieve universal service to the maximum extent possible. But that's neither here nor there. I believe, frankly, that technology, rather than legislation or regulation, has brought us where we are today. And I think that without the effort of the FCC to introduce competition into the market, the technology that exists today would have brought it about. I don't think that there is any way to prevent it. I simply wanted to say we did attempt to explain that and that the things that were taking place were not going to appear at least at the outset to be in the best interest of the small consumer.

Now I would like to say one last thing and quit sounding as though I'm on the defensive, because I am. AT&T does carry a burden that no other interexchange carrier in this room or any place carries, and that is we have guaranteed to essentially be a supplier of last resort. We provide service to all comers and we do it in all areas. We do it in areas that are not profitable to do it and you'll note, you'll note that we don't have competition in those areas because it is not profitable to provide service that way. We provide it on an average basis. We average our costs across all our lines, all the distances and we do, in essence, carry, we carry a handicap by virtue of that, that is in large part ignored by the populace. Now I thank you for the opportunity to express that.

CHAIRMAN ROSENTHAL: Okay. Mr. Kamer.

MR. KAMER: Thank you, Senator. There are a number of issues that have come up that I'd like to address, the first of which is that this committee avoid the temptation to blame everything on divestiture and on the breakup of Ma Bell. Local phone rate increases were not a product of the divestiture and...

CHAIRMAN ROSENTHAL: No, but the confusion arises as a result of it.

MR. KAMER: That is absolutely true, but if you look at a graph of local phone rate increases for the 30 or 50 years before divestiture, you will be surprised that they didn't just sort of, weren't traveling in a level line and all of a sudden leapt at the implementation of the MFJ. Let me say that several things can be concluded as we enter the second year of equal access.

Across the country we have found the local telephone operating companies were not fully prepared for the demands of equal access. That is not to blame them but had they said that it's important to chart the course of progress that has been made ever since those problems have been identified.

The committee's asked a question of what responsibility the local phone companies have to educate customers. Quite simply, the answer is major responsibility and that is nothing, that is not an invention of ours, that is a specific requirement in the MFJ and, in fact, companies like Pacific Bell have made important progress in the area of educating consumers and what is inherently a very confusing process. As far as state agencies overseeing implementation of the program, the point has already been made that the PUC is really the agency with the broad authority to oversee the success of this process and intervene where it sees fit. It has chosen to do that through a series of informal workshops in which MCI has been a participant. These workshops have allowed us to lay our concerns on the table and discuss them openly and candidly with other carriers and with the local exchange companies, and what the PUC decides to do with those workshops is really its choice.

What problems have been encountered during the equal access process? MCI has a simple, but paramount, goal in equal access and that is the timely processing and the effective fulfillment of customer orders. Not just our customer's orders, but everybody's customer's orders, rules and processes by which a customer who signs up with MCI or Sprint or whomever, will get that company and there won't be confusion. In California the pace of the end office conversions has made it absolutely imperative that we arrive at a satisfactory agreement for resolving these problems with Pacific Bell. During the summer months, for example, more than one million lines were converted each month. With that kind of volume you really can't run a business by getting caught up with these kinds of problems that we've heard about. And with these changes did, indeed, come a great number of consumer complaints. The PUC may not have gotten them, Pacific Bell may not have gotten them, but we certainly got them and I will be glad to share that information with the members of the committee.

The complaints dealt with not being connected with the interexchange carrier of choice, about being billed by AT&T even though the customer has signed up for MCI, and other problems over which we really did have no control. Once we left that order at the local exchange company's doorsteps, it was theirs to process. But we have turned the corner. In place now are arrangements for the accurate tracking of customer orders, for resolution of conflicting orders, for verification of final installation, and other critical steps that ensure that the customers who select MCI are connected to MCI.

Internally we have established our equal access task force and senior management. It is legitimately our highest priority within the company to identify outstanding problems in regions of the country and work them out. In California we were the first and still may be the only telephone company to open an equal access center for direct

inquiries from consumers, not one that calls out to them but one that is there to accept their calls and to track their orders. That center is located in Irvine and represents an investment of more than \$1 million on MCI's part. We have established access to...

