

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298**FILED**3-05-15
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March 5, 2015

Agenda ID #13783
and
Alternate Agenda ID #13785
Ratesetting

TO PARTIES OF RECORD IN APPLICATION 13-03-010:

Enclosed are the proposed decision of Administrative Law Judge (ALJ) W. Anthony Colbert, previously designated as the presiding officer in this proceeding, and the alternate decision of Commissioner Catherine J.K. Sandoval. The proposed decision and the alternate decision will not appear on the Commission's agenda sooner than 30 days from the date they are mailed.

Pub. Util. Code § 311(e) requires that the alternate item be accompanied by a digest that clearly explains the substantive revisions to the proposed decision. The digest of the alternate decision is attached.

When the Commission acts on these agenda items, it may adopt all or part of the decision as written, amend or modify them, or set them aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the proposed decision and alternate decision as provided in Pub. Util. Code §§ 311(d) and 311(e) and in Article 14 of the Commission's Rules of Practice and Procedure (Rules), accessible on the Commission's website at www.cpuc.ca.gov. Pursuant to Rule 14.3, opening comments shall not exceed 15 pages.

Comments must be filed pursuant to Rule 1.13 either electronically or in hard copy. Comments should be served on parties to this proceeding in accordance with Rules 1.9 and 1.10. Electronic and hard copies of comments should be sent to ALJ Colbert at wac@cpuc.ca.gov and Commissioner Sandoval's advisor William Johnston

at wej@cpuc.ca.gov. The current service list for this proceeding is available on the Commission's website at www.cpuc.ca.gov.

/s/ KAREN V. CLOPTON

Karen V. Clopton

Chief Administrative Law Judge

KVC:lil

Attachment

ATTACHMENT

**DIGEST OF DIFFERENCES BETWEEN
ADMINISTRATIVE LAW JUDGE COLBERT'S PROPOSED DECISION
AND THE ALTERNATE PROPOSED DECISION
OF COMMISSIONER SANDOVAL**

Pursuant to Public Utilities Code Section 311(e), this is the digest of the substantive differences between the proposed decision of Administrative Law Judge Colbert (mailed concurrently with this alternate) and the proposed alternate decision of Commissioner Sandoval (Mailed on 3/5/2015).

The alternate proposed decision of Commissioner Sandoval differs from the ALJ Proposed Decision by granting the application of Bright Fiber Network, LLC, for a Certificate of Public Convenience and Necessity (CPCN) for limited facilities-based local exchange and access services. Bright Fiber is required to file tariffs with the Commission before it can offer local exchange services. Bright Fiber must receive additional authority from the Commission as part of its California Advanced Services Fund (CASF) grant application before it can perform any construction activities other than installation of equipment in existing buildings or structures.

(END OF ATTACHMENT)

COM/CJS/lil **ALTERNATE PROPOSED DECISION**

Agenda ID #13785
Alternate to Agenda ID #13783
Ratesetting

Decision **ALTERNATE PROPOSED DECISION OF COMMISSIONER SANDOVAL** (Mailed 3/5/2015)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Bright Fiber Network, LLC for a Certificate of Public Convenience and Necessity to Provide Full Facilities Based and Competitive Local Exchange Access and Interexchange Services within California and specifically, within Nevada County.

Application 13-03-010
(Filed March 4, 2013)

DECISION GRANTING BRIGHT FIBER NETWORK, LLC A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN ORDER TO PROVIDE LIMITED FACILITIES-BASED COMPETITIVE LOCAL EXCHANGE, ACCESS AND INTEREXCHANGE SERVICES

Summary

Pursuant to Public Utilities Code Section 1001, we grant Bright Fiber Network, LLC's (Bright Fiber) application for a Certificate of Public Convenience and Necessity (CPCN) to provide limited facilities-based local exchange, access and interexchange services in California¹ subject to the terms and conditions set forth in the Ordering Paragraphs.

¹ Bright Fiber Network, Amended Application (A.) 13-03-010, October 15, 2015, p. 1.

