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Agenda ID #10526 (Rev. 1)  
Ratesetting  
7/14/11 Item 35

Decision \_\_\_\_\_

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

In the Matter of the Application of Central Valley Telecom, LLC. for a Certificate of Public Convenience And Necessity to Provide (i) Resold and Facilities-based Competitive Local Exchange Services throughout the service territories of Pacific Bell Telephone Company, Verizon California, Inc., SureWest Telephone, and citizens Telecommunications Company of California, Inc., and of California, Inc., and ii) resold and facilities-based intrastate interexchange telecommunications services on a statewide basis.

Application 11-04-003  
(Filed April 6, 2011)

**DECISION GRANTING CENTRAL VALLEY TELECOM, LLC  
A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY  
IN ORDER TO PROVIDE RESOLD AND FACILITIES-BASED  
COMPETITIVE LOCAL EXCHANGE SERVICE AND INTRASTATE  
INTEREXCHANGE TELECOMMUNICATIONS SERVICE**

**Summary**

Central Valley Telecom, LLC filed an application for a certificate of public convenience and necessity (CPCN) for authority to provide resold and facilities-based competitive local exchange telecommunications services in the service territories of Pacific Bell Telephone Company dba AT&T California, Citizens Telecommunications Company of California, Inc./Citizens Communications Company dba Frontier Communications of California, SureWest Telephone/SureWest Communications and Verizon California, Inc.

and resold and facilities-based intrastate interexchange telecommunications services on a statewide basis.

By this decision, we grant Central Valley Telecom, LLC a CPCN to provide resold and facilities-based local exchange and intrastate interexchange telecommunications services on the terms and conditions set forth in the Ordering Paragraphs.

### **Background**

On April 6, 2011, Central Valley Telecom, LLC (CVT or Applicant) filed an application with the California Public Utilities Commission (Commission) for a certificate of public convenience and necessity (CPCN) to provide resold and facilities-based local exchange telecommunications services in the service territories of [Pacific Bell Telephone Company dba AT&T California \(AT&T\)](#), Citizens Telecommunications Company of California, Inc./Citizens Communications Company (~~Citizens~~ [dba Frontier Communications of California \(Frontier\)](#)), SureWest Telephone/SureWest Communications (SureWest) and Verizon California, Inc. (Verizon) and resold and facilities-based intrastate interexchange telecommunications services on a statewide basis. The Applicant is a California corporation. Its principal address is 1346 North Floyd Avenue, Fresno, California 93722.

The assigned Administrative Law Judge (ALJ) emailed CVT on May 19, 2011, requesting additional information from CVT. In response, Applicant filed an amendment to its Application on May 25, 2011, revising its application from one seeking authority to engage in California Environmental Quality Act (CEQA) exempt construction consistent with Commission Decision (D.) 10-12-056<sup>1</sup> to one seeking authority to use an expedited 21-day review process for projects that are potentially exempt from CEQA. The assigned ALJ issued a Ruling on May 31, 2011 limiting the protest period for the amended document. No protests to the amendment were filed.

### **California Environmental Quality Act (CEQA)**

The CEQA requires that the Commission act as the designated lead agency to assess the potential environmental impact of a project in order that adverse effects are avoided, alternatives are investigated, and environmental quality is restored or enhanced to the fullest extent possible.

Applicant is seeking authority to undertake certain construction activities that it believes are exempt from CEQA but subject to the 21-day process for

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<sup>1</sup> On December, 16, 2010, the Commission adopted General Order (GO) 170 in D.10-12-056. GO 170 implements the Commission's responsibilities pursuant to CEQA to review possible environmental impacts of construction projects consisting of any new telephone or telegraph line; or the repair, replacement, modification, alteration, or addition to an existing telephone or telegraph line in the State of California. On January 24, 2011, the League of California Cities, the California State Association of Counties and SCAN NATOA, Inc. (Cities), and AT&T California, Frontier, SureWest, and small local exchange carriers (LECs) (collectively, "Joint Carriers") filed applications for rehearing of D.10-12-056. On the same day, the Cities also filed a motion for immediate stay of D.10-12-056, pending resolution of the applications. On May 26, 2011, the Commission approved D.11-05-050, granting the Cities' motion for stay.

obtaining review and approval of such construction by the Commission Energy Division staff.