CHAIRMAN ROSENTHAL: Is that a toll-free number?

MR. KAMER: Yes, it is. In fact, for our current customers all they need do is dial 1-700-MCI-HELP, and I don't have the 800 number in my head, but I'll be glad to share it with you.

We have established a direct connection into the equal access data base of Pacific Bell and that's very important. We can then enter that data base through an arrangement with Pacific and find out where our customer's orders are, so when a customer calls our service rep, the service rep can't say, "Well, I don't know. Call Pacific Bell." I mean, it's our effort to try and be credible and legitimate with the customer when they call us and say what's going on. Additionally, along the same lines we have expanded the staffs and the hours of our regional customer service facilities in Culver City and in San Francisco to channel the two regions of the state.

I want to point out that we have indeed made significant progress in our dealings with Pacific Bell and sort of normalizing what had been fairly rocky relations in the early days. And again, while we're not out of the woods, we have taken a number of reasoned steps toward the resolution of order processing problems and are developing cooperative relations with Pacific, with General Telephone, and with the other inter-exchange carriers.

Let me add one other thing. The point has really not been made, but I don't want the committee to be left with the impression that once a customer chooses MCI or any other interexchange company, either by ballot or direct order with the company or any other means, that they are stuck with that company. If you're on MCI and you want to call one of the countries that we don't serve, you can always 10288 and access AT&T's network. If you like Sprint for a call to your grandmother in Minneapolis on Sunday afternoon because the rates may be cheaper, you can call Sprint with only having to dial those five numbers. That is the other important upshot of equal access. The customers in those equal access areas have equal access to the companies providing service to their homes. It should not ever be stated that a customer who is on one of the networks that doesn't happen to serve Mexico can't ever call Mexico, will have to go to a pay phone or something. They can always call Mexico, they just have to access another company's network.

CHAIRMAN ROSENTHAL: Okay. And finally, we will hear from Robin Quiroz.

MS. QUIROZ: Okay. Concerning equal access, Sprint acknowledges that it's been a very complicated and confusing process. We also want to comment Pacific Telesis for making the transition as smooth and easy as possible. They've done a relatively good job. We have done our share to try and alleviate some of the customer confusion. We have set up workshops in coordination with the chamber of commerce, public workshops to better inform the consumer about what choices are available with equal access, and we've



invited representatives from the industry to participate in these workshops. We've also participated in the recent workshops the PUC has set up and we will be participating in the one that I believe is coming up this week.

The piecemeal conversion of the LATAs has been a real problem with respect to equal access. It's created even greater customer confusion and it's created real marketing problems for the OCCs, at least insofar as Sprint is concerned. It also creates more cost from our standpoint. For example, if we could be set up with equal access on a call that may be originating and not have equal access on a terminating call, if you're placing a call from Santa Monica into Santa Barbara, you may have equal access here and not in Santa Barbara. The result is we pay more for the equal access and you may have a call that doesn't have the same kind of clarity and quality as AT&T.

Another problem has been that we don't always have the availability of the tandem switches at the time equal access takes affect. This creates a more inefficient system and it creates more cost for us. Also, as was mentioned earlier, the problem with the access charge differential is one that we're experiencing with the equal access. We have petitioned the PUC. We would ask them to increase the access charge differential to 55 percent as the FCC has done, and we would encourage the Legislature to use its oversight capabilities to encourage the 55 percent as well. We believe that the differential needs to more accurately reflect the quality of the connections that we receive.

Sprint is not seeking any kind of a subsidy or preferential treatment through government protections or policies. Sprint will pay our fair share and we ask that the transition is done in a smooth and orderly way and that we're going to pay for exactly what we receive.

I don't think I have any more comments on the equal access. I would like to just close with respect to saying that equal access doesn't necessarily mean that we have competition in the marketplace for the reasons that I have mentioned. Equal access doesn't really mean that we truly have equal access. We would encourage you to watch the transition process in the marketplace for creating a competitive environment. We would ask you again to exercise your oversight powers, and that's it.