1. Background and Procedural History

On March 4, 2013, Bright Fiber Network, LLC (Bright Fiber), a limited liability corporation in California filed an application for a Certificate of Public Convenience and Necessity (CPCN) to operate as a competitive local and interexchange carrier to provide broadband services in the service territories of Pacific Bell Telephone Company d/b/a AT&T California (AT&T) and Verizon California Inc. (Verizon) as a requirement of the California Advanced Services Fund (CASF) within Nevada County. Bright Fiber's principal place of business is located at 416 Broad Street, Nevada City, CA 95959. In its application Bright Fiber stated that it was seeking a CASF grant to provide broadband services and that it would not be providing local exchange voice, access, or other voice services within Nevada County.¹ In its Amended Application of October 15, 2013, however, Bright Fiber stated:

Applicant seeks authority to provide competitive local exchange, access and interexchange services as authorized by this Commission and more specifically within Nevada County.... Applicant will not initially offer any local exchange voice or access services at start up. However, as soon as it has sufficient customer base and the necessary voice switch and interconnection to the Public Switched Telephone Network (PSTN), it will provide such services.²

Under the Commission Rules in place when it initially filed its application Bright Fiber was required to obtain a CPCN before seeking a CASF grant.

¹ Bright Fiber CPCN Application, § 3, p. 2.

² Bright Fiber, Amended Application, October 15, 2013, § 3, p. 2.

Though that legal requirement has since been lifted,³ Bright Fiber nevertheless seeks a CPCN.⁴

In its application Bright Fiber proposed to provide broadband services to business and residential customers via facilities that will be constructed and owned by Bright Fiber. Bright Fiber stated that it would also utilize the broadband network facilities that were constructed through the Central Valley Next Generation Broadband Infrastructure Project. The Applicant proposed to build a 100% Fiber to the Premises (FTTP) last-mile internet network in a 26.2 square mile contiguous “underserved” area and would concurrently deploy the network in a 22.9 square mile “served” area of western Nevada County, California.⁵ Bright Fiber proposes to construct the fiber optic project primarily underground, utilizing existing city, county and state right of ways.⁶

On July 22, 2013, the Administrative Law Judge (ALJ) assigned to the Bright Fiber proceeding issued a Ruling requesting additional information from Bright Fiber on the type of services it planned to provide and the legal basis for its being granted a CPCN. Specifically the Ruling requested that Bright Fiber:

- Please describe in detail the services to be provided by Applicant. Address what technologies and protocols will be used to provide these services, including whether these services will be offered over broadband facilities and whether services will be offered using Time-Division Multiplexing, Internet Protocol or other protocols. Also address the extent to which the services will be provided

³ SB 740, October 3, 2013.

⁴ *Id.*, at 5 § 11.

⁵ *Id.*, at 3-4 § 8.

⁶ *Id.*, at 3 § 7.

over the Public Switched Telephone Network and whether any facilities constructed will interconnect to the Public Switched Telephone Network.⁷

- Please state the legal basis on which Applicant claims the Commission can grant it the requested CPCN. Among other things, Applicant's response should address Public Utilities Code Sections 216, 233-234, 239, 710, and 1001; and 47 USC 153(43) and 251; and any other statutes or case law Applicant deems relevant. Also state the legal reason(s) that Applicant believes the requested authority is necessary⁸

In response, on October 15, 2013, as noted, Bright Fiber filed an amended CPCN application. As in its initial application, Bright Fiber stated that it was seeking a grant of funds through the CASF Program. The Applicant stated that while it would not initially offer any local exchange voice or access services at start up,⁹ as soon as it had a sufficient customer base and the necessary voice switch and interconnection it would provide such voice services.¹⁰ The Applicant would initially be providing broadband services to underserved areas¹¹ and that it estimated it would have 1,200 residential and business customers at the end of its first year of service.¹² Bright Fiber stated that its

⁷ As used herein, Public Switched Telephone Network means the same as Public Switched Network, defined in 47 CFR 20.3: Any common carrier switched network, whether by wire or radio, including local exchange carriers, interexchange carriers, and mobile service providers, that use the North American Numbering Plan in connection with the provision of switched services.

⁸ Assigned ALJ Ruling Requesting Additional Information, July 22, 2013.

⁹ Bright Fiber Amended CPCN Application, at 2 § 3.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*, at 7 § 15.

customer base would consist of residents, businesses and anchor institutions such as hospitals, schools, government offices and public safety entities that would benefit from affordable, faster and higher quality broadband services.¹³

In an email response of August 13, 2014, to a March 5, 2014, email from the Assigned Administrative Law Judge, Bright Fiber confirmed that the “its broadband facilities would be constructed based on a fiber optic build that will enable Bright Fiber Network LLC to provide broadband to underserved areas. At start, it will only provide broadband access. In time, local exchange voice or access services will be offered when it is determined to be feasible.”¹⁴

2. Jurisdiction

Public Utilities Code Section (Pub. Util. Code §) 216(a) defines the term “Public utility” to include a “telephone corporation,” which in turn is defined in Pub. Util. Code § 234(a) as “every corporation or person owning, controlling, operating, or managing any telephone line for compensation within this state.” Furthermore, Pub. Util. Code § 233 defines “telephone line” as including “all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telephone, whether such communication is had with or without the use of transmission wires.”