According to the amended application, Applicant intends to install facilities, such as fiber cable and related equipment, in existing conduits, buildings and infrastructure. Applicant notes that there may be a need to undertake outside plant construction activities such as trenching for the installation of underground conduit and the installation of new utility poles, equipment shelters, or other above-ground support structures. Applicant describes these activities as “very small in scale, consisting of construction of short conduit extensions or stubs.”<sup>2</sup> Further, Applicant notes that such construction “would occur in existing roadways or other previously developed and disturbed rights-of-way.”<sup>3</sup>

We have granted other carriers authority to rely upon the 21-day review process to determine if a proposed project is exempt from CEQA. *See, e.g.,* ClearLinx Network Corporation (D.06-04-063), New Path Networks, LLC (D.06-04-030), CA-CLEC LLC (D.06-04-067), Sunesys, Inc. (D.06-06-047), NextG Networks of California, Inc. (D.07-04-045), Broadband Associates International (D.07-08-026), Trillion Partners, Inc. (D.07-11-028), and most recently, Freedom Telecommunications, Inc. (D.09-11-021).

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<sup>2</sup> Amendment to Application of Central Valley Telecom, LLC, May 25, 2011, at 2.

<sup>3</sup> *Ibid.*

Applicant asserts that the proposed full facilities-based construction projects will most likely fall within various CEQA exemptions ~~to CEQA~~.<sup>4</sup> The Commission, as Lead Agency, must evaluate the availability of any claimed exemption ~~from CEQA~~ and direct any additional CEQA review that may be necessary. By this decision, we make the expedited 21-day process for CEQA review available to Applicant.

### **Expedited Review Process for Certain Construction Projects**

If Applicant believes that any construction project qualifies for an exemption from CEQA, the 21-day review process described below will apply before Applicant may commence construction:

- Applicant shall provide the Commission's Energy Division with:
  - A detailed description of the proposed project, including:
    - Customer(s) to be served;
    - The precise location of the proposed construction project; and
    - Regional and local site maps.
  - A description of the environmental setting, including at a minimum:
    - Cultural, historical, and paleontology resources;
    - Biological resources; and

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<sup>4</sup> Applicant states "exemptions may include construction projects involving existing facilities (CEQA Guidelines section 15301, replacement or reconstruction (CEQA Guidelines Section 15302, and new construction or conversion of small structures (CEQA Guidelines Section 15303), and construction under other available exemptions." (Amendment to Application of Central Valley Telecom, LLC, May 25, 2011, at 2, footnote 1.)

- Current land use and zoning.
- A construction workplan, including:
  - Commission Preconstruction Survey Checklist-Archaeological Resources;
  - Commission Preconstruction Survey Checklist-Biological Resources;
  - A detailed schedule of construction activities, including site restoration activities;
  - A description of construction/installation techniques;
  - A list of other agencies contacted with respect to siting, land use planning, and environmental resource issues, including contact information; and
  - A list of permits required for the proposed project.
- A statement of the CEQA exemption(s) claimed to apply to the proposed project; and
- Documentation supporting the finding of exemption from CEQA.
  - The Commission's Energy Division shall then review the submittal and shall notify Applicant of either its approval or its denial of Applicant's claim for exemption from CEQA review within 21 days from the time that Applicant's submittal is complete.
  - If the Commission's Energy Division approves Applicant's claimed CEQA exemption(s), the staff shall prepare a Notice to Proceed (NTP) and file a Notice of Exemption with the State Clearinghouse, Office of Planning and Research.
  - If the Commission's Energy Division disapproves Applicant's claimed CEQA exemption(s), the staff shall issue to Applicant a letter which states the specific reasons that the claimed CEQA exemption(s) do not apply to the proposed project.

- If the Commission's Energy Division disapproves Applicant's claimed CEQA exemption(s) and Applicant wishes to pursue the project, Applicant shall either re-design the specific project and facilities and then reapply for a finding of exemption from CEQA, or file a formal application with the Commission seeking the requisite approval and full CEQA review, before commencing any full facilities-based construction activities.
- Applicant states that its proposed construction activities would involve construction of reasonably short conduit extensions or stubs. Accordingly, we limit Applicant's future requests for CEQA exemptions for such facilities-based construction projects to no more than five miles. For projects exceeding five miles, Applicant shall file a formal application seeking full CEQA review.

Applicant shall not perform any construction activities other than in or on existing structures without first obtaining an NTP from the Commission's Energy Division or authorization by the Commission after any other required environmental review.

We find that this review process is appropriate for certain projects as described in the application. Should Applicant propose construction related to other types of customers or other service facilities, a different level of CEQA review may be required. In that instance, Applicant is required to file for additional authority from the Commission before commencing construction.

