Telecommunications Roadmap
December 2005
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TELECOMMUNICATIONS

I. AT THE TOP OF THE NEWS

A. SBC & ATT Merger

On February 28, 2005, SBC and AT&T (applicants) filed A.05-02-027 requesting authorization from the CPUC to merge operations. If approved the application would transfer control of ATT California and TCG affiliates to the SBC holding company. Testimony, briefs and reply briefs have been filed. The Draft Decision was issued October 19, 2005. Two Commissioners also issued a joint Alternate Decision. The Commission will address this merger at its November 18, 2005 meeting.

B. Verizon & MCI Merger

Testimony, briefs and reply briefs have been filed. A Draft Decision was issued on October 19, 2005. The Commission will address this merger at its November 18, 2005 meeting.

C. Broadband over Power Line OIR

OIR 05-09-006 was adopted September 8, 2005. In this proceeding the Commission proposes to establish sufficient regulatory certainty to encourage the investor-owned electric utility companies to deploy BPL projects. The Commission intends to encourage BPL deployment in a manner that does not harm ratepayers, promotes accessibility to Broadband networks and contributes to California's competitive Broadband market.

II. CURRENT PROCEEDINGS

Tier I:

A. Implementation of FCC's Lifeline/Link-Up Order: Universal Lifeline Telephone Service Eligibility Certification.

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
R. 04-12-001	Peevey	Jones	Dumas	A. Young, G.Carlin, M. Coen, K.Feizi, H. Mirza
Next Milestone: *Decision implementation.*				

In April 2004, the FCC issued Order and Report FCC No. 04-87 requiring all states to document customers' income qualification for their income-based Lifeline/Link-Up programs. At the present time, the California Universal Lifeline Telephone Service (ULTS) program, which is based on income eligibility, allows participants to self-certify their income without any documentation. In order to comply with the FCC's order and to preserve the $330 million annual support from the federal Lifeline/Link-Up programs, the Commission issued R.04-12-001 on December 2, 2004, to implement the FCC Order.

On April 7, 2005, the Commission adopted Decision 05-04-26, which provides the following:

- Amends the ULTS program from self-certification to income documentation;
- Adds a program-based eligibility criterion;
- Contracts the certification process to a third-party agent; and
- Considers opening a new rulemaking for a more comprehensive review of the ULTS program.

B. UNE (Unbundled Network Element) Pricing

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
R.93-04-003	Peevey, Brown	Duda		Banuelos, King
Next Milestones: Rulings on motions for hearings, Verizon' petition.				

Two separate proceedings, collectively known as the "UNE Re-examination," were initiated to re-examine certain prices that SBC and Verizon charge competitors who purchase "unbundled network elements" (UNEs). By purchasing UNEs, competitors are able to use portions of these incumbents' networks to offer competitive local exchange services. The primary UNE is the copper twisted wire pair or "loop" that provides the "last mile" connection to a customer's premise. When a CLEC purchases an incumbent's UNE loop plus its switching services, it is termed a "UNE platform" or UNE-P.

SBC

The SBC-CA unbundled network element (UNE) pricing re-examination proceeding (A.01-02-024, A.01-02-035) began as a product of the Open Access and Network Architecture Development (OANAD) proceeding in which parties were allowed to nominate two UNEs per year for price changes, provided they could justify a 20% increase or decrease in cost. The SBC-CA UNE re-examination reviewed monthly rates for Switching (local and tandem), Interoffice Transport (DS0, DS1, DS3), and the local loop. TD staff ran parties' competing models to determine costs based on ALJ and Commissioner input requests In summary:

- On September 23, 2004, in D.04-09-063, the Commission increased rates for the UNE loop and the UNE-P: $11.93 and $16.53, respectively, up from the previous rates of $9.82 and $13.93, respectively. New rates for other UNEs are listed in the Appendixes to that decision.
- At its March 17, 2005 meeting, the Commission adopted Commissioner Peevey's alternate decision to resolve how the parties will pay "true-up" amounts. The "true-up" amounts are the difference between the interim rates already paid and the new rates, and parties must compensate each other as if the new rates had been in effect during the interim period. The decision, D.05-03-026, ordered a schedule for true-up payments, giving specified large carriers ten days after the effective date of the order to make payments and all other carriers the option to make twelve equal monthly installments beginning 30 days from the effective date of the order. The true-up decision also set a 21 percent shared and common cost for the true-up and a 19 percent markup for current rates.
- On March 29, 2005, the Executive Director corrected typographical errors in D.05-03-026 (issued as D.05-03-037).
- On May 26, 2005, the Commission adopted D.05-05-031 correcting a formula error for the unbundled tandem switching "setup per completed message" rate element.

Verizon

TD staff is now focusing its efforts on updating Verizon's UNE rates. Similar to the SBC proceeding, the "Verizon UNE Phase" has its origins in OANAD. The initial rate tariffs to allow competitors to purchase unbundled network components were set in 1997 in D.97-01-022. Pending development of permanent rates, in March 2003 the Commission adopted new interim rates (D.03-03-033) for Verizon's UNEs because of delays to the proceeding and to bring rates in line with the appropriate forward-looking cost methodology. The rates adopted were based on New Jersey's cost proceedings. The parties are currently wrapping up issues regarding the re-filing of their respective cost models, with the hope that the Commission will use them to set permanent rates.

- However, on May 21, 2004, Verizon filed a petition to raise its interim California UNE rates to account for the rate increases received in New Jersey. Verizon asserts that since the Commission justified California's interim rates on the basis of New Jersey's prior rates, the Commission must now increase its interim rates by the same margin until permanent rates are set.
- On November 5, 2004, the ALJ issued a proposed decision that would adopt New Jersey's rate adjustment and a shared and common cost markup of twenty-two percent. The ALJ subsequently revised the markup to ten percent, which was similar to the markup New Jersey used for its new rates.
- In response to the ALJ's revised markup, the assigned Commissioner's office issued an alternate proposed decision that maintained the existing twenty-two percent markup.
- On January 27, 2005, in D.05-01-057, the Commission adopted the ALJ's ten percent markup decision. The net result of the UNE cost increases and the shared and common cost decrease is as follows:
    - 2.3 % decrease to the 2-wire loop rate
    - 1.9 % decrease to the 4-wire loop rate
    - 28.3 % increase to the port rate
    - 3.3 % increase to the tandem switching usage rate
    - 4.9 % increase to the end-office switching usage rate
    - 3.2 % increase to the estimated UNE-P rate for former GTEC areas
    - 0.9 % increase to the estimated UNE-P rate for former Contel areas.
- On March 7, 2005, the ALJ issued two rulings regarding the permanent rate setting phase of the proceeding. These rulings addressed three Verizon motions regarding corrections the Joint Commenters (CLECs) had made to their permanent pricing model, HM 5.3. The first ruling granted part of Verizon's motion to compel discovery of new documentation of the corrections. This ruling also denied Verizon's motion to strike Joint Commenter reply comments and testimony regarding price floor calculation methodology. The second ruling allowed Verizon to file limited rebuttal testimony regarding the Joint Commenter's HM 5.3 corrections. This ruling also revised the proceeding schedule as follows:
    - March 15, 2005. Response by Verizon to Joint Commenters' summary table of HM 5.3 corrections was due and was filed.
    - April 1, 2005. Rebuttal comments on price floor issues were due and were filed.
    - April 15, 2005. Deadline for motions requesting hearings on price floor issues – extended to April 30th, none filed. However, on April 29th, Verizon filed a motion for hearings on the general issues affecting the rate setting.
    - May 2, 2005. Ruling on the need for hearings on cost studies, modeling, UNE pricing, and price floor issues and submission of case if hearings are not required.

    - August 2, 2005. Proposed Decision issued if hearings are not required.
- Additionally, on April 1, 2005, Verizon filed a petition to modify D.99-11-050. Specifically citing the FCC's recent Trienniel Review Remand Order (TRRO), Verizon petitioned the Commission to remove switching from the list of monopoly building blocks (MBB) since they view it as no longer meeting the monopoly criteria adopted in D.99-11-050.
- The following summarizes recent activity:
    - May 2, parties filed responses to Verizon's petition to modify D.99-11-050.
    - May 5, AT&T withdrew from the Verizon phase of the proceeding.
    - May 5, MCI submitted a late-filed request for hearings.
    - May 11, Covad withdrew from the line-sharing phase of the proceeding.
    - May 12, Verizon filed reply comments in support of its petition.
    - May 24, parties filed reply comments to Verizon's and MCI's requests for hearings.

C. Intercarrier Compensation

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
P.01-10-008 / R.03-08-018	Peevey	Malcolm		Fua, Sastra
Next Milestone: Final Commission order on Phase I proposed decision..				

In response to AT&T's petition (P.01-10-008), filed on October 4, 2001, the Commission opened an OIR to review intrastate carrier access charges. The OIR's purpose is to consider reductions to the network interconnection charges of SBC and Verizon adopted in D.95-12-020, but may be expanded to also consider whether the Commission should start regulating CLECs' intrastate access charges.

- At the request of Commissioners' offices, TD researched the latest FCC rules governing CLECs' interstate access charges and the range of CLECs' intrastate access charges in California.
- TD's research found that in its Seventh Report and Order of the Access Charge Reform proceeding, the FCC established a benchmark mechanism limiting CLECs' interstate access charges to a level it considers just and reasonable. TD's research also includes the gathering of current access charge rate information from various ILECs and CLECs.
- On August 21, 2003, the Commission issued a rulemaking to review intrastate carrier access charges. The Commission opened this rulemaking recognizing that circumstances have changed since the Commission made significant changes to access charges in 1994. The Commission will consider reductions to the access charges of SBC and Verizon and limit the scope of this proceeding to the network interconnection charge (NIC) portion of SBC's access charges and the transport interconnection charge (TIC) of Verizon's access charges.
- Opening comments and reply comments on Phase 1 issues were filed on October 24, 2003 and November 12, 2003 respectively. A threshold issue was whether the Commission should offset decreases in LEC access charge revenues with increases in other rates if the NIC and TIC portion of access charges were eliminated.
- In the November 20, 2003 prehearing conference, no parties asked for hearings in Phase 1 of this proceeding.
- On June 17, 2004, the ALJ issued the Phase I proposed decision and found that consistent with the original NRF policy of revenue neutrality, reductions to access charges should be offset by increases to other rates. The decision also found that access charges for mid-size and small LECs, as well as CLECs, should be revised in the third phase of the proceeding.

