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September 23, 2005

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2005 SEP 23 PM 3:49
SC PUBLIC SERVICE COMMISSION

VIA HAND-DELIVERY AND ELECTRONIC MAIL SERVICE
The Honorable Charles L.A. Terreni
Chief Clerk
South Carolina Public Service Commission
P.O. Drawer 11649
Columbia, SC 29211

RE: Application of Pac-West Telecomm, Inc. for a Certificate of Public Convenience and Necessity to Provide Facilities-Based and Resold Local Exchange and Interexchange Telecommunications Services, for Flexible Rate Structure for Local Exchange Exchange Service Offerings First Approved in Docket 97-467-C and for Alternative Regulation First Approved in Docket No. 95-661-C
Docket No. 2005-294-C, Our File No. 1072-10322

Dear Mr. Terreni:

Enclosed is the original and ten (10) copies of the **Application** filed on behalf of Fonix Telecom, Inc. in the above-referenced matter.

As set out therein, the Applicant is in the process of preparing tariffs for inclusion with the application. Applicant requests that the Commission accept the Application, pending the Applicant's supplementing the Application with these tariffs no later than one week from the date of this letter. Please contact me if you have any questions regarding this request.

Please acknowledge your receipt of this document by file-stamping the copy of this letter enclosed, and returning it via the person delivering same.

If you have any questions or need additional information, please do not hesitate to contact me.

Very truly yours,

John J. Pringle, Jr.

JJP/cr
cc: Brian McDermott, Esquire[via first-class mail service]
Office of Regulatory Staff [via first-class mail service]
Enclosures

BEFORE THE
SOUTH CAROLINA PUBLIC SERVICE COMMISSION

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2005 SEP 23 PM 3:49
SC PUBLIC SERVICE COMMISSION

Application of Pac-West Telecomm, Inc. for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange and Interexchange Telecommunications Services in the State of South Carolina	)	Docket No. _____

APPLICATION OF
PAC-WEST TELECOMM, INC.

I. INTRODUCTION

Pac-West Telecomm, Inc. ("Pac-West" or "Applicant"), by its undersigned counsel and pursuant to South Carolina Code § 58-9-280 and the rules and regulations of the South Carolina Public Service Commission ("Commission"), hereby applies for a Certificate of Public Convenience and Necessity to authorize it to provide facilities-based and resold local exchange telecommunications services and facilities-based and resold interexchange telecommunications service throughout the State of South Carolina. Applicant requests that Pac-West's interexchange services be subject to alternative regulation, pursuant to South Carolina Code § 58-9-585 (Supp. 1999), as was first granted by the Commission in Order Nos. 95-1734 and 96-55 issued in Docket No. 95-661-C. Applicant also requests flexible regulation for its local exchange telecommunications services as the Commission granted in Order No. 98-165 in Docket No. 97-467-C.

The State of South Carolina has adopted a policy of allowing competition in the local and long distance telecommunications markets, recognizing that it is in the public interest to develop effective competition to ensure that all consumers will have access to high quality, low cost, and innovative telecommunications services. The Federal Telecommunications Act of 1996 also seeks to promote competition and reduce regulation in order to secure lower prices and higher quality telecommunications services for American consumers. Both goals will be promoted by granting this Application.

The Applicant submits the following information in support of its request.

II. APPLICATION FOR AUTHORITY TO PROVIDE TELECOMMUNICATIONS SERVICE

A. Description of the Applicant

Applicant's legal name is Pac-West Telecomm, Inc. Pac-West will not use an assumed or fictitious name in South Carolina. Pac-West is a publicly traded company traded on the Nasdaq exchange under the symbol "PACW". Pac-West may be reached at its principal place of business:

Pac-West Telecomm, Inc.
1776 W. March Lane, Suite 250
Stockton, CA 95207
(800) 722-9378 (Tel)
(209) 926-4444 (Fax)

Correspondence or communications pertaining to this Application should be directed to:

John J. Pringle, Jr.
Ellis, Lawhorne & Sims, P.A.
Post Office Box 2285
Columbia, South Carolina 29202-2285
(803) 343-1270 (Tel)
(803) 799-8479 (Fax)
jpringle@ellislawhorne.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