### **Financial Qualifications**

Pursuant to Appendix C of Decision (D.) 95-12-056, an applicant for a CPCN for authority to provide resold and facilities-based local exchange and interexchange services must demonstrate that it has a minimum of \$100,000 cash or cash equivalent to meet the firm's start-up expenses. An 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.

At Exhibit E (confidential) to the application CVT has provided financial statements that demonstrate that it has access to a minimum of \$100,000 cash or cash equivalent. The amount noted in the financial statements is sufficient to cover start-up expenses as well as potential deposits and is reasonably liquid and available.

### **Managerial and Technical Qualifications**

To be granted a CPCN for authority to provide local exchange and interexchange service, an applicant must make a reasonable showing of managerial and technical expertise in telecommunications or a related business.<sup>5</sup> CVT has provided biographical information on its management in Exhibit 4 to its application that demonstrates that it has sufficient expertise and training to operate as a telecommunications provider.

Applicant has verified that no one associated with it or employed by it as an affiliate, officer, director, partner, or owner of more than 10% of CVT was previously associated with a telecommunications carrier that filed for bankruptcy. Applicant also verified that no one associated with it or employed by it as an affiliate, officer, director, partner, or owner of more than 10% of the applying company was sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order.

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<sup>5</sup> D.95-12-056 at Appendix B, Rule 4.A.

## **Tariffs**

CVT provided draft tariffs setting forth its rules and describing rates, terms and conditions for certain services. The Applicant explained in its application that it intends to provide its other services on a detariffed basis.

Commission staff reviewed CVT's draft tariffs for compliance with Commission rules and regulations. Deficiencies are noted in Attachment A to this decision. In its compliance tariff filing, Applicant must correct these deficiencies as a condition of our approval of its application.

Applicant's request for detariffing is consistent with Commission requirements, contained in D.07-09-018. Applicant filed a statement in its Amendment that it will "make available to the public its rates, terms, and conditions for detariffed services on its websites and provide a toll-free number for consumers to call to obtain a copy of rates, terms, and conditions."<sup>6</sup> Applicant will be required to include all commission fees and surcharges in its contracts; these contracts shall adhere to the consumer protection rules established in D.98-08-031.

## **Map of Service Territory**

To be granted a CPCN for authority to provide local exchange service, an applicant must provide a map of the service territories it proposes to serve.<sup>7</sup> In its application (Exhibit C), Applicant provided a map of the location of its proposed service territory, in compliance with this requirement.

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<sup>6</sup> Amendment to Application of Central Valley Telecom, LLC, May 25, 2011, at 4.

<sup>7</sup> D.95-12-056 at Appendix B, Rule 4.E.

### **Expected Customer Base**

Applicant provided its estimated customer base for the first and fifth years of operation in its application. Applicant estimated that it would serve 1,000 customers during the first year of operation and 10,000 customers during the fifth year of operation and, thus, has complied with this requirement.

### **Motion for Protective Order**

Pursuant to Pub. Util. Code §583 and General Order 66-C, Applicant requests that the financial information submitted in the application be granted confidential treatment and kept under seal. Applicant represents that it is a privately held corporation and, as such, its financial statements are confidential and not publicly available. Applicant asserts that release of this information would place it at a competitive disadvantage. We have granted similar requests in the past and will do so here.

### **Request for Treatment as a Nondominant Carrier**

Applicant requests treatment as a nondominant carrier, which would include exemption from the requirements of Pub. Util. Code §§ 816-830 concerning stocks and security and § 851 concerning the encumbrance and transfer of utility property. The Commission detailed its rules regarding exemption of nondominant carriers in D.85-01-008, and subsequently modified them in D.85-07-081 and D.85-11-044. We grant Applicant's request for nondominant carrier status, provided that they follow all rules detailed in the above-referenced decisions.

### **Conclusion**

We conclude that the application in this proceeding conforms to our rules for certification as a competitive local exchange carrier and a non-dominant interexchange carrier. Accordingly, we grant Central Valley Telecom, LLC a

CPCN to provide resold and facilities-based local exchange telecommunications services in the service territories of AT&T, Verizon, ~~Citizens~~Frontier, and SureWest, and resold and facilities-based intrastate interexchange telecommunications service on a statewide basis subject to compliance with the terms and conditions set forth in the Ordering Paragraphs.

### **Categorization and Need for Hearing**

In Resolution ALJ 176-3272, dated April 14, 2011, 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. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

### **Comments on Proposed Decision**

No protests were filed in this proceeding. Therefore, this is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

### **Assignment of Proceeding**

Catherine J. K. Sandoval is the assigned Commissioner and Kelly A. Hymes is the assigned Administrative Law Judge in this proceeding.

