

Decision **PROPOSED DECISION OF ALJ WILSON** (Mailed 2/9/2010)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of NobelTel, LLC (U6739C) and Nobel Holding, Inc. for Approval of an Indirect Transfer of Control of NobelTel, LLC.

Application 09-11-008
(Filed November 9, 2009)

**DECISION GRANTING TRANSFER OF CONTROL
AND FINING APPLICANTS FOR VIOLATION OF SECTION 854
OF THE PUBLIC UTILITIES CODE**

1. Summary

NobelTel, LLC (NobelTel) and Nobel Holding, Inc. (Holding) filed an application for approval of an indirect transfer of control of NobelTel. By this decision, we authorize the transfer of ownership of NobelTel to Holding on the terms and conditions set forth in the ordering paragraphs.

This decision also requires Applicants to pay a fine of \$5,000 based on their failure to obtain Commission authorization for this transfer of control, as required by § 854(a), before the closing of the sale of NobelTel to Holding.

2. Background**2.1. Applicant**

On November 9, 2009, NobelTel, LLC and Nobel Holding, Inc. (Applicants) filed this application for authorization of the indirect transfer of NobelTel, LLC (NobelTel) to Nobel Holding, Inc. (Holding). On December 17, 2009, the assigned Administrative Law Judge (ALJ) issued a ruling, requesting further information. On December 28, 2009, applicants requested an extension of

time to respond to part of the ALJ's request. On December 29, 2009, the ALJ granted ~~applicants~~Applicants a two-week extension beyond the December 28, 2009 due date to respond. On December 29, 2009, ~~applicants~~Applicants informally notified the ALJ via phone that the transfer of control had been completed on December 15, 2009, following this up with a formal written notification on December 30, 2009. On December 30, 2009, ~~applicants~~Applicants filed a partial response to the ruling (Response A). On January 13, 2010, ~~applicants~~Applicants filed the balance of their response to the ruling (Response B). In Response B, ~~applicants~~Applicants also requested that their application be amended to seek approval of a transfer that had already occurred.

Applicants' principal place of business is located at 5857 Owens Avenue, Suite 202, Carlsbad, CA 92008.

NobelTel currently holds a certificate of public and convenience and necessity (CPCN) as a facilities-based carrier to provide inter-LATA and intra-LATA telecommunications services.¹ NobelTel is a direct, wholly owned subsidiary of Nobel, Inc., a privately held Delaware corporation. Currently two parties combined (Thomas Knobel and Michael Knobel) hold 100% of the stock of Nobel, Inc. and thus, indirectly, 100% of NobelTel.

Holding is a newly formed Delaware corporation that will function as a holding company and own 100% of Nobel, Inc., and therefore 100% of NobelTel. Richard Mahfouz, a U.S. citizen, will own 100% of Holding post-close. Richard Mahfouz was, prior to this transfer, the President and Chief Executive Officer of NobelTel. Neither Richard Mahfouz nor Holding holds any authorization to provide telecommunications services and, until this transfer occurred, neither

held a 10% or greater interest in any company that offers domestic or foreign telecommunications services.

2.2. Authority Sought by Applicants

Applicants seek Commission authorization for Holding to transfer control of NobelTel through the acquisition of 100% of the issued and outstanding shares of capital stock of Nobel, Inc.

Pursuant to a Stock Purchase Agreement (Agreement) dated October 26, 2009 between the Knobels, Nobel, Inc. and Holding, Holding would purchase 100% of the shares of Nobel, Inc. The transaction closed on December 15, 2009, prior to authorization of the transaction by the Commission.

Applicants state that the transfer of control of NobelTel to Holding does not involve the transfer of operating authority, assets or customers, and therefore will not affect the identity of the utility authorized to provide telecommunications services in California. NobelTel will continue to offer the same services to customers at the same rates and under the same terms and conditions. Further, ~~applicants~~Applicants do not anticipate that the transaction will cause any changes to the current management or operational personnel of NobelTel, and state that the transaction will be seamless and transparent to NobelTel customers. The only change resulting from approval of the application is that NobelTel will be owned by Holding, rather than Nobel, Inc.

¹ See Decision (D.) 02-11-042 as modified by D.03-01-044.

