

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



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Application of 360networks (USA) Inc. for a
Certificate of Public Convenience and Necessity to Provide
Limited Facilities-based and Resold Local Exchange and
Exchange Access Services With The State of California.

Application 06-04-020
(Filed April 11, 2006)

**MOTION OF 360NETWORKS (USA), INC. (U-6028-C) FOR EXPEDITED CONSIDERATION
OF PETITION FOR MODIFICATION OF D.06-09-006
TO AMEND CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
TO ADD FULL FACILITIES-BASED AUTHORITY**

Anita Taff-Rice
Law Offices of Anita Taff-Rice
1547 Palos Verdes, #298
Walnut Creek, CA 94597
Phone: (415) 699-7885
Facsimile:(925) 274-0988
Email: anitataffrice@earthlink.net

Counsel for 360networks (USA), Inc.

Dated: October 28, 2011

Pursuant to Rule 11.1 of the Commission's Rules of Practice and Procedure, 360networks (USA), Inc. ("360") (U-6028-C) hereby files this Motion for Expedited Consideration ("Motion") of 360's concurrently filed Petition for Modification of D.06-09-006 to Amend Certificate of Public Convenience and Necessity to Add Full Facilities-Based Authority ("Petition").

The Commission granted 360 a certificate of public convenience and necessity ("CPCN") to provide limited facilities-based and resold local exchange service in D.06-09-006. In its Petition, 360 is requesting full facilities-based authority so that it can construct a short fiber segment to meet an immediate customer need. It is also requesting authority to use the expedited 21-day process developed by the Energy Division staff for review of construction projects that are categorically exempt from the California Environmental Quality Act ("CEQA").¹

Expedited consideration of 360's Petition is warranted because 360 is unable to meet its customers needs until it receives full facilities-based authority. 360 has received a request from a customer with an immediate need to install a short fiber link from a customer's location to an incumbent carrier's central office. If 360 is unable to quickly modify its CPCN for full facilities-based authority and to utilize the expedited CEQA review process, it will be unable to meet the customer's need, and the customer will likely give this business to a competitor. Therefore, 360 will be severely disadvantaged in the marketplace by the Commission's disparate policies regarding CEQA review for telecommunications carriers. Some incumbent local exchange carriers ("ILECs") are not required to seek CEQA review from the Commission for construction projects, while other carriers have prior approval to engage in ground disturbing construction

¹ Cal. Code Regs., Tit. 14, § 15000 et seq.

pursuant to a blanket mitigated negative declaration (“MND”). More recently, in an effort to minimize this disparate treatment, the Energy Division staff developed an expedited 21-day CEQA review process for projects that are exempt from CEQA.

360 is requesting expedited review of its Petition by the Commission, and waiver of the public comment period for the proposed decision that will be issued. Rule 16.4 provides for a 30-day period for review and comment on petitions for modification, however, no comment period is required in this instance. The modification of D.06-09-006 affects only 360, so no party would be harmed. Further, this request is administrative in nature, and 360 submits that it is non-controversial. The Commission has granted prior requests for modification of a CPCN to add full facilities-based authority, and it has authorized at least eleven of 360’s competitors to utilize the expedite 21-day CEQA review process.² 360 is similarly situated to these other carriers with respect to the type of construction that is proposed, thus it should be non-controversial for the Commission to authorize 360 to utilize the same expedited CEQA review process. Waiver of the public review and comment period is permitted pursuant to Pub. Util. Code § 311(g)(2).

Dated and signed: October 28, 2011

/s/Anita Taff-Rice

Law Offices of Anita Taff-Rice
1547 Palos Verdes, #298
Walnut Creek, CA 94597
Phone: (415) 699-7885
Email: anitataffrice@earthlink.net

Counsel for 360networks (USA) Inc.

² See D.06-04-063 (Clearlinx Network Corporation – now operating as ExteNet Systems (California) LLC), D.06-04-067 (CA-CLEC, LLC); D.06-04-030 (New Path Networks, LLC); D.06-06-047 (Sunesys, Inc.); D.07-04-045 (NextG Networks of California, Inc.); D.07-08-026 (Broadband Associates International); D.07-11-028 (Trillion Partners, Inc.); D.08-04-048 (AboveNet Communications, Inc.); D.09-11-021 (Freedom Telecommunications); D.10-01-014 (Pacific Lightwave); D.10-04-038 (SnowCrest Telephone, Inc.); and D.10-12-004 (Mobilite, LLC).

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[PROPOSED] ORDER

On October 28, 2011, 360networks (USA), Inc. (U-6028-C) filed a Motion for Expedited Consideration (“Motion”) its Petition for Modification of D.06-09-006 to Amend Certificate of Public Convenience and Necessity to Add Full Facilities-Based Authority (“Petition”).

360 seeks expedited consideration of the Petition in order to meet an immediate customer need to construct a short fiber link. The Commission has considered 360’s Motion.

GOOD CAUSE having been shown:

The Motion **IS GRANTED**.

Administrative Law Judge