### **Findings of Fact**

1. Notice of the application appeared on the Daily Calendar on April 12, 2011. Applicant filed an amended application on May 31, 2011. No protests have been filed to the application or the amendment. A hearing is not required.
2. Applicant has a minimum of \$100,000 of cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses.

3. Applicant has sufficient additional cash or cash equivalent to cover deposits that may be required by other telecommunications carriers in order to provide the proposed service.

4. Applicant's management possesses sufficient experience, knowledge, and technical expertise to provide local exchange and interexchange services to the public.

5. No one associated with or employed by Applicant as an affiliate, officer, director, partner, or owner of more than 10% 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.

6. No one associated with or employed by it as an affiliate, officer, director, partner, or owner of more than 10% of the Applicant was previously associated with any telecommunications carrier that 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, nor is currently under investigation for similar violations.

7. Applicant submitted a draft of its initial tariff that contained the deficiencies listed in Attachment A to this decision. Except for these deficiencies, Applicant's draft tariffs comply with the Commission's requirements.

8. Applicant has provided a map of the location of its proposed service territory.

9. Applicant has provided an estimate of its customer base for the first and fifth year of operation.

10. The Commission is the Lead Agency for the proposed project under the California Environmental Quality Act (CEQA).

11. By this application, Applicant does not seek permission to engage in any specific project.

12. Applicant's proposed facilities-based construction activities, as described in the application, are limited and, in some circumstances, may qualify for an exemption from CEQA.

13. The expedited 21-day process for the Commission's Energy Division staff review of the applicability of the CEQA exemptions for certain proposed facilities-based construction projects, as set forth in this decision, is adequate for the Commission's purposes as the CEQA Lead Agency and is in the public interest.

14. Applicant has met the requirements for issuance of a CPCN authorizing the provision of full facilities-based local exchange services.

15. Public disclosure of Applicant's financial information, filed under seal, would place it at an unfair competitive disadvantage.

### **Conclusions of Law**

1. Applicant should be granted a CPCN to provide resold and facilities-based local exchange services in the service territories of AT&T, Verizon, [CitizensFrontier](#), and SureWest, and resold and facilities-based interstate interexchange telecommunications services on a statewide basis, subject to the terms and conditions set forth in the Ordering Paragraphs.

2. Applicant, once granted a CPCN, should be subject to the applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

3. Applicant's request to be detariffed should be granted. Applicant should make available to the public on its website its rates, terms and conditions for detariffed services and provide a toll-free number for consumers to call to obtain a copy of rates, terms and conditions.

4. Applicant should be granted nondominant carrier status, subject to Commission rules and regulations as detailed in D.85-01-008 and modified in D.85-07-081 and D.85-11-044.

5. The CEQA review process set forth below is appropriate for certain construction projects described in the application, which may be exempt from the requirements of CEQA. Should Applicant propose other types of construction projects, a different level of CEQA review may be required, and Applicant should file for an application for project approval from the Commission and undergo any required environmental review.

6. Applicant should be granted a full facilities-based CPCN, subject to the requirement that Applicant comply with the expedited 21-day process for the Commission's Energy Division staff review of potentially CEQA-exempt projects, as stated in this order, and apply for Commission approval and undergo CEQA review for other types of projects.

7. Applicant's request to file its financial and estimated customer base information under seal should be granted for two years.

## **O R D E R**

**IT IS ORDERED** that:

1. A Certificate of Public Convenience and Necessity is granted to Central Valley Telecom, LLC, to provide resold and facilities-based local exchange

services in the service territories of Pacific Bell Telephone Company dba AT&T California, Citizens Telecommunications Company of California, Inc./Citizens Communications Company dba Frontier Communications of California, SureWest Telephone/SureWest Communications, and Verizon California, Inc., and resold and facilities-based interexchange services on a statewide basis, subject to the terms and conditions set forth below.

2. Central Valley Telecom, LLC, may seek authorization to construct facilities which may be subject to an exemption from the requirements of the California Environmental Quality Act, pursuant to the process set forth in Ordering Paragraph 4 below. For other types of projects, Central Valley Telecom, LLC, shall apply for Commission authorization and undergo any required environmental review before commencing construction.

3. The California Environmental Quality Act review process adopted in today's decision is appropriate for the projects as described in the application. A different level of California Environmental Quality Act review may be required, should Central Valley Telecom, LLC, propose different types of construction projects.

