

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



FILED

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Pacific Bell Telephone Company d/b/a AT&T California
(U 1001 C),

Complainant

v.

Cbeyond Communications, LLC (U 6446 C) and Covad
Communications Company (U 5752 C), and Arrival
Communications, Inc. (U 5248 C),

Defendants

Case No. 06-03-023

PUBLIC (REDACTED) DECLARATION OF DON POE

November 2, 2006

I, Don Poe, declare as follows:

1. I have been employed since March 2000, by Mpower Communications Corp. d/b/a TelePacific Communications (“Mpower”) as Director of Network Services, with national responsibilities for design engineering for collocation and other outside plant.
2. My business address is 14001 N. Dallas Parkway, Dallas, TX 75240.
3. I am submitting this Declaration to provide factual support for the position of Joint CLECs regarding the status of Mpower and ICG collocations in **BEGIN CONFIDENTIAL ***XXXXXXXX***END CONFIDENTIAL**.
4. I have personal knowledge of the information contained in this Declaration.
5. An Mpower network services technician has physically inspected the ICG and Mpower collocation arrangements at **BEGIN CONFIDENTIAL ***XXXXXXXX***END CONFIDENTIAL**.
6. There is an ICG collocation cage at that location which was to have been a part of the Mpower purchase of ICG California assets but, that cage has not yet been formally transferred to Mpower. As a result, Mpower does not have the ability to utilize that cage nor any equipment that remains in that cage.
7. The ICG cage has been partially decommissioned and is not presently operational.
8. The ICG cage contains a relay rack with an OC48 equipment shelf which is empty and other telecommunications equipment which is merely stored in the cage.
9. Cable is rolled up in the ICG cage and is not being used.
10. There are no cards, no power and no terminations in operation at the ICG cage.
11. Prior to Mpower’s acquisition of ICG assets in California, Mpower established a collocation cage at **BEGIN CONFIDENTIAL ***XXXXXXXX***END CONFIDENTIAL** which is operational.
12. The Mpower cage is full of equipment and is in use.
13. Mpower has no fiber into or exiting the Mpower cage but instead has three DS3s which are obtained from and are cross-connected to SBC/ATT.
14. Mpower does not own or have access to fiber at **BEGIN CONFIDENTIAL ***XXXXXXXX***END CONFIDENTIAL** and has not owned or had access to fiber at this location.

I declare under penalty of perjury that the foregoing is true and correct.

Signed: November 2, 2006 at Dallas, Texas.

/s/ Don Poe