CHAIRMAN ROSENTHAL: Okay. We will now hear from the consumer concerns. Richard Elbrecht, the Supervising Attorney, Legal Services Unit for the Department of Consumer Affairs, and I announced earlier that Ken McEldowney would not be able to be here because of some personal problems, but Shirley Goldinger from the L.A. County Consumer Affairs is here, and if you would come forth we'll give you an opportunity to---Mr. Elbrecht, why don't you go first.

MR. RICHARD ELBRECHT: Thank you very much, Mr. Rosenthal. I'm very sorry my friend Ken McEldowney can't be here today because he and I have worked on many of these issues over the years. He's an exceptionally intelligent and able spokesperson, although I've also worked with Ms. Goldinger for several years, maybe more than a decade, and I think that she'll perform admirably in his stead.

When the FCC announced its tentative plans to establish the cost allocation plan in February of this year, almost all the consumer organizations nationwide expressed deep concern, if not opposition, to that proposal and the main thrust of the concern was that there are just many consumers who simply weren't ready, willing or able to make the kind of an evaluation of the alternatives that they would be asked to make. Also, many consumers, especially those whose languages are limited to a foreign language would find it difficult to assimilate the information needed to make an intelligent choice. So a great many consumer organizations opposed that proposal and I think that some of the problems that we're hearing today indeed have been predicted and were predicted at that time. And yet the FCC decided that if we're going to have a competitive long distance environment, we need to have active participation by consumers and it's possible that in the final analysis the FCC's decision will prove to have been correct. However, it's imperative, as the FCC said in making this decision in May of this year, that consumers have good information.

We've heard so much today about what steps have been taken to provide consumers with information that I don't want to begin to repeat what has been said and I join most of the others in commending Pacific Bell for the outstanding work they've done in developing their direct mail and T.V. information programs. The Department of Consumer Affairs has also published a brochure. It first became available in October of this year and I think the committee members have it.

CHAIRMAN ROSENTHAL: I want to say that I'm pleased to see that the Department has published a booklet, but how does anybody know that it's available?

MR. ELBRECHT: Well, we're acutely aware of the importance of publicizing the availability of the pamphlet and we're taking special steps to inform the news media of the existence of the pamphlet. Our own Department personnel are going on T.V. to describe and discuss the availability of the pamphlet. We also are making contact with the local telephone companies and other consumer organizations so that they can be plugged into the process of making the pamphlet available.

CHAIRMAN ROSENTHAL: I just want to indicate that you opposed an 800 line which my legislation tried to create and it seems to me that if people have no place to call, then the pamphlet will just accumulate in the Department of Consumer Affairs. I don't know how many you've printed, but I guarantee that it will be there, almost that same number, after this whole problem has been solved, if nobody can know about it.

MR. ELBRECHT: Actually, in the first month that it's been available, we've received more than 1,000 requests. We're just now setting into ordering a second printing, so we hope and expect that the word will get out and the significance of the pamphlet will become more widely known. We're tried to add to the information that Pacific Bell and others are providing, but adding to the value of the information. Take, for example, the question of access to Mexico City, or some other place where an individual consumer calls frequently. We've hit home hard on that one issue.

CHAIRMAN ROSENTHAL: Let me ask you a question about it because the same question that I've asked of General Telephone. There are questions here that one would put down as to their particular needs and it says here, "Are there installation or start-up fees? Record how much. Your current company. Company 1, company 2, company 3." Now, if I got this, what would I have to do? I have to call all the companies now to find out that information?

MR. ELBRECHT: If you really want to do a thorough job, you have to call all 85 and nobody in his right mind is going to do that, especially if we're only talking about \$1 a month saving, and I'm deeply concerned about that 20 percent of the people who aren't going to exercise their ballot, who are going to be assigned some place and there are problems.

CHAIRMAN ROSENTHAL: I want to point out the value of the one which came out from Pacific Bell and the uselessness of the one from General Tel and from Consumer Affairs in terms of--this tells you about all the companies and what there is in terms of the question that you've asked, so that somebody can look through here and make a determination without making a dozen phone calls.

