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November 21, 2005

VIA HAND DELIVERY
Ron Jones, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37219

05-00314

Re: Application of Pac-West, Telecomm, Inc. for a Certificate of Convenience and Necessity to provide competing Local Telecommunications Services and to Provide Facilities-Based and Resold Intraexchange Services in Tennessee

Dear Chairman Jones:

Enclosed you will find the original and thirteen copies of the above referenced Application of Pac-West, Telecomm, Inc. ("Pac-West") to provide telecommunication services in the State of Tennessee and a check for $25.00 for the filing fee.

Pac-West plans to roll out services in multiple states in early 2006 and therefore respectfully requests expedited treatment of its application.

Please contact me if you need any additional information.

Sincerely,

D. Billye Sanders

D. Billye Sanders
Attorney for Pac-West, Telecomm, Inc

cc. Richard M Rindler
Brian McDermott
Lynne Martinez

1163785 1

BEFORE THE
TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

In the Matter of the Application of **Pac-West Telecomm, Inc.** For a Certificate of Convenience and Necessity to Provide Competing Local Telecommunications Services and to Provide Facilities-Based and Resold Interexchange Telecommunications Services in Tennessee	Docket No. ________

APPLICATION FOR A CERTIFICATE TO PROVIDE COMPETING LOCAL TELECOMMUNICATIONS SERVICES AND FACILITIES-BASED AND RESOLD INTEREXCHANGE TELECOMMUICATIONS SERVICES

Pursuant to T.C.A. § 65-4-201, TRA Rule 1220-4-8 and Section 253 of the Federal Telecommunications Act of 1996 ("Act"), Pac-West Telecomm, Inc. ("Pac-West" or "Applicant") respectfully requests that the Tennessee Regulatory Authority ("TRA") grant to Pac-West authority to provide competing local telecommunications services, including exchange access telecommunications services, and facilities-based and resold interexchange telecommunications services within the State of Tennessee. Pac-West is willing and able to comply with all applicable rules and regulations in Tennessee pertaining to the provision of competing local and interexchange telecommunications services.

In support of its Application, Pac-West submits the following:

1. The full name and address of the Applicant is.

Pac-West Telecomm, Inc.
1776 W. March Lane, Suite 250
Stockton, CA 95207

Questions regarding this application should be direct to:

D. Billye Sanders
Waller Lansden Dortch & Davis, PLLC
511 Union Street, Suite 2700
Nashville, TN 37219-8966
(615) 244-6380 (Tel)
(615) 244-6804 (Fax)
Bsanders@wallerlaw com

and

Richard M. Rindler
Brian McDermott
Swidler Berlin LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007
(202) 424-7500 (Tel)
(202) 424-7645 (Fax)
bmmcdermott@swidlaw.com

Contact name and address at the Company is:

Lynne Martinez
Director of Government Affairs
Pac-West Telecomm, Inc.
1776 W. March Lane, Ste. 250
Stockton, CA 95207
(209) 926-4339 (Tel)
(209) 926-4585 (Fax)
lmartin@pacwest.com

2. Organizational Chart of Corporate Structure: Include any pertinent acquisition or merger information.

See **Exhibit A**. Pac-West has not been involved in any pertinent merger activity.

3. Corporate information:

Pac-West is a California corporation formed on May 15, 1996. A copy of Pac-West's Certificate of Amendment of Amended and Restated Articles of Incorporation is provided in **Exhibit B**. A copy of Pac-West's Authority to Transact Business in the State of Tennessee is provided in **Exhibit C**.

The principal corporate officers of Pac-West are the following:

Henry R. Carabelli, President and Chief Executive Officer
H. Ravi Brar, Chief Financial Officer and Vice President of Human Resources
Todd M. Putnam, Chief Information Officer
Michael B. Hawn, Vice President Customer Network Services
Eric E. Jacobs, Vice President, General Manager Service Provider Sales
Peggy McGaw, Vice President Finance
John F. Sumpter, Vice President Regulatory
Robert C. Morrison, Vice President and General Counsel

These officers can be reached at Applicant's principal place of business provided above. There are no officers residing in Tennessee. The biographies of the principal officers are provided in **Exhibit D**.

4. Pac-West possesses the managerial, technical, and financial ability to provide local telecommunications service in the State of Tennessee as demonstrated below.

A. Financial Qualifications

Pac-West's success in developing innovative products and services and in expanding its geographic reach has translated into impressive growth in recent years and as such Pac-West is extremely well-qualified financially to operate and expand its business. In 2004, Pac-West's usage grew to 44.7 billion minutes of use generating revenue of more than $124 million. Financial information demonstrating Pac-West's financial qualifications is provided in its most recent Form 10-K; a copy of the financial statements contained in the Form 10-K are attached hereto as **Exhibit E**. As shown in the attached information, Pac-West is financially qualified to operate within the State of Tennessee.

Included in **Confidential Exhibit F** are three-year financial projections, including income statements, balance sheets and statement of cash flows **Confidential Exhibit G** is a three-year capital expenditures budget indicating the type of equipment to be deployed, the cost of the equipment, and the sources for funding of projected capital expenditures.

B. Managerial Ability:

Pac-West is technically and managerially qualified to provide competitive local exchange and interexchange services in Tennessee. Pac-West's Tennessee operations will be directed by its existing corporate management, technical and operations staffs who are responsible for the interexchange and local exchange operations in other states. A description of the background of Applicant's key personnel, which demonstrates the extensive managerial experience of Pac-West's management team, is attached hereto as **Exhibit D**.

C. Technical Qualifications

Pac-West's services will satisfy the standards established by the TRA. The Applicant will file and maintain tariffs in the manner prescribed by the TRA and will meet basic local standards, including quality of service and billing standards required of all competing local exchange carriers ("CLECs") regulated by the TRA. Applicant will not require customers to purchase customer premise equipment ("CPE"), which cannot be used with the Incumbent Local Exchange Carrier's systems. As noted in the biographies of the principal officers, certain officers have engineering backgrounds and all officers have several years of telecommunications expertise. Thus, Pac-West is certainly technically qualified to provide local exchange and interexchange telecommunications services in Tennessee.

5. Proposed Service Area:

Pac-West is extremely well qualified to provide telecommunications services in Tennessee. Pac-West currently is an authorized provider of traditional and next-generation voice communications services in Arizona, California, Colorado, Kentucky, Idaho, Maryland, Nevada, New Mexico, Oregon, Rhode Island, Utah, Washington, Wisconsin, and the District of Columbia Pac-West has 25 years of experience in voice telephony and currently operates one of the most comprehensive local access networks in the Western United States. Pac-West has not been denied requested certification in any jurisdiction, nor has any permit, license, or certificate been revoked by any authority. Additionally, Pac-West has pending, or is in the process of filing, applications for authority in Alabama, Delaware, Florida, Georgia, Indiana, Illinois, Kansas, Louisiana, Massachusetts, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, South Carolina, Pennsylvania, Virginia and Ohio.

Pac-West seeks authority to provide facilities-based and resold local exchange and interexchange telecommunications services to and from all points in the State of Tennessee. Therefore, Pac-West seeks statewide authority. While Pac-West will offer traditional voice services to customers utilizing the public switched network, Pac-West will also offer services using Internet Protocol to provide voice and data applications that interact seamlessly with the traditional public switched network.

Pac-West will continuously monitor and maintain a high level of control over its network on a 24-hours-a-day, 7-days-a-week basis.

6. Types of Local Exchange and Interexchange Services to be provided:

Pac-West intends to offer a broad variety of local exchange services, including basic exchange services, custom-calling features, directory assistance, operator services, and directory listings. Emergency 911 and enhanced 911 calling will be provided to local exchange customers in accordance with TRA and FCC guidelines. Pac-West will provide all services required under TRA Rule 1220-4-8-.04(3)(b)

Pac-West also intends to offer a full range of interexchange telecommunications services, including MTS, WATS, and toll-free services.

7. Repair and Maintenance:

Pac-West understands the importance of effective customer service for both local and long distance service customers. Pac-West has made arrangements for its customers to call the company at its toll-free customer service number 877-626-4325. Pac-West representatives will monitor calls 24 hours per day, seven days a week. In addition, customers may contact the company in writing at its principal place of business. The toll-free number will be printed on the customer's monthly billing statements.

8. Small and Minority-Owned Telecommunications Business Participation Plan (T.C.A. §65-5-212):

Please see **Exhibit H**.

9. Toll Dialing Parity Plan:

Please see **Exhibit I**.

10. Notice of Application:

Applicant has served notice of this application to the eighteen (18) incumbent local exchange telephone companies in Tennessee with a statement regarding the Applicant's intention of operating geographically and on the Consumer Advocate and Protection Division of the Office of the Tennessee Attorney General. Please see **Exhibit J** for the Notice of Application and Certificate of Service.

11. Numbering Issues:

Please see the statement provided in **Exhibit K**.

12. Tennessee Specific Operational Issues:

Please see statements provided in **Exhibit L**.

13. Miscellaneous

A. Sworn Pre-Filed Testimony:

Please see the sworn pre-filed testimony of John F. Sumpter, Vice President of Regulatory at Pac-West, provided as **Exhibit M**.

B. Customer Deposits:

Applicant may require customer deposits in some circumstances, but does not anticipate that it will require deposits for residential services if supplied. Any deposit requirements will be included in the tariff of Pac-West that will be filed with the TRA.

C. Complaints Filed with State and Federal Regulatory Agencies:

As of the date of this filing, Pac-West has not been subject to any formal complaints filed at the FCC or in any of the states in Pac-West is currently doing business.

D. Informational Tariffs:

Applicant will provide informational Local Exchange and Interexchange Tariffs upon approval of this Application.

E. Surety Bond

Pursuant to T.C A. § 65-4-125, a surety bond in the amount of Twenty Thousand Dollars ($20,000) to secure the payment of any monetary sanction imposed in any proceeding brought under this title or the Consumer Telemarketing Protection Act of 1990, is provided as **Exhibit N**.

14. Public Interest Statement

Granting this Application will promote the public interest by increasing competition in the provision of telecommunications services in Tennessee. Pac-West will deploy and expand a competitive telecommunications infrastructure in the State. Pac-West will provide customers high quality, cost effective telecommunications services, with an emphasis on customer service. In addition to driving prices closer to costs, thereby ensuring just and reasonable rates, competition also promotes efficiency in the delivery of services and in the development of new services. These benefits work to maximize the public interest by providing continuing incentives for carriers to reduce costs while, simultaneously, promoting the availability of potentially desirable services.

CONCLUSION

Pac-West respectfully requests that the TRA enter an order granting it a certificate of convenience and necessity to operate as a competing telecommunications service provider and authority to provide a full range of local exchange and interexchange telecommunication services on a facilities-based and resale basis throughout the State of Tennessee. For the reasons stated above, Pac-West's provision of these services would promote the public interest by providing high-quality service at competitive prices and by creating greater economic incentives for the development and improvement for all competing providers and interexchange carriers.

Pac-West Telecomm, Inc.

By: D. Billye Sanders

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Nashville, TN 37219-8966
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Washington, DC 20007-5116
(202) 424-7500 (Tel)
(202) 424-7645 (Fax)

Counsel for Applicant

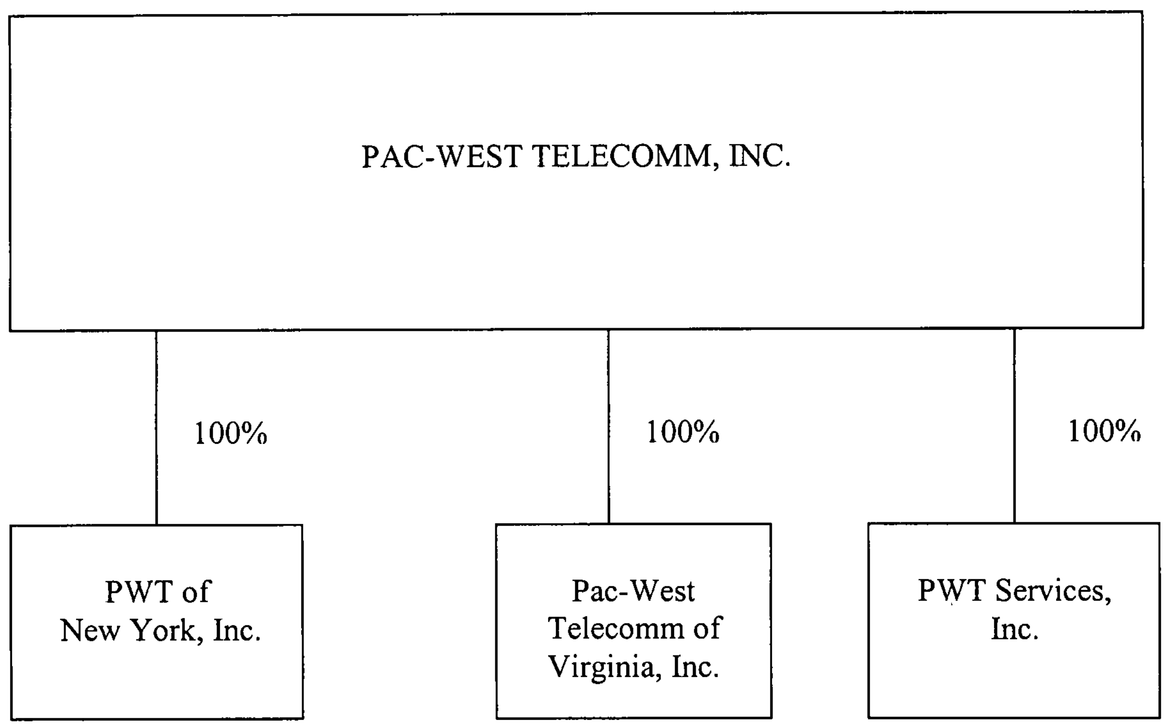
EXHIBIT LIST

Exhibit A	Organizational Chart
Exhibit B	Certificate of Incorporation
Exhibit C	Authority to Transact Business
Exhibit D	Management Biographies
Exhibit E	Financial Statements
Exhibit F	Projected Financial Statements **(Confidential)**
Exhibit G	Projected Capital Expenditures **(Confidential)**
Exhibit H	Small and Minority-Owned Telecommunications Business Participation Plan
Exhibit I	Toll Dialing Parity Plan
Exhibit J	Notice of Application and Certificate of Service
Exhibit K	Numbering Issues
Exhibit L	Tennessee Specific Operational Issues
Exhibit M	Sworn Pre-Filed Testimony
Exhibit N	Surety Bond

VERIFICATION

EXHIBIT A

Organızational Chart


PAC-WEST TELECOMM, INC.
100%
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PWT of New York, Inc.
Pac-West Telecomm of Virginia, Inc.
PWT Services, Inc.

EXHIBIT B

Certificate of Incorporation

State of California

RECEIVED
STATE OF TENNESSEE
00 MAY 11 AM 11:39
RILEY DARNELL
SECRETARY OF STATE

SECRETARY OF STATE

CERTIFICATE OF STATUS
DOMESTIC CORPORATION

I, BILL JONES, Secretary of State of the State of California, hereby certify:

That on the 15th *day of* May *, 19*96 *,*

PAC-WEST TELECOMM, INC.

became incorporated under the laws of the State of California by filing its Articles of Incorporation in this office; and

That no record exists in this office of a certificate of dissolution of said corporation nor of a court order declaring dissolution thereof, nor of a merger or consolidation which terminated its existence; and

That said corporation's corporate powers, rights and privileges are not suspended on the records of this office; and

That according to the records of this office, the said corporation is authorized to exercise all its corporate powers, rights and privileges and is in good legal standing in the State of California; and

That no information is available in this office on the financial condition, business activity or practices of this corporation.

IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

April 27, 2000

THE GREAT SEAL OF THE STATE OF CALIFORNIA
EUREKA

Bill Jones

Secretary of State

SEC/STATE FORM CE-112 (REV 9/95)

95 30089

A0551280

State of California

SECRETARY OF STATE

I, *BILL JONES*, Secretary of State of the State of California, hereby certify:

That the attached transcript of 2 page(s) has been compared with the record on file in this office, of which it purports to be a copy, and that it is full, true and correct.

IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

SEP 5 2000

Bill Jones

Secretary of State

Sec/State Form CE- rev 8/98)

OSP 98 13524

A0551280

ENDORSED FILED
IN THE OFFICE OF THE
SECRETARY OF STATE

SEP -5 2000

BILL JONES SECRETARY OF STATE

CERTIFICATE OF AMENDMENT OF AMENDED AND RESTATED ARTICLES OF INCORPORATION OF PAC-WEST TELECOMM, INC.

WALLACE W. GRIFFIN and DENNIS V. MEYER certify that:

1. They are the President and Assistant Secretary, respectively, of PAC-WEST TELECOMM, INC., a California corporation.

2. The Articles of Incorporation of this corporation are amended and restated in their entirety to read as follows:

ARTICLE I

The name of this Corporation is Pac-West Telecomm, Inc.

ARTICLE II

The purpose of this Corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California other than the banking business, the trust company business or the practice of a profession permitted to be incorporated by the California Corporations Code.

ARTICLE III

Section 1. Authorized Shares. The corporation is authorized to issue two classes of shares, to be designated common and preferred, respectively. The corporation is authorized to issue 100,000,000 shares of common stock, par value $0.001 per share, and 10,000,000 shares of preferred stock.

Section 2. Preferred Shares. The shares of preferred stock may be issued in any number of series, as determined by the Board of Directors. The Board may, by resolution, establish the designation and number of shares of any such series, and may determine, alter or revoke the rights, preferences and restrictions pertaining to any wholly unissued series. The Board may thereafter, by resolution, alter the number of shares of any such series.

ARTICLE IV

Section 1 Elimination of Director Liability. The liability of directors of the Corporation for monetary damages shall be eliminated to the fullest extent permissible under California law.

Section 2. Indemnification. The Corporation is authorized to provide indemnification of agents (as defined in Section 317 of the California Corporations Code) through Bylaw provisions, agreements with agents, vote of shareholders or disinterested directors, or otherwise, to the fullest extent permissible under California law.

Section 3. Effect of Amendment. Any amendment, repeal or modification of any provision of this Article IV shall not adversely affect any right or protection of an agent of this Corporation existing at the time of such amendment, repeal or modification.

3. The foregoing amendment and restatement of Articles of Incorporation was duly approved by the Board of Directors of this Corporation.

4. The foregoing amendment and restatement of Articles of Incorporation has been duly approved by the required vote of shareholders in accordance with Section 902 of the California Corporations Code. The total number of outstanding shares of this Corporation entitled to vote with respect to the amendment was 35,863,543 shares, the favorable vote of a majority of such shares is required to approve the amendment, and the number of such shares voting in favor of the amendment equaled or exceeded the required vote. All outstanding stock is common stock, no shares of preferred stock are outstanding.

5 Executed on 8/30/, 2000, at Stockton, California.

We further declare under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of our own knowledge.

Wallace W. Griffin

WALLACE W. GRIFFIN
President

Dennis V. Meyer

DENNIS V. MEYER
Assistant Secretary

OFFICE OF THE SECRETARY OF STATE
11277

Exhibit A

AMENDED AND RESTATED ARTICLES OF INCORPORATION OF PAC-WEST TELECOMM, INC.

ARTICLE I

The name of this Corporation is Pac-West Telecomm, Inc.

ARTICLE II

The purpose of this Corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California other than the banking business, the trust company business or the practice of a profession permitted to be incorporated by the California Corporations Code.

ARTICLE III

A. AUTHORIZED SHARES

The total number of shares of capital stock which the Corporation has authority to issue is 1,675,000 shares, consisting of:

(1) 175,000 shares of Class A Participating Preferred Stock, par value $.01 per share (the "Class A Preferred"); and

(2) 1,500,000 shares of Common Stock, par value $.01 per share (the "Common Stock").

B. CAPITAL STOCK

Section 1. Liquidation. Upon any liquidation, dissolution or winding up of the Corporation (whether voluntary or involuntary), each holder of a share of Class A Preferred (a "Share") shall be entitled to be paid, before any Distribution or other payment is made upon any Junior Securities, an amount in cash equal to the amount which the holders of Class A Preferred are entitled to be paid pursuant to Section 3 hereof. Not less than 30 days prior to the payment date stated therein, the Corporation shall mail written notice of any such liquidation, dissolution or winding up to each record holder of Class A Preferred, setting forth in reasonable detail the amount of proceeds to be paid with respect to each Share in connection with such liquidation, dissolution or winding up. The consolidation or merger of the Corporation with or into any other entity or entities in which the Corporation is not the surviving entity, or any other form of recapitalization or reorganization affecting the Corporation in which the Corporation is not the surviving entity, shall be deemed to be a liquidation, dissolution or winding up of the Corporation within the meaning of this Section 1, except for any such merger, consolidation, recapitalization or reorganization which is effected solely to change the state of incorporation of the Corporation.

Section 2. Priority of Class A Preferred on Distributions. So long as there is any Unpaid Yield or Unreturned Original Cost outstanding, without the prior written consent of the holders of a majority of the outstanding shares of Class A Preferred, the Corporation shall not, nor shall it permit any Subsidiary to, make any Distribution, directly or indirectly, with respect to any Class A Preferred or Junior Securities other than in accordance with the provisions of Section 3 below, except for (i) repurchases of Common Stock from present or former employees or consultants of the Corporation and its Subsidiaries upon termination of employment or consultancy in accordance with arrangements approved by the Corporation's board of directors and so long as no Event of Noncompliance is in existence immediately prior to or is otherwise caused by any such repurchase, (ii) any redemption or repurchase of Class A Preferred or Common Stock pursuant to any right of first refusal, first offer or similar right in favor of the Corporation approved by the Corporation's board of directors so long as no Event of Noncompliance is in existence immediately prior to or is otherwise caused by any such repurchase, and (iii) dividends payable in shares of Common Stock issued upon the outstanding shares of Common Stock in compliance with the provisions of Section 8 below.