Effective December 3, 2009, the Federal Communications Commission (FCC) granted the transfer of control application of NobelTel to Richard Mahfouz.²

3. Discussion

3.1. Holding's Fitness to Provide Telecommunications Services

Since Holding does not currently hold a CPCN to provide telecommunications services in California, it is necessary to perform the same review of Holding as if it were requesting authorization for a CPCN.

3.1.1. Financial Qualifications

Pursuant to Rule 4.B of D.95-12-056, an ~~applicant~~Applicant for a CPCN for authority to provide resold local exchange service must demonstrate that it has \$25,000 cash or cash equivalent to meet the firm's start-up expenses. Applicant must also demonstrate that it has sufficient additional resources to cover all deposits required by other telecommunications carriers in order to provide service in California.

In Responses A and B, applicants provided recent bank statements for Holding, demonstrating that it has access to \$25,000 cash or cash equivalent, an amount sufficient to cover start-up expenses that is reasonably liquid and available.

3.1.2. Managerial and Technical Qualifications

To be granted a CPCN for authority to provide local exchange and interexchange service, an ~~applicant~~Applicant must make a reasonable showing of

² http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-09-2526A1.pdf.

managerial and technical expertise in telecommunications or a related business.³ Holding supplied biographical information on its management in Response A that demonstrated that it has sufficient expertise and training to operate as a telecommunications provider.

Holding also verified that no one associated with or employed by it as an affiliate, officer, director, partner, or owner of more than 10% of Holding was previously associated with a telecommunications carrier that filed for bankruptcy, or was sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order, except for two instances involving NobelTel which have both been resolved. In the first instance, NobelTel late-filed its Customer Proprietary Network Information (CPNI) Compliance Certificate with the FCC and paid a penalty of \$20,000.⁴ In the second instance, NobelTel entered into a stipulation with the Nebraska Telecommunications Infrastructure and Public Safety (NTIPS) Director, resolving allegations in the NTIPS Directors complaint, and paid a fine.⁵

³ D.95-12-056 at Appendix C, Rule 4.A.

⁴ On February 25, 2009, the FCC Enforcement Bureau released an Omnibus Notice of Apparent Liability for Forfeiture, citing approximately 650 telecommunications service providers for apparent violation of the FCC's requirement to submit an annual CPNI Compliance Certificate on or before March 1, 2008. NobelTel and each of the companies cited were each assessed a proposed forfeiture penalty of \$20,000.

⁵ On January 8, 2008, the NTIPS Director filed a Complaint against NobelTel, seeking to fine NobelTel on the grounds that it failed to file its required remittance worksheet or remittance payment by the 15th day following the end of the remittance periods, pursuant to § 003.02 and/or § 003.03 of Title 291, Nebraska Administrative Rules and Regulations, Chapter 10. NobelTel and the NTIPS Director entered into a stipulation resolving the allegations and NobelTel paid its fine. The Nebraska Public Service Commission approved the stipulation and dismissed the Complaint on February 26, 2008.

Holding also verified that no one associated with or employed by it as an affiliate, officer, director, partner, or owner of more than 10% of it was previously associated with any telecommunication carrier that filed for bankruptcy, or has been found either civilly or criminally liable by a court of appropriate jurisdiction for a violation of §§ 17000, et seq. of the California Business and Professions Code, or for any actions which involved misrepresentations to consumers, or is currently under investigation for similar violations.

The Commission discovered a tax lien against NobelTel from San Diego County for outstanding 2007 communications unitary tax and associated penalties owed. NobelTel has resolved this matter by paying the outstanding tax and penalties.⁶

Since Holding has resolved the issues in question, applicants are in compliance with the requirements of Rule 4.A. of D.95-12-056. We find, therefore, that Holding satisfies the requirements of Rule 4.A.

3.2. Rates and Tariffs

Through NobelTel, Holding intends to provide resold services throughout the state. Holding must file a revised tariff reflecting its ownership.

3.3. Indirect Transfer versus Transfer

An indirect transfer of control occurs when a parent company is reorganized or if there is a partial change in the level of investment of various entities in the parent. A transfer of control occurs when there is a complete change of ownership in either the utility or its parent.

In the current case, Holding, an entity that has had no ownership interest at all in Nobel, Inc. or NobelTel, is acquiring a 100% interest in the parent

company, Nobel, Inc. Therefore, instead of the requested authority for an indirect transfer of ownership, we treat this application as a request for transfer of ownership.