MR. ELBRECHT: Well, regrettably, you still need the cost data. Using the Pacific Bell materials, as outstanding as they are, the consumer still has a tremendous burden and I share your concern and that of all the others here, that this is a burden that a lot of consumers aren't going to want to have to shoulder, especially if they aren't going to save anything by going through this complicated process, and that's a problem. It's a serious problem and this problem is going to be manifested, I think, when we take a look at the 20 percent who don't make a choice. And we don't have the data yet, apparently, the first cost allocation has been made in November, according to the Pacific Bell witness. Let us see what happens with regard to those 20 percent who are assigned to a carrier that they've never heard of, don't know what it's all about. I have a deep, deep concern about that group of people which is one of the concerns that underlay the opposition to the FCC proposal last February.

Another concern--and you asked us to articulate concerns, Senator--is the whole question of merchandising. Now our own PUC is evaluating these proposals and I can indicate that one of the proposals...[Changing tape.]...type of a pyramid sales scheme. Our Department will almost certainly file a protest with the PUC in opposition to that proposal by that long distance carrier to establish a merchandising program that is probably deceptive and that is another category of concern that we haven't talked about today and that is deception in the sale of long distance telephone services.

And here I think it's just important to point out that the laws, the general law of the land that governs fraud, deceptive sales practices, and so on, also apply to long distance carriers, and that in the same that our Department, or any D.A., or the Attorney General can file suit under Business and Professions Code Section 17200, or 17500, or the Consumer Legal Remedies Act, the same way that we can file suit against any of these

other companies in the non-telephone area if there are examples of patterns of practice that involve deceptive sales practices, action can be taken against long distance telephone companies as well. And I would assume that actions of that kind will be brought if things get out of hand.

As I indicated, our Department is also interested in the generic problem of merchandising and I do also expect that we will make an offer to the PUC of some staff assistance to the PUC in these workshops. Perhaps one of my staff attorneys could meet with the PUC and the telephone companies to share information about California laws that apply to the merchandising of long distance services.

CHAIRMAN ROSENTHAL: Can we get some sort of a guarantee on that assistance?

MR. ELBRECHT: I can't speak for my superiors, but we've gotten general approval in concept and I think that it's highly likely that it will happen. I think that's all I have to say, Senator.

CHAIRMAN ROSENTHAL: Okay. So you do believe that the Department has some sort of responsibility in overseeing what could happen to our consumers?

MR. ELBRECHT: By all means. By all means we do.

CHAIRMAN ROSENTHAL: Okay. All right, we'll now call upon Shirley Goldinger.

MS. SHIRLEY GOLDINGER: My name is Shirley Goldinger and I'm the Director of Consumer Affairs for the County of Los Angeles. I think I have some questions for the long distance carriers. I want to know what they're doing to help consumers with complaints. Have they made known to consumers what their system or their mechanism is for handling complaints? I just feel that not enough information has gone out to consumers about how they will be handling complaints.

It's only one of the companies that advertises that you get immediate credit for an error in placing a long distance call. Is that because the system for getting credit with the other long distance carriers is a complicated one? One that takes a long time and is not an easy one for the consumer to use? So I think that each one of the long distance carriers should have the responsibility for making consumers aware of what their complaint mechanism is, how long it takes, how accessible it is. I was interested to hear that the gentleman from MCI talk about the fact that they now have some offices that are accessible to consumers. I think that they need a presence in the community that they're in so that a consumer can even walk in if they want to with a complaint, that it should be an area that's accessible by buses. We certainly have that with some of the local carriers and if people need information, lots of them would walk into an office in a shopping mall or some place that they go to, to get that kind of information.

I feel they have not done a good job in getting consumer input or in encouraging ongoing consumer participation. I don't think they're doing a good job in consumer education. I think, too, that perhaps the PUC might ask for a yearly survey that's made of consumer users of your product that could go on file in the PUC and be available to the public. That's something that I think would be very useful.

Another thing, and I'm not sure, you know, it's exactly what you're dealing with today, but I just wonder how many consumers know that they have to pay 50 or 60 cents for directory assistance in using long distance information? So I think those are some of the concerns that people have voiced to me and, of course, I think the overall one that I hear from consumers most is that my bill is going up and up and up and what's going to be done about that. Thank you.