Section 3. Distributions. At the time of each Distribution, such Distribution shall be made to the holders of Class A Preferred and Common Stock in the following priority:

3A. Distribution of Unpaid Yield. The holders of Class A Preferred shall be entitled to receive all or a portion of such Distribution (ratably among such holders based upon the aggregate Unpaid Yield of the Shares of Class A Preferred held by each such holder as of the time of such Distribution) equal to the aggregate Unpaid Yield on the outstanding shares of Class A Preferred as of the time of such Distribution, and no Distribution or any portion thereof shall be made under paragraphs 3B or 3C below until the entire amount of the Unpaid Yield on the outstanding Shares of Class A Preferred as of the time of such Distribution has been paid in full. The Distributions made pursuant to this paragraph 3A to holders of Class A Preferred shall constitute a payment of Yield on the Class A Preferred.

3B. Distribution of Unreturned Original Cost. After the required amount of a Distribution has been made in full pursuant to paragraph 3A above, the holders of Class A Preferred shall be entitled to receive all or a portion of such Distribution (ratably among such holders based upon the aggregate Unreturned Original Cost of the Shares of Class A Preferred held by each such holder as of the time of such Distribution) equal to the aggregate Unreturned Original Cost of the outstanding shares of Class A Preferred as of the time of such Distribution, and no Distribution or any portion thereof shall be made under paragraph 3C below until the entire amount of the Unreturned Original Cost of the outstanding Shares of Class A Preferred as of the time of such Distribution has been paid in full. The Distributions made pursuant to this paragraph 3B to holders of Class A Preferred shall constitute a return of Original Cost of the Class A Preferred.

3C. Remaining Distributions. After the required amount of a Distribution has been made pursuant to paragraphs 3A and 3B above, the holders of Class A Preferred and Common Stock as a group, shall be entitled to receive the remaining portion of such Distribution (ratably among such holders based upon the aggregate number of shares of Class A Preferred and Common Stock held by each such holder as of the time of such Distribution).

Section 4. Redemptions at the Option of the Holders of Class A Preferred.

4A. Redemption with Proceeds of Public Offerings.

(i) Upon the request of any holder of Class A Preferred delivered at least 30 days prior to the expected consummation of any Public Offering as set forth in the notice delivered by the Corporation pursuant to subparagraph 4A(iii) below, the Corporation shall apply the net cash proceeds from any Public Offering remaining after deduction of all discounts, underwriters' commissions and other reasonable expenses to redeem the Shares of Class A Preferred requested to be redeemed by such holder at a price per Share determined pursuant to paragraph 4C below; provided that the Corporation shall not be required to redeem any Class A Preferred pursuant to this subparagraph 4A(i) in the event the Corporation receives a Conversion Notice (as defined below) prior to the consummation of such Public Offering from the holders of a majority of the outstanding Class A Preferred pursuant to subparagraph 5A(ii) below.

(ii) Upon the request of the holders of a majority of the outstanding Class A Preferred delivered at least 15 days prior to the expected consummation of any Public Offering as set forth in the notice delivered by the Corporation pursuant to subparagraph 4A(iii) below, the Corporation shall apply the net cash proceeds from any Public Offering remaining after deduction of all discounts, underwriters' commissions and other reasonable expenses to redeem all outstanding Shares of Class A Preferred at a price per Share determined pursuant to paragraph 4C below.

(iii) The Corporation shall send written notice of any proposed Public Offering and the expected date of the consummation of such Public Offering by reputable overnight courier service (charges prepaid) to each record holder of Class A Preferred not less than 60 days prior to the Corporation's expected date of the consummation of such Public Offering. The

Corporation shall provide written notice of any redemption of Shares of Class A Preferred pursuant to paragraph 4A to all holders of Class A Preferred within 3 days after the receipt of any redemption notice delivered pursuant to this paragraph 4A. Any redemption pursuant to this paragraph 4A shall take place on a date fixed by the Corporation, which date shall not be more than three days after the Corporation's receipt of the proceeds of any Public Offering. Except as to the Shares so redeemed, redemptions of Shares pursuant to this paragraph 4A shall not relieve the Corporation of its obligation to redeem Shares pursuant to paragraph 4B below.

4B. Optional Redemptions by Holders. At any time and from time to time after December 31, 2003, the holders of a majority of the outstanding Class A Preferred may request redemption of all or any portion of their Shares of Class A Preferred by delivering written notice of such request to the Corporation. Within five days after receipt of such request, the Corporation shall give written notice of such request to all other holders of Class A Preferred, and such other holders may request redemption of all or any portion of their Shares of Class A Preferred by delivering written notice to the Corporation within ten days after receipt of the Corporation's notice. The Corporation shall be required to redeem all Shares with respect to which such redemption requests have been made at a price per Share determined pursuant to paragraph 4C below within 60 days after receipt of the initial redemption request therefor. Except as to the Shares so redeemed, redemptions pursuant to this paragraph 4B shall not relieve the Corporation of its obligation to redeem Shares pursuant to paragraph 4A above.

4C. Redemption Payments. For each Share which is to be redeemed hereunder, the Corporation shall be obligated on the Redemption Date to pay to the holder thereof (upon surrender by such holder at the Corporation's principal office of the certificate representing such Share) an amount in immediately available funds equal to the Unreturned Original Cost plus Unpaid Yield with respect to such Share. Notwithstanding anything herein to the contrary, if the funds of the Corporation (i) legally available pursuant to the General Corporation Law of California for the redemption of Shares on any Redemption Date or (ii) permitted to be used for the redemption of Shares pursuant to any debt financing agreement of the Corporation on any Redemption Date are in either case insufficient to redeem the total number of Shares to be redeemed on such date, those funds which are available pursuant to the California General Corporation Law and permitted to be used pursuant to any such debt financing agreement of the Corporation shall be used to redeem the maximum possible number of Shares pro rata among the holders of the Shares to be redeemed based upon the aggregate Unreturned Original Cost plus Unpaid Yield of the Shares held by each such holder. At any time thereafter when additional funds of the Corporation are available pursuant to the foregoing sentence for the redemption of Shares, such funds shall immediately be used to redeem the balance of the Shares which the Corporation has become obligated to redeem on any Redemption Date but which it has not redeemed.

4D Partial Redemptions. In case fewer than the total number of Shares represented by any certificate are redeemed, a new certificate representing the number of unredeemed Shares shall be issued to the holder thereof without cost to such holder within three business days after surrender of the certificate representing the redeemed Shares.

4E. Dividends After Redemption Date. No Share shall be entitled to any dividends accruing after the date on which the amount determined pursuant to paragraph 4C above is paid to the holder of such Share. On such date, all rights of the holder of such Share shall cease, and such Share shall no longer be deemed to be issued and outstanding.

4F. Redeemed or Otherwise Acquired Shares. Any Shares which are redeemed or otherwise acquired by the Corporation shall be canceled and retired and shall not be reissued, sold or transferred.

4G. Other Redemptions or Acquisitions. The Corporation shall not, nor shall it permit any Subsidiary to, redeem or otherwise acquire any Shares of Class A Preferred, except as expressly authorized herein or except pursuant to a purchase offer made pro-rata to all holders of Class A Preferred on the basis of the number of Shares owned by each such holder.

Section 5. Conversion at the Option of the Holders of Class A Preferred.

5A. Conversion Obligations.

(i) In connection with the consummation of a Public Offering, any holder of Class A Preferred may cause all Shares of Class A Preferred held by such holder to be converted to Conversion Stock upon the consummation of such Public Offering by delivering written notice to the Corporation (a "Conversion Notice") at least 30 days prior to the expected consummation of such Public Offering as set forth in the notice delivered by the Corporation pursuant to subparagraph 4A(iii) above; provided that the Corporation shall not be required to convert any Class A Preferred pursuant to this subparagraph 5A(i) in the event the Corporation receives a redemption notice from the holders of a majority of the outstanding Class A Preferred pursuant to subparagraph 4A(ii) above.

(ii) In connection with the consummation of a Public Offering, the holders of a majority of the outstanding Shares of Class A Preferred may cause all outstanding Shares of Class A Preferred to be converted to Conversion Stock upon the consummation of such Public Offering by delivering written notice to the Corporation (also a "Conversion Notice") at least 15 days prior to the expected consummation of such Public Offering as set forth in the notice delivered by the Corporation pursuant to subparagraph 4A(iii) above.

(iii) The Corporation shall provide written notice of the Conversion of any Shares of Class A Preferred to all holders of Class A Preferred at least five days prior to such conversion.

5B. Conversion Procedure.

(i) Upon delivery of a Conversion Notice, each Share of Class A Preferred (including any fraction of a Share) to which such conversion notice relates shall convert into a number of shares of Conversion Stock computed by dividing the Unreturned Original Cost plus Unpaid Yield with respect to such Share by the price per share of Conversion Stock to the public in such Public Offering (the "Offering Price").

(ii) Each conversion of Class A Preferred shall be deemed to have been effected upon the consummation of such Public Offering. At such time, the rights of the holder of such Class A Preferred as a holder of Class A Preferred shall cease and the Person or Persons in whose name or names any certificate or certificates for shares of Conversion Stock are to be issued upon such conversion shall be deemed to have become the holder or holders of record of the shares of Conversion Stock represented thereby.

(iii) As soon as possible after a conversion has been effected (but in any event within five (5) business days after such conversion), the Corporation shall deliver to the converting holder, upon surrender to the Corporation at its principal office by the converting holder of its certificate for the converted Class A Preferred, a certificate or certificates representing the number of shares of Conversion Stock issuable by reason of such conversion in the name or names and in such denominations as such converting holder has specified.

(iv) The issuance of certificates for shares of Conversion Stock upon conversion of Class A Preferred shall be made without charge to the holders of such Class A Preferred for any issuance tax in respect thereof or other cost incurred by the Corporation in connection with such conversion and the related issuance of shares of Conversion Stock. Upon conversion of each Share of Class A Preferred, the Corporation shall take all such actions as are necessary in order to insure that the Conversion Stock issuable with respect to such conversion shall be validly issued, fully paid and nonassessable and free and clear of all liens, charges and encumbrances.

(v) The Corporation shall not close its books against the transfer of Class A Preferred or of Conversion Stock issued or issuable upon conversion of Class A Preferred in any manner which interferes with the timely conversion of such Shares.

(vi) If any fractional interest in a share of Conversion Stock would, except for the provisions of this subparagraph 5B(vi), be deliverable upon any conversion of the Class A Preferred, the Corporation, in lieu of delivering the fractional share therefor, may elect to pay an amount to the holder thereof equal to the Offering Price of such fractional interest as of the date of conversion.

(vii) The Corporation shall take all such actions as may be necessary to assure that all such shares of Conversion Stock may be so issued without violation of any applicable law or governmental regulation or any requirements of any domestic securities exchange upon which shares of Conversion Stock may be listed (except for official notice of issuance which shall be immediately delivered by the Corporation upon each such issuance).

(viii) In connection with any conversion pursuant to this Section 5, the Corporation shall take all actions necessary to make available out of its authorized but unissued shares of Conversion Stock, solely for the purpose of issuance upon the conversion of the Class A

Preferred, such number of shares of Conversion Stock issuable upon the conversion of all outstanding Class A Preferred.

Section 6. Voting Rights. Except as otherwise provided by applicable law, the Class A Preferred shall have no voting rights. Notwithstanding the foregoing, each holder of Class A Preferred shall be entitled to notice of all shareholders meetings at the same time and in the same manner as notice is given to all shareholders entitled to vote at such meetings. The holders of the Common Stock shall be entitled to notice of all shareholders meetings in accordance with the Corporation's bylaws, and the holders of the Common Stock shall be entitled to one vote per share on all matters submitted to the shareholders of the Corporation for a vote.

Section 7. Events of Noncompliance.

7A. Definition. An Event of Noncompliance shall have occurred if:

(i) the Corporation fails to make any redemption payment with respect to the Class A Preferred which it is required to make hereunder (after giving effect to the second sentence of paragraph 4C hereof);

(ii) the Corporation or any material Subsidiary makes an assignment for the benefit of creditors or admits in writing its inability to pay its debts generally as they become due; or an order, judgment or decree is entered adjudicating the Corporation or any material Subsidiary bankrupt or insolvent; or any order for relief with respect to the Corporation or any material Subsidiary is entered under the Federal Bankruptcy Code; or the Corporation or any material Subsidiary petitions or applies to any tribunal for the appointment of a custodian, trustee, receiver or liquidator of the Corporation or any material Subsidiary or of any substantial part of the assets of the Corporation or any material Subsidiary, or commences any proceeding (other than a proceeding for the voluntary liquidation and dissolution of a material Subsidiary) relating to the Corporation or any Subsidiary under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction; or any such petition or application is filed, or any such proceeding is commenced, against the Corporation or any material Subsidiary and either (a) the Corporation or any such material Subsidiary by any act indicates its approval thereof, consent thereto or acquiescence therein or (b) such petition, application or proceeding is not dismissed within 60 days; or

(iii) the Corporation or any Subsidiary defaults in the performance of any obligation or agreement or there shall otherwise occur an event of default under any agreement to which the Corporation or any Subsidiary is a party if the effect of such default or event of default is to cause an amount exceeding $500,000 to become due prior to its stated maturity.

7B. Consequences of Events of Noncompliance.

(i) If an Event of Noncompliance has occurred (other than an Event of Noncompliance of the type described in subparagraph 7A(ii)), the holder or holders of a majority of the Class A Preferred then outstanding may demand (by written notice delivered to the

Corporation) immediate redemption of all or any portion of the Class A Preferred owned by such holder or holders at a price per Share equal to the Unreturned Original Cost plus Unpaid Yield with respect to such Share. The Corporation shall give prompt written notice of such election to the other holders of Class A Preferred (but in any event within five days after receipt of the initial demand for redemption from the holder or holders of a majority of the Class A Preferred then outstanding), and each such other holder may demand immediate redemption of all or any portion of such holder's Class A Preferred by giving written notice thereof to the Corporation within seven days after receipt of the Corporation's notice. The Corporation shall redeem all Class A Preferred as to which rights under this paragraph 7B have been exercised within 30 days after receipt of the initial demand for redemption from the holder or holders of a majority of the Class A Preferred then outstanding.

(ii) If an Event of Noncompliance of the type described in subparagraph 7A(ii) has occurred, all of the Class A Preferred then outstanding shall be subject to immediate redemption by the Corporation (without any action on the part of the holders of the Class A Preferred) at a price per Share equal to the amount which the holders of Class A Preferred are entitled to be paid with respect to each Share pursuant to Section 3 above. The Corporation shall immediately redeem all Class A Preferred upon the occurrence of such Event of Noncompliance.

(iii) If any Event of Noncompliance exists, each holder of Class A Preferred shall also have any other rights which such holder is entitled to under any contract or agreement at any time and any other rights which such holder may have pursuant to applicable law.

Section 8. Stock Splits and Stock Dividends. The Corporation shall not in any manner subdivide (by stock split, stock dividend or otherwise) or combine (by stock split, stock dividend or otherwise) the outstanding shares of Class A Preferred or Common Stock, as the case may be, unless the outstanding shares of the other class shall be proportionately subdivided or combined. All such subdivisions and combinations shall be payable only in Class A Preferred to the holders of Class A Preferred and in Common Stock to the holders of Common Stock. In no event shall a stock split or stock dividend constitute a payment of Yield or a return of Original Cost.

Section 9. Registration of Transfer. The Corporation shall keep at its principal office a register for the registration of Class A Preferred. Upon the surrender of any certificate representing Class A Preferred at such place, the Corporation shall, at the request of the record holder of such certificate, execute and deliver (at the Corporation's expense) a new certificate or certificates in exchange therefor representing in the aggregate the number of Shares represented by the surrendered certificate. Each such new certificate shall be registered in such name and shall represent such number of Shares as is requested by the holder of the surrendered certificate and shall be substantially identical in form to the surrendered certificate, and dividends shall accrue on the Class A Preferred represented by such new certificate from the date to which dividends have been fully paid on such Class A Preferred represented by the surrendered certificate.

Section 10. Replacement. Upon receipt of evidence reasonably satisfactory to the Corporation (an affidavit of the registered holder shall be satisfactory) of the ownership and the loss, theft, destruction or mutilation of any certificate evidencing Shares of Class A Preferred, and in the case of any such loss, theft or destruction, upon receipt of indemnity reasonably satisfactory to the

Corporation or, in the case of any such mutilation upon surrender of such certificate, the Corporation shall (at its expense) execute and deliver in lieu of such certificate a new certificate of like kind representing the number of Shares of such class represented by such lost, stolen, destroyed or mutilated certificate and dated the date of such lost, stolen, destroyed or mutilated certificate, and dividends shall accrue on the Class A Preferred represented by such new certificate from the date to which dividends have been fully paid on such lost, stolen, destroyed or mutilated certificate.

Section 11. Definitions.

"Common Stock" means the Corporation's Common Stock and any other capital stock of any class of the Corporation hereafter authorized which is not limited to a fixed sum or percentage of par or stated value in respect to the rights of the holders thereof to participate in dividends or in the distribution of assets upon any liquidation, dissolution or winding up of the Corporation.

"Conversion Stock" means shares of the Common Stock; provided that if there is a change such that the securities issuable upon conversion of the Class A Preferred are issued by an entity other than the Corporation or there is a change in the class of securities so issuable, then the term "Conversion Stock" shall mean shares of the security issuable upon conversion of the Class A Preferred if such security is issuable in shares, or shall mean the units in which such security is issuable if such security is not issuable in shares.

"Distribution" means each distribution made by the Corporation to holders of Class A Preferred or Common Stock, whether in cash, property, or securities of the Corporation and whether by dividend, liquidating distributions or otherwise; provided that none of the following shall be a Distribution: (a) any redemption or repurchase by the Corporation of any Class A Preferred pursuant to Section 4 above, (b) any conversion of any Class A Preferred pursuant to Section 5 above, (c) any redemption or repurchase of Class A Preferred or Common Stock pursuant to any right of first refusal, first offer or similar right in favor of the Corporation approved by the Corporation's Board of Directors so long as no Event of Noncompliance is in existence immediately prior to or is otherwise caused by any such repurchase, (d) repurchases of Common Stock from present or former employees or consultants of the Corporation and its Subsidiaries upon termination of employment or consultancy in accordance with arrangements approved by the Corporation's board of directors and so long as no Event of Noncompliance is in existence immediately prior to or is otherwise caused by any such repurchase or (e) any recapitalization or exchange of any Class A Preferred or Common Stock in compliance with the provisions of Section 8 above or any subdivision (by stock split, stock dividend or otherwise) or any combination (by stock split, stock dividend or otherwise) of any outstanding Class A Preferred or Common Stock in compliance with the provisions of Section 8 above.

"Junior Securities" means any capital stock or other equity securities of the Corporation, except for the Class A Preferred.

"Original Cost" of each share of Class A Preferred shall be equal to $360.00 per share (as proportionally adjusted for all stock splits, stock dividends and other recapitalizations affecting the Class A Preferred).

"Person" means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization and a governmental entity or any department, agency or political subdivision thereof.

"Public Offering" means any offering by the Corporation of its equity or debt securities or any rights to acquire any of its equity or debt securities to the public pursuant to an effective registration statement under the Securities Act of 1933, as then in effect, or any comparable statement under any similar federal statute then in force.

"Redemption Date" as to any Share means the date specified in the notice of any redemption at the Corporation's option or the applicable date specified herein with respect to any other redemption; provided that no such date shall be a Redemption Date unless the Unreturned Original Cost plus Unpaid Yield with respect to such Share is actually paid in full on such date, and if not so paid in full, the Redemption Date shall be the date on which such amount is fully paid.

"Subsidiary" means, with respect to any Person, any corporation, limited liability company, partnership, association or other business entity of which (i) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof, or (ii) if a limited liability company, partnership, association or other business entity, a majority of the partnership or other similar ownership interest thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more Subsidiaries of that Person or a combination thereof. For purposes hereof, a Person or Persons shall be deemed to have a majority ownership interest in a limited liability company, partnership, association or other business entity if such Person or Persons shall be allocated a majority of limited liability company, partnership, association or other business entity gains or losses or shall be or control the managing general partner of such limited liability company, partnership, association or other business entity.

"Wholly-Owned Subsidiary" means, with respect to any Person, a Subsidiary of which all of the issued and outstanding capital stock or other ownership interests are owned by such Person or another Wholly-Owned Subsidiary of such Person.

"Unpaid Yield" of any Share of Class A Preferred means an amount equal to the excess, if any, of (a) the aggregate Yield accrued on such Share, over (b) the aggregate amount of Distributions made by the Corporation that constitute payment of Yield on such Share.

"Unreturned Original Cost" of any Share of Class A Preferred means an amount equal to the excess, if any, of (a) the Original Cost of such Share, over (b) the aggregate amount of Distributions made by the Corporation that constitute a return of Original Cost of such Share.

"Yield" means, with respect to each Share of Class A Preferred for each calendar quarter, the amount accruing on such Share each day during such quarter at the rate of 10% per annum of the sum of (a) such share's Unreturned Original Cost, plus (b) Unpaid Yield thereon for all prior quarters. In calculating the amount of any Distribution to be made during a calendar quarter, the portion of a Class A Preferred share's Yield for such portion of such quarter elapsing before such Distribution is made shall be taken into account.

Section 12. Amendment and Waiver. No amendment, modification or waiver shall be binding or effective with respect to any provision of Sections 1 to 11 of this Subdivision B without the prior written consent of the holders of 85% of the Class A Preferred outstanding at the time such action is taken; provided that no change in the terms hereof may be accomplished by merger or consolidation of the Corporation with another corporation or entity unless the Corporation has obtained the prior written consent of the holders of 85% of the Class A Preferred then outstanding.

Section 13. Notices. All notices, demands or other communications to be given or delivered hereunder shall be in writing and shall be deemed to have been given when delivered personally to the recipient or one (1) business day after being sent to the recipient by reputable overnight courier service (charges prepaid) or five (5) business days after being mailed to the recipient by certified or registered mail. return receipt requested and postage prepaid. Such notices, demands and other communications shall be sent (i) to the Corporation, at its principal executive offices and (ii) to any stockholder, at such holder's address as it appears in the stock records of the Corporation (unless otherwise indicated by any such holder).

ARTICLE IV

Section 1. Elimination of Director Liability. The liability of directors of the Corporation for monetary damages shall be eliminated to the fullest extent permissible under California law.

Section 2. Indemnification. The Corporation is authorized to provide indemnification of agents (as defined in Section 317 of the California Corporations Code) through Bylaw provisions, agreements with agents, vote of shareholders or disinterested directors, or otherwise, to the fullest extent permissible under California law.