3.4. Transfer Should be Approved on a Prospective Basis Only

In this application, Applicants request authority under § 854 for Holding to acquire control of NobelTel through the purchase of 100% of its capital stock. Section 854(a) states, in pertinent part:

No person or corporation, whether or not organized under the laws of this state, shall merge, acquire, or control . . . any public utility organized and doing business in this state without first securing authorization to do so from the commission . . . Any merger, acquisition, or control without that prior authorization shall be void and of no effect.

The purpose of § 854 is to enable the Commission, before any transfer of public utility authority is consummated, to review the situation, determine whether the public interest is served by the transaction, and take such action (such as a condition of approval) as the public interest may require.⁷

Since there will be no change to the rates, services, day-to-day management, or operations of NobelTel as a result of the transaction and Holding's management has the necessary telecommunications managerial and technical experience, NobelTel's customers and the public will not be harmed by the change in control. Holding also meets the Commission's financial requirements applicable to obtaining control of NobelTel and its CPCN. Lastly,

⁶ Response B, Exhibit B.

⁷ See D.09-08-017 at 7 and D.05-12-007 at 6.

there is no opposition to this application. For these reasons, we conclude that it is reasonable to grant authority for the transfer of control, on a prospective basis only.

Granting of this application on a retroactive basis would have thwarted the purpose of § 854(a). The Commission has enacted careful guidelines for scrutiny of the owners of telecommunications utilities, and we cannot condone the transfer of control of a telecommunications utility to an owner that has not passed through our approval process in advance. Since we will not grant retroactive authority, Holding's acquisition of control over NobelTel is void under § 854(a) for the period of time before the effective date of this decision. Applicants are at risk for any adverse consequences that may result from their having completed the transfer of control without Commission authority.

3.5. Applicants Should be Fined for Their Failure to Comply with Pub. Util. Code § 854(a)

Applicants failed to comply with § 854(a) by transferring control of NobelTel to Holding without Commission authorization. Violations of § 854(a) are subject to monetary penalties under § 2107, which states as follows:

Any public utility which violates or fails to comply with any provision of the Constitution of this state or of this part, or which fails or neglects to comply with any part or provision of any order, decision, decree, rule, direction, demand, or requirement of the commission, in a case in which a penalty has not otherwise been provided, is subject to a penalty of not less than five hundred dollars (\$500), nor more than twenty thousand dollars (\$20,000) for each offense.

For the following reasons, we conclude that the Applicants should be fined for their failure to comply with § 854(a). First, any violation of § 854(a), regardless of the circumstances, is a serious offense that should be subject to

finer. Second, the imposition of a fine will help to deter future violations of § 854(a) by the Applicants and others.

To determine the size of the fine, we rely on the criteria adopted by the Commission in D.98-12-075. We address these criteria below.

3.5.1. Determination of Amount of Fine

The size of a fine should be proportionate to the severity of the offense, based on the level of physical harm, economic harm, harm to the regulatory process, and the number and scope of violations.⁸ Applicants' violation of § 854(a), while serious, did not cause any physical or economic harm to others. Further, the violation of § 854(a) affected few, if any, consumers, and is a single offense. The only factor that indicates the violation should be considered a grave offense is our general policy of according a high level of severity to any violation of the Public Utilities Code. However, this factor must be weighed against the other factors in determining the amount of the fine.

The size of a fine should also reflect the conduct of the utility. When assessing the conduct of the utility, the Commission considers the utility's actions to prevent a violation, its actions to detect a violation, and its actions to detect and rectify a violation.⁹ Applicants disclosed their violation of § 854(a) via a phone call on December 29, 2009 and written notification on December 30, 2009, not quite two months after filing of this application. Also, Applicants have not claimed that they violated § 854(a) inadvertently or unintentionally. This factor in particular, suggests that a larger fine may be appropriate. However, we must balance these factors against Applicants' other conduct. There is no evidence that

⁸ See D.98-12-075, 1998 Cal. PUC LEXIS 1016, *71 - *73.

the Applicants have previously failed to comply with applicable statutes and regulations in California.

The financial resources of a utility are also considered when determining the size of a fine, based on the need for deterrence of future violations and constitutional limitations on excessive fines.¹⁰ Holding's bank statement shows that, in addition to having sufficient funds to be in compliance with the financial requirements for being authorized a CPCN, it also has sufficient funds to pay a reasonable fine for violating Public Utilities Code.