- Subsequently, the Commission reopened the proceeding through a September 20, 2004, ALJ ruling. The ruling solicited parties' comments on two broad issues: (1) whether a proposal published by the Intercarrier Compensation Forum to reduce access charges would have any impact on this proceeding, and (2) whether rate rebalancing would create a windfall to SBC and Verizon because of their increasing shares of intrastate toll markets. The ruling does not change the ALJ's draft decision on the basis of those comments.
- On January 10, 2005, a prehearing conference was held to determine the parties, the positions of the parties, the relevant issues, and other procedural matters for Phase II.
- On January 25, 2005, the ALJ issued a scoping memo.
- On July 22, 2005, the CPUC submitted reply comments in response to the Further Notice of Proposed Rulemaking (FNPRM) issued by the Federal Communications Commission (FCC) in the matter of developing a unified intercarrier regime (CC Docket No. 01-92). The CPUC agrees with both the goals and the framework that the FCC has set up in this FNPRM; however, the CPUC cannot endorse any proposal without further empirical analysis and accompanying data that can be applied to all of the ICC proposals. In addition, the CPUC endorses the approach of working together with the established NARUC Metrics workgroup to complete the model analysis of the NARUC plan, and to use the model to collect further data to analyze the other ICC proposals.

D. New Regulatory Framework (NRF) Review – Phase 2A & 2B Issues/SBC Audit

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
R.01-09-001	Kennedy	Thomas, Kenney	Gasser	Christiansen, Rahman, Wong,
Next Milestone: Initiate Phase 3.				

The Commission reviews the NRF price cap form of regulation every three years to assess its ongoing effectiveness, and to determine if it should be revised. Opened in September 2001, this proceeding is the fourth such triennial review for SBC's and Verizon's operations under the NRF. The proceeding's completed first phase involved an audit of Verizon's operations, and was decided in D.02-10-020. To address the remaining issues methodically, this second part of the review was parsed into two phases:

- Phase 2A, to address the pension, Post Retirement Benefits Other than Pensions (PBOP), income taxes, and depreciation issues raised by the audit.
- Phase 2B, to address affiliate transaction issues raised by the audit. (Phase 2B also involves a review of SBC's service quality.) Hearings on Phase 2 matters were conducted in June 2002. The audit found that SBC had not complied with Commission accounting and ratemaking policies and had under-reported earnings for the 2-year audit period by about $1.94 billion. The audit recommended a refund to customers of approximately $350 million.
- Phase 2A audit issues were decided in D.04-02-063.
- Phase 2B issues were decided in D.04-09-061.
- The Commission's Phase 2A and 2B orders did not result in a refund to customers.
- ORA has petitioned the Commission for a modification of the Phase 2A decision regarding the treatment of PBOPs, alleging that the order did not comply with adopted PBOPs policies. TD is working with the Legal Division appellate section to prepare a legal analysis of the petition.

E. NRF and Service Quality – Phase 2B

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
R.01-09-001 / I.01-09-002	Kennedy	Thomas		Fua
Next Milestone: Proposed Decision on Application for Rehearing.				

The Commission adopted D.03-10-088 on October 30, 2003. This decision was the result of a comprehensive investigation into the quality of telecommunications services provided by SBC and Verizon under the New Regulatory Framework (NRF) mode of incentive regulation. The decision found that Verizon offers very good service quality and that SBC offers generally good service quality in most areas, but there are several important areas of weakness in the quality of specific residential services.

- Prior the adoption of the decision, ORA and TURN had argued that when the assigned Commissioner's office admitted four new items of evidence into the record without holding evidentiary hearings, it was prejudicial and deprived parties of their right to due process. TURN argued that it should be able to enter its own statistical analysis into the record. The final decision did not accept ORA and TURN's arguments.
- On December 8, 2003, ORA and TURN jointly filed an application for rehearing of D.03-10-088, restating their original arguments and also stating that D.03-10-088 was arbitrary and capricious because it reaches conclusions based on claims that are contrary to the record facts, creates new standards for service quality performance, and selectively and arbitrarily excludes evidence submitted by ORA and TURN that impeaches evidence admitted after the proceeding was submitted.
- On July 8, 2004, the Commission adopted D.04-07-036, which granted the rehearing application of ORA and TURN regarding the four new items of evidence submitted into the record after the close of evidentiary hearings, allowed TURN's time trend regression analysis to be moved into the record on rehearing, and granted rehearing regarding Pacific Bell's P.A. 02-03 customer surveys and the results.
- On August 12, 2004, SBC filed a Motion for Stay of Ordering Paragraph 14 of D.04-07-036, which required it to produce its P.A. 02-03 customer surveys and results. On December 3, 2004, the Commission denied SBC's Motion and again required SBC to provide its customer surveys and results along with any other surveys conducted during the NRF period.

F. NRF Review – Phase 3A & 3B / Post Audit Policy Development

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
R.01-09-001	Kennedy	Kenney	Gasser	Christiansen, Rahman, Wong
Next Milestone: A Commission ruling setting a schedule for filing NRF Phase 3 testimony.				

Phase 3 of this proceeding was originally set to consider and implement any revisions to existing price cap regulatory policy for SBC and Verizon that may be needed as a result of Phase 1 and 2 audit findings. Phase 3B will also take service quality issues into account.

- The Assigned Commissioner issued a ruling on October 15, 2004, asking parties to comment on whether the original scope and schedule of Phases 3A and 3B should be revised in light of technological, regulatory, and market changes. Opening comments were filed November 1, 2004, and reply comments were filed November 10, 2004.

- To date, no further actions have been taken by the Commission regarding Phase 3A and 3B.
- On April 7, 2005, the Commission issued OIR 05-04-005 on the Commission's own motion to assess and revise the regulation of telecommunications utilities. Policy changes adopted in this Rulemaking may render moot some of the issues identified in NRF Phase 3A and 3B.
- As a result of the Commission opening an investigation (OIR 05-04-005) into developing a uniform regulatory framework for most telephone companies, on June 13, 2003 the Assigned ALJ issued a Ruling Inviting Comments regarding the scope and schedule for Phase 3. Responsive comments were diverse; some suggesting closing the NRF proceeding altogether, or reducing the scope of Phase 3 to avoid duplication with some parties advocating consolidating NRF into the OIR.

G. Telecommunications Bill of Rights (BOR)

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
R.00-02-004	Wood	McVicar	Dumas, Yun	Hernandez, Maniscalco, R. White, L. King, Faarman, McIlvain, Sastra, Rahman
Next Milestone: Reply testimony due September 9th; formal hearings on September 28-30.				

This rulemaking was issued on February 3, 2000 to establish rules for protecting consumers' rights in today's competitive telecommunications services marketplace.

- *April to September 2000*: Public comments solicited and public participation hearings were held.
- *June 6, 2002*: Initial proposed decision and proposed general order issued.
- *July 24, 2003*: Revised proposed decision and proposed general order issued.
- *March 2, 2004*: Revised proposed decision and proposed general order issued.
- *May 13, 2004*: Commissioners Brown and Kennedy issued alternate proposed decisions and general orders.
- *May 18, 2004:* Commissioner Wood issued a revised proposed decision and general order.
- Several workshops and all-party meetings were held between August 2002 and October 2003.
- *May 27, 2004:* Interim Decision D.04-05-057 and General Order 168 were adopted by the CPUC. Key components are:
    - Establishment of seven basic rights afforded to consumers (disclosure, choice, privacy, public participation and enforcement, accurate bills and redress, non-discrimination, and safety)
    - Establishment of comprehensive set of consumer protection rules to enforce the above rights.
    - Applicability to CPUC-regulated telecommunications carriers of all classes.
    - Provides protection to residential and small business customers.
    - Requires carriers to fully comply with D.04-05-057 and G.O. 168 by December 6, 2004, except for specified rules relating to changing computer and billing systems. Carriers have until July 31, 2005 to comply with the remaining rules.
    - Defers consideration of a consumer education program as well as rules on privacy, limitation of liability, and in-language requirements to a later phase of the proceeding.
- Tariff and compliance filings from as many as 1,800 telecommunications carriers were mandated. Key dates are:

- *July 1, 2004*: TD Workshop held instructing carriers on BOR tariff and compliance documents they must file.
- *August 6, 2004:* Tariffed carriers required to submit tariff-tracking inventory and revised tariffs (via advice letter) or "no tariff change" letter.
- *December 6, 2004:* Tariff changes become effective. Also, carriers shall serve TD with written certification of BOR compliance, except specified rules.
- *July 31, 2005:* Carriers shall serve TD with written certification of BOR compliance for remaining rules.