Section 3. Effect of Amendment. Any amendment, repeal or modification of any provision of this Article IV shall not adversely affect any right or protection of an agent of this Corporation existing at the time of such amendment, repeal or modification.

<u>**EXHIBIT C**</u>

Authority to Transact Business

ISSUANCE DATE: 10/03/2005
REQUEST NUMBER: 05276106

Secretary of State
Division of Business Services
312 Eighth Avenue North
6th Floor, William R. Snodgrass Tower
Nashville, Tennessee 37243

CHARTER/QUALIFICATION DATE: 08/22/2005
STATUS: ACTIVE
CORPORATE EXPIRATION DATE: PERPETUAL
CONTROL NUMBER: 0500732
JURISDICTION: CALIFORNIA

TO:
CFS
8161 HIGHWAY 100
#172
NASHVILLE, TN 37221

REQUESTED BY:
CFS
8161 HIGHWAY 100
#172
NASHVILLE, TN 37221

I, RILEY C DARNELL, SECRETARY OF STATE OF THE STATE OF TENNESSEE DO HEREBY CERTIFY THAT

"PAC-WEST TELECOMM, INC."

WAS INCORPORATED OR QUALIFIED TO DO BUSINESS IN THE STATE OF TENNESSEE ON THE ABOVE DATE, AND THAT THE ATTACHED DOCUMENT(S) WAS/WERE FILED IN OFFICE ON THE DATE(S) AS BELOW INDICATED:

REFERENCE NUMBER	DATE FILED	FILING TYPE	FILING ACTION NAM DUR STK PRN OFC AGT INC MAL FYC
5537-1927	08/22/2005	QUAL-PROFIT	

RECEIVED
OCT - 5 2005

FOR: REQUEST FOR COPIES

ON DATE: 10/03/05

FEES

RECEIVED: $120.00 $0.00

TOTAL PAYMENT RECEIVED: $120.00

RECEIPT NUMBER: 00003807267
ACCOUNT NUMBER: 00101230

FROM:
CFS
8161 HIGHWAY 100
#172
NASHVILLE, TN 37221-0000

Riley C Darnell

RILEY C DARNELL
SECRETARY OF STATE

SS-4458

Secretary of State
Division of Business Services
312 Eighth Avenue North
th Floor, William R. Snodgrass Tower
Nashville, Tennessee 37243

DATE: 08/23/05
REQUEST NUMBER: 5537-1927
TELEPHONE CONTACT: (615) 741-2286
FILE DATE/TIME: 08/22/05 1208
EFFECTIVE DATE/TIME: 08/22/05 1208
CONTROL NUMBER: 0500732

TO:
CSC
2711 CENTERVILLE RD.
SUITE 400
WILMINGTON, DE 19808

RE:
PAC-WEST TELECOMM, INC.
APPLICATION FOR CERTIFICATE OF AUTHORITY
FOR PROFIT

WELCOME TO THE STATE OF TENNESSEE. THE ATTACHED CERTIFICATE OF AUTHORITY HAS BEEN FILED WITH AN EFFECTIVE DATE AS INDICATED ABOVE.

A CORPORATION ANNUAL REPORT MUST BE FILED WITH THE SECRETARY OF STATE ON OR BEFORE THE FIRST DATE OF THE FOURTH MONTH FOLLOWING THE CLOSE OF THE CORPORATION'S FISCAL YEAR. PLEASE PROVIDE THIS OFFICE WITH WRITTEN NOTIFICATION OF THE CORPORATION'S FISCAL YEAR. THIS OFFICE WILL MAIL THE REPORT DURING THE LAST MONTH OF SAID FISCAL YEAR TO THE CORPORATION AT THE ADDRESS OF ITS PRINCIPAL OFFICE OR TO A MAILING ADDRESS PROVIDED TO THIS OFFICE IN WRITING. FAILURE TO FILE THIS REPORT OR TO MAINTAIN A REGISTERED AGENT AND OFFICE WILL SUBJECT THE CORPORATION TO ADMINISTRATIVE REVOCATION OF ITS CERTIFICATE OF AUTHORITY.

IN CORRESPONDING WITH THIS OFFICE OR SUBMITTING DOCUMENTS FOR FILING, PLEASE REFER TO THE CORPORATION CONTROL NUMBER GIVEN ABOVE.

FOR: APPLICATION FOR CERTIFICATE OF AUTHORITY - FOR PROFIT

ON DATE: 08/23/05

FROM:
CSC (2711 CENTERVILLE RD)
2711 CENTERVILLE RD.
SUITE 400
WILMINGTON, DE 19808-0000

	FEES	
RECEIVED:	$600.00	$0.00
TOTAL PAYMENT RECEIVED:		$600.00

RECEIPT NUMBER: 00003790969
ACCOUNT NUMBER: 00250881

Riley C Darnell

RILEY C. DARNELL
SECRETARY OF STATE

6

State of Tennessee

Department of State
Corporate Filings
312 Eighth Avenue North
6th Floor, William R. Snodgrass Tower
Nashville, TN 37243

APPLICATION FOR CERTIFICATE OF AUTHORITY (FOR PROFIT)

For Office Use Only

RECEIVED

2005 AUG 22 PM 12: 08

FILED

Pursuant to the provisions of Section 48-25-103 of the Tennessee Business Corporation Act, the undersigned corporation hereby applies for a certificate of authority to transact business in the State of Tennessee, and for that purpose sets forth:

1. The name of the corporation is PAC-WEST TELECOMM, INC.
*If different, the name under which the certificate of authority is to be obtained is SAME AS ABOVE.

[NOTES: The Secretary of State of the State of Tennessee may not issue a certificate of authority to a foreign corporation for profit if its name does not comply with the requirements of Section 48-14-101 of the Tennessee Business Corporation Act. *If obtaining a certificate of authority under a different corporate name, an application for registration of an assumed corporate name must be filed pursuant to Section 48-14-101(d) with an additional $20.00 fee.]

2. The state or country under whose law it is incorporated is California

3. The date of its incorporation is May 15, 1996 (must be month, day, and year), and the period of duration, if other than perpetual, is Perpetual.

4. The complete street address (including zip code) of its principal office is

Street	City	State/Country	Zip Code
1776 W. March Lane, Ste. 250	Stockton	CA	95207

5. The complete street address (including the county and the zip code) of its registered office in Tennessee and the name of its registered agent is

Street	City	State/Country	Zip Code
2908 Poston Avenue	Nashville	TN	37203

Registered Agent Corporation Service Company

6. The names and complete business addresses (including zip code) of its current officers are: (Attach separate sheet if necessary)
SEE ATTACHED.

7. The names and complete business addresses (including zip code) of its current board of directors are: (Attach separate sheet if necessary) SEE ATTACHED.

8. If the corporation commenced doing business in Tennessee prior to the approval of this application, the date of commencement (month, day and year) N/A.

9. The corporation is a corporation for profit.

10. If the document is not to be effective upon filing by the Secretary of State, the delayed effective date/time is ______, ______ (date), ______ (time).

[NOTE: A delayed effective date shall not be later than the 90th day after the date this document is filed by the Secretary of State.]

[NOTE: This application must be accompanied by a certificate of existence (or a document of similar import) duly authenticated by the Secretary of State or other official having custody of corporate records in the state or country under whose law it is incorporated. The certificate shall not bear a date of more than two (2) months prior to the date the application is filed in this state.]

August 10, 2005
Signature Date

PAC-WEST TELECOMM, INC.
Name of Corporation

Vice President Regulatory
Signer's Capacity

Signature

John Sumpter
Name (typed or printed)

SS-4431 (Rev 4/01) Filing Fee: $600 RDA 1678

EXHIBIT D

Management Biographies

Henry R. Carabelli, President and Chief Executive Officer, joined Pac-West as President and COO in June 2001. Effective January 1, 2003, Mr. Carabelli became a Director of Pac-West. In July 2003 he also became CEO. Mr. Carabelli has overall responsibility for the operations of the Company. Formerly the COO of ICG, a Colorado-based CLEC, and President of @Link Networks, a broadband service provider, Mr. Carabelli brings over 28 years of telecom experience to Pac-West. He joined ICG in 1996 as Executive Vice President of network operations, and served as COO from 1998 to 1999 with responsibility over network engineering, customer care, sales, and installation. Prior to ICG, Mr. Carabelli spent 19 years in management with Ameritech and Michigan Bell. He is also a Director on the San Joaquin Business Council as well as the University of San Francisco Telecommunications Advisory Board.

H. Ravi Brar, Chief Financial Officer and Vice President of Human Resources, joined Pac-West in July 1999 as Vice President of Business Development. He was appointed Vice President of Customer Operations in October 2000, Vice President of Finance and Treasurer in August of 2001, Acting Chief Financial Officer in February of 2002, Chief Financial Officer in September 2002 and Vice President of Human Resources in 2004. Mr. Brar has responsibility for the Company's financial and accounting operations, evaluating strategic growth opportunities, and human resources. Prior to joining Pac-West, Mr. Brar was employed with Xerox Corporation from 1991 to 1999, where he held several senior level business development and financial management positions, including Business Development Manager of Developing Markets Operations in China and Russia, and Area General Manager and Controller of Xerox's Business Services division in Pittsburgh, PA.

Todd M. Putnam, Chief Information Officer, joined Pac-West in October 2003 as Chief Information Officer. Mr. Putnam has responsibility over the Company's information systems including its Information Technology strategic plan and infrastructure, including operating support systems, software development, database administration, security, system integration, internal and external web sites, and supplier partnerships. Prior to joining Pac-West, he completed a consulting assignment with TechNexxus, LLC (a subsidiary of Mintz Levin Cohn Ferris Glovsky and Popeo PC) in Washington D.C From 1989 to 2002, he was employed with Global Crossing LTD (Frontier Communications, ConferTech International, and T1 Systems), where he was responsible for building, operating, and maintaining the global information systems infrastructure for the entire company. He held a variety of senior level IT positions, including Vice President of Global IS Operations, Vice President of North American Systems and Infrastructure, Vice President of Systems Development, and CIO of the ConferTech division.

Michael B. Hawn, Vice President Customer Network Services, joined Pac-West as Vice President of Customer Network Services in August 2001. Mr. Hawn has end-to-end responsibility over service delivery, maintenance, planning, engineering, billing operations and reliability. He has over 18 years of telecommunications management experience, including network planning, engineering, service delivery, provisioning, and software development. His former positions include Vice President of National Operations and Vice President of Program Management for @Link Networks, Inc. in Louisville, CO, Vice President of Planning and

Engineering for ICG Communications, Inc. in Englewood, CO, and Technical Manager for Lucent Technologies' Regional Technical Assistance Center (RTAC) in Lisle, IL and Cockeysville, MD.

Eric E. Jacobs, Vice President, General Manager Service Provider Sales, joined Pac-West in March of 2003 and was promoted to Vice President, General Manager of Service Provider Markets in December 2003. He has over ten years of sales management experience in the communications industry. Prior to joining Pac-West, he held positions as Director of Sales for Metromedia Fiber Network and Manager of Corporate Accounts for Nextel Communications, Inc. Mr. Jacobs has leadership over the company's sales, channel marketing and customer relations teams.

Peggy McGaw, Vice President Finance, joined Pac-West in June 2002 as Executive Director of Accounting and Finance and was promoted to Vice President Finance in December 2003 Ms. Mc Gaw has responsibility over accounting, risk management, financial reporting and compliance, and tax and treasury activities. Prior to joining Pac-West she has served as CFO of the Dial.com from 1999 to 2002. Prior positions included in her 20 years of finance experience are Vice President of Finance and Acting CFO of Intracel Corporation and Business Assurance Manager for PricewaterhouseCoopers, LLP. Her extensive experience with technology-based companies includes numerous capital raising and M&A transactions. Ms. Mc Gaw is a member of the American Institute of Certified Public Accountants, Financial Executives International and the Forum for Women Entrepreneurs.

John F. Sumpter, Vice President Regulatory, joined Pac-West as Vice President of Regulatory in July 1999 He is responsible for Pac-West's relations with government regulatory agencies, regulatory compliance, and intercarrier relations. Mr. Sumpter has over 30 years of experience in the telecommunications industry. Prior to Pac-West, he was employed with AT&T from 1984 to 1999, where he held several executive level regulatory and marketing positions, including Division Manager of Law and Government Affairs, District Manager of Switched Services Product Management, and District Manager of Marketing. He currently serves as Chairman of the Board of CALTEL, the California Association of Competitive Telecommunications Companies and of CACE, the California Alliance for Consumer Education.

Robert C. Morrison, Vice President and General Counsel, joined Pac-West as Vice President and General Counsel in January 2003. He served on Pac-West's Board of Directors from 2001 through December 31, 2002. He has served as our Corporate Secretary since February 2001. Mr. Morrison has responsibility over corporate governance, record keeping, documentation and legal administration of contractual relationships, and managing the Company's relationships with outside law firms. Prior to joining Pac-West, Mr. Morrison was an attorney with Neumiller and Beardslee, P.C. in Stockton, California from 1972 to 2002. He served as Managing Director from 1983 to 1990. In July 2002, he completed a term on the Board of Regents of the University of California. He is a past president of the Greater Stockton Chamber of Commerce, the San Joaquin County Economic Development Association, and the alumni association for UC Davis, and is a former member of the Board of Directors and Executive Committee of the Lassen Volcanic National Park Foundation.

EXHIBIT E

Financial Statements

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INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

Report of Independent Registered Public Accounting Firm

Board of Directors and Stockholders

Pac–West Telecomm, Inc
Stockton, California

We have audited the accompanying consolidated balance sheet of Pac–West Telecomm, Inc. and subsidiaries as of December 31, 2004 and the related consolidated statements of operations and comprehensive income (loss), changes in stockholders' equity, and cash flows for the year then ended We have also audited the 2004 Schedule II — Valuation and Qualifying Accounts (the Schedule). The financial statements and the Schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements and the Schedule based on our audit

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States) Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements and Schedule are free of material misstatement. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. Our audit included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements and the Schedule, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statement and the Schedule We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Pac–West Telecomm, Inc and subsidiaries at December 31, 2004 and the results of its operations and its cash flows for the year then ended, in conformity with accounting principles generally accepted in the United States of America.

Also in our opinion, the Schedule presents fairly, in all material respects, the information set forth therein

/s/ BDO SEIDMAN, LLP

San Francisco, California

February 25, 2005, except for Note 18, which is dated as of March 11, 2005

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Report of Independent Registered Public Accounting Firm

To the Board of Directors and Stockholders

Pac–West Telecomm, Inc.

We have audited the accompanying consolidated balance sheet of Pac–West Telecomm, Inc and subsidiaries as of December 31, 2003 and the related consolidated statements of operations and comprehensive income (loss), changes in stockholders' equity and cash flows for each of the years in the two–year period ended December 31, 2003. In connection with our audits of the consolidated financial statements, we have also audited the accompanying financial statement schedule for each of the years in the two–year period ended December 31, 2003 These consolidated financial statements and financial statement schedule are the responsibility of the Company's management Our responsibility is to express an opinion on these consolidated financial statements and financial statement schedule based on our audits

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States) Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit als o includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the consolidated financial position of Pac–West Telecomm, Inc and subsidiaries as of December 31, 2003, and the results of their operations and their cash flows for each of the years in the two–year period ended December 31, 2003, in conformity with U.S. generally accepted accounting principles Also, in our opinion, the related 2003 and 2002 information in the financial statement schedule, when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein

/s/ KPMG LLP

Mountain View, California

February 13, 2004

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PAC-WEST TELECOMM, INC.

CONSOLIDATED BALANCE SHEETS

As of December 31, 2004 and 2003
(In thousands except share and per share data)

	2004	2003
ASSETS		
CURRENT ASSETS		
Cash and cash equivalents	$ 32,265	$ 34,657
Short-term investments	10,501	—
Trade accounts receivable, net of allowances of $366 and $1,560 as of December 31, 2004 and 2003, respectively	12,774	7,713
Prepaid expenses and other current assets	5,316	4,576
Deferred tax assets	—	3,467
Total current assets	60,856	50,413
PROPERTY AND EQUIPMENT, net	43,413	121,211
GOODWILL	119	—
OTHER ASSETS, net	2,664	2,578
Total assets	$ 107,052	$ 174,202
LIABILITIES AND STOCKHOLDERS' EQUITY		
CURRENT LIABILITIES		
Accounts payable	$ 5,684	$ 6,098
Current obligations under notes payable and capital leases	2,889	2,606
Accrued interest	2,208	2,096
Other accrued liabilities	12,445	11,696
Deferred revenues	846	594
Total current liabilities	24,072	23,090
SENIOR NOTES	36,102	36,102
NOTES PAYABLE, less current portion	28,285	18,421
CAPITAL LEASES, less current portion	651	191
DEFERRED REVENUES, less current portion	353	467
DEFERRED TAX LIABILITIES	—	3,467
Total liabilities	89,463	81,738
COMMITMENTS AND CONTINGENCIES (Note 9)		
STOCKHOLDERS' EQUITY		
Common stock, $0 001 par value		
Authorized shares — 100,000,000		
Issued and outstanding shares — 36,792,426 and 36,590,532 at December 31, 2004 and 2003, respectively	37	37
Additional paid-in capital	204,540	204,461
Deferred stock compensation	(565)	(758)
Accumulated deficit	(186,309)	(111,276)
Accumulated other comprehensive loss	(114)	—
Total stockholders' equity	17,589	92,464
Total liabilities and stockholders' equity	$ 107,052	$ 174,202

See notes to the consolidated financial statements

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PAC–WEST TELECOMM, INC.

CONSOLIDATED STATEMENTS OF OPERATIONS

AND COMPREHENSIVE INCOME (LOSS)
For the Years Ended December 31, 2004, 2003 and 2002
(In thousands except per share data)

	Years Ended December 31,		
	2004	2003	2002
REVENUES	$ 124,006	$ 134,640	$ 164,098
COSTS AND EXPENSES			
Network expenses	39,834	36,286	53,525
Selling, general and administrative	58,065	59,217	60,114
Depreciation and amortization	32,565	44,000	40,350
Restructuring charges	516	125	8,620
Impairment of assets	54,898	—	16,621
Total operating expenses	185,878	139,628	179,230
Loss from operations	(61,872)	(4,988)	(15,132)
OTHER (INCOME) EXPENSE			
Interest expense	12,515	13,520	17,398
Interest income	(409)	(477)	(1,605)
Loss (gain) on extinguishment of debt	—	3,689	(33,847)
Loss on asset dispositions, net	1,055	30	131
Total other (income) expense, net	13,161	16,762	(17,923)
(LOSS) INCOME BEFORE INCOME TAXES	(75,033)	(21,750)	2,791
(BENEFIT FROM) PROVISION FOR INCOME TAXES	—	(6,500)	745
Net (loss) income	$ (75,033)	$ (15,250)	$ 2,046
NET (LOSS) INCOME PER SHARE			
Basic	$ (2 05)	$ (0 42)	$ 0 06
Diluted	$ (2 05)	$ (0 42)	$ 0 06
WEIGHTED AVERAGE SHARES OUTSTANDING·			
Basic	36,655	36,481	36,308
Diluted	36,655	36,481	36,334
COMPREHENSIVE (LOSS) INCOME			
Net (loss) income	$ (75,033)	$ (15,250)	$ 2,046
Unrealized (loss) on investments	(114)	—	(103)
Reclassification of realized gain on sale of investments	—	156	—
Comprehensive (loss) income	$ (75,147)	$ (15,094)	$ 1,943

See notes to the consolidated financial statements

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PAC–WEST TELECOMM, INC.

CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY

For the Years Ended December 31, 2004, 2003 and 2002
(In thousands)

	Common Stock		Additional Paid–In Capital	Note Receivable from Shareholders	Accumulated (Deficit)	Accumulated Other Comprehensive Income/ (Loss)
	Shares	Amount				
Balance, December 31, 2001	36,148	$ 36	$ 183,550	$(200)	$ (98,072)	$ (53)
Exercise of stock options	223	—	17	—	—	—
Issuance of shares under Employee Stock Purchase Plan	73	—	101	—	—	—
Unrealized loss on investments	—	—	—	—	—	(103)
Amortization of deferred stock compensation	—	—	—	—	—	—
Net income	—	—	—	—	2,046	—
Balance, December 31, 2002	36,444	36	183,668	(200)	(96,026)	(156)
Exercise of stock options	69	1	68	—	—	—
Note receivable from stockholder	—	—	—	200	—	—
Warrants issued with Senior Secured Note	—	—	20,004	—	—	—
Issuance of shares under Employee Stock Purchase Plan	78	—	38	—	—	—
Reclassification of realized gain on sale of investments	—	—	—	—	—	156
Deferred stock compensation	—	—	683	—	—	—
Amortization of deferred stock compensation	—	—	—	—	—	—
Net loss	—	—	—	—	(15,250)	—
Balance, December 31, 2003	36,591	37	204,461	—	(111,276)	—
Exercise of stock options	86	—	40	—	—	—
Issuance of shares under Employee Stock Purchase Plan	115	—	110	—	—	—
Unrealized loss on investments	—	—	—	—	—	(114)
Amortization of deferred stock compensation and other	—	—	8	—	—	—
Deferred financing fees	—	—	(79)	—	—	—
Net loss	—	—	—	—	(75,033)	—
Balance, December 31, 2004	36,792	$ 37	$204,540	$ —	$(186,309)	$(114)

[Additional columns below]

[Continued from above table, first column(s) repeated]

	Deferred Stock Compensation	Total Shareholders' Equity
Balance, December 31, 2001	$(190)	$ 85,071
Exercise of stock options	—	17
Issuance of shares under Employee Stock Purchase Plan	—	101
Unrealized loss on investments	—	(103)
Amortization of deferred stock compensation	104	104
Net income	—	2,046
Balance, December 31, 2002	(86)	87,236
Exercise of stock options	—	69
Note receivable from stockholder	—	200
Warrants issued with Senior Secured Note	—	20,004
Issuance of shares under Employee Stock Purchase Plan	—	38
Reclassification of realized gain on sale of investments	—	156
Deferred stock compensation	(683)	—
Amortization of deferred stock compensation	11	11
Net loss	—	(15,250)
Balance, December 31, 2003	(758)	92,464

Exercise of stock options	—	40
Issuance of shares under Employee Stock Purchase Plan	—	110
Unrealized loss on investments	—	(114)
Amortization of deferred stock compensation and other	193	201
Deferred financing fees	—	(79)
Net loss	—	(75,033)
Balance, December 31, 2004	$(565)	$ 17,589

See notes to the consolidated financial statements.