4. The staff of the Commission's Energy Division is authorized to review, process, and act upon Central Valley Telecom, LLC, requests for a determination that its proposed construction activities are exempt from the requirements of the California Environmental Quality Act, using the following procedure:

- Central Valley Telecom, LLC, will provide the Commission's Energy Division with:
  - A detailed description of the proposed project, including:
    - Customer(s) to be served;

- The precise location of the proposed construction project; and
- Regional and local site maps.
- A description of the environmental setting, including at a minimum:
  - Cultural, historical, and paleontologic resources;
  - Biological resources; and
  - Current land use and zoning.
- A construction workplan, including:
  - Commission Preconstruction Survey Checklist-Archaeological Resources;
  - Commission Preconstruction Survey Checklist-Biological Resources;
  - A detailed schedule of construction activities, including site restoration activities;
  - A description of construction/installation techniques;
  - A list of other agencies contacted with respect to siting, land use planning, and environmental resource issues, including contact information; and
  - A list of permits required for the proposed project.
- A statement of the California Environmental Quality Act exemption(s) claimed to apply to the proposed project and documentation supporting the finding of exemption from California Environmental Quality Act.
- The Commission's Energy Division will then review the submittal and notify Central Valley Telecom, LLC of either its approval or its denial of Central Valley Telecom, LLC's claim for exemption from California Environmental

Quality Act review within 21 days from the time that Applicant's submittal is complete.

- If the Commission's Energy Division approves Central Valley Telecom, LLC's claimed California Environmental Quality Act exemption(s), the staff will prepare a Notice to Proceed and file a Notice of Exemption with the State Clearinghouse, Office of Planning and Research.
- If the Commission's Energy Division disapproves Central Valley Telecom, LLC's claimed California Environmental Quality Act exemptions, the staff will issue to Central Valley Telecom, LLC a letter which states the specific reasons that the claimed California Environmental Quality Act exemptions do not apply to the proposed project.
- If the Commission's Energy Division disapproves Central Valley Telecom, LLC's claimed California Environmental Quality Act exemption(s), Central Valley Telecom, LLC shall either re-design the specific project and facilities and then reapply for a finding of exemption from California Environmental Quality Act, or file a formal application with the Commission seeking the requisite approval and full California Environmental Quality Act review, before commencing any full facilities-based construction activities.

5. Central Valley Telecom, LLC shall not engage in any construction activity relating to a pending California Environmental Quality Act exemption request before receiving a Notice to Proceed from the Commission's Energy Division.

6. Central Valley Telecom, LLC may follow the California Environmental Quality Act procedure in Ordering Paragraph 4 unless and until the Commission adopts different requirements, applicable to Central Valley Telecom, LLC for California Environmental Quality Act compliance in Rulemaking 06-10-006 or a subsequent proceeding.

7. Central Valley Telecom, LLC is authorized to file tariff schedules for the provision of competitive local exchange services and intrastate interexchange services with the deficiencies noted in Attachment A corrected. Central Valley Telecom, LLC may not offer services until tariffs are on file. Central Valley Telecom, LLC's initial filing must be made in accordance with General Order 96-B, the Telecommunications Industry Rules. Central Valley Telecom, LLC must comply with its tariffs.

8. The corporate identification number assigned to Central Valley Telecom, LLC, U-7216-C, must be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

9. In addition to all the requirements applicable to competitive local exchange carriers and interexchange carriers included in Attachments B, C, and D to this decision, Applicant is subject to the Consumer Protection Rules contained in General Order 168, and all applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

10. Central Valley Telecom, LLC is a nondominant carrier, subject to the Commission rules and regulations as detailed in Decision (D.) 85-01-008 and modified in D.85-07-081 and D.85-11-044.

11. Central Valley Telecom, LLC 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.

12. Central Valley Telecom, LLC must annually pay the user fee and public purpose surcharges specified in Attachment B. Per the instructions in Exhibit E to Decision 00-10-028, the Combined California Public Utilities Commission Telephone Surcharge Transmittal Form must be submitted even if the amount

due is \$0. Under Public Utilities Code Section 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.

13. Prior to initiating service, Central Valley Telecom, 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.

14. Central Valley Telecom, LLC 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.

15. Central Valley Telecom, LLC must file an affiliate transaction report with the Director of the Communications Division, in compliance with Decision 93-02-019, on a calendar-year basis with the information contained in Attachment D.