A fine should also be tailored to the unique facts of each case. When assessing the unique facts of each case, the Commission considers the degree of wrongdoing and the public interest.¹¹ The facts of this case indicate that the degree of wrongdoing, though serious, was not egregious. Although the applicants did not file this application sufficiently in advance to obtain prior Commission approval of the transfer of NobelTel to Holding, applicants did take steps to report and remedy their violation of § 854(a). Also, no one was harmed by applicants' failure to comply with § 854(a). These same facts also indicate that the public interest was not significantly harmed by applicants' violation of § 854(a).

The Commission must also address previous decisions that involve reasonably comparable factual circumstances and explain any substantial differences in outcome in a decision that imposes a fine.¹² In D.00-12-053, the

⁹ See D.98-12-075, 1998 Cal. PUC LEXIS 1016, *73 - *75.

¹⁰ See D.98-12-075, 1998 Cal. PUC LEXIS 1016, *75 - *76.

¹¹ See D.98-12-075, 1998 Cal. PUC LEXIS 1016, *76.

¹² See D.98-12-075, 1998 Cal. PUC LEXIS 1016, *77.

Commission stated that although it had approved applications for transfer of control on a *nunc pro tunc* basis,¹³ it does not have a policy in favor of *nunc pro tunc* approvals.¹⁴ The Commission also stated that it may deny such applications and may impose penalties for failure to obtain advance Commission authorization as required by § 854(a).¹⁵ Applicants and other public utilities have therefore been given notice that the Commission will require compliance with the requirements of § 854(a) and may impose penalties for violations. Applicants had a duty to comply with § 854(a).

In D.00-12-053, the Commission held that its precedent of meting out lenient treatment to those who violate § 854(a) had failed to deter additional violations, and stated a policy of imposing fines for violations of § 854(a) in order to deter future violations.¹⁶ Therefore, assessment of a fine on applicants for violating § 854(a) is consistent with D.00-12-053.

3.5.2. Setting the Fine

We have concluded that the Applicants should be fined for their violation of § 854(a). The application of the criteria adopted by the Commission in D.98-12-075 to the facts of this case indicates that a relatively small fine is warranted. First, Applicants' violation of § 854(a), though serious, was not a particularly severe offense. Second, Applicants' conduct was not egregious. Third, Holding appears to have sufficient resources to pay a relatively small fine.

¹³ The phrase "*nunc pro tunc*," means "now for then," referring to the retroactive correction of an act that occurred at an earlier date.

¹⁴ See D.00-12-053 at 4-5.

¹⁵ See D.00-12-053 at 8.

¹⁶ See D.00-12-053 at 13-14.

Fourth, the degree of wrongdoing was relatively minor. Finally, the public interest was not significantly harmed by the Applicants' violation of § 854(a).

We note that the Commission has imposed fines of \$5,000 in other cases which involve similar transfers of control of telecommunications entities without our prior authorization, in violation of § 854(a).¹⁷

We conclude based on the facts of this case that the Applicants should be fined \$5,000 for violating § 854(a). The fine we impose today is meant to deter future violations § 854(a) by the Applicants and other parties. We emphasize that the size of the fine we impose today is tailored to the unique facts and circumstances before us in this proceeding. We may impose larger fines in other proceedings if the facts so warrant, or if Applicants again violate § 854(a).

4. Category and Need for Hearing

In Resolution ALJ 176-3244, dated November 20, 2009, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. There is no apparent reason why the application should not be granted, as revised herein. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

5. Comments on Proposed Decision

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure.

~~Comments were filed on _____, and reply~~No ~~comments were filed on _____ by _____.~~

6. Assignment of Proceeding

John A. Bohn is the assigned Commissioner and Seaneen M. Wilson is the assigned ALJ in this proceeding.