PAC–WEST TELECOMM, INC.

CONSOLIDATED STATEMENTS OF CASH FLOWS

For the Years Ended December 31, 2004, 2003 and 2002
(In thousands)

	Years Ended December 31,		
	2004	2003	2002
OPERATING ACTIVITIES:			
Net (loss) income	$(75,033)	$(15,250)	$ 2,046
Adjustments to reconcile net (loss) income to net cash provided by operating activities.			
Depreciation and amortization	32,565	44,000	40,350
Amortization of deferred financing costs	703	434	693
Amortization of discount on note payable	5,498	156	—
Amortization of deferred stock compensation and other	200	11	104
Impairment of assets	54,898	—	16,621
Non–cash restructuring charges	—	—	3,408
Net loss (gain) on extinguishment of debt	—	3,689	(33,847)
Net loss on asset dispositions	1,055	30	131
Provision for doubtful accounts	(183)	192	1,008
Deferred income tax (benefit) provision	—	(5,246)	668
Other	—	—	1,148
Changes in operating assets and liabilities, net of acquisitions			
(Increase) decrease in trade accounts receivable	(4,772)	4,719	69
Decrease in income tax receivable	—	—	7,386
(Increase) decrease in prepaid expenses and other current assets	(146)	1,106	(750)
Decrease in other assets	265	31	1,388
(Decrease) in accounts payable	(414)	(4,204)	(1,478)
Increase (decrease) in accrued interest	744	(3,426)	(1,624)
(Decrease) increase in other accrued liabilities	(2,604)	(7,828)	7,321
Net cash provided by operating activities	12,776	18,414	44,642
INVESTING ACTIVITIES			
Purchases of property and equipment	(7,132)	(4,980)	(19,564)
(Purchases) redemptions of short–term investments, net	(10,615)	29,365	(10,841)
Proceeds from disposal of equipment	148	75	200
Costs of acquisitions, net of cash received	(587)	—	—
Deposits associated with the enterprise customer base sale	3,500	—	—
Net cash (used in) provided by investing activities	(14,686)	24,460	(30,205)
FINANCING ACTIVITIES			
Payment on senior credit facility	—	—	(10,000)
Proceeds from repayment of note receivable from stockholder	—	200	—
Proceeds from borrowing under note payable	3,322	40,049	35
Repayments on Fiber IRU	—	(4,200)	(13,040)
Repayments on notes payable	(1,048)	(59,015)	(20,657)
Principal payments on capital leases	(2,668)	(8,177)	(6,752)
Payments for deferred financing costs	(237)	(5,205)	(120)
Proceeds from the issuance of common stock	149	81	118
Net cash (used in) financing activities	(482)	(36,267)	(50,416)
Net (decrease) increase in cash and cash equivalents	(2,392)	6,607	(35,979)
CASH AND CASH EQUIVALENTS			
Beginning of year	34,657	28,050	64,029
End of year	$ 32,265	$ 34,657	$ 28,050
SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION			
Cash paid during the year for			
Interest	$ 5,584	$ 16,413	$ 19,883
Income taxes	$ —	$ 161	$ 7
Non–cash Operating and Financing Activities			
Prepaid maintenance agreement financed by notes payable	$ 1,624	$ —	$ —
Capitalized interest on Senior Secured Note	$ 634	$ —	$ —
Non–cash Investing and Financing Activities			
Equipment acquisitions financed by notes payable	$ 2,075	$ —	$ —
Equipment acquisitions on capital lease obligation	$ 1,376	$ 765	$ —

See notes to the consolidated financial statements

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PAC–WEST TELECOMM, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

December 31, 2004

1. Summary of Significant Accounting Policies

Description of Business

Pac–West Telecomm, Inc (the Company) has evolved into a high–value, independent provider of integrated communications solutions that enable communication providers to use our network and services as an alternative to building and maintaining their own network The Company's customers include Internet service providers, enhanced communications service providers (ESPs) and other direct providers of communication services to business or residential end–users, collectively referred to as service providers, or SPs. In response to our changing business model, on March 11, 2005, we sold the majority of our enterprise customer base to U.S TelePacific Corp (TelePacific) while retaining our associated network assets. Under the terms of this transaction, TelePacific acquired certain assets and assumed certain liabilities associated with our Enterprise customers in exchange for $26 9 million in cash (see Note 18).

Principles of Consolidation

The accompanying consolidated financial statements include the accounts of the Company and its subsidiaries since the date of acquisition All intercompany accounts and transactions have been eliminated

Critical Accounting Policies

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions. These assumptions effect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities, and reported amounts of revenues and expenses

Management considers the following accounting policies to be critical due to the estimation process involved in their calculation

• revenue recognition,

• provision for doubtful accounts receivable;

• estimated settlements of disputed billings; and

• impairment of long–lived assets

By their nature, these judgments are subject to uncertainty. Thus, actual results could differ from estimates made and such differences could be material.

Revenue Recognition The Company recognizes revenue when·

• there is persuasive evidence of an arrangement,

• delivery of the product or performance of the service has occurred,

• the selling price is fixed and determinable, and

• collectibility is reasonably assured.

The Company recognizes revenues from service access agreements as the service is provided, except for intercarrier compensation fees paid by our intercarrier customers for completion of their customers' calls through our network, and access charges paid by carriers for long distance traffic terminated on our network The rights of competitive local exchange carriers (CLECs), to receive this type of compensation is the subject of numerous regulatory and legal challenges. Until this issue is ultimately resolved, the Company will continue

PAC–WEST TELECOMM, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

to recognize intercarrier compensation as revenue when the price becomes fixed and determinable and collectibility is reasonably assured.

Some Incumbent Local Exchange Carriers (ILECs) with which the Company has interconnection agreements had withheld payments from amounts billed by the Company under their agreements The process of collection of intercarrier compensation can be complex and subject to interpretation of regulations and laws This can lead to the requirement for negotiated settlements between the Company and the ILEC where it agrees to accept a portion of what it believes is owed to it These settlements generally reflect the mutual agreements of both parties that exist at the date of the settlement. Settlements were entered into with ILECs whereby the ILECs paid the Company an aggregate of $10.7 million in 2004, $5.7 million in 2003 and $20 6 million in 2002 The settlements were included in revenues

Non–refundable up–front payments received for installation services, and related costs up to the amount of revenues, are recognized as revenue and expense ratably over the term of the service contracts, generally 36 months Any costs in excess of recognized revenues are expensed in the period incurred. As of December 31, 2004, $1,199,000 of installation payments received were deferred and are included in deferred revenues and $623,000 of associated costs were deferred and are included in other assets, in the accompanying consolidated balance sheets

Provision for doubtful accounts receivable. The Company estimates the provision for doubtful accounts receivable based upon the following factors

- historical collection experience,
- customer delinquencies and bankruptcies;
- information provided by the Company's customers,
- observance of trends in the industry, and
- other current economic conditions

Past due balances over 30 days and over a specified amount are reviewed individually for collectibility. Account balances are charged off against the allowance after all means of collection have been exhausted and the potential for recovery is remote Collection is due and payable either upon receipt or up to 30 days from the date of invoice.

Estimated settlements for disputed billings During the ordinary course of business, the Company may be billed at incorrect rates or for carrier traffic that management believes the Company is not responsible for Accordingly, the Company will dispute the billing with the vendor and withhold payment until the matter is resolved The Company's current disputes are primarily related to incorrect facility rates or incorrect billing elements the Company believes it is being charged. Management regularly reviews and monitors all disputed items and records an accrual that represents what it believes it may pay to settle the dispute Although the Company continues to actively try and expedite resolutions, often times the state Public Utilities Commission becomes involved in the arbitration of these agreements This process is often lengthy and resolutions are often subject to appeal As of December 31, 2004, the Company accrued approximately $1 3 million, representing managements best estimate of expected settlements of disputes currently in negotiation. If resolutions to items in negotiation are favorable or unfavorable to management's estimations, the Company's reserve for disputed items may be subject to change

Long–lived assets In 2002, the Company adopted Statement of Financial Accounting Standards (SFAS) No. 144, "Accounting for the Impairment or Disposal of Long–Lived Assets " The Company evaluates its long–lived assets if events or changes in circumstances indicate that the carrying amount of these assets may not be fully recoverable. Recoverability of assets to be held and used is measured by comparing the carrying amount of an asset to the potential undiscounted cash flows expected to be generated by the asset. If

PAC–WEST TELECOMM, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

an asset is considered to be impaired, it is written down to its fair market value This is assessed based on factors specific to the type of asset. In assessing the recoverability of these assets, the Company must make assumptions regarding, among other things, estimated future cash flows to determine the fair market value of the respective assets. If these estimates and the related assumptions change, the Company may be required to record additional impairment charges for these assets in the future. During the fourth quarter of 2004 and the second quarter of 2002, the Company recorded impairment charges of $54 9 million and $16.6 million, respectively.

Other Significant Accounting Policies

Reclassification Certain prior year amounts have been reclassified to conform with the current year presentation.

Fair Value of Financial Instruments. The carrying value of the Company's cash and cash equivalents, marketable debt and equity securities, accounts receivable and accounts payable approximate their respective fair values due to the short–term nature of these instruments The fair value of the Senior Secured Note approximates the value on March 11, 2005 when the Company repaid this note. The fair value of the Company's Senior Notes was based on a quotation from an investment bank as of December 31, 2004 and approximates their carrying value The fair value of the Company's other notes payable are based on the borrowing rates currently available to the Company for bank loans with similar terms and average maturities and approximate their carrying value.

Cash Equivalents. The Company considers all highly liquid investments with original maturities of three months or less to be cash equivalents

Short Term Investments All investments with a maturity of greater than three months at the date of purchase are accounted for under SFAS No. 115, "Accounting for Certain Investments in Debt and Equity Securities." Although the Company's investment portfolio only contains investments that are highly liquid and can be converted to cash at any time, the Company determines the appropriate classification of the investment as a cash equivalent or an available–for–sale short–term investment based on the anticipated maturity date at the time of purchase. The Company's investments are not subject to penalties for early terminations or sales. All investments as of December 31, 2004 and 2003 were classified as available–for–sale and carried at fair value. Gross realized gains and losses were insignificant and included in interest income in the accompanying consolidated statements of operations. Differences between cost and fair value (unrealized gains and losses) are recorded as other comprehensive income (loss), a separate component of stockholders' equity

Property and Equipment Property and equipment is stated at cost and includes network and other communication equipment, equipment under capital leases, office furniture, business software and computer equipment, vehicles, leasehold improvements, and projects in progress Expenditures for repairs and maintenance, which do not extend the useful life of the property and equipment and purchases below $1,000, are charged to expense as incurred Upon retirement, the asset cost and related accumulated depreciation are relieved from the consolidated financial statements. Gains and losses associated with dispositions and impairment of property and equipment are reflected as (income) loss on asset dispositions, net and impairment of assets, respectively, in the accompanying consolidated statements of operations. Depreciation and amortization is computed using the straight–line method Estimated useful lives range from 3 to 20 years

Network expenses Network expenses are comprised mainly of leased transport charges, usage charges for long distance and intrastate calls and, to a lesser extent, intercarrier compensation the Company pays to other companies related to calls that originate with a Pac–West customer and terminate on the network of an ILEC or other CLEC. The Company's leased transport charges include the lease payments it incurs for the transmission facilities, or circuits, used to connect its customers to its switches and to connect to ILEC and CLEC networks Depreciation expense associated with the Company's switching equipment is included in

PAC-WEST TELECOMM, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

depreciation and amortization in the consolidated statements of operations. The Company does not include any significant employee costs in network expenses

Stock Based Compensation. The Company follows Accounting Principles Board Opinion No. 25, "Accounting for Stock Issues to Employees" for its stock based compensation plans The Company has adopted the disclosure–only provisions of SFAS No 123, "Accounting for Stock–Based Compensation," to disclose pro forma information regarding options granted to its employees based on specified valuation techniques that produce estimated compensation charges The Company uses the Black–Scholes option–pricing model to drive theoretical fair value of employee stock option grants These amounts have not been reflected in the Company's consolidated statements of operations because no compensation arises when the price of the employees' stock options equals the market value of the underlying stock at the date of grant, as in the Company's case. If compensation expense for the Company's stock–based compensation plans had been determined in accordance with the fair value as prescribed in SFAS 123, the Company's net (loss) income per share for the years ended December 31, 2004, 2003, and 2002 would have been as follows

	2004	2003	2002
	(Dollars in thousands except per share amounts)		
Net (loss) income as reported	$(75,033)	$(15,250)	$ 2,046
Total stock–based employee compensation included in reported net loss/income, net of tax	200	8	76
Total stock–based employee compensation determined under the fair value based method	(1,366)	(1,299)	(1,702)
Pro forma	$(76,199)	$(16,541)	$ 420
Basic net (loss) income per common share			
As reported	$ (2 05)	$ (0 42)	$ 0 06
Pro forma	$ (2 08)	$ (0 45)	$ 0 01
Diluted net (loss) income per common share			
As reported	$ (2 05)	$ (0 42)	$ 0 06
Pro forma	$ (2 08)	$ (0 45)	$ 0 01

Income Taxes The Company provides for income taxes under the asset and liability method of accounting for income taxes. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective income tax bases Deferred tax assets and liabilities are measured using enacted tax rates expected to be applied to taxable income in the years in which those temporary differences are expected to be recovered or settled The effect on deferred income tax assets and liabilities of changes in tax rates is recognized in income in the period that includes the enactment dates Valuation allowances are provided against deferred tax assets when it is more likely than not that some portion or all of the deferred tax asset will not be realized

Accruals related to restructuring activities. In June 2002 and August 2001, the Company approved and announced restructuring plans, which included, among other things, closing switch facilities in Colorado and Utah and consolidation of sales offices In order to estimate rent expense related to these abandoned premises, the Company made certain assumptions including; (1) the time period over which the premises would remain vacant, (2) sublease terms, and (3) estimated sublease rents. In the case of the switching facilities, no sublease income was estimated due to the specialized nature these facilities. If the Company is able to sublet or negotiate an early termination penalty for its abandoned switch facility in Colorado, or is unable to sublet the sales offices within the estimated timeframe and at estimated terms, the restructuring charge could be subject to change.

PAC-WEST TELECOMM, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Recent Accounting Pronouncements

In December 2004, the Financial Accounting Standards Board (FASB) issued SFAS No 123R, "Share-Based Payment." Among other items, the standard requires the Company to recognize compensation cost for all share-based payments, in the Company's consolidated statements of operations Depending on the model used to calculate stock-based compensation expense in the future and other requirements of SFAS No. 123R, the pro forma disclosure in Note 10 may not be indicative of the stock-based compensation expense that will be recognized in the Company's future financial statements. The new standard is effective for the first period that begins after June 15, 2005, and allows two different methods of transition. The Company is currently evaluating the new standard and models, which may be used to calculate future stock-based compensation expense.

In December 2004, the FASB issued SFAS No 153, "Exchanges of Nonmonetary Assets." SFAS No. 153 amends APB Opinion 29, "Accounting for Nonmonetary Transactions," to eliminate the exception for nonmonetary exchanges of similar productive assets and replaces it with a general exception for exchanges of nonmonetary assets that do not have commercial substance. A nonmonetary exchange has commercial substance if the future cash flows of the entity are expected to change significantly as a result of the exchange APB Opinion 29 is based on the principle that exchanges of nonmonetary assets should be measured based on fair value of the assets exchanged SFAS No 153 is effective for nonmonetary exchanges occurring in fiscal periods beginning after June 15, 2005. The Company does not expect the adoption of SFAS No 153 will have a material impact on it financial position, results of operations and cash flows

In October 2004, the FASB issued Emerging Issues Task Force Issue No. 04-8 (EITF 04-8), "The Effect of Contingently Convertible Instruments on Diluted Earnings per Share" EITF 04-8 addresses when contingently convertible instruments should be included in diluted earnings per share Contingent convertible instruments are instruments that have embedded conversion features that are contingently convertible or exercisable based on (a) a market price trigger or (b) multiple contingencies if one of the contingencies is a market price trigger and the instrument can be converted or share settled based on meeting the specified market condition. The Task Force concluded that contingently convertible instruments should be included in diluted earnings per share (if dilutive) regardless of whether the market price trigger has been met. EITF 04-8 is effective for periods ending after December 15, 2004 The adoption of EITF 04-8 did not have an impact on the Company's diluted earnings per share.

In March 2004, the FASB issued EITF 03-1, "The Meaning of Other-Than-Temporary Impairment and Its Application to Certain Investments" EITF 03-1 includes new guidance for evaluating and recording impairment losses on debt and equity instruments, as well as new disclosure requirements for investments that are deemed to be temporarily impaired. The accounting guidance provided in EITF 03-1 is effective for fiscal years beginning after September 15, 2004, while the disclosure requirements are effective for annual periods ending after September 15, 2004 The Company does not expect the adoption of EITF 03-1 will have a material impact on its financial position, results of operations and cash flows.

In December 2003, the FASB issued FASB Interpretation No 46 (revised December 2003), "Consolidation of Variable Interest Entities," which addresses how a business enterprise should evaluate whether it has a controlling financial interest in an entity through means other than voting rights and accordingly should consolidate the entity. The adoption of FASB Interpretation No 46 did not have an impact on the Company as at December 31, 2004, the Company does not believe it had any VIE's for which this interpretation would be applicable

In December 2003, the SEC issued Staff Accounting Bulletin (SAB) No 104, "Revenue Recognition," which codifies, revises and rescinds certain sections of SAB No 101, Revenue Recognition, in order to make this interpretive guidance consistent with current authoritative accounting and auditing guidance and SEC

PAC–WEST TELECOMM, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

rules and regulations The changes noted in SAB No 104 did not have a material effect on the Company's financial position, results of operations and cash flows.

Concentration of Customers and Suppliers

During 2004 revenues from three customers accounted for 21.1%, 17.6% and 3.9% of revenues During 2003 these same three customers accounted for 21.8%, 17 1% and 10.6% of revenues, respectively, and during 2002 accounted for 31 5%, 8.8% and 16 0%, respectively During each of the years ended December 31, 2004, 2003 and 2002 no other customer accounted for more than 10.0% of total revenues. As of December 31, 2004 accounts receivable from one customer represented more than 10% of trade accounts receivable In 2004, 2003 and 2002, the Company's largest source of operating costs was also one ILEC which represented 40 3%, 37.3% and 32.4% of the Company's network expenses during the years ended 2004, 2003 and 2002, respectively.

2. Investments

The following table summarizes the Company's investments in securities at December 31, 2004·

	Cost	Unrealized Losses, net	Fair Market Value
		(Dollars in thousands)	
U S government agencies	$ 7,457	$ —	$ 7,457
Commercial paper	4,892	—	4,892
Corporate bonds	10,615	(114)	10,501
Total investments in securities			22,850
Cash			19,916
Total cash and investments			$42,766
Reported as			
Cash and cash equivalents			$32,265
Short–term investments			10,501
			$42,766

As of December 31, 2004, all of the contractual maturities of the Company's U S. government agencies and commercial paper we re before April 1, 2005.

The following table summarizes the Company's investments in securities at December 31, 2003·

	Cost	Unrealized Losses, net	Fair Market Value
		(Dollars in thousands)	
Commercial paper	$27,702	$ —	$27,702
Cash			6,955
Total cash and investments			$34,657

As of December 31, 2003, all of the contractual maturities of the Company's commercial paper were before February 28, 2004.

PAC–WEST TELECOMM, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

3. Property and Equipment

The following tables summarize the Company's property and equipment, net at December 31, 2004 and 2003

	2004	2003
	(Dollars in thousands)	
Network and other communication equipment	$ 145,789	$ 187,001
Equipment under capital leases	2,140	21,020
Office furniture	2,608	2,623
Business software and computer equipment	27,128	29,302
Vehicles	866	1,300
Leasehold improvements	16,596	21,992
Projects in Process	210	209
	195,337	263,447
Accumulated depreciation and amortization	(151,924)	(142,236)
Property and equipment, net	$ 43,413	$ 121,211

The Company capitalizes interest on capital projects when the project involves considerable time to implement and major expenditures. Such interest is capitalized as part of the cost of the equipment and is amortized over the remaining life of the assets Interest is capitalized based on the Company's incremental borrowing rate during the period of asset construction. In 2004, 2003 and 2002, the Company capitalized $0, $65,000, and $967,000, respectively, of interest related to capital projects

Depreciation and amortization of property and equipment was $32 3 million, $43 8 million and $40.1 million for the years ended December 31, 2004, 2003 and 2002, respectively. Depreciation and amortization is computed using the straight–line method based on the following estimated useful lives

Equipment	3 to 7 years
Vehicles	5 years
Leasehold improvements	20 years or life of lease, whichever is shorter

During the first quarter of 2003, the Company changed its accounting estimates related to depreciation. The Company reduced the useful life for phone equipment provided to customers and computer hardware from 5 years to 3 years and extended the useful life of some leasehold improvements from 10 years to up to 20 years As a result of the change, the Company incurred additional depreciation in the first quarter, which increased net loss for the year ended December 31, 2003 by $1 6 million or $0 04 per diluted share

The Company reclassified $1 1 million related to a technology lease from depreciation expense to selling, general and administrative expenses for the year ended December 31, 2002. In management's opinion, the new classification more accurately presents the nature of the related expense in the Company's income statement based on the underlying transaction

4. Impairment of Assets

In accordance with generally accepted accounting principles, in connection with the 2004 audit of the Company's year–end financial statements, the Company tested its long–lived tangible and intangible assets to determine whether the carrying amounts of such assets were recoverable from future undiscounted cash flows. Primarily as a result of ongoing price compression and recent industry trends in the dial–up Internet access market, the Company recorded non–cash asset impairment charges of $54 6 million for its tangible assets In

PAC-WEST TELECOMM, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

performing the test, the Company determined that the total of the expected future undiscounted cash flows directly related to the existing service potential of the assets were less than the carrying value of the assets, therefore, an impairment charge was required. The Company engaged a third party valuation specialist to assist in the evaluation of the fair value of its assets using a sales comparison approach, as well as a replacement cost approach The impairment charges represented the difference between the fair value of the property and equipment and its carrying value and are included within impairment of assets in the consolidated statements of operations. As a result of the asset impairments, a new cost basis was established for those assets that were impaired. The new cost basis resulted in a reduction of gross property and equipment and did not change the remaining estimated useful lives.