According to its Amended Application, Bright Fiber proposes to provide broadband services to both served and underserved areas within Nevada

¹³ *Id.*

¹⁴ Bright Fiber August 13, 2014, e-mail response to ALJ (located in correspondence file of A.13-03-010).

County, California, and eventually voice services to those areas “as soon as it has sufficient customer base and the necessary voice switch and interconnection to the Public Switched Telephone Network (PSTN).” Under 47 USC 251(c), only common carriers are eligible to request from Incumbent Local Exchange Carriers mandatory interconnection to the PSTN. Bright Fiber can get PSTN access through mandatory interconnection only by declaring itself to be a common carrier, and is eligible for a CPCN if it declares that it is a telephone corporation and meets the Commission’s rules to provide telephone service in California. A CPCN is a predicate to the PSTN access that would allow Bright Fiber to offer telephone service. The Commission does not allow telephone service to be offered in California before a CPCN is approved. The Commission may issue a CPCN upon the applicant’s declaration that it is a telephone corporation and intends to offer services and operate in a fashion that brings it within the Commission’s jurisdiction. While Bright Fiber does not intend to provide local exchange voice, access, or other voice services in addition to its broadband service immediately, it anticipates providing voice service when its customer base is sufficient and it gets access to the PSTN, a condition that requires a CPCN.¹⁵

There is no question that the facilities it plans to deploy will support such service. In owning, controlling, operating and managing telephone lines for compensation over which it will provide telephone service, Bright Fiber will be a telephone corporation within the scope of Pub. Util. Code § 234(a), and thus subject to our jurisdiction.

¹⁵ See Bright Fiber CPCN Application at 2 § 3; Amended Application, at 2 § 3 (See also August 13, 2014 email response.)

Bright Fiber, though free to apply for a CASF grant without applying for a CPCN, applies for a CPCN operating authority in order to have access to “conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telephone, whether such communication is had with or without the use of transmission wires,” and for other purposes available to holders of CPCN operating authority such as mandatory interconnection to the PSTN under 47 USC 251(c).

3. California Environmental Quality Act (CEQA)

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 considered, and environmental quality is restored or enhanced to the fullest extent possible. Bright Fiber states that it does not intend to construct any facilities other than equipment to be installed in existing buildings or structures, and on existing rights of way. Bright Fiber asserts that it “will not be constructing or breaking new ground in areas that would be subject to CEQA.”²⁰ It therefore seeks “a waiver of Rule 2.4 based on the applicable Class 1 or Class 3 Exemption...”²¹

This Decision grants Bright Fiber limited facilities-based authority allowing installation of equipment in existing buildings or structures. Bright Fiber may not construct facilities other than equipment to be installed in existing buildings or structures, unless the Commission grants Bright Fiber additional construction authority in a future decision. Thus, it can be seen with certainty

²⁰ *Id.*, p. 4.

that there is no possibility that granting Bright Fiber limited facilities-based construction authority may result in a significant adverse effect on the environment, and no CEQA review is required. As we have already noted, Bright Fiber has also submitted a separate CASF grant application to fund its deployment. The Commission's decision whether to award the CASF grant and additional construction authority is subject to CEQA.

4. Financial Qualifications

To be granted a CPCN, an applicant for authority to provide limited facilities-based and resold 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.²² An applicant must also demonstrate that it has sufficient additional resources to cover all deposits required by local exchange carriers and/or interexchange carriers in order to provide the proposed service.²³ In the application, Bright Fiber provided financial statements that it had access to amounts in excess of \$100,000 required for a full facilities-based applicant and the requisite financing to terms of its CASF grant proposal. In its Amended Application, Bright Fiber states: "The total budget for the proposed broadband infrastructure is estimated at \$27,646,990. Applicant is seeking \$16,588,194 in a

²¹ *Id.*, citing CCR § 15301; 14 CCR § 15303.

²² The financial requirement for Competitive Local Exchange Carriers is contained in D.95-12-056, Appendix C. The financial requirement for Non-Dominant Interexchange Carriers (NDIEC) is contained in D.91-10-041.