- *June 30, 2004 and July 7, 2004*: Carriers submitted several motions to stay and applications to rehear the decision and general order. *August 19, 2004:* The CPUC denied the motions to stay. *October 7, 2004:* The CPUC denied the applications for rehearing, with the exception of some limited changes to D.04-05-057 and Rule 8(b) of G.O. 168.
- *September 2004*: Wireless carriers filed two complaints (i.e. Nextel complaint and Cellco complaint) in U.S. District Court challenging certain aspects of the BOR rules. *January 2005*: the CPUC filed a motion to dismiss these complaints. The complainants later filed motions to dismiss them in light of the stay of the BOR adopted in D.05-01-058 (see below).
- *November 9, 2004*: Cricket Communications requests waiver from D.04-05-057 from the CPUC.
- *November 12, 2004*: wireline carriers filed a complaint (i.e. AT &T et. al. complaint) in the California Court of Appeal challenging certain aspects of the rules.
- *December 2004:* The CPUC responded to the complaint, contending that it be denied.
- *December 16, 2004*: Time Warner requests waiver from D.04-05-057 from the CPUC.
- Pursuant to Rule 48 (b) of the Rules of Practice and Procedure, the CPUC's Executive Director responded to 50 letters requesting extensions of time to comply with the December 6, 2004 deadline for having most of their operations in compliance with D.04-05-057 and G.O. 168. TD staff provided the Executive Director with technical assistance on these requests.
- *January 11, 2005*: U.S. Cellular requests waiver from D.04-05-057 from the CPUC. *February 3, 2005*: Waiver request withdrawn in light of the BOR stay (see below).
- *January 27, 2005*: The CPUC adopted D.05-01-058 in which it voted to stay telecommunications consumer protection rules and rights adopted in May 2004 to: a) allow adequate time to address implementation issues, b) ensure that California's consumer protection structure will be viable and enforceable, c) consider a broader reexamination of policy issues and those raised by carrier Petitions for Modification. The CPUC also stated its intention to complete its reconsideration by no later than the end of 2005.
- Collaborations between TD staff with CSID to develop BOR internal training sessions and a consumer education program have been deferred during the stay.
- *March 2, 2005*: Commissioner Grueneich issued a letter requesting that the CPUC seek comments on whether there are any portions of the telecommunications bill of rights that can be revised or reinstated on an expedited basis.
- *March 10, 2005*: An Assigned Commissioner Ruling (ACR) was issued seeking comment in response to the March 2nd letter as well as on the proposed procedural schedule outlined in the ACR. It reiterated the intention to finalize the reconsideration of the rules and to terminate the stay by the end of 2005.
- *March 24, 2005:* Commissioner Grueneich facilitated an all-party meeting including carrier representatives and consumer advocates to discuss the stayed consumer protection rules. Specifically parties provided input on:

    - Areas of consumer protection at risk during the stay period
    - Provisions that could be reinstated, or revised and reinstated, on an expedited basis
    - Areas of concern regarding impact on competition, technological innovation, fairness, and economic development
    - Areas of potential consensus which can be reached among parties on the reinstatement of provisions
- The Legislature is considering several bills related to the BOR rules in varying degrees:
    - AB 67
    - AB 610
    - AB 746
    - AB 1082
    - SB 402
    - SB 1068
- *April 6, 2005*: The CPUC held a pre-hearing conference (PHC) to garner input on whether portions of the rules could be handled on an expedited basis, the scope of the reconsideration of the rules during the stay period, and the proposed procedural schedule.
- *May 2, 2005*: An Assigned Commissioner's Ruling (ACR) was issued which a) establishes the procedural schedule based on the input from the April 6th PHC, b) establishes limits on discovery during the proceeding, and c) proposes to reinstate certain portions of the stayed rules with new amendments.
- *May 31, 2005:* Parties submitted opening comments in response to May 2nd ACR.
- *June 15, 2005:* Parties submitted reply comments in response to May 2nd ACR.
- *June 30, 2005:* Assigned Commissioner's Ruling was issued revising procedural schedule and setting requirements for oral arguments.
- *July 7, 2005:* Assigned Commissioner's Ruling was issued further revising procedural schedule.
- *July13, 2005:* Assigned Commissioner's Ruling was issued, again revising the procedural schedule.
- *August 5, 2005:* Opening Testimony filed.
- *September 9, 2005:* Reply Testimony filed.
- *September 29-30, 2005:* BOR hearings held.

H. OII. 04-02-007 "Voice Over Internet Protocol" (VoIP)

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
I. 04-02-007	Kennedy/Brown	Grau	Levine	P. White, Van Wambeke, Young, L. King, Rahman, Pangilinan
Next Milestone: On hold pending federal/court actions.				

- An OII was adopted February 11, 2004, that makes the tentative conclusion that VoIP service that interconnects with the PSTN is a public utility, subject to CPUC jurisdiction, and asks questions to help determine the appropriate regulatory framework for VoIP services.
- Opening comments were filed in April and rely comments were filed in May 2004. This case is on hold pending federal/court actions.

I. SBC/ATT Merger

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
A. 05-02-027	Peevey	Pulsifer		Amato, Conner, King, Rahman, Wong
Next Milestone: Issue to be addressed at November 18, 2005, Commission meeting.				

On February 28, 2005, SBC and AT&T (applicants) filed A.05-02-027 requesting authorization from the CPUC to merge operations. Application would transfer control of ATT California and TCG affiliates to the SBC holding company.

- Application was filed under Section 854(a) only. Applicants sought a waiver from Section 854(b) and (c) merger filing requirements claiming that this merger is exempt.
- On March 16, 2005, the Assigned Commissioner (Peevey) issued an ACR requiring SBC & AT&T to amend the application with information necessary and appropriate to demonstrate compliance with Section 854(b) and (c). ACR did not determine whether this merger was exempt from these statutes.
- On March 30, 2005, applicants filed a supplemental application in compliance with ACR.
- On April 14, 2005 TD received protests to the application filed by various parties, either opposing the application, or asking that mitigating conditions be required in the event that the Commission approves the application.
- On April 20, 2005, the ALJ held a prehearing conference (PHC) to discuss the Proceeding's scope of issues and schedule.
- On April 26, 2005, an assigned Commissioner Ruling (ACR) providing a scoping memo was isuued. The ACR established the following:
- Preliminary categorization of the proceeding as ratesetting
- Directs that the scope of the proceeding shall incorporate the requirements of sections 854(b) and (c).
- A second pre-hearing conference is scheduled on July 29, 2005
- Evidentiary hearings beginning August 8, 2005
- The scoping memo also adopted the procedural schedule for the service of testimony, evidentiary hearings, briefs and related matters. The procedural schedule adopted is as follows:
    - Applicant's opening testimony---May 06, 2005
    - Interveners Reply testimony -----June 10, 2005
    - Concurrent Rebuttal Testimony –July 8, 2005
    - Attorney General's Statement----July 22, 2005
    - Second Prehearing conference----July 29, 2005
    - Evidentiary Hearings----------August 8-19, 2005
    - Opening Briefs----------September 9, 2005
    - Reply Briefs----------September 19, 2005
    - Proposed Decision----------October 19, 2005
    - Final Commission Decision-------November 18, 2005
- On April 28, 2005, an Assigned Commissioner's Ruling (ACR) provided notice of the schedule for public participation meetings at the locations noted below:
    - Tuesday, June 14, 2005, Oakland, CA
    - Wednesday, June 15, 2005, Sacramento, CA
    - Monday, June 20, 2005, Fresno, CA
    - Monday June 27, 2005, Culver City, CA

- Tuesday, June 28, 2005, Anaheim, CA
- Wednesday, June 29, 2005, Riverside, CA
- Thursday, June 30, 2005, San Diego, CA

- On April 29, 2005 SBC and AT&T (collectively, the applicants), filed replies to the various protests.
- The proceeding has progressed according to schedule. A draft decision was issued on October 19, 2005 and the Commission will address the application on November 18, 2005.

J. Verizon/MCI Merger

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
A. 05-04-020	Kennedy	Walker		Amato, White, Morehouse, Morgenstern
Next Milestone:	Issue to be addressed at November 18, 2005, Commission meeting.			

Verizon and MCI filed their merger request on April 21, 2005. The application requests authorization to transfer control of MCI's California Utility Subsidiaries to Verizon. Similar to the SBC/AT&T application, Verizon and MCI are requesting merger approval based on the belief that they are exempt from PU Code Sections 854(b) and (c). The applicants state that no mitigation measures are necessary because the transaction will not have adverse consequences to Verizon and MCI.

Public Participation Hearings were held in Whittier, Long Beach and San Bernadino August 15-18, 2005.

On June 30, Assigned Commissioner Kennedy issued a Scoping Memo confirming the categorization of the proceeding as ratesetting. It also directed Applicants to continue demonstrating compliance with all of the provisions of PU Code Sections 854(b) and (c), to avoid delay in processing the application due to disagreement over the statue's applicability.

Testimony and Motions as to the need for evidentiary hearing were filed in August.
On September 16, the Attorney General issued his opinion on this merger, concluding that the transaction would not adversely affect competition in any telecommunication market.

On September 19, Assigned Commissioner Kennedy issued a ruling denying motions for hearings and finding that because no party to this transaction is a utility under California law, sections 854(b) and (c) do not apply to this transaction. The Assigned Commissioner's Ruling (ACR) further noted that due process considerations were resolved with the Public Participation hearings held in August.

On September 28, the Office of Ratepayer Advocates filed a Rule 6(b) motion asking for full Commission consideration of the September 19, ACR.

The Draft Decision will mail October 19, 2005. The matter is scheduled to be on the Commission;s November 18th agenda.

K. Area Code Changes: 310

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
R.95-04-043	Peevey, Brown	Pulsifer	Mickiewicz	Conner, Pangilinan,
Next Milestones: Per D.05-08-040, service providers will distribute the Initial Customer notices for the 310/424 Overlay in November 2005, with permissive dialing beginning December 31, 2005.				

The number pool exhaustion projections for the 310 area code:

- *Fourth quarter, 2005* – current North American Number Plan Administrator (NANPA) projection *updated on May 2005*.

310 Area Code Change Plans:

- The North American Number Plan Administrator (NANPA) submitted a two-way split plan to the Commission in 2000. The plan splits the present 310 area code roughly along Imperial Highway between Inglewood and El Segundo.
- The Commission approved the plan as a back-up area code change plan in September 2000 pending the results of pooling and other conservation measures, and is monitoring the 310 area code to determine when this plan should be implemented.
- On October 16, 2003, the Commission voted to continue monitoring the 310 area code and not implement the back-up split plan.
- On August 24, 2004, the Commission issued a proposed decision that would implement the 310 area code change back-up plan. The decision proposed that there is a need to replenish telephone numbers in the 310 area code.
- On August 25, 2004, Commissioner Lynch issued an alternate decision proposing that it was not necessary to implement the 310 split plan, and instead concluded that the Commission should continue to monitor the supply of numbers in the 310 area code and pursue further conservation measures.
- On October 7, 2004, the Commission rejected both of the proposed decisions.
- On March 9, 2005, a group of telecommunication carriers filed a joint petition seeking to implement a triggered overlay as the back-up plan for the 310 area code. The triggered overlay would replace the prior CPUC adopted back up split plan. The proposal would implement an area code change when only 6 full NXX codes are left.
- TD held the one local jurisdiction and four public meetings on April 26 and 27, 2005 to gather the public's comments regarding the triggered overlay proposal and back-up split plan. Hundreds of people attended and participated during all of the meetings.
- The assigned ALJ has sent out a ruling inquiring about appropriate components of a public education program if the proposed triggered overlay is implemented.
- On August 25, 2005, the Commission voted unanimously to implement an area code overlay as the appropriate area code change for the 310 area code. The 424 area code will be introduced as the second area code available in the 310 area code's geographic region. The Commission required a public education program (PEP).
- The development of the PEP began in September 2005. Service providers with numbering resources in the 310 area code, NANPA and Commission staff are represented on the PEP Task Force. An initial customer notice has been approved and 5 sub-committees formed to implement the Public Education Program.
- Only two whole prefixes and 196 thousand-blocks remain in the 310 area code.