In accordance with the provisions of SFAS No. 142, "Goodwill and Other Intangible Assets," the Company tested its goodwill and intangible assets for impairment. The Company estimated fair value using a market comparables approach that resulted in goodwill impairment charges of $0 3 million during the fourth quarter of 2004.

5. Other Assets

At December 31, other assets consist of the following:

	2004	2003
	(Dollars in thousands)	
Deferred financing costs	$1,038	$1,635
Acquisition of lease rights	378	594
Long-term portion of deferred installation costs	251	311
Prepaid maintenance	587	—
Long-term portion of prepaid expenses and deposits	329	38
Intangible assets	81	—
	$2,664	$2,578

Deferred financing costs consist primarily of capitalized amounts for underwriter fees, professional fees and other expenses related to the issuance of the Company's debt Amortization of deferred financing costs for the years ended December 31, 2004, 2003 and 2002 was $703,000, $434,000 and $693,000, respectively, and is included in interest expense in the accompanying consolidated statements of operations. During 2004, the Company incurred an additional $146,000 in deferred financing costs related to the Senior Secured Note transaction with Deutsche Bank AG — New York and $100,000 in deferred financing costs related to the secured financing arrangement with Merrill Lynch Capital During 2003 and 2002, the Company purchased from holders of its Senior Notes an aggregate of $59 0 million and $54 9 million principal amount of Senior Notes In connection with these transactions, the Company expensed $3 3 million of deferred financing costs associated with the Senior Notes redeemed. The Company also incurred additional deferred financing costs of $5.2 million in 2003 related to the issue of the Company's Senior Secured Note.

During 1999, the Company acquired lease rights of additional space in its Los Angeles facility. This amount is being amortized on a straight-line basis over the life of the lease, which is 81 months Amortization expense for this facility was $216,000 for each year ended 2004, 2003 and 2002, and is included in amortization expense in the accompanying consolidated statements of operations.

In May 2004, the Company completed an agreement for maintenance with Cisco Systems, Inc. A $1.6 million note payable was exchanged for a 36-month maintenance services agreement. This is included in the accompanying consolidated balance sheet in other current assets, other assets, and other accrued liabilities Additionally, the related expense is included in selling, general, and administrative expense in the accompanying consolidated statements of operations

6. Restructuring Charges

A summary of the restructuring expenses and the associated remaining liability which is included in other accrued liabilities in the accompanying consolidated balance sheet as of December 31, 2004 and 2003 consist of the following:

	Restructuring Liability as of Dec. 31, 2003	Additional Restructuring Expense Incurred	Cash Payments	Restructuring Liability as of Dec. 31, 2004
	(Dollars in thousands)			
Rent expense for vacated premises	$2,989	$170	$ (695)	$2,464
Circuit obligations	1,547	352	(1,899)	—
Other charges	6	(6)	—	—
	$4,542	$516	$(2,594)	$2,464

	Restructuring Liability as of Dec. 31, 2002	Additional Restructuring Expense Incurred	Cash Payments	Restructuring Liability as of Dec. 31, 2003
	(Dollars in thousands)			
Rent expense for vacated premises	$3,476	$206	$ (693)	$2,989
Circuit obligations	2,800	—	(1,253)	1,547
Other charges	87	(81)	—	6
	$6,363	$125	$(1,946)	$4,542

The Company did not approve any new restructuring plan in 2004 and 2003 The balances of the restructuring liabilities relate to restructuring plans approved in June 2002 and August 2001 The 2002 restructuring plan primarily provided for the closure of the Company's switch facility in Colorado The 2002 restructuring plan was in response to the further weakening of the economy, additional competitive pressure from competitors who had reorganized and lowered their cost structure, overcapacity in the Company's industry and lower demand from customers for its products and services.

The 2001 restructuring plan primarily provided for the suspension of the Company's expansion plans in certain states, exiting of certain lower margin products and services (including residential resale and customer owned and maintained (COAM) equipment) and undertaking certain cost reduction initiatives In addition to restructuring certain product offerings, the restructuring initiatives included closing the Company's switch facility in Utah, consolidation of six sales offices, and a workforce reduction of approximately 200 employees The workforce reduction was completed during the fourth quarter, with all severance payments being made as of December 31, 2001 The 2001 restructuring plan was in response to a weakening economy and increasing competitive pressure resulting from lower than expected demand for telecommunications services and overcapacity in the Company's industry, management shifted the Company's strategy to margin improvement, cost containment and cash conservation rather than top–line growth.

The amount of the reserve for vacated premises is equal to the monthly lease payment of the unoccupied space, less any estimated sublease income, multiplied by the remaining months on the lease In regards to the Colorado facility, no sublease income was estimated due to the specialized nature of this facility During the second quarter of 2004, the Company recorded additional restructuring charges of approximately $194,000 due to increased common area operating expenses at the Colorado facility. This amount was partially offset by reversals of $37,000 of previously recorded restructuring charges related to the timing and amounts for sublease income, primarily in San Diego During the fourth quarter of 2004, the Company recorded additional

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restructuring charges of $13,000 for an estimated increase in rent expense at the San Diego and San Francisco office locations. During the second and third quarters of 2004, the Company recorded additional restructuring charges of approximately $228,000 and $124,000, respectively, due to on-going negotiations to the amount owed for circuit commitment obligations, which the Company paid off during the third quarter of 2004. During the third quarter of 2004, the Company reversed $6,000 of previously recorded restructuring charges related primarily to professional fees that were anticipated but not incurred. The final cash payment to be recorded against the restructuring reserve is currently expected to occur in March 2010.

During 2003, the Company recorded additional restructuring charges of $206,000 relating to office space in San Diego, California. The amount of the reserve recorded is equal to the monthly lease payment of the unoccupied space multiplied by the remaining months on the lease. Sub-lease income was not anticipated in 2003 primarily due to economic conditions. In addition, during 2003, the Company reversed $81,000 of previously recorded restructuring charges relating to professional fees that were anticipated but not incurred.

During the second quarter of 2002, the Company recorded a $9.3 million restructuring charge in connection with the closure of its switch facility in Colorado. Of this amount, $3.3 million related to the write-off of the net book value of leasehold improvements and equipment which could not be redeployed to other locations and, in management's best estimate, had a fair market value of zero: $2.8 million related to circuit commitment obligations, and $3.2 million related to future rent payments due for the abandoned premise in Colorado which will be paid over the lease term, which ends in fiscal year 2010. In order to estimate rent expense related to this premise, and those premises discussed in the following paragraph, the Company made certain assumptions including; (1) the time period over which the premises would remain vacant, (2) sublease terms, and (3) estimated sublease rents. In the case of the Colorado switching facility and the Utah switching facility, no sublease income was estimated due to the specialized nature of these facilities and current economic conditions. Accordingly, the Company believed the net book value of the leasehold improvements for the facilities had a fair market value of zero.

In the third quarter of 2002, the Company recorded an additional restructuring charge of $21,000, net representing the net difference between the amount estimated and the actual net book value of impaired leasehold improvements. In the fourth quarter of 2002, the Company reduced its restructuring accrual for future rent payments for the Colorado switch facility by $0.2 million as the Company had to use the facility longer than anticipated due to a delay in transferring one of its customers to another carrier. As of December 31, 2003, the Company had a remaining liability for this restructuring activity of approximately $4.1 million. This lease expires in March 2010.

In the fourth quarter of 2002, the Company negotiated and paid an early termination penalty to satisfy all future rent payments due for its switch facility in Utah. Accordingly, the Company reversed previous charges of $0.5 million to bring the accrual for this facility to zero. As of December 31, 2003, the Company had a remaining liability of $0.4 million for this restructuring reserve.

PAC-WEST TELECOMM, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

7. Other Accrued Liabilities

At December 31, other accrued liabilities consist of the following:

	2004	2003
	(Dollars in thousands)	
Accrued restructuring charges	$ 2,464	$ 4,542
Accrued payroll and related expenses	3,095	2,907
Reserve for refunds to customers	98	649
General liability insurance	503	790
TelePacific Communications transaction deposits	3,500	—
Other	2,785	2,808
	$12,445	$11,696

8. Debt and Capital Lease Obligations

At December 31, long-term debt and capital lease obligations consist of the following

	2004	2003
	(Dollars in thousands)	
Senior Notes	$36,102	$36,102
Senior Secured Note, net of discount of $16,134	24,500	18,369
Capital lease obligations	1,285	2,780
Notes Payable	6,040	69
Less current portion of notes payable and capital leases	(2,889)	(2,606)
	$65,038	$54,714

On December 19, 2003 the Company sold to Deutsche Bank AG — New York, acting through DB Advisors, LLC, as investment advisor (Deutsche Bank), as investment advisor, in a private placement exempt from registration pursuant to Section 4(2) of the Securities Act of 1933, as amended, a senior secured note in the principal amount of $40 0 million, (the Senior Secured Note), and warrants to purchase up to 26,666,667 shares of its common stock at an exercise price of $1.50 per share. The Senior Secured Note carries an interest rate of LIBOR plus 0 5% (3.02% at December 31, 2004), and matures in December 2006 (See Note 18) The maturity date of the Senior Secured Note will be automatically extended to coincide with any extension of the expiration date of the warrants, which is extendable for up to an additional 18 months at the option of Deutsche Bank. The Company allocated $18 2 million of the proceeds of the Senior Secured Note to debt and $21.8 million to the warrants on the basis of their relative fair values The allocation of proceeds representing the fair value of the warrants to additional paid-in capital creates a discount on the Senior Secured Note. Under the terms of the guaranty and security agreement related to the Senior Secured Note, the Company has granted Deutsche Bank a security interest in substantially all of its assets and agreed to certain covenants including limitations on the Company's ability to incur additional indebtedness, incur liens, sell assets and pay dividends. As of December 31, 2004, the Company was in compliance with these covenants

Accrued interest on the Senior Secured Note is payable quarterly in cash, or at the Company's option, may be capitalized and added to outstanding principal In accordance with the terms of the Senior Secured Note, during 2004, the Company elected to capitalize and add to the outstanding principal balance interest of approximately $0 6 million, which is reflected as a non-cash operating and financing activity in the Company's Condensed Consolidated Statement of Cash Flows As of December 31, 2004, the principal balance was

PAC-WEST TELECOMM, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

$40 6 million, the balance of the discount was $16 1 million and the effective interest rate was approximately 30% During 2004 and 2003, the discount amortization was $5.5 million and $0 2 million, respectively. The Company has amortized the discount on an effective yield to maturity basis over the life of the note. Projected interest expense on this secured note (assuming that the note is held to maturity, no interest payments are deferred and the note is not extended a full 18 months) is as follows:

	(Dollars in thousands)
2005	$ 7,116
2006	9,016
	$16,132

The Senior Notes, of which there is $36 1 million in principal amount outstanding at December 31, 2004 and 2003, mature on February 1, 2009 and bear interest at 13.5% per annum payable in semiannual installments, with all principal due in full on February 1, 2009. In December 2003, the Company repurchased $59 0 million principal amount of Senior Notes in a tender offer. In 2002 the Company paid approximately $20 7 million to repurchase $54.9 million principal amount of Senior Notes These transactions resulted in a loss (gain) (net of the write-off of related capitalized debt issuance costs and costs paid to outside parties to complete the transaction) of $3.7 million and $(33 8) million in 2003 and 2002 respectively.

In conjunction with the December 2003 tender offer for Senior Notes the Company also solicited consents to effect certain proposed amendments to the indenture governing the Senior Notes. These amendments to the indenture governing the Senior Notes, which are now effective, eliminated most of the indenture's principal restrictive covenants and amended certain other provisions contained in the indenture. As of December 31, 2004, the Company was in compliance with these covenants.

During the second quarter of 2004, the Company entered into a secured financing arrangement with Merrill Lynch Capital, a division of Merrill Lynch Business Financial Services, Inc , pursuant to which the Company may borrow up to an aggregate amount of $10 0 million, subject to certain conditions. This financing arrangement is structured in a manner that provides for multiple credit facilities up to an aggregate of $10 0 million with each facility having separate closing dates and repayment schedules This secured financing arrangement expired on December 31, 2004 The principal and accrued interest of each facility shall be payable in 36 equal monthly installments. The Company has the option to prepay the outstanding facility after 18 months subject to a maximum premium of 3% of the outstanding facility. Interest on each facility will be fixed at 5% plus the 3-year swap rate, as published by Bloomberg Professional Services, determined two business days prior to the closing date of each facility The Company used the proceeds of this financing arrangement to acquire new telecommunication switch and related equipment, which secure borrowings under this financing arrangement.

As of December 31, 2004, the Company had borrowed approximately $5.4 million under the Merrill Lynch Capital financing arrangement under two credit facilities both with interest rates of 8 6% As of December 31, 2004, the principal balance was $4 7 million and is included under Notes Payable in the above table In July 2004, approximately $2 1 million of these borrowings was paid directly to a vendor by Merrill Lynch Capital for an equipment acquisition and is reflected on the Company's Condensed Consolidated Statement of Cash Flows as a non-cash investing and financing activity

In May 2004, the Company completed financing agreements for various network equipment with Cisco Systems, Inc. These financing agreements were comprised of $1.4 million of equipment capital leases and a $1.6 million note payable exchanged for a 36-month maintenance services agreement. These transactions are reflected on the Company's Condensed Consolidated Statement of Cash Flows as a non-cash investing and financing activity, and a non-cash operating and financing activity As of December 31, 2004, the principal balance of the capital lease was $1.1 million and is included under Capital lease obligations in the above table.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

As of December 31, 2004, the balance of the note payable was $1 3 million and is included under Notes Payable in the above table

During the third quarter of 2003, the Company leased $0 8 million of equipment over a period of 24 months. This transaction is reflected on the Company's Condensed Consolidated Statement of Cash Flows as a non–cash investing and financing activity. As of December 31, 2004, the principal balance was $0.2 million and is included under Capital lease obligations in the above table.

As of December 31, 2004, future obligations related to Senior Notes, Senior Secured Note, Notes Payable (collectively Notes) and capital leases are as follows (projected interest on the Senior Secured Note was based on the interest rate at December 31, 2004 and not added to the outstanding principal)

	Notes	Capital Leases
	(Dollars in thousands)	
2005	$ 8,705	$ 747
2006	33,204	520
2007	6,281	173
2008	4,876	—
2009	36,508	—
Total minimum note and lease payments	89,574	1,440
Less portion representing interest	(22,932)	(155)
Present value of net minimum note and lease payments	66,642	1,285
Less. short–term portion	(2,255)	(634)
Notes and capital lease obligations, long–term portion	$ 64,387	$ 651

9. Commitments and Contingencies

Operating Leases

The Company currently leases and operates seven principal facilities under non–cancelable operating leases as follows:

Facility	Lease Expiration
Stockton, California	June 2006
Stockton, California	September 2007
Oakland, California	November 2008
Los Angeles, California	September 2006
Las Vegas, Nevada	October 2009
Seattle, Washington	December 2009
Phoenix, Arizona	April 2010

The Stockton lease expiring in June 2006 has three two–year renewal options remaining and the other facility leases contain two five–year renewal options, except for Oakland, which has one five–year renewal option The Company also leases telephone equipment sites and telephone circuits on month–to–month, annual and long–term non–cancelable leases. As the Company's leased telephone circuit commitments are fulfilled, the leases convert to month–to–month agreements. Management of the Company expects that these leases will be renewed or replaced, as necessary, by other leases in the normal course of business

PAC-WEST TELECOMM, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

The Company's restructuring programs, one approved and announced in the third quarter of 2001 and the other in the second quarter of 2002, included closing the Company's switch facilities in Utah and Colorado and the consolidation of six sales offices All of these leases, except for the Colorado switch facility and two of the sales offices, have been terminated. The Company is subleasing both of the sales offices and continues to actively search for tenants to sublease the Colorado switch facility Including the leases for the abandoned premises that the Company has not yet terminated less any sublease agreements in place, the Company's future minimum lease payments with initial terms in excess of one year as of December 31, 2004, are as follows:

	Operating Leases	
	Space	Telephone Circuits and Equipment
	(Dollars in thousands)	
2005	$ 3,885	$ 6,682
2006	3,278	3,132
2007	2,117	1,309
2008	1,444	449
2009	1,029	—
2010 and thereafter	144	—
	$11,897	$11,572

Rental expense charged to operations for the years ended December 31, 2004, 2003 and 2002, for operating leases for space, excluding amounts charged against the restructuring liability, was $3 5 million, $3.5 million and $4.0 million, respectively Rent expense is included in selling, general and administrative expense in the accompanying consolidated statements of operations. The Company expects to receive sublease income of approximately $0 2 million during 2005. Rental expense charged to operations for telephone circuits of approximately $30.0 million, $35.2 million and $40 4 million for the years ended December 31, 2004, 2003 and 2002, respectively, is included in network expenses in the accompanying consolidated statements of operations. Rental expense paid to related parties was approximately $0.4 million, $0 3 million and $0 3 million for the years ended December 31, 2004, 2003 and 2002, respectively.

Employment Agreements

At December 31, 2004 the Company had the following employment agreements in place.

- an agreement with its Vice President and Founder created in 2004 This agreement provided for, among other things, a minimum annual base salary, fees based on services provided, benefits to be received, and job responsibilities,

- an agreement with its current President and Chief Executive Officer created in 2003 This agreement provided for, among other things, minimum annual base salaries, bonus entitlements upon the achievement of certain objectives, and the issuance of stock options,

- agreements regarding compensation and change in control with all of the Company's executive officers These agreements provide for a lump sum payment equal to 150% of the executive's base salary, health plan benefits, and option treatment in the event of a merger or combination of the Company into another entity, or the sale or disposition of all, or substantially all, of the Company's assets; and

- an agreement with its current chairman and former chief executive officer, which provides for a minimum annual compensation level and other benefits.

PAC-WEST TELECOMM, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

The total annual value of the minimum base salary compensation for the agreements noted above is approximately $0.5 million

Other

From time to time, the Company is subject to audits with various tax authorities that arise during the normal course of business The Company believes resolutions to various tax audits that the Company may be involved with in the normal course of business, will not materially harm its business, financial condition or results of operations

Intercarrier Compensation and Legal Proceedings

Amounts billed to ILECs and payments withheld by ILECs during each of the three years ended December 31, 2004, 2003 and 2002 are as follows.

	2004	2003	2002
		(Dollars in thousands)	
Total amount billed to ILECs during the year	$ 54,242	$ 79,635	$ 82,217
Amount withheld by ILECs and not recorded as revenue in the Company's statements of operations	(25,070)	(39,372)	(22,902)
Amounts received for prior withholding and recorded as revenue	10,650	5,685	20,596
Amounts received for prior withholding and netted against expenses	—	1,115	—
Net amount recorded as revenue from the ILECs during the year	$ 39,822	$ 47,063	$ 79,911

The Company has established interconnection agreements (ICAs) with certain ILECs The Telecommunications Act of 1996 requires ILECs to enter into ICAs with CLECs, such as the Company, and other competitors and requires state Public Utilities Commissions (PUCs) to arbitrate such agreements if the parties cannot reach agreement The ICAs govern, among other items, intercarrier compensation agreements for the exchange of local and local toll calls between the parties.

On March 29, 2002, SBC California (SBC) filed a Petition for Arbitration with the California Public Utilities Commission (CPUC) with respect to its ICA with the Company, which would replace the similar agreement that expired in June of 2001, but which was to continue in effect until replaced On May 8, 2003, the CPUC announced its decision to adopt a modified alternate proposal of the ICA submitted by SBC. The new three-year agreement establishes the rules under which the Company and SBC can interconnect their networks to allow for the exchange of traffic, and the recovery of costs associated with exchanging such traffic The ICA also recognizes that SBC may implement the Federal Communications Commission (FCC) Intercarrier Internet Service Provider (ISP) order, which creates separate intercarrier compensation arrangements, including rates, terms and conditions, for "presumed ISP-bound" traffic The Company has disputed SBC's implementation of the FCC plan The Company and SBC settled the disputes in July 2004.

The terms of the ICA also incent the Company to mo dify its existing network in order to avoid new transport charges imposed by SBC Such network modifications cause additional costs on both an ongoing and one-time basis The agreement also authorizes the Company to charge tandem switching and transport where appropriate

On June 12, 2002, Verizon California (Verizon) filed a Petition for Arbitration with the CPUC with respect to its ICA with the Company, that would replace the similar agreement which expired in April of 2002, but continued in effect until replaced pursuant to an order of the CPUC On June 2, 2003, the Company

PAC–WEST TELECOMM, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

filed with the CPUC the new ICA with Verizon which resulted from the arbitration. The new three–year agreement establishes the rules under which the Company and Verizon can interconnect their networks to allow for the exchange of traffic and the recovery of costs associated with exchanging such traffic. In addition it includes a new transport charge applicable to certain traffic and makes the intercarrier compensation rates established by the FCC Plan effective upon the commencement of the term of the new agreement The terms of the agreement also incent the Company to modify its existing network. Such network modifications cause additional costs to the Company on both an ongoing and one–time basis. The agreement also authorizes the Company to charge tandem switching and transport where appropriate

In July 2003 Verizon appealed the arbitration decision of the CPUC to Federal District Court, arguing among other things that the FCC Plan rates should have been made retroactive The Company has opposed the relief sought by Verizon, and has challenged the legality of the new transport charges imposed on certain traffic.

The Company cannot predict the outcome of future CPUC proceedings, future appeals or additional pending cases involving related issues, or of the applicability of such proceedings to its ICA with these two or other ILECs. As a result, no assurance can be given that the Company will continue to collect intercarrier compensation, which represents a significant portion of its revenues, in the future, or that additional charges may not be imposed upon the Company under such agreements in the future ISPs currently form a significant part of the Company's customer base in California and adverse decisions in these or related FCC proceedings could limit its ability to serve this group of customers profitably and may have a material adverse effect on us.