CHAIRMAN ROSENTHAL: Thank you very much. Yes, a comment?

MR. KAMER: Just to respond to some of the issues that were raised since our name was mentioned specifically. I would commend your attention to the Shopper's Guide in the ballot which is mailed to every phone customer that is making a choice in an equal access area, which does answer the question about billing disputes, how to arrange a credit.

MS. GOLDINGER: That's done by Pacific Bell, you mean?

MR. KAMER: Done by Pacific Bell with information...

MS. GOLDINGER: I think you all have the responsibility to do something similar for yourself.

MR. KAMER: This, as far as I know, is the most widely mailed piece of information.

MS. GOLDINGER: Yes, but that's because your information is not accessible to most of the public, not in enough detail.

MR. KAMER: Well, respectfully, let me add that all of our current customers are informed in their bills every month about ways in which they can contact our company. As to the point of our customer services offices and accessibility, our largest customer service office is located in your county in Culver City. We have 150 people, I believe, who work there. I invite you to come and visit it. We have already escorted Assemblywoman Moore through there since it's in her district also.

MS. GOLDINGER: In a county the size of Los Angeles I would not think that an office in Culver City would be enough. And one maybe in the eastern end of the county would be helpful.

MR. KAMER: As far as directory assistance calls are concerned, the rules that apply, the statement that applies to our rates vis-a-vis AT&T calls also applies to directory assistance calls, that is there is really no way that you can make interstate directory assistance calls anymore without having to pay for them, although you will save money if you use MCI.

MS. GOLDINGER: There might be a pool of emergency numbers or public usage numbers that, for example, someone in a family may have had an accident and be hospitalized in another city. To get a hospital number in Detroit, let's say, maybe you would not charge for that? It's something to think about.

MS. QUIROZ: I'd just like to address a couple of things and talk about what we've done with respect to education. I mentioned it a little bit earlier. Number one, we do have 800 toll-free numbers for consumers, as well as an 800 toll-free call for press. When press are interested in writing an article about equal access, deregulation, we do have a

number available so that they can be well informed.

I mentioned earlier the groups that we have been sponsoring in terms of equal access forums for the public. We did this in conjunction with the Chamber of Commerce and we held them statewide. We had industry participants from all over, basically to explain to the consumer what their choices are. We have 14-hour customer service, we have 1,200 customer service personnel throughout the state in various field offices, and they do provide 24-hour customer service at any time a customer has a question. Beginning on December 1, 1985, we're going to have some new software capabilities which is going to permit us to take care of on-line disconnections immediately when they're requested.

MS. GOLDINGER: That's good to know but I think you need to publicize the 800 number more and I think the workshops, I would hope that they're getting to the people who really need them. I wonder. Thank you.

CHAIRMAN ROSENTHAL: Anybody else want to make a last comment? Anybody in the audience feel compelled to add anything? I want to thank--yes, sir.

WITNESS FROM AUDIENCE: I'd just like to say one thing and I'm just speaking as a consumer. I would say sometime about four months ago I got one of those ballots and I live in Pacific Bell's area. They have a lot of information covered and discussed. On that ballot was a list of the carriers with the numbers that you can call to ask for additional information, or whatever, so being a curious sort I thought, well I'll call so I can decide because I wasn't that fond of AT&T, but like everyone else, I was with them. So I called one of those carriers and before we were cut over, I couldn't get any information from any of them. I could not make an informed decision. About two months after the cutover, or a month, whatever it was, I did get a little pamphlet from AT&T and a list of numbers that I could call toll-free that I could supposedly access their network \_\_\_\_\_.

My own feeling is I don't think they're look for the residential market. I think they're really concerned with the business market and they're really not that interested in providing information. I just simply couldn't get it and I \_\_\_\_\_.

MS. QUIROZ: Sir, could I ask you again where you're from?

WITNESS FROM AUDIENCE: Palmdale.

CHAIRMAN ROSENTHAL: Anybody else? I want to thank you very much, the panelists, all those who participated. PUC, I hope that you've received some messages here. With that, we will adjourn. Thank you very much.

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