Questions concerning the ongoing operations of Pac-West following certification should be directed to:

Lynne Martinez
Director 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

Pac-West's registered agent in the State of South Carolina is:

Corporation Service Company
5000 Thurmond Mall Boulevard
Columbia, South Carolina 29201

For purposes of consumer inquiries, the contact information will be:

Customer Care Center
4210 Coronado Ave.
Stockton, CA 95204
Telephone: (877) 626-4325
Facsimile: (209) 926-4485
Email: support@pacwest.com

B. Qualifications

Pac-West is a California corporation formed on September 5, 2000. A copy of its incorporation documents are attached hereto as Exhibit A. Pac-West's authority to transact business as a foreign corporation in South Carolina is attached hereto as Exhibit B.

Pac-West is extremely well qualified to provide telecommunications services in South Carolina. Pac-West currently is a provider of traditional and next-generation voice communications services in Arizona, California, Nevada, Oregon, Utah and Washington. 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.

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 C. As shown in the attached information, Pac-West is financially qualified to operate within the State of South Carolina.

Pac-West is technically and managerially qualified to provide competitive local exchange and interexchange services in South Carolina. Pac West's South Carolina 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. Description of Services

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 South Carolina. 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.

D. Public Interest Considerations

Granting this Application will promote the public interest by increasing competition in the provision of telecommunications services in South Carolina. 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.

III. REGULATORY COMPLIANCE AND WAIVER REQUESTS

1. The Company is in the process of preparing its proposed South Carolina tariffs. Applicant's proposed initial tariffs containing rates, terms, and conditions for the services proposed herein will be provided as Exhibit E (Pac-West's proposed local exchange service

tariff) and Exhibit F (Pac-West's proposed interexchange service tariff) no later than one week from the date the application is filed. Pac-West requests that the Commission accept this Application pending the subsequent provision of these tariffs.

2. Pursuant to the South Carolina Public Service Commission's Order No. 95-658 (issued March 20, 1995), Applicant makes the following affirmation, which will be included in Applicant's proposed tariffs:

> As a telephone utility under the regulation of the Public Service Commission of South Carolina, Carrier does hereby assert and affirm that as a reseller of intrastate telecommunications service, Carrier will not indulge or participate in deceptive or misleading telecommunications marketing practices to the detriment of consumers in South Carolina, and will comply with those marketing procedures, if any, set forth by the Public Service Commission. Additionally, Carrier will be responsible for the marketing practices of its contracted telemarketers for compliance with this provision. Carrier understands that violation of this provision could result in a rule to show cause as to the withdrawal of its certification to complete intrastate telecommunications traffic within the state of South Carolina.

3. Applicant will market its services by direct solicitation. Applicant does not currently have promotional materials to be used in South Carolina; however, if required by the Commission, Applicant will provide the Commission copies of such materials when they become available.

4. As stated above, Pac-West's toll-free number for customer service is 877-626-4325. Customers may also contact Pac-West's customer service center by email at support@pacwest.com. Pac-West representatives will monitor calls to this number twenty-four hours a day, seven days a week. The toll-free customer service number and email address will be printed on customer bills.

5. Pac-West requests a waiver of the requirement of Rule 103-631 to publish and distribute local exchange directories. Pac-West plans to enter into an agreement with the directory publisher of BellSouth Telecommunications, Inc. ("BellSouth") to include the names of its customers in BellSouth's directories.

6. Pac-West requests, pursuant to Rule 103-610, that Pac-West be allowed to keep all records required under the rules at its principal offices in the State of California.

7. Pac-West requests that it be exempt from any record keeping rules or regulations that might require a carrier to maintain its financial records in conformance with the Uniform System of Accounts ("USOA"). The USOA was developed by the Federal Communications Commission as a means of regulating telecommunications companies subject to rate base regulation. As a competitive carrier, Pac-West will not be subject to rate base regulation and therefore requests Commission approval of Pac-West maintaining its books in accordance with Generally Accepted Accounting Principals.

8. Pac-West also requests waivers of any reporting requirements which, although applicable to incumbent local exchange carriers, are not applicable to competitive carriers such as Pac-West because such requirements are not consistent with the demands of the competitive market and constitute an undue burden on a competitive carrier.