Findings of Fact

1. NobelTel is a Delaware corporation that holds a CPCN authorizing the provision of resold interexchange services in California.
2. NobelTel was a wholly-owned subsidiary of Nobel, Inc., a Delaware corporation.
3. Holding is a recently formed Delaware corporation which acquired Nobel, Inc. on December 15, 2009.
4. On November 9, 2009, Applicants filed A.09-11-008, seeking Commission authorization under Pub. Util. Code § 854, to transfer the control of NobelTel to Holding, through Holding's acquisition of 100% of the issued and outstanding shares of the capital stock of Nobel, Inc.
5. On December 29, 2009, Applicants informed the ALJ that the transfer had already been completed on December 15, 2009, in violation of § 854.
6. Holding has the technical, managerial, and financial qualifications necessary to exercise control of NobelTel.
7. Applicants state that there will be no change in the day-to-day management or operations of NobelTel as a result of its transfer to Holding.
8. Applicants have adequate financial resources to pay a fine.
9. Effective December 3, 2009, the FCC granted the transfer of control application of NobelTel to Richard Mahfouz.

¹⁷ See D.00-12-053 at 14 and D.04-09-023 at 14.

Conclusions of Law

1. This application should be approved on a prospective basis only, because the transfer of NobelTel to Holding is not adverse to the public interest.
2. Applicants' violation of § 854(a) should be subject to monetary penalties under § 2107 of between \$500 and \$20,000 for violations of the Public Utilities Code.
3. The application of the criteria in D.98-12-075 to the facts of this case indicates that Applicants should pay a fine of \$5,000 for violating § 854(a).
4. NobelTel should continue to be subject to the applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

O R D E R**IT IS ORDERED** that:

1. Application 09-11-008, as amended, for authority under Public Utilities Code Section 854(a) to transfer control of NobelTel, LLC to Nobel Holding, Inc. is granted, effective as of the date of this order.
2. NobelTel, LLC and Nobel Holding, Inc. must notify the Director of the Commission's Communications Division in writing of the transfer of control, as authorized herein, within 10 days of this order. A true copy of the instrument(s) of transfer shall be attached to the notification.
3. NobelTel, LLC and Nobel Holding, Inc. must pay a fine of \$5,000 by check or money order payable to the California Public Utilities Commission and mailed or delivered to the Commission's Fiscal Office at 505 Van Ness Avenue, Room 3000, San Francisco, CA 94102, within 30 days of the effective date of this order. Write on the face of the check or money order "For deposit to the General Fund per Decision _____."

4. In addition to all the requirements applicable to competitive local exchange carriers and interexchange carriers included in Attachments A, B, and C to this decision, NobelTel, LLC continues to be subject to all applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

5. NobelTel, LLC must continue to comply with the Consumer Protection Rules contained in General Order 168.

6. NobelTel, LLC must continue to annually pay the user fee and public purpose surcharges specified in Attachment A. Per the instructions in Exhibit E to Decision 00-10-028, the Combined California PUC Telephone Surcharge Transmittal Form must be submitted even if the amount due is \$0. Under Pub. Util. Code § 405, carriers that are in default of reporting and submitting user fees for a period of 30 days or more will be subject to penalties including suspension or revocation of their authority to operate in California. Therefore, carriers must report user fees even if the amount due is \$0.

7. NobelTel, LLC must provide the Commission's Consumer Affairs Branch with the name and address of its designated contact person(s) for purposes of resolving consumer complaints. This information must be updated if the name or telephone number changes, or at least annually.

8. NobelTel, LLC must continue to file an annual report with the Director of the Communications Division, in compliance with General Order 104-A, on a calendar-year basis with the information contained in Attachment B to this decision.

9. NobelTel, LLC must continue to file an affiliate transaction report with the Director of the Communications Division, in compliance with Decision 93-02-019, on a calendar year basis using the form contained in Attachment C.

10. Application 09-11-008 is closed.

This order is effective today.

Dated _____, at San Francisco, California.

Attachment A**REQUIREMENTS APPLICABLE TO COMPETITIVE LOCAL EXCHANGE CARRIERS AND INTEREXCHANGE CARRIERS**

1. Applicant must file, in this docket, a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order.

2. Applicant is subject to the following fees and surcharges that must be regularly remitted. Per the instructions in Exhibit E to Decision (D.) 00-10-028, the Combined California PUC Telephone Surcharge Transmittal Form must be submitted even if the amount due is \$0.