16. Central Valley Telecom, LLC 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.

17. Central Valley Telecom, LLC's request to have the financial information filed with the application kept under seal is granted for two years from the effective date of this decision. During this two-year period, this information will remain under seal and may not be viewed by any person other than the assigned Commissioner, the assigned Administrative Law Judge, the Assistant Chief

Administrative Law Judge or the Chief Administrative Law Judge, except as agreed to in writing by Central Valley, LLC, or as ordered by a court of competent jurisdiction. If Central Valley, LLC believes that it is necessary for this information to remain under seal for longer than two years, Central Valley, LLC may file a motion at least 30 days before the expiration of this limited protective order.

18. Application 11-04-003 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

**ATTACHMENT A**

List of deficiencies in tariff filed by Central Valley Telecom, LLC, in A. 11-04-003 to be corrected in its tariff compliance filing.

1. CPUC assigned Utility ID# 7216 should be included on each sheet in the upper left header along with company name and address. (General Order 96B, Section 8.4.1)
2. Rule 6 - 6.B.2(5), Appendix B, D.95-07-054. Notices: Discontinuance of service notice by CLEC. The company shall include the procedure the customer may use to request authorization of the unpaid charges.
3. Rule 11 - Appendix B, D.95-07-054. Change of Service Provider: Please include solicitation of customer authorization for service termination and transfer. Also include unauthorized service termination and transfer.
4. Please include samples of customer forms.
5. Company must offer ULTS service if offering residential service.

**(END OF ATTACHMENT A)**

## ATTACHMENT B

### REQUIREMENTS APPLICABLE TO COMPETITIVE LOCAL EXCHANGE CARRIERS AND INTEREXCHANGE CARRIERS

1. Applicant shall 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, and~~ must ~~be remitted~~ be remit them regularly ~~remitted~~. Per the instructions in Appendix 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 1.150% 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 0.200% 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 Supplemental Communications Devices for the Disabled 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 either 0.180% of gross intrastate revenue (Resolution M-4819), dated June 7, 2007, effective July 1, 2007 or \$100, whichever is greater (per D.10-09-017);
- d. The current 0.00% 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); Resolution T-17299, dated November 19, 2010, effective December 1, 2010;
- e. The current 0.300% 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); Resolution T-~~17215,17311~~, dated ~~October 15, 2009~~March 24, 2011 effective December 1, ~~2009~~2011;
  - f. The current 0.000% 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 Advanced Services Fund (D.07-12-054); Resolution T-17248, dated December 17, 2009, effective January 1, 2010; 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 24, 2008, effective June 1, 2008).

Note: These fees change periodically. In compliance with Resolution T-16901, December 2, 2004, Applicant should 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 charges until further revised.

- 3. Applicant is a competitive local exchange carrier (CLEC). 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. Applicant is a nondominant interexchange carrier (NDIEC). The effectiveness of its future NDIEC tariffs is subject to the requirements of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).
- 5. Tariff filings shall reflect all fees and surcharges to which Applicant is subject, as reflected in 2 above.

6. Applicant shall file a service area map as part of its initial tariff.
7. Prior to initiating service, Applicant shall 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.
8. Applicant shall 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.
9. Applicant shall notify the Director of the Communications Division in writing of the date interLATA service is first rendered to the public within five days after service begins, and again within five days after intraLATA service begins.<sup>8</sup>
10. Applicant shall keep its books and records in accordance with the Generally Accepted Accounting Principles.
11. In the event Applicant's books and records are required for inspection by the Commission or its staff, it shall 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.

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<sup>8</sup> California is divided into ten Local Access and Transport Areas (LATAs), each containing numerous local telephone exchanges. InterLATA describes services, revenues and functions relating to telecommunications originating within one LATA and terminating in another LATA. IntraLATA describes services, revenues and functions relating to telecommunications originating within a single LATA.

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

13. Applicant shall 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.

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

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

16. 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 CPCN unless it has received written permission from the Communications Division to file or remit late.

17. Applicant is exempt from Commission Rules of Practice and Procedure 3.1(b).

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

19. 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.

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

21. Applicant shall 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 B)**

**ATTACHMENT C  
ANNUAL REPORT**

An original and a machine readable, copy using Microsoft Word or compatible format shall 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.

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

**(END OF ATTACHMENT C)**

**ATTACHMENT D  
CALENDAR YEAR AFFILIATE TRANSACTION REPORT**

1. Each utility shall 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 shall 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 should 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 should 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 D)**

Document comparison by Workshare Professional on Tuesday, July 12, 2011 4:15:08 PM

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