L. OIR 05-04-005 Assessing and Revising the Regulation of Telecommunications Utilities

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
R.05-04-005	Kennedy	Reed	N/A	Christiansen, Miller, Wong
Next Milestone: Proceeding suspended pending ACR.				

On April 7, 2005, the Commission voted out an Order Instituting Rulemaking (R.) 05-04-005 to assess and revise the regulation of all telecommunications utilities in California, except for small incumbent local exchange carriers (ILECs). The OIR was mailed on April 14, 2005. The purpose of the OIR is to develop a uniform regulatory framework for all California-regulated telephone utilities that reflects the substantial changes in the telecommunications industry that have occurred over the past few years. The schedule for the proceeding is as follows:
Phase I:

- Opening comments were due May 29, 2005. 16 parties filed comments.
- A workshop to discuss: a) schedule change requests, b) parties' participation in yet to be scheduled En Banc Meeting, and c) parties' questions and or concerns about the structure of the OIR, is scheduled for June 3, 2005.
- Reply comments due June 13, 2005.
- Motions for evidentiary hearings due June 23, 2005.
- Replies to any motions (Rules 45(f) and 45(g) due June 30, 2005.

Phase II:

- Opening comments in Phase 2B will be due 30 days after Final Phase 1 decision is mailed.
- Reply comments due 45 days after Final Phase I decision is mailed.
- Motions for evidentiary hearings due 50 days after Final Phase I decision is mailed.
- Replies to any motions - 57 days after Final Phase I Decision is mailed.

On June 27, 2005, the Commission held an En Banc hearing from 10 A.M. to 4 P.M., the purpose of which was to provide the Commissioners with:

- Conceptual frameworks for thinking about telecommunications and regulatory reform today.
- An overview of developments in the regulatory programs and telecommunications markets in other states.
- An understanding of the importance to California businesses, workers, and consumers of having a vibrant telecommunications industry.

There were thirteen speakers from diverse areas; academics, consumer groups, disabled community, technology industry, the CPUC Telecommunications Division, and the financial community that made presentations.

Workshops were held during the week of September 20, 2005 where parties presented and explained their URF proposals.

As of October 18, 2005, Schedule I and Schedule II of the URF proceeding has been suspended pending as Assigned Commissioner Ruling. Consequently, neither the testimony nor briefs are due as previously scheduled.

M. Broadband over Powerline OIR

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
	Kennedy			P. White, P.Chang
Next Milestone: Comments on the draft framework – October 6, 2005.				

This OIR proceeding will encourage the deployment of Broadband Over Power Line (BPL) in California. It will establish sufficient regulatory certainty to remove regulatory risk such that California investor-owned electric utilities will be encouraged to deploy BPL projects. The *Broadband Deployment in California* report (Broadband Report) recently adopted by the Commission in D.05-05-013 recommended that "California should encourage deployment of BPL by its electric utilities by providing regulatory certainty" (Broadband Report, p. 82). The report identifies significant potential for BPL development, finding that "BPL may be the broadband technology that proves most effective in bringing affordable broadband to lower-use communities" (p. 71). The report further recognizes that BPL could increase the competitiveness of the broadband market. BPL technology can also be used to provide a range of benefits to electric customers by improving electric service and reliability through functions such as remote meter reading, detailed identification of equipment failures, diagnostic monitoring and other applications.

Tier II:

N. Frontier Price Floor Application

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
A.05-01-020	Grueneich	Bushey	N/A	Low, Hirsch
Next Milestone: None. Case completed				

- Decision approved by Commission on 8/25/05.

O. SureWest (Roseville) Revenue Requirement (EAS)

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
I.01-04-026	Peevey	Galvin	Yun	Low, Schein
Next Milestone: Further ALJ action.				

The OII was issued on April 19th 2001 to investigate the expense levels and revenue requirement of Roseville Telephone Company (Roseville). The OII's purpose is to determine the appropriate source of permanent funding to replace the $11.5 million EAS payment that Roseville previously received from Pacific Bell, and that pursuant to D.00-11-039, Roseville will receive from the California High Cost Fund-B on a temporary basis during the pendency of this proceeding.

- In May of 2002, D.02-05-009 ruled on Roseville's petition to modify D.00-11-039 and denied Roseville's request to rely on the CHCF-B as a source of permanent funding. In

related developments, Roseville's request to include the rate reduction of $400,000 in this OII was granted.

- ORA conducted an audit between February and June 2002 and filed the audit report in June 2002.
- Evidentiary Hearings were held in the week of Nov. 4th 2002. A Ruling was issued in January 2003 directing parties to file a joint comparison exhibit of proposed disallowances and their impact on the Results of Operation. Reply Briefs were filed on Jan. 31st 2003 and the joint comparison exhibit was filed on February 19th 2003.
- April 2005 - ALJ has requested TD staff support in obtaining and evaluating further information from the utility.
- TD staff provided the ALJ the requested information, and the ALJ is preparing a DRAFT decision.

P. General Order 96-A Revisions

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
R.98-07-038	Kennedy	Kotz, Thorson		Low, McIlvain
Next Milestone: Commission issuance of the final GO 96-B decision.				

A rulemaking to revise GO 96-A was mailed to interested parties on February 14, 2001.

- D.01-07-026 (interim opinion) adopted several rule revisions to eventually be codified in GO96-B. The rule revisions concern:
  - Publication of tariffs and the use of the Internet to publish tariffs for certain utilities.
  - Representations made by a utility regarding any tariffed service of that utility.
- TD workshop ordered by D.01-07-026 was held on August 29, 2001. The workshop's purpose was to discuss with telecommunication carriers how to implement the rule revisions by January 1, 2002.
- Resolution M-4801, dated April 19, 2002, confirmed staff's authority to suspend, on the Commission's behalf, advice letters that may go into effect absent a suspension. Additionally, the resolution set length of suspension and notification requirement guidelines, among others.
- D.02-01-038 (second interim opinion) adopted certain requirements for telecommunication utilities to notify customers of proposed transfer, withdrawal of service, or of higher rates and charges.
- D.02-02-049 modified Resolution M-4801, denied rehearing, and clarified the scope of Commission delegation to staff of the authority to process and suspend advice letters.
- Draft of the third interim decision was sent out for comments on August 11, 2004. Comments were due August 31, 2004.
- D.05-01-032 (third interim opinion) was issued on January 13, 2005. This decision requires much greater specificity regarding utility advice letter filings, which should facilitate the staff and parties review of these filings. This decision adopts requirements for maintaining advice letter service lists and provides guidelines for electronic service. The decision is also addresses implementation of PU Code Sec. 455 regarding the suspension of advice letters by Commission staff and separately by the Commission itself.

Q. Gain on Sale Rulemaking

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
R.04-09-003	Brown	Thomas		Christiansen, Rahman
Next Milestone: Waiting for ruling on next aspects of proceeding**.**				

On September 4, 2004, the Commission opened Rulemaking (R.) 04-09-003, to consider policies and guidelines for the allocation of gains resulting from the sale of assets of Energy, Telecommunications, and Water utilities. The goal of the rulemaking is to ensure that gain on sale guidelines are easy to follow, that gains and losses are allocated based on financial risk, and that incentives are provided for prudent investment in property necessary for service to utility customers. The Rulemaking also proposes to review and clarify PU Code § 789, and will also address implementation of PU Code § 455.5 reporting requirements.

- Comments were filed by November 3, 2004, and reply comments by December 8. The four telephone companies regulated under NRF will have the gain on sale issue addressed in R.01-09-001/I.01-09-002 (4th Triennial Review into the NRF of SBC and Verizon).
- The assigned ALJ is preparing, with the assistance of the Telecommunications, Energy, and Water Divisions, a decision that will resolve issues and potentially close the proceeding.

Tier III:

R. OSS Performance Incentive Plan 6-Month Review for SBC

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
I.97-10-017	Brown	Reed		
Next Milestone: Staffing				

The FCC requires evidence of a program that will monitor and regulate Operations Support Systems (OSS) performance before incumbents are allowed to enter the long-distance market. The Commission established the SBC performance incentives plan (PIP) in D.02-03-023 to prevent OSS discrimination by SBC once it received Section 271 approval.

- When adopted, the PIP for SBC was intended to be an "interim" plan and only suited for getting SBC into the California long distance market without undue delay.
- Major issues were put off until a 6-month review of SBC's experience**,** which informally began in December 2002. Staff held a workshop to seek agreement on methods to resolve disputes, but no agreements were reached. The review is currently on hold pending staff resource availability**.**

- However, with limited staff resources, TD currently is unable to support new performance incentive plan development. TD is currently seeking to procure additional staffing.
- On March 9, 2004, SBC petitioned the Commission to modify the performance incentives plan decision, D.02-09-050, by suspending a feature which doubled the credits that SBC must pay for each measure that failed at least eight out of nine consecutive months.
- On November 19, 2004, the Commission adopted D.04-11-021 granting SBC's petition. In addition to suspending the incentive-doubling mechanism for these continuously failing measures, the Commission required SBC to provide monthly detailed reports regarding these failures.

S. Establish OSS Performance Incentive Plan for Verizon

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
I.97-10-017	Brown	Reed		
Next Milestone: Staffing.				

Verizon currently has no OSS performance accountability to potential competitors. However, with limited staff resources, TD currently is unable to support performance incentive plan development. TD is currently seeking to procure additional staffing.

T. Review and Modify Adopted OSS Performance Measurements for SBC and Verizon

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
I.97-10-017	Brown	Reed		P. Chang
Next Milestone: Staffing**,** proposed decisions for special access and settled performance measures.				