- a. The current 1.15% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the Universal Lifeline Telephone Service Trust Administrative Committee Fund (Pub. Util. Code § 879; Resolution T-17071, dated March 1, 2007, effective April 1, 2007);
- b. The current 0.20% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California Relay Service and Communications Devices Fund (Pub. Util. Code § 2881; D.98-12-073 and Resolution T-17127, dated December 20, 2007, effective January 1, 2008);
- c. The user fee provided in Pub. Util. Code §§ 431-435, which is 0.18% of gross intrastate revenue (Resolution M-4819), dated June 7, 2007, effective July 1, 2007;
- d. The current 0.13% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California High Cost Fund-A (Pub. Util. Code § 739.3; D.96-10-066, pp. 3-4, App. B, Rule 1.C; Resolution T-17128, dated December 20, 2007, effective January 1, 2008);
- e. The current 0.45% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as

- modified by D.95-02-050, to fund the California High Cost Fund-B (D.96-10-066, p. 191, App. B, Rule 6.F., D.07-12-054);
- f. The current 0.25% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California Advances Services Fund (D.07-12-054); and
 - g. The current 0.079% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California Teleconnect Fund (D.96-10-066, p. 88, App. B, Rule 8.G, Resolution T-17142, dated April 29, 2008, effective June 1, 2008).

Note: These fees change periodically. In compliance with Resolution T-16901, December 2, 2004, Applicant must check the joint tariff for surcharges and fees filed by Pacific Bell Telephone Company (dba AT&T California) and apply the current surcharge and fee amounts in that joint tariff on end-user bills until further revised.

- 3. Applicant is a competitive local exchange carrier. The effectiveness of its future tariffs is subject to the requirements of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).
- 4. Tariff filings must reflect all fees and surcharges to which Applicant is subject, as reflected in #2 above.
- 5. Applicant must file a service area map as part of its initial tariff.
- 6. Prior to initiating service, Applicant must provide the Commission's Consumer Affairs Branch with the name and address of its designated contact person(s) for purposes of resolving consumer complaints. This information shall be updated if the name or telephone number changes, or at least annually.
- 7. Applicant must notify the Director of the Communications Division in writing of the date that local exchange service is first rendered to the public, no later than five days after service first begins.

8. Applicant must notify the Director of the Communications Division in writing of the date local service is first rendered to the public within five days after service begins.

9. Applicant must keep its books and records in accordance with the Generally Accepted Accounting Principles.

10. In the event Applicant's books and records are required for inspection by the Commission or its staff, it must either produce such records at the Commission's offices or reimburse the Commission for the reasonable costs incurred in having Commission staff travel to its office.

11. Applicant must file an annual report with the Director of the Communications Division, in compliance with General Order 104-A, on a calendar-year basis with the information contained in Attachment C to this decision.

12. Applicant must file an affiliate transaction report with the Director of the Communications Division, in compliance with D.93-02-019, on a calendar year basis using the form contained in Attachment D.

13. Applicant must ensure that its employees comply with the provisions of Public Utilities (Pub. Util.) Code § 2889.5 regarding solicitation of customers.

14. Within 60 days of the effective date of this order, Applicant must comply with Pub. Util. Code § 708, Employee Identification Cards, and notify the Director of the Communications Division in writing of its compliance.

15. If Applicant is 90 days or more late in filing an annual report, or in remitting the surcharges and fee listed in #2 above, the Communications Division shall prepare for Commission consideration a resolution that revokes Applicant's certificate of public and convenience and necessity unless it has received written permission from the Communications Division to file or remit late.

16. Applicant is exempt from Rule 3.1(b) of the Commission's Rules of Practice and Procedure.

17. Applicant is exempt from Pub. Util. Code §§ 816-830.

18. Applicant is exempt from the requirements of Pub. Util. Code § 851 for the transfer or encumbrance of property whenever such transfer or encumbrance serves to secure debt.

19. If Applicant decides to discontinue service or file for bankruptcy, it shall immediately notify the Communications Division's Bankruptcy Coordinator.

20. Applicant must send a copy of this decision to concerned local permitting agencies not later than 30 days from the date of this order.

(END OF ATTACHMENT A)

ATTACHMENT B**ANNUAL REPORT**

An original and a machine readable, copy using Microsoft Word or compatible format must be filed with the California Public Utilities Commission, State Office Building, 505 Van Ness Avenue, Room 3107, San Francisco, CA 94102-3298, no later than March 31st of the year following the calendar year for which the annual report is submitted.

Failure to file this information on time may result in a penalty as provided for in §§ 2107 and 2108 of the Public Utilities Code.