Other Legal Proceedings

On December 6, 2001, a complaint captioned Krim vs Pac–West Telecomm, Inc., et al , Civil Action No. 01–CV–11217, was filed in United States District Court for the Southern District of New York against the Company, certain executive officers, and various underwriters in connection with the Company's initial public offering An amended complaint was filed on April 19, 2002. The plaintiffs allege that the Company and its officers failed to disclose alleged allocations of shares of the Company's common stock in exchange for excessive brokerage commissions or agreements to purchase shares at higher prices in the aftermarket, in violation of Section 11 of the Securities Act of 1933 and Section 10(b) of the Securities Exchange Act of 1934. Substantially similar actions have been filed concerning the initial public offerings for more than 300 different issuers, and the cases have been coordinated as In re Initial Public Offering Securities Litigation, 21 MC 92 The complaint against the Company seeks unspecified damages on behalf of a purported class of purchasers of its common stock. In October 2002, the executive officers of the Company were dismissed from the action without prejudice by agreement with the plaintiffs which also resulted in tolling of the statute of limitations The court dismissed the Section 10(b) claim against the Company in 2002

On July 10, 2003, a committee of the Company's board of directors conditionally approved a proposed settlement with the plaintiffs in this matter The settlement would provide, among other things, a release of the Company and of the individual defendants for the conduct alleged in the action to be wrongful in the plaintiff's complaint. The Company would agree to undertake other responsibilities under the settlement, including agreeing to assign away, not assert, or release certain potential claims the Company may have against its underwriters Any direct financial impact of the proposed settlement is expected to be borne by the Company's insurers who participated in the negotiation of the settlement together with insurers representing other issuers in the class action case The committee agreed to approve the settlement subject to a number of conditions, including the participation of a substantial number of other issuer defendants in the proposed settlement, the consent of the Company's insurers to the settlement, and the completion of acceptable final settlement documentation Furthermore, the settlement is subject to a hearing on fairness and approval by the court overseeing the litigation

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PAC–WEST TELECOMM, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

From time to time, the Company is a party to litigation that arises in the ordinary course of business. The Company believes that the resolution of this litigation, and any other litigation the Company may be involved with in the ordinary course of business, will not materially harm its business, financial condition or results of operations

10. Stockholders' Equity

Stock Options

In January 1999, the Company's Board of Directors approved the terms of the 1999 Stock Incentive Plan (the "Plan") which authorizes the granting of stock options, including restricted stock, stock appreciation rights, dividend equivalent rights, performance units, performance shares or other similar rights or benefits to employees, directors, consultants and advisors. Options granted under the Plan have a term of ten years and substantially all options vest ratably over a four year period. In addition, options have been granted to two senior officers (both of whom are no longer officers) pursuant to the 1998 Griffin and Bryson Non–Qualified Stock Incentive Plans In May 2000 the Board of Directors approved the 2000 Napa Valley Non–Qualified Stock Incentive Plan. At December 31, 2004 the Company had approximately 0.4 million shares available for grant under these incentive plans.

In November 2001 the Company offered to exchange options that were previously issued As a result, in December 2001 the Company canceled 831,638 options and issued new options to eligible employees on June 18, 2002.

A summary of the status of the Company's stock option plans at December 31, 2004 and changes during the years ended December 31, 2002, 2003 and 2004 is presented in the table below.

	Shares	Weighted Average Exercise Price
	(In thousands except exercise price)	
Balance, December 31, 2001	3,879	$3 06
Granted	1,395	0 46
Exercised	(223)	0 48
Cancelled	(492)	4.62
Balance, December 31, 2002	4,559	2.22
Granted	990	1.13
Exercised	(69)	0 49
Cancelled	(532)	3 95
Balance, December 31, 2003	4,948	1 84
Granted	372	1.63
Exercised	(86)	0 47
Cancelled	(165)	2.93
Balance, December 31, 2004	5,069	1 81

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Options outstanding, exercisable and vested by price range at December 31, 2004 are as follows:

Range of Exercise Price	Number Outstanding	Weighted Average Remaining Contractual Life	Weighted Average Exercise Price	Number Vested And Exercisable	Weighted Average Exercise Price of Options Exercisable
	(Shares in thousands)				
$ 0.27 – 0.28	142	7 7	$ 0.28	69	$ 0.28
0 41 – 0 60	1,613	6 9	0.50	1,145	0.49
0 66 – 0 96	1,224	7 1	0 79	1,077	0.79
1 00 – 1 48	131	9 1	1.23	24	1.22
1 59 – 2 37	1,028	6.2	2 12	708	2 13
2 53 – 3 50	397	6 6	2.74	299	2 79
4 06 – 4.29	325	5 9	4 06	324	4 06
6 25 – 9 13	13	5 8	7 68	11	7 87
10 00 – 14 75	143	4.9	10 14	143	10 14
17.50 – 25 13	49	5 4	18 66	49	18 66
31 25 – 35 00	4	5 2	33 83	4	33 83
0 27 – 35 00	5,069	6 7	1 81	3,853	2 00

As of December 31, 2003, the number of options outstanding that were vested and exercisable was 3,144,119. These options had a weighted average exercise price of $2.19 As of December 31, 2002, the number of options outstanding that were vested and exercisable was 2,192,502. These options had a weighted average exercise price of $2 70.

In October 2003, the Company amended certain terms, including the extension of the post termination exercise period, of previously issued options to a current officer and to a former officer and current director of the Company. Upon separation, incremental compensation cost of $1 4 million related to each of the options held by both the chairman of the board and the chief executive officer, would be recognized over the remaining future service period of such awards

Pro Forma Fair Value Information

The Company uses the Black–Scholes option–pricing model to derive the theoretical fair value of employee stock option grants.

The fair value of each option was estimated on the date of grant using the Black–Scholes option pricing model with the following assumptions

	2004	2003	2002
Risk–free interest rate	2.95%	2 58%	3.39%
Expected volatility	110%	108%	100%
Expected dividend yield	—	—	—
Expected life	4 years	4 years	4 years
Fair value of options granted	$ 1.23	$ 0.83	$ 0.33

PAC–WEST TELECOMM, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Employee Stock Purchase Plan

The Company established the 2000 Employee Stock Purchase Plan (the Purchase Plan) under which one million shares of common stock have been reserved for issuance. Full–time employees may designate up to 10% of their compensation, not to exceed 1000 shares each six–month period, or $25,000 worth of common stock in any one calendar year, which is deducted each pay period for the purchase of common stock under the Purchase Plan On the last business day of each six–month period, shares of common stock are purchased with the employees' payroll deductions at 85% of the lesser of the market price on the first or last day of the six–month period. The Purchase Plan will terminate no later than May 2, 2020. During 2004 and 2003, a total of 115,359 and 77,751 shares of common stock with a weighted average fair value of $1.12 and $0.62 per share were purchased. At December 31, 2004, 579,695 shares remained available for issuance. Pro forma compensation cost has been computed for the fair value of the employees' purchase rights, which was estimated using the Black–Scholes model with the following assumptions: expected dividend yields of 0% for 2004, 2003 and 2002; expected life of 0.5 years for 2004, 2003 and 2002, expected volatility of 84% for 2004, 123 0% for 2003 and 100 0% for 2002 (based on the volatility period of the purchase plan), and risk–free interest rates of 1 5% for 2004, 1.1% for 2003 and 1 8% for 2002 The weighted–average fair value of those purchase rights granted in 2004, 2003 and 2002 was $0 47, $0 29 and $0.20, respectively

Performance Unit Awards

In December 2003, the Company granted its President and Chief Executive Officer (the CEO) the right to receive performance unit awards over 400,000 shares of common stock (before any stock split, reverse stock split or stock dividend) under an employment agreement Under the agreement, 200,000 performance unit awards shall become vested provided the CEO remains employed by the Company through June 30, 2007 or in the event of a change in control as defined in the Company's 1999 Stock Incentive Plan. In addition, the remaining 200,000 performance unit awards will vest provided that the CEO remains employed by the Company through June 30, 2008 or in the event of a change in control as defined in the Company's 1999 Stock Incentive Plan. The agreement provides for accelerated vesting in the event that the monthly average fair market value of the Company's common stock is greater than or equal to $3 00 per common share for a period of six consecutive calendar months commencing on or after January 1, 2004.

The Company recorded additional paid in capital and deferred stock compensation of $768,000 (based on the Company's share price of $1 92) on the date of these performance units were awarded The expected cost of these shares will be reflected in income on a straight line basis over the performance period Assuming there is no accelerated vesting of the awards the expense for 2005 is projected to be $0 2 million This will be included in selling, general and administrative expenses.

Stock Warrants

On December 19, 2003 the Company sold to Deutsche Bank (the Transaction) the Senior Secured Note This Transaction provided, among other things, that the Company issue stock warrants to purchase up to 26,666,667 shares of its common stock at an exercise price of $1 50 per share. See note 8 for more information The fair value of the warrants was estimated using the Black–Scholes model with the following assumptions as of the Transaction date: expected dividend yield of 0%, expected life of three–years, expected volatility of 135%, and risk–free interest rate of 0 8% The fair value of the warrants was $40 5 million on the date of the Transaction, and the relative fair value was $21 8 million (see Note 18).

Adjustment to chairman's and executives' options

On August 17, 2004, the Company amended the term of option grants previously awarded to its executives, including: Wayne Bell, Vice President Sales and Marketing, H Ravi Brar, Chief Financial Officer and Vice President of Human Resources; Michael Hawn, Vice President Customer Network Services, and

PAC–WEST TELECOMM, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

John Sumpter, Vice President Regulatory The amendments to the terms of the option grants previously awarded to each of the executives provided for

- immediate vesting of all unvested stock options held by the executive in the event the executive is demoted or employment is involuntarily terminated by the Company or a successor without cause at any time during a twenty–one month period beginning nine months prior to the effective date of a possibility of a future change in control and,

- extension of the post termination period to exercise such option grants from 90 days to 365 days following termination of executive's employment The total number of option grants previously awarded and amended was 824,000 and the total pro forma incremental compensation expense based upon the intrinsic value of the option grants previously awarded to the officers was $117,350 on August 17, 2004.

Upon a triggering event as defined by the amendment, the Company will record incremental compensation cost related to each of the option grants awarded to the officers. There was no compensation expense recorded as of December 31, 2004.

In October 2003 the Company amended the term of options previously granted to its chairman and also to its chief executive officer. These amendments provided·

- in the case of the Company's chairman, the modification provided for (a) accelerated vesting such that each option shall be fully vested and exercisable upon termination of employment period under his employment agreement other than resignation without good cause or termination for cause and (b) to extend post termination exercise period such that it expires on the expiration date of each grant which ranges from September 2008 to December 2011. On the modification date, the Company's chairman held options to purchase 1,095,694 shares of Company common stock, which had a weighted average exercise price of $2 49 per share and the Company's stock price was $2 60 per share As The Company calculated incremental compensation expense of $1 4 million based upon the intrinsic value on the modification date As there was no separation event as of December 31, 2004, there is no compensation expense recognized in the consolidated statement of operations for the year ended December 31, 2004 and;

- in the case of the Company's chief executive officer, the amendment provided for (a) accelerated vesting such that each option shall be fully vested and exercisable upon termination of employment period under his employment agreement other than resignation without good cause or termination for cause and (b) to extend post termination exercise period such that it expires on the expiration date of each grant which ranges from June 2011 to December 2012 On the modification date, the Company's chief executive officer held options to purchase 500,000 shares of our common stock, which had a weighted average exercise price of $1.43 per share and the Company's stock price was $4.31 per share. The Company calculated incremental compensation expense of $1 4 million based upon the intrinsic value on the modification date. As there was no separation event as of December 31, 2004, there is no compensation expense recognized in the accomp anying consolidated statement of operations for the year ended December 31, 2004

11. Income (Loss) Per Share

For the years ended December 31, 2004 and 2003, potential common stock was antidilutive, as it decreased the net loss per share. Accordingly, 1,910,000 and 1,265,000 shares were excluded from the diluted

PAC-WEST TELECOMM, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

net loss per share calculation for 2004 and 2003, respectively Diluted net (loss) income per share information for the years ended December 31, 2004, 2003 and 2002 is as follows

	2004	2003	2002
	(Dollars in thousands except per share amounts)		
Net (loss) income	$(75,033)	$(15,250)	$ 2,046
Weighted average shares outstanding–basic	36,655	36,481	36,308
Effect of dilutive securities	—	—	26
Weighted average shares outstanding–diluted	36,655	36,481	36,334
Net (loss) income per share–basic and diluted	$ (2 05)	$ (0 42)	$ 0 06

12. Income Taxes

The (benefit from) provision for income taxes for the years ended December 31, 2004, 2003 and 2002 consists of the following.

	2004	2003	2002
	(Dollars in thousands)		
Current			
Federal	$ —	$ (949)	$ —
State	—	(305)	77
Deferred			
Federal	—	(3,966)	223
State	—	(1,280)	445
	$ —	$(6,500)	$745

The Company's (benefit from) provision for income tax differed from the amount computed by applying the statutory Federal income tax rate to income before income taxes as follows

	2004		2003		2002	
	Amount	Rate	Amount	Rate	Amount	Rate
	(Dollars in thousands)					
Income tax determined by applying the statutory federal income tax rate to (loss) income before income taxes	$(26,261)	(35 0)%	$(7,613)	(35 0)%	$ 977	35 0%
State income taxes, net of federal income tax benefit	(3,949)	(5.3)	(1,030)	(4 7)	339	12.2
Non–deductible amortization of costs in excess of net assets of acquired businesses	—	—	—	—	—	—
Nondeductible goodwill impairment	—	—	—	—	—	—
Valuation allowance	30,156	40.2	1,940	8 9	—	—
Changes in reserves	—	—	19	0.1	22	0.1
Other	54	0 1	184	0 8	(593)	(20 6)
(Benefit from) provision for income taxes	$ —	—%	$(6,500)	(29.9)%	$ 745	26 7%

PAC-WEST TELECOMM, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

The cumulative balance sheet effects of deferred tax items are

	2004	2003
	(Dollars in thousands)	
Trade accounts receivable allowances	$ 158	$ 676
Deferred revenue	250	322
Vacation and other accrued expenses	332	356
Restructuring and other reserves	1,068	1,960
Inventory reserves	66	84
Other reserves	174	252
Tax credits and loss carryforwards	18,306	9,116
State taxes	—	1,416
Basis difference on depreciable and amortizable assets	15,275	—
Deferred tax asset	35,629	14,182
State taxes	(663)	—
Basis difference on depreciable and amortizable assets	—	(10,476)
Prepaid expenses	(706)	(101)
IRU rentals	(2,164)	(1,665)
Deferred tax liability	(3,533)	(12,242)
Net deferred tax asset	32,096	1,940
Valuation allowance	(32,096)	(1,940)
Net deferred tax liability	$ —	$ —

Management has established a valuation allowance for the portion of deferred tax assets for which realization is uncertain The net change in the total valuation allowance for the year ended December 31, 2004 was an increase of $30 2 million The net change in the total valuation allowance for the year ended December 31, 2003 was an increase of $1 9 million.

As of December 31, 2004 the Company had net operating loss carryforwards for Federal and state income tax purposes of approximately $49.9 million and $28 0 million, respectively, available to reduce future income subject to income taxes. The Federal net operating loss carryforwards expire beginning in 2021 through 2024 State net operating loss carryforwards expire in 2014

As of December 31, 2004, unused California Enterprize Zone tax credits of approximately $2 0 million are available to reduce future California income taxes California Enterprize Zone tax credits carry forward indefinitely until utilized

Federal and state laws impose substantial restrictions on the utilization of net operating loss and tax credit carryforwards in the event of an "ownership change," as defined in Section 382 of the Internal Revenue Code The Company does not believe that its utilization of net operating loss carryforwards and tax credit carryforwards should be significantly restricted

13. Related Party Transactions

Bay Alarm Company (Bay Alarm)

Bay Alarm (a stockholder of the Company) and its subsidiary, InReach Internet, LLC, are collectively a large customer of telephone network services, comprising approximately 1 3% of the Company's revenues for both the years ended December 31, 2004 and 2003 As of December 31, 2004 and 2003 the Company had amounts receivable from Bay Alarm of $0 and $8,000, respectively. These amounts are included in trade accounts receivable, net in the accompanying consolidated balance sheets.

The Company leases a facility in Oakland from Bay Alarm Rents paid under this lease were $359,000, $334,000 and $289,000 for the years ended 2004, 2003 and 2002, respectively. Bay Alarm provides the Company with security monitoring services at its normal commercial rates. The Company has recorded an immaterial amount (less than $100,000) for these services in each of the years ended December 31, 2004, 2003 and 2002. All expenses paid to Bay Alarm are included in selling, general and administrative expenses in the accompanying consolidated statements of operations

Notes Receivable from Stockholders

In 1998, a stockholder of the Company, who is also an officer, purchased 37,500 shares of common stock from the Company for $250,000 The Company received $50,000 in cash from the stockholder and entered into a note receivable for the remaining balance of $200,000 This amount was fully repaid in 2003

14. Retirement Plan:

The Company has a 401(k)–retirement plan (the Plan) for all full–time employees who have completed 90 days of service The plan year is from January 1 to December 31, and the Company contributes $0 50 for every $1 00 contributed by the employee, subject to a limit of 3 percent of the employee's salary Participants become fully vested after six years, although they vest incrementally on an annual basis after two years of service The Company's matching contributions were $451,000, $303,000 and $378,000 for the years ended December 31, 2004, 2003 and 2002, respectively These amounts are included in selling, general and administrative expenses in the accompanying consolidated statements of operations

15. Segment Reporting

Based on criteria established by SFAS No. 131, "Disclosures about Segments of an Enterprise and Related Information," the Company has determined that it has one reportable operating segment. While the Company's chief decision–maker monitors the revenue streams of various services, the revenue streams share many expenses such as leased transport charges and circuits In addition, operations are managed and financial performance is evaluated based upon the delivery of multiple services over common networks and facilities This allows the Company to leverage its costs in an effort to maximize return As a result, the revenue streams share almost all of the various operating expenses Because management believes that any allocation of the expenses to multiple revenue streams would be impractical and arbitrary, management does not currently make such allocations internally. The chief decision–maker does, however, monitor revenue streams at a more detailed level than those depicted in the Company's accompanying consolidated financial statements

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PAC–WEST TELECOMM, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

The significant revenue components for the years ended December 31, 2004, 2003 and 2002 are as follows:

	2004	2003	2002
		(Dollars in thousands)	
Intercarrier compensation	$ 39,822	$ 47,062	$ 79,912
Direct billings to SP customers	42,925	44,971	41,505
Direct billings to Enterprise customers	19,526	17,337	12,861
Outbound local and long distance	11,409	12,706	13,236
Dedicated transport	4,277	5,573	8,942
Switched access	5,303	6,046	7,165
Other	744	945	477
	$124,006	$134,640	$164,098

16. Unaudited Quarterly Consolidated Financial Data

The following is a summary of quarterly consolidated financial results for the fiscal years ending 2004, 2003 and 2002.

	March 31	June 30	September 30	December 31
	(Dollars in thousands except per share amounts)			
2004				
Revenue	$ 29,423	$ 27,837	$31,652	$ 35,094
Gross margin	$ 18,931	$ 16,689	$23,117	$ 25,435
Net loss	$ (7,165)	$ (9,105)	$ (3,127)	$(55,636)
Net loss per share				
Basic and Diluted	$ (0 20)	$ (0 25)	$ (0 08)	$ (1 52)
2003				
Revenue	$ 30,515	$ 45,723	$30,312	$ 28,090
Gross margin	$ 19,817	$ 38,718	$21,483	$ 18,336
Net income (loss)	$(10,324)	$ 9,171	$ (4,314)	$ (9,783)
Net income (loss) per share				
Basic and Diluted	$ (0 28)	$ 0.25	$ (0.12)	$ (0 27)
2002				
Revenue	$ 43,092	$ 38,499	$34,201	$ 48,306
Gross margin	$ 29,332	$ 24,492	$21,723	$ 35,026
Net income (loss)	$ 7,384	$(13,388)	$ 4,889	$ 3,161
Net income (loss) per share				
Basic and Diluted	$ 0 20	$ (0.37)	$ 0 13	$ 0 09

The fourth quarter of 2004 includes an impairment of assets charge of $54.9 million

The first quarter of 2002 includes a gain on extinguishment of debt of $11.9 million

The second quarter of 2002 includes a restructuring charge of $9.3 million and an impairment of assets charge of $7.2 million.

The third quarter of 2002 includes a gain on extinguishment of debt of $14 9 million.

PAC–WEST TELECOMM, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

The fourth quarter of 2002 includes a gain on extinguishment of debt of $7 0 million; an impairment of assets charge of $9 4 million and in revenues a settlement for various disputes of $15 8 million.

17. Goodwill and Other Intangible Assets

During the first quarter of 2004, the Company completed its acquisition of the assets and certain of the liabilities of Sentient Group, Inc., a small provider of fully hosted, managed voice and data services for business communications. The acquisition has been accounted for as a purchase and, accordingly, the total estimated purchase price has been allocated to the tangible and intangible assets acquired based on their respective fair values on the acquisition date. Intangible assets were recorded for the customer base in the amount of $86,000 and is being amortized over 15 years As of December 31, 2004, the balance of these intangible assets were $81,000 and are recorded in other assets in the consolidated balance sheet

The excess of the cash purchase price, $576,000, over the fair value of tangible and intangible net assets acquired was recorded as Goodwill in the amount of $375,000 As of December 31, 2004, the balance of goodwill was reduced to $119,000 as a result of an asset impairment.

18. Subsequent Events

On March 11, 2005, the Company sold the majority of its enterprise customer base to U.S TelePacific Corp (TelePacific) while retaining its associated network assets Under the terms of this transaction, TelePacific acquired certain assets and assumed certain liabilities associated with the enterprise customers in exchange for $26 9 million in cash. In addition, the Company entered into a transition service agreement with TelePacific that, among other things, obligates it to provide certain transition services to TelePacific at its estimated cost, for a one–year period subject to extension for two additional three–month periods.

Pursuant to the terms of the Payoff Letter (the "Payoff Letter"), by and between the Company and Deutsche Bank, the Company utilized the proceeds from the sale of its enterprise customer base to TelePacific on March 11, 2005, as well as cash on hand, to prepay in full its Senior Secured Note (including all outstanding principal and accrued and unpaid interest), and retired the related warrants to acquire up to 26,666,667 shares of the Company's common stock in connection with the Senior Secured Note

On March 11, 2005, the Company determined that, in connection with the completion of the sale of the enterprise customer base, it recorded net restructuring and other charges of approximately $750,000, primarily consisting of employee separation costs for employees previously associated with the enterprise customer base. Out of this amount, the Company anticipates that future cash expenditures associated with the separation plan will be approximately $300,000. This separation plan will impact approximately 150 employees, the majority of which were involuntary terminations. The Company anticipates that the majority of the employees associated with this separation plan will leave their positions by the end of 2005

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PAC–WEST TELECOMM, INC.