- Operations and support systems (OSS) performance measures were established in D.99-08-020 to ensure that SBC's and Verizon's OSS services to the CLECs do not present barriers to the CLECs' ability to offer consumers local phone service.
- D.03-07-035 dated July 10, 2003 adopted over 200 changes to the performance measures as had been recommended by parties.
- In D.02-12-081, the Commission directed parties to identify OSS performance measures for intrastate special access no later than September 1, 2003. On August 29, SBC California submitted opening comments proposing five special access measures. CLECs also filed comments on that date proposing their own measures and standards for special access services, claiming SBC measures do not provide incentives for improving performance or a means to detect and prevent discrimination.
- Negotiations for the annual JPSA review began in January 2004. On May 3, 2004, parties filed a motion to adopt a joint motion to adopt their revision agreements. Parties reached agreement on newly identified issues as well as some longstanding issues where attempts at agreement had not been successful in the past. MCI did not participate in the negotiations, and filed an opposition stating that scarce resources required them to focus instead on more urgent topics such as hot cut performance measures. MCI asserted that the annual review should be postponed until those more urgent issues were resolved.
- In August 2004, Verizon requested that negotiations for changes to Verizon's performance measures be held separately from SBC's. TD is currently seeking to procure additional staffing.

U. SBC – Section 851 Application to Lease Space & Transfer Assets to ASI

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
A.02-07-039	Brown	Reed		P. White, Christiansen,
Next Milestone:				

As a condition to the merger of SBC and Ameritech, in 1999 the FCC required Pacific Bell (Pacific) to transfer its advanced services assets and related business functions to a new affiliate, Advanced Services, Inc (ASI).

- In January 2001, the federal courts determined that an ILEC subsidiary such as ASI was a successor or assignee of the ILEC and thus subject to the obligations of Pacific. This determination raised the issue of whether Pacific would want to continue to pursue the separation requested in A.00-01-023, and the application was stayed.
- A.02-07-039, filed in July 2002, is a restatement of Pacific's prior Section 851 request to lease space and transfer assets to ASI. A.00-01-023 was denied without prejudice by D.02-04-057.
- Pacific (now SBC-California), filed an amendment to its application several months after A. 02-07-039 to include items left off the initial application. Multiple parties cited this modification as reason to dismiss the application. No action has been taken since the amendment and no parties have sought additional Commission action.

V. Service Quality Standards

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
R.02-12-004	Kennedy	Grau		Fua, Sastra,
Next Milestone: Draft service quality rules.				

In December 2002, the Commission issued a rulemaking to revise existing measures of telecommunications service quality in order to reflect current technological and business conditions.
Opening comments and reply comments on were filed in April 2003 and May 2003, respectively on (1) proposed measures for specific services, (2) costs and benefits associated with proposed measures, (3) whether publishing carriers' reported service quality measures is a reasonable alternative or interim step to establishing standards and service quality assurance mechanisms, and (4) whether workshops would be productive after draft rules are issued.

III. SIGNIFICANT ADVICE LETTERS & RESOLUTIONS, INCLUDING PUBLIC PROGRAM BUDGETS AND CONTRACTS

A. SBC

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
AL No. 26689	N/A	N/A	N/A	Low, Shiu
Next Milestone: Address expected protest and draft resolution for Commission consideration				

- SBC California (SBC) filed Advice Letter (AL) No. 26689 to change the Customer-Owned Pay Telephone (COPT) rates.
- SBC requests authority to lower COPT local call measured usage rates about 40%, and increase COPT access line rates by approximately 60%.
- SBC states the change of rates is in compliance with FCC's New Service Test (NST).
- NST is costing methodology which includes direct and overhead costs

- SBC sent out notification of the proposed rates changes to affected COPT customers on May 16, 2005.
- Since 1996, the FCC has required the rates for COPT of Bell Operating Companies to meet the NST.
- SBC had not previously filed cost support using the NST requirement for establishing COPT rates.
- SBC claims that the FCC has *preempted* the CPUC's rules in this instance and established a new cost methodology upon which prices for coin service are to be based
- Coalition of Payphone Service Providers (PSPs) claims that the establishment of COPT rates is very similar to Unbundled Network Elements (UNE) rates, in that the FCC specifies the method for developing the rates (in the process preempting traditional ratemaking approaches), but leaves the actual review of the ILECs proposed rates up to the *state commissions.*
- SBC did not provide cost support for its requested increases. TD has requested SBC to provide this support..
- Because the large increase in COPT access line rate, TD anticipates that the Coalition of Payphone Service Providers will protest AL No. 26689.
- PSP indicates that payphones are still being used and that these payphones are the "last link" for the transient individuals and therefore the payphone rates must be kept affordable.
- On June 6, 2005, Coalition filed a protest to SBC's AL No. 26689.
- Coalition alleges SBC's proposed rate increases are contrary to federal law because SBC did not set its COPT rates according to the FCC-mandated rate-setting methodology known as the new services test (NST).
- Coalition also alleges SBC's proposed rate increases violate California law because any increase in SBC's COPT line rates must be proposed by a formal application.
- On June 6, 2005, the San Diego Payphone Owners Association (SDPOA) filed a protest to SBC's AL No. 26689.
- SDPOA alleges that SBC's proposed rate increases are inconsistent with G.O. 96-A. An increase of the magnitude at issue must be the subject of an application to increase rates in accordance with the Commission's rule of practice and procedure and may not be implementing by advice letter.
- On June 13, 2005, SBC submitted the response to the protests of Coalition and SDPOA. to AL No. 26689.
- SBC argues that carriers may use an alternative methodology as long as the carrier can affirmatively justify its overhead allocation.
- SBC states G.O. 96-A's application process does not govern pricing implementation when federal law explicitly preempts state rules.
- On June 20, 2005, Coalition filed a reply to SBC's response to the Coalition's protest dated June 13, 2005.
- Coalition states that federal law preempts state requirements that are "inconsistent" with the FCC's regulations, not *all* state regulations.
- On June 27, 2005, SDPOA filed a reply to SBC's response to the SDPOA's protest dated June 13, 2005.
- SDPOA states that the Commission may apply its requirement that SBC must submit an application, rather than an advice letter filing to pursue a significant rate increase in the COPT rate.

- On June 28, 2005, SBC responded to Coalition's reply in supporting of AL No. 26689 filing.
- SBC claims that Coalition has been unable to explain why SBC's methodology is not reasonable or does not comply with the NST.
- Legal Division is reviewing SBC claims regarding the FCC's preemption of state authority issue.

B. Interconnection Agreements

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
Resolution ALJ 181 / various applications	Peevey			Conner, Farmer
Next Milestone: Review and approve interconnection agreement advice letters within the required timeframe.				

The Telecommunications Act of 1996 required local exchange carriers to provide local network interconnection with any requesting telecommunications carrier. Section 252 of the 1996 Act requires states to review and approve interconnection agreements.

- The Commission adopted Resolution ALJ 167 in 1996 establishing the rules for interconnection agreement approval. Resolution ALJ 181, adopted on October 5, 2000, contains the current rules for filing for Commission approval of interconnection agreements. Under these Resolutions:
    - Carriers file Advice Letters for approval of negotiated interconnection agreements, for approval to adopt already approved agreements, or to opt into a portion of an already approved agreement. TD reviews and approves advice letters for negotiated interconnection agreements by resolution, reviews and approves advice letters for amendments to approved interconnection agreements on 30 days notice, and reviews and approves advice letters to opt into preexisting agreements on 16 days notice.
    - Carriers file applications for approval of interconnection agreements when the parties cannot agree to the terms and conditions of interconnection.
- ALJ 181 defines the process and proceedures for resolving arbitrated interconnection agreements. The Commission is addressing three major arbitration petitions as follows:
    - On June 1, 2004, Level 3 Communications filed for arbitration of interconnection with SBC California (A.04-06-004). The draft Arbitrator's Report was issued on December 22, 2004. The Final Arbitrator's Report was to be filed on February 8, 2005. The proceeding was suspended in Feb. 2004 at the request of the parties to process a negotiated agreement via Advice Letter. The ICA was approved by Resolution T-16933 on April 21, 2005. On April 29, 2005 parties filed to dismiss the Arbitration proceeding.
    - On September 24, 2004, SBC California petitioned for arbitration of an interconnection agreement with AT&T Commcations of California (A.04-09-023). Hearings concluded on January 6, 2005, and briefs have been filed.
    - On November 8, 2004, PacWest Telecomm, Inc. filed for arbitration of an interconnection agreement with Sure West Telephone. (A.04-11-005). Briefs were filed in March 2005, a Draft Arbitrators Report was filed on April 4, 2005 with comments submitted by PacWest and SureWest on April 14th and 18th.

C. Streamlined CTF Claim Filing and Review Process

Program	Commissioner	ALJ	Counsel	TD Staff

				Morehouse
Next Milestone: Claim applications.				

Resolution T-16763, dated May 27, 2004, modified and simplified the CTF claim filing and review process in order to reduce the time between carriers providing CTF services to eligible organizations such as schools and libraries, and carriers receiving reimbursements from the CTF program.

- Shortens the time frame for telecommunications carriers to file reimbursement claims from the CTF from two years forty-five days to one year forty-five days from the end of the month for which the claim is made.
- Revises the format of the CTF claim worksheet to be consistent with program changes adopted on May 8, 2003, in Resolution T-16742, and with efforts by TD to simplify claim filing.
- Orders carriers to discount services to CTF customers upon notification of customer eligibility and prior to submitting reimbursement claims.
- Creates a comprehensive guide for carriers submitting CTF claims
- Adopts rules which carriers may impose on E-rate[1] customers who wish to also receive California Teleconnect Fund discounts.
- Specifies when carrier claims will be eligible for interest and provides direction for carriers wishing to claim interest.
- The Governor signed SB 1276 in August 2004, enacting the California Teleconnect Fund (CTF) appropriations for fiscal year 2004-2005.

D. NRF Sharable Earnings Filings.

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
N/A	N/A	N/A	N/A	Christiansen, Wong
Next Milestone: Prepare resolutions as necessary for Frontier and SureWest.				

NRF regulation is based on a price cap indexing mechanism that was adopted for the four largest California ILECs (SBC, Verizon, Citizens, and Roseville), and relies on profit as the incentive to motivate utility management to run the company economically and efficiently.