9. Pac-West requests flexible regulation for its telecommunications services as the Commission granted in Order No 98-165 in Docket No. 97-467-C. Specifically, Pac-West requests that the Commission: a) adopt for local exchange services a competitive rate structure incorporating maximum rate levels with the flexibility for rate adjustment below the maximum rate levels; and b) presume that Pac-West's tariff filings for local exchange services be valid upon filing, subject to the Commission's authority, within thirty (30) days, to institute an

investigation of such filings. At the discretion of the Commission such filings may be suspended pending further order of the Commission and any such filings may be subject to the same monitoring process as the Commission applies to other, similarly situated carriers.

10. Pac-West requests that its interexchange business service offerings be regulated pursuant to the procedures described and set forth in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C, as modified by Order No. 2001-997 in Docket No. 2000-407-C. Specifically, Pac-West requests that the Commission regulate its business services in the same manner as the Commission regulates those of AT&T Communications of the Southern States, Inc. ("AT&T"). Further, Pac-West requests that the Commission: a) remove the maximum rate tariff requirements for Pac-West's business services and private line, and customer network-type offerings; b) presume that Pac-West's tariff filings for these services be valid upon filing. However, if the Commission institutes an investigation of a particular filing within seven (7) days, the tariff filing will be suspended until further order of the Commission; and c) grant Pac-West the same treatment as AT&T in connection with any future relaxation of the Commission's reporting requirements.

11. In addition to the above requested waivers and requests, Pac-West reserves the right to seek any regulatory waivers that may be required for Pac-West to compete effectively in the South Carolina telecommunications market.

IV. CONCLUSION

For the reasons stated above, Applicant respectfully submits that the public interest, convenience, and necessity would be furthered by a grant of this Application for the authority to provide all types of facilities-based and resold local and interexchange telecommunications services.

Also, Applicant respectfully requests that the Commission grant the waivers requested in this Application, including flexible and alternative regulation in accordance with South Carolina Code Ann. Sec. Sec. 58-9-585 (Supp. 1999) in the same manner as granted by the South Carolina Public Service Commission in Order Nos. 95-1734, 96-55, and 98-165.

Respectfully submitted,

By: _____

John J. Pringle, Jr.
Ellis, Lawhorne & Sims, P.A.
Post Office Box 2285
Columbia, South Carolina 29202-2285
(803) 343-1270 (Tel)
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Richard M. Rindler
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3000 K Street, NW, Suite 300
Washington, DC 20007-5116
(202) 424-7500 (Tel)
(202) 424-7645 (Fax)

COUNSEL FOR APPLICANT

Dated: September 23, 2005

LIST OF EXHIBITS

Exhibit A	-	Certificate of Incorporation
Exhibit B		Authority to Transact Business as a Foreign Corporation
Exhibit C	-	Financial Statements
Exhibit D	-	Management Biographies
Exhibit E	-	Local Exchange Tariff (**To Be Provided**)
Exhibit F	-	Interexchange Tariff (**To Be Provided**)
Exhibit G	-	Proposed Notice of Filing

Exhibit A

Certificate of Incorporation

A055128U

State of California

OFFICE OF THE SECRETARY OF STATE

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.

THE GREAT SEAL OF THE STATE OF CALIFORNIA
EUREKA

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. 9/98)

OSP 98 13524

A0551280

ENDORSED FILED
IN THE OFFICE OF THE
SECRETARY OF

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

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.

CERTIFICATE OF APPROVAL OF AGREEMENT OF MERGER

John K. La Rue and Roger L. Westphal state and certify that:

1. They are the President and Secretary, respectively, of Pac-West Telecomm, Inc., a California corporation.

2. The Agreement of Merger in the form attached was duly approved by the Board of Directors and shareholders of the corporation.

3. There is only one class of shares and the total number of outstanding shares is 10,000.

4. The shareholder approval was by the holders of one hundred percent (100%) of the outstanding shares of the corporation.

5. The shareholders have approved the Amended and Restated Articles attached as Exhibit A to the Agreement of Merger.

On the date set forth below, in the City of San Francisco in the State of California, each of the undersigned does hereby declare under the penalty of perjury under the laws of the State of California that he signed the foregoing certificate in the official capacity set forth beneath his signature, and that the statements set forth in said certificate are true of his own knowledge.