SCHEDULE II — VALUATION AND QUALIFYING ACCOUNTS

(Dollars in thousands)

FOR THE YEAR ENDED DECEMBER 31, 2004

Description	Balance at Beginning of Year	Charged to Costs and Expenses	Deductions	Balance at End of Year
Allowance for doubtful accounts	$1,560	$(183)	$1,011(1)	$366

FOR THE YEAR ENDED DECEMBER 31, 2003

Description	Balance at Beginning of Year	Charged to Costs and Expenses	Deductions	Balance at End of Year
Allowance for doubtful accounts	$1,660	$192	$292(1)	$1,560

FOR THE YEAR ENDED DECEMBER 31, 2002

Description	Balance at Beginning of Year	Charged to Costs and Expenses	Deductions	Balance at End of Year
Allowance for doubtful accounts	$2,630	$1,008	$1,978(1)	$1,660

(1) Deductions represent wnte–offs

<u>EXHIBIT F</u>

Projected Financial Statements

[CONFIDENTIAL FILED UNDER SEAL]

EXHIBIT G

Projected Capital Expenditures

[CONFIDENTIAL FILED UNDER SEAL]

EXHIBIT H

Small and Minority-Owned

Telecommunications Business Participation Plan

PAC-WEST TELECOMM, INC.

SMALL AND MINORITY-OWNED TELECOMMUNICATIONS BUSINESS PARTICIPATION PLAN

Pursuant to T.C.A. §65-5-112, as amended, Pac-West Telecomm, Inc. ("Pac-West") submits this Small and Minority-owned Telecommunications Business Participation Plan (the "Plan") along with its Application for a Certificate of Public Convenience and Necessity to provide competing intrastate and local exchange services in Tennessee.

I. PURPOSE

The purpose of §65-5-112 is to provide opportunities for small and minority-owned businesses to provide goods and services to telecommunications service providers. Pac-West is committed to the goals of §65-5-112 and to taking steps to support the participation of small and minority-owned telecommunications businesses in the telecommunications industry. Pac-West will endeavor to provide opportunities for small and minority-owned telecommunications businesses to compete for contracts and subcontracts for goods and services. As part of its procurement process, Pac-West will make efforts to identify and inform minority-owned and small businesses that are qualified and capable of providing goods and services to Pac-West of such opportunities. Pac-West's representatives will contact the Department of Economic and Community Development, the administrator of the small and minority-owned telecommunications assistance program, to obtain a list of qualified vendors. Moreover, Pac-West will seek to increase awareness of such opportunities so that companies not otherwise identified will have sufficient information to participate in the procurement process.

II. DEFINITIONS

As defined in §65-5-112.

Minority-Owned Business. Minority-owned business shall mean a business which is solely owned, or at lease fifty-one percent (51%) of the assets or outstanding stock of which is owned, by an individual who personally manages and controls daily operations of such business, and who is impeded from normal entry into the economic mainstream because of race, religion, sex or national origin and such business has annual gross receipts of less than four million dollars ($4,000,000).

Small Business. Small Business shall mean a business with annual gross receipts of less than four million dollars ($4,000,000).

III. ADMINISTRATION

Pac-West's Plan will be overseen and administered by the individual named below, hereinafter referred to as the Administrator, who will be responsible for carrying out and promoting Pac-West's full efforts to provide equal opportunities for small and minority- owned businesses. The Administrator of the Plan will be:

Josh Thieriot
Pac-West Telecomm, Inc.
1776 W. March Lane, Ste. 250
Stockton, CA 95207
Tel: (209) 926-3615
Fax: (209) 926-4585

The Administrator's responsibilities will include:

(1) Maintaining an updated Plan in full compliance with §65-5-112 and the rules and orders of the Tennessee Regulatory Authority.

(2) Establishing and developing policies and procedures necessary for the successful implementation of the Plan.

(3) Preparing and submitting such forms as may be required by the Tennessee Regulatory Authority, including the filing of required annual updates.

(4) Serving as the primary liaison to and cooperating with the Tennessee Regulatory Authority, other agencies of the State of Tennessee, and small and minority-owned businesses to locate and use qualified small and minority-owned businesses as defined in §65-5-112.

(5) Communication to existing vendors in order to understand and solicit involvement in the program.

(6) Communications to existing vendors in order to determine primary vendor and sub-vendor involvement and relationships.

(7) Searching for and developing opportunities to use small and minority-owned businesses and encouraging such businesses to participate in and bid on contracts and subcontracts.

(6) Providing records and reports and cooperating in any authorized surveys as required by the Tennessee Regulatory Authority.

(7) Providing information and educational activities to persons within Pac-West and training such persons to seek out, encourage, and promote the use of small and minority-owned businesses.

In performance of these duties, the Administrator may utilize a number of resources, including, but not limited to:

Chambers of Commerce
The Tennessee Department of Economic and Community Development
The United States Department of Commerce
Small Business Administration
Office of Minority Business
The National Minority Supplier Development Counsel
The National Association of Women Business Owners
The National Association of Minority Contractors
Historically Black Colleges, Universities, and Minority Institutions

The efforts to promote and ensure equal opportunities for small and minority-owned businesses are primarily spelled out in the Administrator's duties above.

IV. RECORDS AND COMPLIANCE REPORTS

Pac-West will maintain records of qualified small and minority-owned business and efforts to use the goods and services of such businesses. In addition, Pac-West will maintain records of educational and training activities conducted or attended and of the internal procurement procedures adopted to support this plan.

Pac-West will submit records and reports required by the Tennessee Regulatory Authority concerning the Plan. Moreover, Pac-West will cooperate fully with any surveys and studies required by the Tennessee Regulatory Authority. In conjunction with this Record Maintenance, Pac-West reserves the right to designate documents, reports, surveys and/or studies as "Confidential" or "Proprietary".

This plan is a statement of objectives and is not intended to create any legal obligation, except those required by Statute or Rule of the TRA, of Pac-West Telecomm, Inc. or any of its employees.

Pac-West Telecomm, Inc.

By: ______________________________
Josh Thieriot
Senior Regulatory Case Manager
Dated: November 2, 2005

EXHIBIT I

Toll Dialing Parity Plan

TOLL DIALING PARITY PLAN

INTRODUCTION

Pac-West Telecomm, Inc. ("Pac-West") will give end user customers the opportunity to designate a carrier for their intraLATA toll call within all the exchanges in which Pac-West will provide local exchange telecommunications services in the State of Tennessee. IntraLATA toll calls will automatically be directed to the designated carrier without the customer having to dial an access code.

This Plan will be implemented upon the offering of telecommunications services by Pac-West after the TRA grants such authority.

POLICIES

Pac-West will deploy two-PIC (Primary Interexchange Carrier) technology in its switches. This technology will enable the customer to presubscribe to the same or a different carrier for their intraLATA and/or interLATA service.

Appropriate tariffs will be filed in accordance with this plan.

Pac-West will offer customers the ability to access all participating carriers by dialing the appropriate access code (101XXXX).

All eligible Pac-West end user telephone line numbers will be presubscribed and must have a PIC associated with them.

Pac-West will treat all carriers on a non-discriminatory basis and will maintain a list of available toll carriers and keep it updated. Customers may call Pac-West's toll-free telephone number (877-626-4325) whereby customers may speak with a Pac-West customer contact representative and hear a list of available carriers.

Pac-West will comply with all anti-slamming provisions and all rules of the FCC and TRA.

CARRIER INFORMATION

Interexchange carriers will have the option of offering intraLATA service only, or both intraLATA and interLATA service.

Interexchange carriers will have the option of participating in all market areas or in a specific market area.

Interexchange carriers will be required to return a completed Non-Disclosure Agreement and Participation Agreement(s).

Pac-West will not participate in billing disputes for intraLATA service between alternative competing interexchange carriers and their customers.

Carriers wishing to participate will be requested to submit Access Service Requests/Translation Questionnaires to the Access Tandem owner and to Pac-West.

Pac-West representatives will not initiate or accept three-way calls from an alternative interexchange carrier in order to discuss presubscription.

CALL ELIGIBILITY/TOLL DIALING PLAN

All local service customers of Pac-West will have calls routed according to the following plan:

If a Pac-West Customer Dials:	The Call is Handled By/Routed To:
911	PSAP on originating line number
411/555-1212	Pac-West's Directory Assistance Operator
0-	Pac-West's Operator
0 + intraexchange number	IntraLATA Toll Provider
1 + 7 or 10 digits	IntraLATA Toll Provider
0 + 7 or 10 digits interexchange number	InterLATA Toll Provider
101XXXX + 0-	XXXX Carrier
101XXXX + 0 + 7 or 10 digits	XXXX Carrier
101XXXX + 7 or 10 digits	XXXX Carrier

If a Pac-West customer originates a call to an alternative interexchange carrier's Operator by dialing 00-, the call will be routed to the PIC on that customer's line. If the customer originates a call to an alternative interexchange carrier's Operator by dialing an access code (e.g., 101XXXX + 0-), the call will be routed to the XXXX carrier In both cases, the carrier's switch is responsible for routing this call to the alternative interexchange carrier's Operator or to an announcement.

NETWORK INFORMATION

All originating intraLATA traffic will initially be routed via the incumbent Local Exchange Carrier (LEC) Access Tandem(s). Following conversion, direct trunks between the Pac-West switch and the interexchange carrier location(s) may be provided when warranted by traffic volume.

Interexchange carriers must have Feature Group D trunks in place (or ordered) between their point of presence and the incumbent LEC Access Tandem(s).

Pac-West will route all originating intraLATA traffic to the designated carrier and will only block traffic at the request of the end user customer and/or in compliance with regulatory requirements. Requests from carriers to block traffic or to remove customers from their network will not be honored. Calls that cannot be completed to a carrier will be routed to an announcement.

CUSTOMER CONTACT INFORMATION

New customers will be informed of their ability to select interLATA and intraLATA toll providers at the time they request service from a Pac-West representative. Pac-West will explain the differences between local, intra- and interLATA toll calls and clearly notify the customer that he or she may select a different, or the same, carrier for each call category. Upon request, Pac-West will inform customers of participating carriers.

Pac-West customer contact representatives will process customer initiated PIC selections to Pac-West or to an alternative intraLATA carrier. Pac-West will provide customers with confirmation notification of their PIC (Pac-West or alternative carrier) selection. Carriers will have the option of allowing the Pac-West representative to process PIC requests on their behalf.

For new customers or customers ordering an additional line, Pac-West will accept as a bona fide PIC a selection of "NO PIC" as a choice. Pac-West will ensure that "NO PIC" customers will have access code dialing capability to reach participating intraLATA carriers. NO PIC customers will be informed of their ability to complete intraLATA toll calls via access codes. Pac-West will ensure that NO PIC customer intraLATA toll traffic is not automatically routed to the incumbent local exchange carrier

Pac-West will instruct its customer contact representatives not to comment on a customer's choice of its intraLATA PIC when the customer contacts Pac-West to change the PIC. Pac-West customer contact representatives will respond to customer inquiries about intraLATA carriers in a competitively neutral fashion.

If the intraLATA toll carrier selected by the customer permits Pac-West to process orders on its behalf, Pac-West will accept the PIC change request.

Pac-West representatives will not discuss alternative carrier rates or services and will not provide customers with Carrier Identification Codes or access code dialing instructions.

PRESUBSCRIPTION INFORMATION

New line customers, including customers adding lines, will have the opportunity to select a participating carrier or NO PIC If a customer fails to make a choice, that customer will be assigned a NO PIC designation. Customers assigned a NO PIC designation as set forth in this paragraph will be required to dial an access code to reach an intraLATA carrier's network.

Pac-West will offer new line customers a 30-day grace period following placement of the customer's service order for the customer to designate its PIC(s) or NO PIC without charge After this 30-day period, Pac-West will assess a $5.00 PIC charge for each PIC change made. Pac-West will impose a single $5.00 fee when customers simultaneously change their intraLATA and interLATA toll service provider.

If a Pac-West customer denies requesting a change in intraLATA toll providers as submitted by an intraLATA carrier, and the intraLATA carrier is unable to produce evidence that the PIC change was property executed pursuant to Tennessee Regulatory Authority and federal PIC change rules, the PIC will be changed as per the customer's request and the intraLATA carrier will be responsible for all costs incurred for changing the customer's PIC.

Alternative interexchange carriers may submit PIC changes to Pac-West via a fax/paper interface.

Pac-West will process intraLATA PIC selections in the same manner and under the same intervals of time as interLATA PIC changes.

Carriers will be required to submit PIC changes using the Customer Account Record Exchange (CARE) format via paper medium. Pac-West will provide carriers with PIC order confirmation and reject information using the CARE format. Specific details regarding CARE will be provided to participating carriers.

For customers who change their local service provider from the incumbent LEC to Pac-West and retain their incumbent LEC telephone number(s), Pac-West, as part of the CARE PIC process, will provide the selected intraLATA carrier with both the retained (incumbent LEC) telephone number and the Pac-West telephone number.

EXHIBIT J

Notice of Application and Certificate of Service

NOTICE OF APPLICATION

TO: Incumbent Local Exchange Carriers Operating in the State of Tennessee

FROM: D Billye Sanders, Esq
Waller Lansden Dortch & Davis, PLLC
511 Union Street, Suite 2700
Nashville, TN 37219-8966

Richard M Rindler
Brian McDermott
3000 K. Street, N.W., Suite 300
Washington, D.C 20007

RE: Application of Pac-West Telecomm, Inc. for a Certificate of Convenience and Necessity to Provide Competing Local Telecommunications Services and Facilities-Based and Resold Interexchange Telecommunications Services

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By this Notice of Application, you are officially notified that Pac-West Telecomm, Inc. filed the above-referenced Application with the Tennessee Regulatory Authority on November 21, 2005. A copy of the Application may be obtained from the Tennessee Regulatory Authority.

Certificate of Service

I HEREBY CERTIFY that on this 21st day of Nov, 2005, a copy of the foregoing Notice of the Application of Pac-West Telecomm, Inc. for a Certificate of Convenience and Necessity to Provide Competing Local Telecommunications Services and Facilities-Based and Resold Interexchange Telecommunications Services, as filed with the Tennessee Regulatory Authority was served by first class U.S. mail, postage prepaid on the incumbent local exchange carriers certificated in Tennessee and the Consumer Advocate and Protection Division of the Office of the Tennessee Attorney General as set forth on the attached list.

D. Billye Sanders

D. Billye Sanders, Esq.
Waller Lansden Dortch & Davis, PLLC
511 Union Street, Suite 2700
Nashville, TN 37219-8966
(615) 244-6380 (Tel)
(615) 244-6804 (Fax)
Bsanders@wallerlaw.com

INCUMBENT LOCAL EXCHANGE SERVICE PROVIDERS
CERTIFICATED IN TENNESSEE
(FACILITIES-BASED)

1) ARDMORE TELEPHONE COMPANY, INC.
P.O. Box 549
517 Ardmore Avenue
Ardmore, TN 38449
(205) 423-2131
(205) 423-2208 (Fax)

2) BELLSOUTH
333 Commerce Street
Nashville, TN 37201-3300
(615) 214-3800
(615) 214-8820 (Fax)

3) CENTURY TELEPHONE OF ADAMSVILLE
116 N. Oak Street
P.O. Box 405
Adamsville, TN 38310
(901) 632-3311
(901) 632-0232 (Fax)

4) CENTURY TELEPHONE OF CLAIBORNE
507 Main Street
P.O. Box 100
New Tazewell, TN 37825
(423) 626-4242
(423) 626-5224 (Fax)

5) CENTURY TELEPHONE OF OOLTEWAH-COLLEGEDALE, INC.
5616 Main Street
P.O. Box 782
Ooltewah, TN 37363
(423) 238-4102
(423) 238-5699 (Fax)

6) CITIZENS COMMUNICATIONS COMPANY OF TENNESSEE
P.O. Box 770
300 Bland Street
Bluefield, WV 24701

INCUMBENT LOCAL EXCHANGE SERVICE PROVIDERS
CERTIFICATED IN TENNESSEE
(FACILITIES-BASED)

7) **FRONTIER COMMUNICATIONS OF AMERICA**
250 South Franklin Street
P.O. Box 689
Cookeville, Tennessee 38501
(931) 528-0518
(931) 528-0604 (Fax)

8) **LORETTO TELEPHONE COMPANY, INC.**
P.O Box 130
Loretto, TN 38469
(931) 853-4351
(931) 853-4329 (Fax)

9) **MILLINGTON TELEPHONE COMPANY, INC.**
4880 Navy Road
Millington, TN 38053
(901) 872-3311
(901) 873-0022 (Fax)

10) **SPRINT-UNITED**
112 Sixth Street
Bristol, TN 37620
(423) 968-8161
(423) 968-3148 (fax)

11) **TDS TELECOM-CONCORD TELEPHONE EXCHANGE, INC.**
P.O. Box 22610
Knoxville, TN 37933
(423) 966-5828
(423) 966-9000 (Fax)

12) **TDS TELECOM-HUMPHREYS COUNTY TELEPHONE COMPANY**
P.O. Box 552
203 Long Street
New Johnsonville, TN 37134-0552
(931) 535-2200
(931) 535-3309 (Fax)

13) **TDS TELECOM-TELLICO TELEPHONE COMPANY, INC.**
P.O. Box 9
102 Spence Street
Tellico Plains, TN 37385-0009
(423) 671-4600
(423) 253-7080 (Fax)

INCUMBENT LOCAL EXCHANGE SERVICE PROVIDERS
CERTIFICATED IN TENNESSEE
(FACILITIES-BASED)

14) **TDS TELECOM-TENNESSEE TELEPHONE COMPANY**
7407 Andersonville Pike
P.O. Box 70387
Knoxville, TN 37928
(423) 922-3535
(423) 922-9515 (Fax)

TDS TELECOM-Knoxville Office
P.O. Box 22995
Knoxville, TN 37933-0995
(865) 966-4700

15) **TEC-CROCKETT TELEPHONE COMPANY, INC.**
P.O. Box 7
Friendship, TN 38034
(901) 677-8181

16) **TEC-PEOPLE'S TELEPHONE COMPANY, INC.**
P.O. Box 310
Erin, TN 37061
(931) 289-4221
(931) 289-4220 (Fax)

17) **TEC-WEST TENNESSEE TELEPHONE COMPANY, INC.**
P.O. Box 10
244 E. Main Street
Bradford, TN 38316
(901) 742-2211
(901) 742-2212 (Fax)

18) **UNITED TELEPHONE COMPANY**
P.O. Box 38
120 Taylor Street
Chapel Hill, TN 37034
(931) 364-2289
(931) 364-7202 (Fax)

19) **CONSUMER ADVOCATE AND PROTECTION DIVISION**
Russell Perkins, Esq.
Office of Consumer Advocate and Protection Division
Tennessee Attorney General & Reporter
425 Fifth Avenue North
Nashville, Tennessee 37202-0207

EXHIBIT K

Numbering Issues

<u>**Numbering Issues**</u>

Please provide answers to the following questions concerning numbering within your proposed service area.

1. **What is your company's expected demand for NXXs per NPA within a year of approval of your application?**

   Pac-West will not require its own NXX blocks in areas where service is provided either by UNE-P or by Resale of the ILEC services. In areas where Pac-West provides services on a facilities based platform, Pac-West will require no more than 1(one) Thousand number block per Rate Center in the first year.

2. **How many NXXs do you estimate that you will request from NANPA when you establish your service footprint?**

   Pac-West estimates the need for NANPA to provide 1(one) Thousand number block per rate center in which services are provided via a facilities based platform. Pac-West anticipates that this number will not exceed 1-1000 in 2006 and not more than 1-1000 in 2007.

3. **When and in what NPA do you expect to establish your service footprint?**

   Pac-West anticipates establishing a UNE-P/Resale presence in 0 NPAs during the 4th quarter of 2005. Pac-West anticipates establishing a facilities based foot print in 6 NPAs during the 4th quarter of 2005.

4. **Will the company sequentially assign telephone numbers within NXXs?**

   Pac-West will abide by all of the numbering rules established by the FCC, including sequential assignment of telephone numbers, as well as any rules established by the TRA.

5. **What measures does the company intend to take to conserve Tennessee numbering resources?**

   Pac-West will comply will all FCC regulations concerning number resource optimization in order to conserve numbering resources.

6. **When ordering new NXXs for growth, what percentage fill of an existing NXX does the company use to determine when a request for a new NXX will be initiated?**

   In requesting growth codes, Pac-West will comply with all applicable FCC regulations relating to utilization thresholds While the threshold will rise in increments of 5%, current FCC regulations require that carriers achieve a 70% utilization prior to requesting growth codes.

EXHIBIT L

Tennessee Specific Operational Issues

Tennessee Specific Operational Issues

Please provide answers to the following questions concerning Tennessee Specific Operational Issues.

1. **How does the company intend to comply with TCA §65-21-114? In its description, please explain technically how the company will not bill for countywide calls within Tennessee.**

   Call Detail Records (CDR) are captured in the Pac-West switch for each telephone call placed on the Pac-West network. Each CDR is placed in a batch file of records and passed to the Pac-West Usage Mediation software application. The Usage Mediation software application processes each CDR and validates the information captured in each record. In addition the record information is used to derive additional information that is added to the base CDR which includes the jurisdiction determination. Based on the Calling NPA NXX and Called NPA NXX the call will be assigned the jurisdiction of Local, Intrastate, Interstate or International. The means used to determine when the call is Local is based on the Rate Center of the Calling NPA NXX and the Rate Center of the Called NPA NXX which are derived from the LERG. The Calling Rate Center and the Called Rate Center are used to look up in Pac-West Local Route Table to determine if the call qualifies as a local call. The Local Route tables are created and maintained by the Pac-West Regulatory Organization where the state governing tariffs are received and reviewed for local route changes.

2. **Is the company aware of the Tennessee County Wide Calling database maintained by BellSouth and the procedures to enter your telephone numbers on the database?**

   Yes, Pac-West is aware of the Tennessee County Wide Calling database maintained by BellSouth and the procedures to enter Pac-West's telephone numbers on the database.