  - NRF was originally designed for ILEC rate caps to be indexed and modified annually (i.e., changed for increases or decreases in inflation, and offset for gains in productivity that result from technological innovation in the telecommunications market).
  - NRF allows customers to share in ILEC profits that exceed a specified threshold.

- On April 1 of each year, the NRF process requires ILECs file a report on their annual intrastate earnings to determine whether the earnings sharing level has been reached.
- In 1995 during the 2nd Triennial NRF Review for SBC and Verizon (then Pacific Bell and GTE California, respectively), the Commission suspended the price cap indexing mechanism because inflation had proved to be moderate in recent years, and the indexing process was actually reducing these ILECs' price caps every year. The Commission also believed that

[1] The E-rate - or, more precisely, the Schools and Libraries Universal Service Support Mechanism - provides discounts to assist most schools and libraries in the United States to obtain affordable telecommunications and Internet access.

competition in the local exchange markets warranted the suspension of the sharing mechanism.
    - Since 1995, SBC and Verizon have made annual earnings report filings for monitoring purposes only.
    - Citizens and Roseville continue to make intrastate sharable earnings report filings.
- SBC, Verizon, and SureWest [formerly Roseville] made the required filing by April 1, 2005. Frontier [Formerly Citizens Telephone Company] requested, and was granted, an extension until May 20, 2005 to make their filing.
- Verizon and SBC no longer have a sharing mechanism, but are required to file earnings/rate of return data (ROR).
    - SBC Reported a 2004 ROR of 16.59%.
    - Verizon Reported a 2004 ROR of 6.08%
- No Resolutions are required for SBC and Verizon.
- SureWest reported a 2004 ROR of 9.18%, and will share $750,000, plus interest, based on a settlement with ORA that was adopted in D.04-11-025. The settlement addressed the 2003 sharable earnings and other previously pending issues, and resulted in suspension of annual sharing under the existing NRF program in exchange for specified customer refunds for the years 2005-2010. No resolution was necessary for SureWest's earnings filing.
- TD is evaluating the need to prepare a resolution for Frontier's earnings filing.

E. NRF Price Cap Filings

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
N/A	N/A	N/A	N/A	Christiansen, Wong
Next Milestone: 2006 Price Cap Filing on October 1, 2005				

On October 1 of each year, the four NRF-regulated telephone companies file Advice Letters (AL) to adjust the prices of their services to reflect cost changes that resulted from Commission orders.

- SBC filed AL 25578, and proposed to decrease revenues $8.8M for the gain on the sale of land. TD prepared DRAFT Resolution T-16913, which adopts the decrease, to be voted at the 1/13/05 Commission meeting.
- Verizon filed AL 10996, proposing to decrease revenues $19M for savings that resulted from the merger of GTE and Bell Atlantic. The revenue decrease was adopted in Resolution T-16904.
- Frontier (dba Citizens Telecommunications Company of California) filed AL 856, proposing to increase revenues $64K that resulted from changes in various costs of federal and state regulations. The revenue increase was adopted in Resolution T-16905
- SureWest (previously Roseville) filed AL 1014, proposing no changes to its revenues. Resolution T-16906 adopted SureWest's proposal.

F. Implementation of 2-1-1 Dialing in California

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
R.02-01-025	Kennedy	Sullivan		Rahman, Conner
Next Milestones: Additional counties are expected to file for 2-1-1 approval soon.				

The FCC designated the abbreviated dialing prefix "2-1-1" for use by social services information and referral (I&R) agencies in July 2000. The CPUC instituted R.02-01-025 to consider the implementation of 2-1-1 dialing in California. Decision (D.) 03-02-029 established that applications to offer county
2-1-1 services would be addressed and approved through TD resolutions. The following providers have been approved by Commission resolutions:

- InfoLine of LA (Los Angeles County), October 16, 2003**.**
- EDEN & R, Inc. (Alameda County, December 4, 2003.
- Contra Costa Crisis Center (Contra Costa County), February 26, 2004.
- Info Link Orange County, April 1, 2004.
- Help Link (San Francisco County), May 27, 2004.
- Interface Helpline (Ventura County), May 27, 2004.
- Volunteer Center of Riverside County, August 19, 2004.
- INFO LINE of San Diego County, August 19, 2004.
- Family Services of Santa Barbara (Santa Barbara County), December 2, 2004.
- Community Services Planning Council Inc. (Sacramento County), March 15, 2005

Additionally, the following extensions have been granted.

- In December 2004 the Commission granted an extension request by I&R providers to implement 2-1-1 service in the following counties: Alameda, Los Angeles, Orange, San Diego and Riverside.
- In February 2005 the Commission granted an extension request by Contra Costa Crisis Center in Contra Costa County.
- In April 2005 the Commission granted an extension request by Helplink of San Francisco.

G. AB 140 Grants To Unserved Areas

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
R.03-02-034	Peevey	Grau		Borak
Next Milestone:				

California Assembly Bill (AB) 140 (Ch. 903, Stats. 2001) created the Rural Telecommunications Infrastructure Grant Program. The first of its kind in the nation, the program provides grants of up to $2.5 million per project, with total grant funding of $10 million per year, for construction of telecommunications infrastructure to low-income, rural communities currently without telephone service. The legislation requires the CPUC to develop eligibility criteria for community-based groups to apply for grants, and to establish a government-industry working group to develop the technical criteria for use in evaluating grant applications.

- On February 27, 2003 the CPUC issued OIR 03-02-034 as a means to implement AB 140. D.03-09-071 implemented the program on September 18, 2003. D.05-03-005 adopted the interim grant program administration rules as final rules on March 17, 2005.
- On June 8, 2004 the California Public Utilities Commission (PUC) approved Resolution T-16846, providing funding for the following rural locations:
    - Wireline telecommunications service to the Yurok Tribe in Humboldt County in the amount of $2,500,000
    - Combination of wireless and wireline infrastructure to the community of Iowa Hill in Placer County in the amount of $1,834,900.

    - Wireless infrastructure throughout Trinity County in the amount of $2,500,000.
- On December, 27, 2004, the Telecommunications Division mailed out some 3,000 notices apprising Community Based Organizations and other interested parties of the next fiscal year cycle of funding for the Grants Program
- Four Phase 2 Applications were received on May 2, 2005 and reviewed. The applicants and their locations are as follows:
    - Tule River Tribal Council in Porterville, California
    - Indian Springs School District in Big Bend, California
    - Community of Charleston View in Inyo County
    - Community of Lost Hills in Fresno County

- The Government Industry Working Group recommended awarding grant monies to two rural entities who applied for funding under the Rural Telecommunications Infrastructure Grant Program. The Indian Springs School District applied for $2.5 Million in funding to build ten cell tower sites in rural Northeastern Shasta County. The Tule River Tribal Council in Tulare County applied for a $860,000 grant to build a fiber optic passive optical network to serve several areas on its Resevation currently without telephone services. Resolutions approving both were approved by the Commission at its June 16, 2005 meeting.
- Because the community of Lost Hills was unable to secure a fiscal agent, their application could not move forward. They have been encouraged to reapply for next year's funding cycle.
- The community of Charleston View did not have a service provider identified for their project. They have been encouraged to reapply for next year's funding cycle once they have secured a service provider for their project.

IV. PUBLIC PROGRAM OVERSIGHT

A. Description of Public Programs

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
				Shantz, McNamara (CTF only), & staff
Next Milestone: Ongoing program responsibility (SB 669 and AB 1734).				

PUC provides oversight and administration of five telecommunications public programs, which seek to improve telephone penetration. Pursuant to PU Code § 270 et seq, the Commission may only expend funds for these programs upon appropriation in the annual Budget Act. For the 2004-05 fiscal year, the State Annual Budget Act appropriated in excess of $860 million for these five telecommunications public programs. Funding for these programs is derived from surcharges assessed on all telephone users' monthly bills. These programs include:

- Universal Lifeline Telephone Service (ULTS), which provides discounted telephone service to low-income households;
- California High Cost Fund A (CHCF-A) and B (CHCF-B), which subsidize carriers for providing service to customers in high-cost areas. PU Code § 270 and 739.3 provided a sunset date of January 1, 2005 for the CHCF-A and CHCF-B programs. During the 2004 Legislative session, Senator Bowen introduced SB 1276 extending the sunset date for both

programs to January 1, 2009. This bill was signed into law in September 2004. The bill also requires the Commission, by January 1, 2006, to conduct a review of these programs and the support mechanism for the CHCF-B.

- The California Teleconnect Fund (CTF), which provides discounted telephone service to schools, libraries, hospitals, clinics, and community-based organizations.
- Deaf and Disabled Telecommunications Program (DDTP), which is a $60-70 million program that provides some 2.5 million deaf and disabled Californians with relay service (CRS, or California Relay Service) through a third-party operator as well as specialized equipment to qualifying individuals (CTAP, or California Telephone Access Program).
    - On February 10, 2005 the Commission approved Resolution T-16895, which set the 2005-2006 Fiscal Year budget for the DDTP program at $66.8 million. The budget includes funding to extend the captioned telephone service trial. The resolution also recommends that the Commission explore more efficient ways of providing program services to clients via a formal proceeding.

Ongoing TD responsibilities associated with the administration of these programs include but are not limited to:

- Providing technical and administrative support to the advisory boards;
- Developing proposed annual budgets for the advisory boards for submission to the Commission;
- Sponsoring resolutions approving the annual program budgets and their respective funding sources;
- Providing technical support to decision makers on policy issues associated with universal service and public programs;
- Reviewing and approving monthly claims submitted by telecommunications companies;
- Managing 60-70 contracts and reviewing their invoices submitted for payment;
- Directing Commission's Fiscal Office to schedule payments with the State Controller's Office on a bi-monthly basis;
- Reviewing and monitoring over $860 million of surcharge revenues reported and remitted by the telephone companies;
- Comparing budget and revenue forecasts with actual expenditures and surcharge monies received and deposited in the State Treasury;
- Working with the Commission Budget Office on budget change proposals and/or appropriation deficiency requests;
- Reviewing advice letters associated with annual funding requests filed by the 17 small local exchange carriers; and
- Reviewing and recommending to the Commission approval of program-related contracts and their management.