Required information:

1. Exact legal name and U # of the reporting utility.
2. Address.
3. Name, title, address, and telephone number of the person to be contacted concerning the reported information.
4. Name and title of the officer having custody of the general books of account and the address of the office where such books are kept.
5. Type of organization (*e.g.*, corporation, partnership, sole proprietorship, etc.).
If incorporated, specify:
 - a. Date of filing articles of incorporation with the Secretary of State.
 - b. State in which incorporated.
6. Number and date of the Commission decision granting the Certificate of Public Convenience and Necessity.
7. Date operations were begun.
8. Description of other business activities in which the utility is engaged.
9. List of all affiliated companies and their relationship to the utility. State if affiliate is a:
 - a. Regulated public utility.
 - b. Publicly held corporation.
10. Balance sheet as of December 31st of the year for which information is submitted.
11. Income statement for California operations for the calendar year for which information is submitted.

12. Cash Flow statement as of December 31st of the calendar year for which information is submitted, for California operations only.

For answers to any questions concerning this report, call (415) 703-2883.

(END OF ATTACHMENT B)

ATTACHMENT C**CALENDAR YEAR AFFILIATE TRANSACTION REPORT**

1. Each utility must list and provide the following information for each affiliated entity and regulated subsidiary that the utility had during the period covered by the annual Affiliate Transaction report.

- Form of organization (*e.g.*, corporation, partnership, joint venture, strategic alliance, etc.);
- Brief description of business activities engaged in;
- Relationship to the utility (*e.g.*, controlling corporation, subsidiary, regulated subsidiary, affiliate);
- Ownership of the utility (including type and percent ownership);
- Voting rights held by the utility and percent; and
- Corporate officers.

2. The utility must prepare and submit a corporate organization chart showing any and all corporate relationships between the utility and its affiliated entities and regulated subsidiaries in #1 above. The chart must have the controlling corporation (if any) at the top of the chart; the utility and any subsidiaries and/or affiliates of the controlling corporation in the middle levels of the chart and all secondary subsidiaries and affiliates (*e.g.*, a subsidiary that in turn is owned by another subsidiary and/or affiliate) in the lower levels. Any regulated subsidiary must be clearly noted.

3. For a utility that has individuals who are classified as “controlling corporations” of the competitive utility, the utility must only report under the requirements of #1 and #2 above any affiliated entity that either (a) is a public

utility or (b) transacts any business with the utility filing the annual report excluding the provision of tariff services.

4. Each annual report must be signed by a corporate officer of the utility stating under penalty of perjury under the laws of the State of California (CCP 2015.5) that the annual report is complete and accurate with no material omissions.

5. Any required material that a utility is unable to provide must be reasonably described and the reasons the data cannot be obtained, as well as the efforts expended to obtain the information, must be set forth in the utility's annual Affiliate Transaction Report and verified in accordance with Section I-F of Decision 93-02-019.

6. Utilities that do not have affiliated entities must file, in lieu of the annual transaction report, an annual statement to the Commission stating that the utility had no affiliated entities during the report period. This statement must be signed by a corporate officer of the utility, stating under penalty of perjury under the laws of the State of California (CCP 2015.5) that the annual report is complete and accurate with no material omissions.

(END OF ATTACHMENT C)

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| Input: | |
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| Document 1 ID | file://d:/jyc/Desktop/CPUC01-#413761-v1-A0911008_Wilson_Comment_Dec.DOC |
| Description | CPUC01-#413761-v1-A0911008_Wilson_Comment_Dec |
| Document 2 ID | PowerDocs://CPUC01/418288/1 |
| Description | CPUC01-#418288-v1-A0911008_Wilson_Agenda_Dec_(Rev._1) |
| Rendering set | standard |

| Legend: | |
|---------------------------|--|
| <u>Insertion</u> | |
| Deletion | |
| Moved from | |
| <u>Moved to</u> | |
| Style change | |
| Format change | |
| Moved deletion | |
| Inserted cell | |
| Deleted cell | |
| Moved cell | |
| Split/Merged cell | |
| Padding cell | |

| Statistics: | |
|----------------|-------|
| | Count |
| Insertions | 12 |
| Deletions | 11 |
| Moved from | 0 |
| Moved to | 0 |
| Style change | 0 |
| Format changed | 0 |
| Total changes | 23 |