Signed on September 16, 1998.

John K. La Rue, President

Roger L. Westphal, Secretary

Exhibit B

Authority to Transact Business as a Foreign Corporation

The State of South Carolina

Office of Secretary of State Mark Hammond

Certificate of Authorization

I, Mark Hammond, Secretary of State of South Carolina Hereby certify that:

PAC-WEST TELECOMM, INC.,
a corporation duly organized under the laws of the state of **CALIFORNIA** and issued a certificate of authority to transact business in South Carolina on **August 22nd, 2005,** has on the date hereof filed all reports due this office, paid all fees, taxes and penalties owed to the Secretary of State, that the Secretary of State has not mailed notice to the Corporation that its authority to transact business in South Carolina is subject to being revoked pursuant to Section 33-15-310 of the 1976 South Carolina Code, and no application for surrender of authority to do business in South Carolina has been filed in this office as of the date hereof.

Given under my Hand and the Great
Seal of the State of South Carolina this
22nd day of August, 2005.

Mark Hammond

Mark Hammond, Secretary of State

Exhibit C

Financial Statements

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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

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

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.

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.

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.

PAC–WEST TELECOMM, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

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

PAC-WEST TELECOMM, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

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

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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.

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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.

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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

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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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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

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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

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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

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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%

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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

PAC–WEST TELECOMM, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

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.

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.

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 write–offs.

Exhibit D

Management Biographies

Henry R. Carabelli 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 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 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 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.

Mr. Jacobs 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 Mc Gaw 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 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 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 F

Interexchange Tariff

(To Be Provided)

Exhibit E

Local Exchange Tariff

(To Be Provided)

Exhibit G

Proposed Notice of Filing

NOTICE OF FILING AND HEARING

Pac-West Telecomm, Inc. filed an Application with the Public Service Commission of South Carolina for a Certificate of Public Convenience and Necessity to provide facilities-based and resold local exchange and interexchange telecommunications services. The Applicant proposes to offer a variety of local exchange and interexchange services. In addition, the Applicant has requested that the Commission regulate its local services in accordance with the principles and procedures established for flexible regulation in Order No. 98-165 in Docket No. 1997-467-C. The Applicant also requests that the Commission regulate its business type long distance services in accordance with the principles and procedures established for modified alternative regulation by Orders No. 95-1734 and 96-55 in Docket No. 95-661-C, and as modified by Order No. 2001-997 in Docket No. 2000-407-C.

A copy of the Application is on file in the offices of the Public Service Commission of South Carolina, 101 Executive Center Drive, Saluda Building, Columbia, South Carolina 29210; and is available through John J. Pringle, Jr., Esquire, ELLIS LAWHORNE & SIMS, PA, 1501 Main Street, 5th Floor, Columbia, South Carolina 29201.

A public hearing, if scheduled, will be held in Columbia, South Carolina in the offices of the Commission at the above address, for the purpose of receiving testimony and other evidence from all interested parties regarding this Application. The time and date of this hearing will be furnished to all interested parties at a later date.

PLEASE BE ADVISED that pursuant to South Carolina Code of Laws – Section 58-9-280, as amended, the Commission will invoke the 120-day period allowed for consideration of this matter.

Any person who wishes to participate in this matter, as a party of record with the right of cross-examination should file a Petition to Intervene in accordance with the Commission's Rules of Practice and Procedure on or before _____, **2005** and indicate the amount of time required for his presentation. *Please refer to Docket No. 2005-___-C.*

Any person who wishes to be notified of the hearing, but does not wish to present testimony or be a party of record, may do so by notifying the Docketing Department in writing at the address below on or before _____, **2005**. *Please refer to Docket 2005-__-C.*

PLEASE TAKE NOTICE: Any person who wishes to have his or her comments considered as a part of the official record of this proceeding **MUST** present such comments, in person, to the Commission during the hearing.

Persons seeking information about the Commission's Procedures should contact the Commission by dialing (803) 896-5113.

Public Service Commission of South Carolina
Docketing Department
P.O. Drawer 11649
Columbia, South Carolina 29211

SEPTEMBER-__-05