B. DDTP Post-Transition: Administration and Contract Management

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
			Mickiewicz, Dryvynsyde, Cady	Shantz, Gustafson
Milestones:				

The Deaf and Disabled Telecommunications Program (DDTP) continues to provide equipment and relay services to some 2.5 million deaf, hearing impaired, and speech or otherwise disabled Californians and the persons with whom they communicate.

- New website: as of 3/14/05, the new DDTP website went "live." The public can view the website at www.ddtp.org; and provide comments online at webcomments@ddtp.org.
- Relay "Choice": Users of the California Relay Services (CRS), now have the choice of three providers under CRS II, i.e., MCI, Nordia or Sprint. Instructions for registering choice of provider, modality or language are on the new DDTP website, as well as available through the various vendors, see 711 Instructions on the website.
- Captioned Telephone Service (CapTel): agreement language between the CPUC and Sprint/CTI and separately with Weitbrecht Communications Inc. (Ultratec) is now in place for the long awaited CapTel Expanded Field Trial (EFT). Implementation details for the trial are now being worked out, which will allow for distribution of up to 200 CapTel units per month for three years. CapTel service is offered in some 26 other states, but has been available on a limited trial basis in CA.
- Contract management: Ongoing management of existing DDTP contracts which are now State contracts continues, including extension and rebid of contracts as required based on operational needs, and as permitted or required by DGS.
- Contract extensions through FY 05 06 have been approved by the DGS for CCAF (California Communications Access Foundation), the CPUC's primary program and contract administrator for the DDTP; the DDTP's marketing contractor (OWC or One World Communications) and equipment call center (CSD or Communications Services for the Deaf). A one year contract is in place for a new warehouse vendor. Significant challenges remain in transitioning from the former warehouse vendor. These are now being addressed by the California Attorney General and CPUC legal.
- CPUC/TD/IMSD/Legal continue working with the Department of General Services (DGS) on the DDTP Transition – Phase II, including rebid of services, which is anticipated for the post June 30, 2006 timeframe. (Phase I of the Transition began on 7/1/03**.)** (Does not include the California Relay Service contracts.)
- Using the Invitation For Bid competitive bidding process, TD procured the services of vendors to provide communication assistance for the DDTP.
- Separately, the CPUC/IMSD is working with DGS on a competitive process for procuring specialized telecommunications equipment for the DDTP. TD anticipates this will involve development of a list of vendors from which DGS will purchase the specialized telecommunications equipment for the DDTP.

- CRS II Implementation and Related Matters: CPUC continues to work with Mission Consulting, CCAF and vendors (MCI, Nordia, Sprint, Verizon) on implementation issues, including CRS II reporting, operational and acceptance testing issues. The CRS II "cut over" for services was completed in December 2004.

- Transfer of MCI's CRS Call Center in Riverbank, CA to vCustomer: MCI submitted an application to the CPUC (A. 05-06-037) requesting transfer of various assets to vCustomer, including the Relay Call Center. Assuming approval of this application by the CPUC, staff will work with DGS on the assignment of the MCI CRS II call center contract to vCustomer. MCI and vCustomer have informed the CPUC/TD that all CRS

II-related facilities and personnel will transition with the sale. TD does not expect any change in services.

C. ULTS Call Center and Outreach Contracts

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
				Mary Jo Borak
Next Milestone: Department of General Services approval of 2005-06 Marketing contract				

In 2003, the Department of General Services (DGS) approved a one-year marketing plan (outreach) contract for $5 million and a 36-month contract for the operation of a call center for $1.5 million with Richard Heath and Associates (RHA). On September 8, 2003, RHA launched Phase II of the ULTS (Universal Lifeline Telephone Service) marketing outreach program to increase subscribership among the following target groups: African American, Cambodian, Chinese, Filipino, Hispanic, Hmong, Korean, Laotian, and Vietnamese, Russian, and Armenian. The Call Center provides in-language service to callers in the following languages: English, Spanish, Cambodian, Cantonese, Hmong, Korean, Lao, Mandarin, Tagalog and Vietnamese. In 2004, the Commission released a Request for Proposals for a new ULTS Marketing and Outreach Contract .Three proposals made it to the bid opening stage. The contract was awarded to RHA for the amount of $4,078,688. The contract is for one year, with the option to extend for two additional one-year periods. The contract was reviewed and approved by DGS in August 2004.

- The first year marketing efforts have achieved notable results. The ULTS Call center received a total of 23,229 calls. Of the 23,229 total calls received, 72% were determined eligible for ULTS and were referred to a carrier to sign up for phone service.
- The second year marketing campaign targets women, since women make most of the calls into the Call Center. The campaign stresses how affordable the plan is, as well as how important it is to families to be connected to schools, family members, and public safety providers.
- The ULTS logo has also been updated. It emphasizes the "Lifeline" word and incorporates artistic figures, a telephone, and connectivity.
- A new marketing campaign and associated eight-week media buy began February 14 for English and Spanish, and February 26 for Asian languages. The results were outstanding. The Call Center received over 6,500 calls during the month of March and over 3,300 calls during April. A total of 5,376 successful transfer calls were made to carriers in March, and 2,784 successful transfers were made in April. For the first seven months of this contract year (September 2004 through April 2005), the number of calls received by the Call Center totaled 20,364. The number of successful transfers totaled 16,507. <u>For the entire marketing contract year ending August 30, 2005, the Call Center's number of successful transfers totaled 21,054, exceeding their target of 18,000 successful transfers</u>.
- The marketing contract is being renewed for an additional year. The 2005-06 contract amount totals $4,855,000 and is under review by the Department of General Services.
- New media buys are underway for the month of October 2005. The marketing strategy is to build on the successful campaign developed in early Spring 2005, stressing the importance of being connected to family and friends, schools and public safety for the very affordable rate of less than $6.00 per month.

D. Advisory Boards

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
				Shantz, McNamara, Gustafson, Mirza, Young, Kumra, Carlin, Morehouse
Next Milestone: Ongoing program responsibility (SB 669 and AB 1734)				

TD provides principal liaison support to each of the five boards whose composition was recently addressed by legislation and Commission decision. The duties and responsibilities of the liaisons for CHCF-A, CHCF-B, CTF, and ULTS include but are not limited to:

- Facilitate advisory board meetings by scheduling the room for such meetings;
- Preparing agendas and meeting information packages;
- Taking and preparing minutes of the meeting;
- Assisting in the development of the proposed fiscal year program budgets; and
- Assisting in the preparation and filing of advisory boards' annual reports.

TD's liaison for DDTP is a non-voting member whose duties and responsibilities are to assist the DDTP advisory board in the development of each proposed fiscal year program budget and in the preparation and filing of the annual report.

V. REPORTS TO THE LEGISLATURE

There are no ongoing reports at this time.

VI. FCC RULINGS AND NOTICE OF PROPOSED RULEMAKINGS (NPRMs)

A. *Triennial Review of Unbundled Network Elements*

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
FCC, CC Docket No. 01-338; 96-98. R.95-04-043	Kennedy	Pulsifer	LeVine	Enis, Hymes
Next Milestones: Integration of state proceeding with FCC TRRO.				

This proceeding reviews the present federal mandate requiring that ILECs unbundle network elements for lease and use by CLECs. The FCC order released August 21, 2003, prescribed specific guidelines that a state commission must follow to determine if competitors are impaired without access to individual UNEs. These FCC-mandated timelines required that states complete a "granular" analysis by market within nine months from the effective date of the Order or July 2, 2004. The FCC broadly categorized UNEs into those provided for mass market customers (residential and small business) and enterprise customers (larger businesses) but left states to determine the actual market definition to be used to perform the impairment analysis. Only the most recent events are listed below. For a more complete listing, see the January issue of the Telecommunications Roadmap.

- On March 2, 2004 the D.C. Circuit Court issued its opinion in the United States Telecom Association vs. the FCC vacating major portions of the FCC's rules promulgated in the TRO including how impairment analysis should be conducted and how much of a role the FCC could delegate to state commissions. .
- On February 4, 2005, the FCC released the order, now termed the Triennial Review Remand Order (TRRO). Most noticeably, the FCC rules will phase out switching as a UNE in twelve months. The order addresses the unbundling framework, dedicated interoffice transport, high-capacity loops, and mass market local circuit switching.[2]

B. *Classification of DSL Service.*

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
FCC, CC Docket No. 02-33; 95-20; 98-10.			LeVine	P. White, P. Chang
Next Milestone: Comments on the need for non-economic regulatory requirements for consumer protection due January 17, 2006.				

On August 5, 2005, the FCC issued an order reclassifying DSL as an Information service. This reclassification removes many regulatory obligations previously applicable to ILEC providers of DSL service. The order eliminates ILECs' line-sharing unbundling obligations but gives CLECs one-year to negotiate commercial line-sharing agreements with the ILECs.

The FC has also issued a NPRM seeling comments on whether is should develop a framework for consumer protection in the Broadband age. This rulemaking explores whether regulations the FCC adopts pursuant to its ancillary jurisdiction under Title I of the Communications Act should apply to Broadband Internet access regardless of the underlying technology that providers use to

[2] The full TRRO can be viewed on the FCC's website at: http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-04-290A1.doc

offer the service. Specifically, the FCC is seeking comment on whether any non0economic regulatory requirements are necessary to ensure that consumer protection needs are met by all providers of Broadband Internet access service. The FCC notes that states may be the enforcers of any rules that may be developed. Comments are due January 17, 2006. Reply Comments are due March 1, 2006.

C. Performance Measurements

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
FCC, CC Docket No. 01-318; 98-56; 98-147; 96-98; 98-141.	N/A	N/A	LeVine	
Next Milestone: FCC Ruling on whether to implement federally mandated performance measurements/standards.				

State regulators currently develop performance measurements and standards for evaluating ILEC performance in provisioning the local facilities that are used by their wholesale customers (the CLECs) to compete for end-user customers. The FCC's role has been to examine the results of these state-administered standards in the context of determining whether an ILEC has adequately opened its local market to competition and, thus, should be authorized to enter the long distance market under the provisions of Section 271 of the Telecommunications Act.

- The FCC commenced these rulemaking proceedings in November of 2001 to decide whether it should adopt a set of national performance measurements and standards for evaluating ILEC performance in provisioning local facilities.
- The FCC's stated goal for these proceedings is to adopt federal standards if doing so will:
  - Balance CLECs' concerns about poor provisioning with ILECs' concerns about the cost of complying with numerous state and federal measurements and standards.
  - Benefit the industry in general by increasing the uniformity of expectations, and create clear, predictable and enforceable standards.
- Interested parties have submitted initial and reply comments on these matters, and the next expected milestone is the issuance of the FCC's ruling.