3. **Is your company aware of the local calling areas provided by the Incumbent Local Exchange Carriers in your proposed service areas?**

   Yes, Pac-West is aware of the local calling areas provided by the Incumbent Local Exchange Carriers in its proposed service area.

4. **Explain the procedures that will be implemented to assure that your customers will not be billed long distance charges for calls within the metro calling areas.**

   See procedure described in the response to question 1.

5. **Please provide the name and telephone number of an employee of your company that will be responsible to work with the TRA on resolving customer complaints.**

   The following person is responsible for working with the TRA for customer complaints:

Kim Rego
Director of CustomerRelations
Pac-West Telecomm, Inc.
1776 W. March Lane, Suite 350
Stockton, CA 95207
Tel. (209) 926-4214
Fax: (209) 444-3437
Email: krego@pacwest com

6. **Does the company intend to telemarket its services in Tennessee? If yes, is the company aware of the telemarketing statutes and regulations found in TCA §65-4-401 *et seq*. And Chapter 1220-4-11?**

At this time, Pac-West does not intend to employ telemarketers to market its service in Tennessee. Pac-West is aware of the telemarketing statutes and regulations found in Section 65-4-401 through Section 65-4-408 of the Tennessee Code Annotated and in Chapter 1220-4-11 of the TRA's Rules and Regulations and will comply with such rules if and when its plans change and it uses telemarketing in Tennessee.

EXHIBIT M

Sworn Pre-Filed Testimony

BEFORE THE
TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

In the Matter of the Application of **Pac-West Telecomm, Inc.** For a Certificate of Convenience and Necessity to Provide Competing Local Telecommunications Services and to Provide Facilities-Based and Resold Interexchange Telecommunications Services in Tennessee	)	Docket No. ____________

PRE-FILED TESTIMONY OF JOHN F. SUMPTER

I, John F. Sumpter, do hereby testify as follows in support of the application of Pac-West Telecomm, Inc. ("Pac-West") for a Certificate of Convenience and Necessity as a competing telecommunications services provider to provide telecommunication services throughout the State of Tennessee.

Q: Please state your full name, business address, and position.

A. My name is John F. Sumpter. My business address is Pac-West Telecomm, Inc. ("Pac-West" or "Applicant"), 1776 W. March Lane, Suite 250, Stockton, CA 95207. I am Vice President of Regulatory for the company.

Q. Please describe your professional experience and educational background.

A. I joined Pac-West as Vice President of Regulatory in July of 1999. I am responsible for Pac-West's relations with government regulatory agencies, regulatory compliance, and intercarrier relations I have over 30 years of experience in the telecommunications industry. Prior to Pac-West, I was employed with AT&T from 1984-1999, where I held several executive level regulatory and marketing positions, including Division Manager of Law and Government

Affairs, District Manager of Switched Services Product Management, and District Manager of Marketing. In 1982, I co-wrote and taught the "Cost of Service" class for the Bell System Center & Technical Education. I currently serve as Chairman of the Board of CALTEL, the California Association of Competitive Telecommunications Companies and of CACE, the California Alliance for Consumer Education.

I received a B.S. in Business Administration and an M.B.A. (economics and accounting) from California State University at Los Angeles I attended the Engineering Economics Seminar at Iowa State University in 1978 and the Berkley Executive Program at the University of California in 1994.

Q. What is the purpose of your testimony in this proceeding?

A. The purpose of my testimony is to describe the resold and facilities-based services that Pac-West proposes to offer in Tennessee and to review issues related to Pac-West's request for a license to provide such services. My testimony specifically relates to Pac-West's managerial, financial, and technical competence to provide the telecommunications services for which authority is requested, and its compliance with the rules and policies of the Authority.

Q. Please describe the authority that Pac-West seeks from the Authority.

A. Pac-West seeks to offer all forms of resold and facilities-based interexchange and local exchange telecommunications services throughout the State of Tennessee.

Q: Please describe the corporate structure of Pac-West.

A: Pac-West is a corporation and is publicly traded on the Nasdaq exchange under the symbol "PACW." The company was formed in 1981 and is celebrating its 25th anniversary this year. Pac-West became a corporation in 1996. Pac-West's success in developing innovative products and services and in expanding its geographic reach has translated into impressive growth in recent years and as such Pac-West is extremely well-qualified financially to operate and expand its business. In 2004, Pac-West's usage grew to 44 7 billion minutes of use generating revenue of more than $124 million.

Q: Does Pac-West possess the requisite managerial, financial, and technical abilities to provide the services for which it has applied for authority?

A: Yes.

Q: Please describe Pac-West's managerial and technical qualifications.

A: Pac-West possesses the managerial qualifications to provide its proposed local exchange telecommunications services. Pac-West has 25 years of experience in voice telephony and currently operates one of the most comprehensive local access networks in the Western United States. Pac-West is currently authorized to provide telecommunications services in the states of Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Pennsylvania, Utah, Washington and the District of Columbia. Pac-West is currently seeking certification in numerous other states nationwide, and has applications pending in Alabama, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Massachusetts, New York, New Jersey, North Carolina, Rhode Island, South Carolina, Virginia and Ohio. Pac-West has not been denied requested certification in any jurisdiction. Descriptions of the telecommunications and managerial experience of Pac-West's key personnel, who have extensive management, financial, and technical experiences, are provided to the Authority with the Application as Exhibit D.

Q: Please describe Pac-West's financial qualifications.

A: As explained in its Application, Pac-West possesses the financial qualifications necessary to conduct its telecommunications operations. Financial statements demonstrating Pac-West's financial capability to offer the proposed services are submitted as Exhibit E of its Application.

Q: Please describe the types of services will Pac-West will offer in Tennessee.

A: Pac-West intends to provide facilities-based and resold local exchange telecommunications services in Tennessee. While Pac-West will offer voice services to customers utilizing the traditional circuit-switched public network, Pac-West will also offer services using Internet Protocol over the emerging packet-switched public network to provide voice and data applications that interact seamlessly with the traditional public switched network. Pac-West will continuously monitor and maintain a high level of control over its network on a 24-hours-a-day, 7-days-a-week basis to ensure that Pac-West provides safe, reliable, and high-quality telecommunications services in Tennessee.

Q. What facilities will Pac-West use to provide its proposed local exchange services?

A. Pac-West's telecommunications services in the State of Tennessee will initially be provided through the resale of the facilities of other certificated carriers. Pac-West will deploy its own facilities in Tennessee as business and market conditions warrant.

Q. What geographic areas will Pac-West serve?

A. Pac-West seeks authority to provide service throughout the State of Tennessee.

Q: Does Pac-West plan to offer local exchange telecommunications services in areas served by any incumbent local exchange telephone company with fewer than 100,000 total access lines?

A: Although Pac-West seeks authority to provide local exchange services on a statewide basis, Pac-West does not at this time seek to terminate any small or rural LEC exemption, as defined in Section 251(f)(1) of the Federal Act, claimed by any incumbent local exchange carrier in Tennessee, but may provide such services in the future consistent with applicable state and federal laws.

Q. Please provide the name, address and telephone number of the person that will serve as your company's contact to the Consumer Service Division for complaint resolution.

A. For complaint resolution, please contact Lynne Martinez, Director Government Affairs, 1776 W. March Lane, Suite 250, Stockton, CA 95207, Tel: (209) 926-4339, Fax: (209) 926-4585, Email: lmartin@pacwest com.

Q: Does Pac-West intend to comply with all TRA rules, statues, and orders pertaining to the provision of telecommunications services in Tennessee, including those for disconnection and reconnection of service?

A: Yes, Pac-West will comply with all TRA rules, statutes, and orders pertaining to the provision of telecommunications services in Tennessee, including those for disconnection and reconnection of service.

Q: Has Pac-West adopted a Small and Minority Business Participation Plan and a Toll Dialing Parity Plan?

A: Yes.

Q: Will Pac-West implement and comply with these Plans?

A: Yes.

Q. How will Pac-West guard against slamming?

A. Pac-West will prevent unauthorized switching of customers by obtaining a signed letter of authorization ("LOA"), or similar authorization, from all new customers. Pac-West will comply with Tennessee law and Federal Communications Commission ("FCC") regulations regarding how carriers may change a customer's Primary Interexchange Carrier.

Q. How will Pac-West bill for its services?

A. Pac-West will bill customers directly for the services it provides its customers.

Q. How will Pac-West handle service, billing and repair complaints?

A. Pac-West has a toll-free number, (877) 626-4325, that customers may call to register service, billing and repair complaints Customers may also send written inquiries and complaints to Pac-West's Customer Care Center, 4210 Coronado Avenue, Stockton, CA 95204

Pac-West views customer satisfaction as critical to its success in the competitive marketplace and will address all services, billing, and repair complaints and inquiries promptly. If Pac-West is unable to resolve a billing complaint to a customer's satisfaction, Pac-West will advise the customer of its right to file a complaint with the Tennessee Regulatory Authority.

Q. Will Pac-West comply will all applicable Authority service rules and billing standards?

A. Yes.

Q: Will the granting of a certificate of convenience and necessity to Pac-West serve the public interest?

A: Yes, both the Tennessee legislature and the United States Congress, through the Communications Act of 1934, as amended ("Federal Act"), have determined that it is in the public interest to promote competition in the provision of telecommunications services. As noted above, the Federal Act was designed to promote increased competition in the telecommunications market. Moreover, the TRA has already determined that the grant of applications for competing licenses to provide telecommunications service is in the public interest. The grant of Pac-West's Application will further the public interest by expanding the availability of alternative sources of telecommunications services in the State of Tennessee. Pac-West's proposed services will provide multiple public benefits by providing users of telecommunications services with a greater range of competitive choices. In addition, increased competition will create incentives for lower prices, more innovative services, and more responsive customer service.

Enhanced local exchange services competition also will stimulate the demand for the services supplied by all local service carriers, including the Incumbents. The Incumbent Carrier will have market incentives to improve the efficiency of their operations, and will benefit from the increased use of telecommunications services, due to the expansion of the total market for telecommunications services.

Furthermore, increased competition has driven telecommunications prices downward, which benefits Tennessee consumers who have seen concomitant reductions in their bills, which in turn has contributed to strengthening the Tennessee economy.

Q. Does this conclude your testimony?

A. Yes, it does. I reserve the right, however, to amend or modify my testimony as appropriate.

I swear that the foregoing testimony is true and correct to the best of my knowledge.

John F. Sumpter
Vice President of Regulatory
Pac-West Telecomm, Inc

Subscribed and sworn to (or affirmed) before me, Nancy Wong Griffin, Notary Public, on this 17 day of November, 2005 by John Sumpter, personally known to me or proved to me on the basis of satisfactory evidence to be the person who appeared before me.

WITNESS my hand and official seal.

NANCY WONG GRIFFIN
Commission # 1505879
Notary Public - California
San Joaquin County
My Comm. Expires Aug 6, 2008

My Commission Expires: August 6, 2008

Nancy Wong Griffin, Notary Public

TENNESSE REGULATORY AUTHORITY

TENNESSEEE TELECOMMUNICATIONS SERVICE PROVIDER'S SURETY BOND

Bond #: 41043585
PREMIUM: $ 1,000.00

WHEREAS, PAC-WEST TELECOMM, INC. (the "Principal), has applied to the Tennessee Regulator Authority for authority to provide telecommunications services in the State of Tennessee, and

WHEREAS, under the provisions of Title 65, Chapter 4, Section 125(j) of the Tennessee Code Annotated, as amended, the Principal is required to file this bond in order to obtain such authority and to secure the payment of any monetary sanction imposed in any enforcement proceeding brought under Title 65 of the Tennessee Code Annotated or the Consumer Telemarketing Act of 1990 by or on behalf of the Tennessee Regulatory Authority (the "TRA"); and

WHEREAS, PLATTE RIVER INSURANCE COMPANY (the "Surety"), a corporation licensed to do business in the State of Tennessee and duly authorized by the Tennessee Commissioner of Insurance to engage in the surety business in this state pursuant to Title 56, Chapter 2 of the Tennessee Code Annotated, has agreed to issue this bond in order to permit the Principal to comply with the provisions of Title 65, Chapter 4, Section 125(j) of the Tennessee Code Annotated;

NOW THEREFORE, BE IT KNOWN, that we the Principal and the Surety are held and firmly bound to the STATE OF TENNESSEE, in accordance with the provisions of Tennessee Code Annotated, Title 65, Chapter 4, Section 125(j), in the full amount of twenty thousand dollars ($20,000 00) lawful money of the United States of America to be used for the full and prompt payment of any monetary sanction imposed against the Principal, its representatives, successors or assigns, in any enforcement proceeding brought under Title 65 of Tennessee Code Annotated or the Consumer Telemarketing Act of 1990, by or on behalf of the TRA, for which obligation we bind ourselves, our representatives, successors and assigns, each jointly and severally, firmly and unequivocally by these presents

This bond shall become effectively on the 12th day of OCTOBER , 20 05 and shall be continuous, provided, however, that each annual renewal period or potion thereof shall constitute a new bond term Regardless of the number of years this bond may remain in force, the liability of the Surety shall not be cumulative, and the aggregate liability of the Surety for any and all claims, suits or actions under this bond shall not exceed Twenty Thousand Dollars ($20,000 00). The Surety may cancel this bond by giving thirty (30) days written notice of such cancellation to the TRA and Principal by certified mail, it being understood that the Surety shall not be relieved of liability that may have accrued under this bond prior to the date of cancellation

PRINCIPAL	SURETY SIGNED AND SEALED OCTOBER 12, 2005
_______ Name of Company authorized by the TRA	PLATTE RIVER INSURANCE COMPANY Name of Surety
_______ Company ID# as assigned by TRA	350 SANSOME STREET, #1000 SAN FRANCISCO, CA 94104 Address of Surety
SIGNATURE OF PRINCIPAL Peggy McE Name: Title: VP FINANCE	SIGNATURE OF SURETY AGENT Maria A. Quiroz Name: MARIA A. QUIROZ Title: ATTORNEY-IN-FACT

Address of Surety Agent:
725 S. FIGUEROA ST., 35th FLOOR
LOS ANGELES, CA 90017

THIS BOND IS ISSUED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 125, CHAPTER 4, TITLE 65 OF THE TENNESSEE CODE ANNOTATED AS AMENDED BY CHAPER NO. 586, 2000 PUBLIC ACTS. SHOULD THERE BE ANY CONFLICT WITH THE TERMS HEREOF AND THE STATUTE OR REGULATIONS PROMULGATED THEREUNDER, THE STATUTE OR REGULATIONS SHALL PREVAIL. (POWER OF ATTORNEY FROM AN APPROVED INSURANCE COMPANY MUST BE ATTACHED.)

State of California)
) **ss.**
County of San Joaquin)

On November 1, 2005 before me, Mary Jo Green, Notary Public, personally appeared Peggy McGaw personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

MARY JO GREEN
Commission # 1519444
Notary Public - California
San Joaquin County
My Comm. Expires Oct 15, 2008

My Commission Expires: October 15, 2008

Mary Jo Green

Mary Jo Green, Notary Public

---------------------------------------**OPTIONAL**---------------------------------------

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Tennesse Regulatory Authority Surety Bond

Document Date: Oct. 12th 2005 Number of Pages: 4

Signer(s) Other Than Named Above: Maria A Quiroz, Attorney-in Fact

Capacity(ies) Claimed by Signer(s)

Signer's Name: Peggy McGaw
- ☐ Individual
- ☒ Corporate Officer – Title(s): ______
- ☐ Partner - ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other: ______

Signer Is Representing: ______

RIGHT THUMBPRINT OF SIGNER
TOP OF THUMB HERE

Signer's Name: ______
- ☐ Individual
- ☐ Corporate Officer – Title(s): ______
- ☐ Partner - ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other: ______

Signer Is Representing: ______

RIGHT THUMBPRINT OF SIGNER
TOP OF THUMB HERE

ACKNOWLEDGMENT OF PRINCIPAL

STATE OF ______________________
COUNTY OF ______________________

Before me, a Notary Public of the State and County aforesaid, personally appeared ______________________ with whom I am personally acquainted and who, upon oath, acknowledged himself to be the individual who executed the foregoing bond on behalf of ______________________, and he acknowledged to me that he executed the same

WITNESS my hand and seal this ______ day of ____________, 20____

My Commission Expires

________________, 20__

Notary Public

ACKNOWLEDGMENT OF SURETY

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

Before me, a Notary Public of the State and County aforesaid, personally appeared MARIA A. QUIROZ with whom I am personally acquainted and who, upon oath, acknowledged her to be the individual who executed the foregoing bond on behalf of Platte River INSURANCE Co, the within named Surety, a corporation licensed to do business in the State of Tennessee and duly authorized by the Tennessee Commissioner of Insurance to engage in the surety business in this state pursuant to Title 56, Chapter 2 of the Tennessee Code Annotated, and that she as such an individual being authorized to do so, executed the foregoing bond, by signing the name of the corporation by . her and as such individual

WITNESS my hand and seal this 12th day of OCTOBER, 2005

My Commission Expires

NOVEMBER 9, 2005

Nilda Garcia

Notary Public

NILDA GARCIA
Commission # 1329079
Notary Public - California
Los Angeles County
My Comm. Expires Nov 9, 2005

APPROVAL AND INDORSEMENT

This is to certify that I have examined the foregoing bond and found the same to be sufficient and in conformity to law, that the sureties on the same are good and worth the penalty thereof, and that the same has been filed with the Tennessee Regulatory Authority, state of Tennessee, this ______ day of ____________, 20______

Name
Title

PLATTE RIVER INSURANCE COMPANY
POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, That the **PLATTE RIVER INSURANCE COMPANY,** a corporation of the State of Nebraska, having its principal offices in the City of Madison, Wisconsin, does make, constitute and appoint

---------- KEITH W NEWELL, MARIA A QUIROZ, PAUL BOUCHER, MICHAEL VANASOPHA, ----------
---------- MICHAEL CHALEKSON, VICTORIA M CAMPBELL, OR JANINA MONROE ----------

its true and lawful Attorney(s)-in-fact, to make, execute, seal and deliver for and on its behalf, as surety, and as its act and deed, any and all bonds, undertakings and contracts of suretyship, provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed in amount the sum of

---------- ALL WRITTEN INSTRUMENTS IN AN AMOUNT $2,500,000 00 ----------

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of **PLATTE RIVER INSURANCE COMPANY** at a meeting duly called and held on the 8th day of January, 2002

"**RESOLVED**, that the President, and Executive Vice-President, the Secretary or Treasurer, acting individually or otherwise, be and they hereby are granted the power and authorization to appoint by a Power of Attorney for the purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, one or more vice-presidents, assistant secretaries and attorney(s)-in-fact, each appointee to have the powers and duties usual to such offices to the business of the Corporation, the signature of such officers and seal of the Corporation may be affixed to such power of attorney or to any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Corporation in the future with respect to any bond or undertaking or other writing obligatory in the nature thereof to which it is attached Any such appointment may be revoked, for cause, or without cause, by any of said officers, at any time"

IN WITNESS WHEREOF, the **PLATTE RIVER INSURANCE COMPANY** has caused these presents to be signed by its officer undersigned and its corporate seal to be hereto affixed, duly attested, this 1st day of February, 2005

Attest

James J McIntyre

James J McIntyre
Executive Vice President

PLATTE RIVER INSURANCE COMPANY CORPORATE SEAL NEBRASKA

PLATTE RIVER INSURANCE COMPANY

David F Pauly

David F Pauly
President and CEO

STATE OF WISCONSIN } S S
COUNTY OF DANE

On the 1st day of February, 2005 before me personally came David F Pauly, to me known, who being by me duly sworn, did depose and say that he resides in the County of Dane, State of Wisconsin, that he is President and CEO of **PLATTE RIVER INSURANCE COMPANY**, the corporation described in and which executed the above instrument, that he knows the seal of the said corporation, that the seal affixed to said instrument is such corporate seal, that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order

STATE OF WISCONSIN KATHLEEN A PAULSON NOTARY PUBLIC

Kathleen A Paulson

Kathleen A Paulson
Notary Public, Dane Co , WI
My Commission Expires 10-15-2006

STATE OF WISCONSIN } S S
COUNTY OF DANE

CERTIFICATE

I, the undersigned, duly elected to the office stated below, now the incumbent in **PLATTE RIVER INSURANCE COMPANY**, a Nebraska Corporation, authorized to make this certificate, **DO HEREBY CERTIFY** that the foregoing attached Power of Attorney remains in full force and has not been revoked, and furthermore, that the Resolution of the Board of Directors, set forth in the Power of Attorney is now in force

Signed and sealed at the City of Madison, State of Wisconsin this 12th day of OCTOBER, 2005

PLATTE RIVER INSURANCE COMPANY CORPORATE SEAL NEBRASKA

Alan A Ogilvie

Alan A Ogilvie
Secretary

THIS DOCUMENT IS NOT VALID UNLESS PRINTED ON GREEN SHADED BACKGROUND WITH A RED SERIAL NUMBER IN THE UPPER RIGHT HAND CORNER IF YOU HAVE ANY QUESTIONS CONCERNING THE AUTHENTICITY OF THIS DOCUMENT CALL 800-475-4450

PRS-POA (2-05)

VERIFICATION

STATE OF CALIFORNIA §
§
CITY OF STOCKTON §

I, John Sumpter, hereby state that I am Vice President of Regulatory of Pac-West Telecomm, Inc , the Applicant in the foregoing Application, that I am authorized to make this Verification on behalf of Pac-West Telecomm, Inc , that the foregoing Application was prepared under my direction and supervision, and that the statements in the foregoing Application are true and correct to the best of my knowledge, information, and belief

Name John Sumpter
Title Vice President of Regulatory
Pac-West Telecomm, Inc

Signature

Subscribed and sworn to (or affirmed) before me, Nancy Wong Griffin, Notary Public, on this 17 day of November, 2005 by John Sumpter, personally known to me or proved to me on the basis of satisfactory evidence to be the person who appeared before me

WITNESS my hand and official seal

NANCY WONG GRIFFIN
Commission # 1505879
Notary Public - California
San Joaquin County
My Comm Expires Aug 6, 2008

My Commission Expires August 6, 2008

Nancy Wong Griffin, Notary Public