D. Pricing of Unbundled Network Elements and Resale Services

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
FCC, WC Docket No. 03-173.	N/A	N/A	Dumas	Enis, King
Next Milestone: Issuance of a notice of final rule.				

The FCC released this TELRIC NPRM on September 15, 2003 (1) to determine whether existing rules on UNE and resale service pricing should be modified to promote more efficient facilities investment, and (2) to help state commissions more readily develop UNE prices and resale service discounts that are uniform among states.

- State commissions and other interested parties completed filing their comments in the rulemaking on January 30, 2004. TD and Legal reviewed the comments initially filed by other parties and submitted the CPUC's first comments as reply comments**.**

E. FCC's IP-Enabled Services Rulemaking, SBC's IP-Platform Services Forbearance Petition and Vonage Petition.

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
WC Docket Nos. 04-29 and 04-36, DA 04-1685	N/A	N/A	LeVine	P. White, Van Wambeke, Young, L. King, Rahman, Pangilinan
Next Milestone:				

Issued February 12, 2004, the FCC's NPRM sought comment on the regulation of Internet services. The NPRM also asks questions covering a wide range of services and applications to differentiate between Internet services and traditional telephony services, and to distinguish among different classes of Internet services. Specifically, the Notice asks which regulatory requirements - for example, those relating to E911, disability accessibility, access charges, and universal service - should be extended to different types of Internet services. The Notice also asks questions about the legal and regulatory framework for each type of Internet service and any jurisdictional considerations.

- Opening comments were filed May 28, 2004.
- Reply comments were filed July 14, 2004.
- Responding to a petition by Vonage, the FCC found in November 2004 (FCC 04-267) that Vonage's VoIP service is not subject to traditional state public utility regulation and further stated that other types of IP-enabled services, such as offered by cable companies, that have similar basic characteristics would also not be subject to state public utility regulation.
- December 22, 2004. The CPUC petitioned the US Court of Appeal for a review of the FCC's Vonage Order.
- April 7, 2005. The Commission voted to withdraw the appeal of the FCC's Vonage order.

F. Developing a Unified Intercarrier Compensation Regime

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
CC Docket No. 01-92	N/A	N/A	Dumas	Fua, Enis,
Next Milestone: Opening Comments due May 23, 2005				

On March 3, 2005, the FCC issued a Further Notice of Proposed Rulemaking on intercarrier compensation and established a comment cycle. The FCC is requesting input on the methods by which carriers compensate each other for exchanging telecommunications traffic on the public switched telephone network. The FCC is also seeking comments on the type and degree of reform to both intrastate and interstate intercarrier compensation paradigms that have been suggested by various interests including NARUC. At issue in this proceeding are potential changes to not only the intercarrier compensation regimes that govern telecommunications but fundamental changes to long-standing universal service funding policies that rely on these regimes.

- NARUC staff and stakeholders met on NARUC's proposal in Washington, D.C., on April 21-22, 2005. The NARUC task force group is working to further refine its proposal to submit to the FCC.
- Legal and Telecommunications Division staff participated in NARUC meetings in Austin, TX, July 24-27, 2005 on NARUC's proposal to the FCC regarding the rationalization of all carrier compensation under CC Docket No. 01-92.

- Legal and Telecommunications Division staff designated by Commissioner Kennedy to conduct work on the NARUC subcommittee defining network boundaries that determine how compensation flows to interconnected carriers. Proposal to be presented at NARUC meeting in Palm Springs, CA November 13-16.

VII. OTHER PROJECTS

A. Public Program Audits

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
N/A	N/A	N/A	N/A	Christiansen, Schein
Next Milestone: Roseville audit report.				

- PU Code Section 274 requires the Commission to conduct, at least every three years, a financial audit and a compliance audit of the program-related costs of the following six funds:
  - California High Cost Fund – A
  - California High Cost Fund – B,
  - Universal Lifeline Telephone Service Fund
  - Deaf & Disabled Telecommunications Program Fund
  - Payphone Service Providers Fund
  - California Teleconnect Fund
- Consistent with past practice, the Commission has engaged the Department of Finance to conduct some of these program audits and is performing others in-house.
- The Telecommunications Division recently utilized the hiring freeze exemption process to hire two Financial Examiners (FE IIIs) to work on some of these audits. One auditor has since left the Commission, leaving only one FE III to conduct Public Programs Audits.
- Audit reports have been completed for 5 small LEC's.
- Audit fieldwork by the remaining FE III has been completed for four additional small LECs, and draft reports have been prepared and are being reviewed.
- A contract with the Department of Finance (DOF) to perform audits on some larger carriers beginning early this fiscal year was approved in July 2003.
- The DOF work will focus on a mid-sized LEC, a large inter-exchange carrier, and a large LEC.
- Fieldwork for the audit of Roseville has been completed, and the staff has received a draft report for its review. Staff has also received comments to the draft report. DOF is reviewing and considering TD's suggested changes.
- Fieldwork for SBC and MCI audits is underway. A DRAFT report on the MCI audit is expected to be released for TD review in July 2005.

B. Number Pooling Administration

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
R. 95-04-043 & I.95-04-044	TBD	Pulsifer	Mickiewicz	Conner, Pangilinan
Next Milestones:				

- Monitor pooling blocks by rate center.
- Review code openings to replenish pools and to establish LRNs (Location Routing Number).
- Review applications for waivers from carriers to obtain additional blocks.

Number pooling enables the allocation of numbers to carriers in blocks of 1,000 numbers. Prior to pooling, carriers could only receive numbers in blocks of 10,000 numbers (whole prefixes).

- On September 15, 1999, California received authority from the FCC to conduct mandatory number pooling trials for carriers with LNP (local number portability) capability in areas designated within the top 100 MSAs (Metropolitan Statistical Area).
- The first pooling trial began in the 310 area code on March 18, 2003. By April 2002, when National Pooling began, California implemented a total of 16 pooling trials. As of April 2003, all area codes in California are in pooling.
- TD staff routinely monitors the number of blocks available in each area code by rate center, works with the Pooling Administrator to determine the need to replenish the pools (provide new numbering resources), approves carrier requests for assignment of thousands-blocks, and reclaims thousands-blocks, when not used, from carriers.
- Since January 2005, TD evaluated 69 requests to open NXX codes to establish LRNs and replenish the number pools. TD approved 56 of these 69 requests to open NXX codes.

C. Number Code and Thousands Block Reclamations

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
R. 95-04-043 & I.95-04-044	TBD	Pulsifer	Mickiewicz	Conner, Wong, Pangilinan

Next Milestones:

- Monitor the Code Reclamation List monthly; reclaim codes as necessary.
- Monitor the Thousands-block Reclamation List monthly; reclaim thousands-blocks as necessary.
- Investigate carriers for accurate Part 4 reporting.

NXX Code (prefix) Reclamation:

- The North American Numbering Plan Administration (NANPA) assigns prefixes (NXX codes) to carriers based on FCC rules and industry guidelines. Once a prefix is assigned to a carrier, that carrier is required to submit a Part 4 form to NANPA within a six-month time frame to verify that the carrier has activated the code. On a monthly basis, NANPA provides the Commission a listing of all the codes for which Part 4's were not submitted within the six-month period.

Thousands-Block Reclamation:

- The Pooling Administrator (PA) approves carriers' request for thousands-blocks from the number pools. Similar to NXX code approval, carriers must submit Part 4 forms notifying the PA that the thousands-block is in use.
- TD reviews the monthly list of delinquent Part 4s provided by the PA and reclaims blocks as appropriate. TD has found that for most of the thousands-blocks listed, the carrier just neglected to submit the Part 4 form or will return the blocks once prompted by TD.

D. Emergency Code Requests/Lotteries/Safety Valve Process

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
R. 95-04-043 & I.95-04-044	TBD	Pulsifer	Mickiewicz	Conner, Pangilinan

Next Milestone:
➢ Continue to review requests for numbering resources via the emergency code and safety valve processes. ➢ Continue to hold lotteries.

In December 1998, the FCC granted the Commission authority to continue to use NXX code (prefix) rationing measures prior to the implementation of area code relief, including the authority to determine all aspects of how NXX codes shall be assigned pursuant to rationing.

- TD administers the NXX Code Lottery for the allocation of NXX codes for area codes in jeopardy of exhaustion. Twenty-one of the 25 area codes in California are in rationing. Prior to area code relief planning, and with industry participation, NANPA determined the code allocation for each area code in jeopardy.
- In 1998 TD began proactively evaluating the remaining lives of California area codes and designated the lottery allocations. Today, TD allocates two NXX codes per month in all rationed NPAs except the 310 area code, which remains at two NXX codes every other month.
- The emergency code and safety valve processes allow carriers to acquire numbering resources outside of the lottery process and number pooling rules.
- The TD continues to review applications for numbering resources through the emergency code and safety valve processes dependent on carriers' needs.

E. Certification of Intrastate Telecommunications Utilities Using "Voice Over Internet Protocol" (VoIP).

Proceeding No.	Commissioner	ALJ	Counsel	TD Staff
N/A	N/A	N/A		McNamara, Van Wambeke
Next Milestone:				

TD has identified several firms using VoIP technology to provide telephone service in California. Because the Internet is used in the transport of the telephone calls carried by these identified firms, these VOIP firms believe that they are providing unregulated information services rather than regulated telecommunications services to their California customers, and as a consequence, have not obtained CPCNs.

- In late September, the TD informed six of these VoIP firms that it believes they are operating as telephone corporations in California and, as such, should file applications with the Commission to conduct business as telecommunications utilities by October 22, 2003. These VoIP firms subsequently claimed that their operations are not telecommunications subject to the PU Code, and did not file applications to do business in California.
- TD and Legal presented the Commission with a management report on this matter in mid-November that covered the legal and technical issues these operations raise, the consequences of allowing the operations to continue unregulated, and recommended next steps for the Commission to take. The Commission is now considering how to regulate VoIP carriers (see above discussion of OII. 04-02-007).