²³ The requirement for Competitive Local Carrier applicants to demonstrate that they have additional financial resources to meet any deposits required by underlying Local Exchange Carriers and/or interexchange carriers is set forth in D.95-12-056, Appendix C. For NDIECs, the requirement is found in D.93-05-010.

matching grant and \$500,000 in loan funds from the CPUC as a part of the CASF [grant]. Applicant will be providing private investment funds of \$11,058,796.”

Based on the financial statements provided by Bright Fiber and contingent on receipt of approved funding sought from the CASF, we conclude that the applicant is financially qualified to provide the services authorized herein.

5. 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.²⁴ Bright Fiber supplied biographical information on its management in Exhibit 3 to its application that demonstrated that it has sufficient expertise and training to operate as a telecommunications provider.

In its application, Bright Fiber verified by sworn affidavit that no one associated with or employed by Bright Fiber as an affiliate, officer, director, partner, or owner of more than 10% of Bright Fiber was previously associated with a telecommunications carrier that filed for bankruptcy, was sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order, 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, nor is currently under investigation for similar violations.

²⁴ D.95-12-056 at Appendix C, Rule 4.A.

Given the verifications provided, we find that Bright Fiber is in compliance with the requirements of D.95-12-056.

6. Tariffs

Because Bright Fiber's initial services are to be broadband data services, it seeks exemption from the Commission's requirement that it submit a proposed local exchange tariff. We will grant this exemption. However, Bright Fiber may not offer competitive local exchange services until tariffs are filed with and authorized by this Commission in accordance with General Order (GO) 96-B. We require that Bright Fiber file tariffs to provide such competitive local exchange services within 12 months of the date of this order. Should Bright Fiber require additional time given delays in the CASF grant process, it may seek an extension of this twelve month deadline in accordance with Rule 16.6 of the Commission's Rules of Practice and Procedure.

7. 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.²⁵ In its Response, Bright Fiber has provided a map of the location of its proposed service territory, in compliance with this requirement.

8. Rule 3.1(i) Statement

Bright Fiber seeks exemption from this requirement on the grounds that it "does not have common or capital stock issued or outstanding," making the submission of an annual report unnecessary.

²⁵ D.95-12-056 at Appendix C, Rule 4.E.

9. Expected Customer Base

Bright Fiber provided its estimated customer base for the first and fifth year of service for its broadband end-user subscribers. With the understanding that voice service subscribers may depart from these estimates when voice services become available, we find that Bright Fiber has complied with this requirement.

10. Conclusion

Bright Fiber's application for a CPCN to provide local exchange, interexchange and access services in the service territory of AT&T and Verizon is granted.

We conclude that the application conforms to our rules for certification as a competitive local exchange and interexchange carrier. Accordingly, we grant Bright Fiber a CPCN to provide limited facilities-based local exchange telecommunications service in the service territory of AT&T, Verizon, and interexchange service in California subject to compliance with the terms and conditions set forth in the Ordering Paragraphs.

The CPCN granted by this decision provides benefits to Bright Fiber and corresponding obligations. Because Bright Fiber receives authority to operate in the prescribed service territory, it can request interconnection with other telecommunications carriers in accordance with Section 251 of the Federal Communications Act (47 U.S.C. 251), and it receives access to public rights of way in California as set forth in D.98-10-058. In return, Bright Fiber is obligated to comply with all applicable Public Utilities Codes and Commission Rules, General Orders, and decisions applicable to telecommunications carriers providing approved services. The applicable Codes, Rules, etc. include, but are not limited to, consumer protection rules, tariffing, and reporting requirements.

Moreover, Bright Fiber is obligated to pay all Commission prescribed user fees and public purpose program surcharges as set forth in the Appendix B of this decision, and to adhere to Pub. Util. Code § 451 which states that every public utility "...shall furnish and maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities, as defined in Section 54.1 of the Civil Code, as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public."

11. Categorization and Need for Hearings

In Resolution ALJ 176-3312, dated April 4, 2013, 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.

12. Comments on Proposed Decision

The Alternate proposed decision of the Commissioner Catherine J.K. Sandoval 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 comments were filed on _____ by _____.

13. Assignment of Proceeding

Catherine J.K. Sandoval is the assigned Commissioner and W. Anthony Colbert is the assigned ALJ in this proceeding.

Findings of Fact

1. On March 4, 2013, Bright Fiber, a limited liability corporation in California filed an application for a CPCN to operate as a competitive local exchange carrier and interexchange carrier to provide broadband services as a requirement of the CASF within Nevada County.

2. Bright Fiber is seeking a CASF grant to provide broadband services and plans to provide local exchange voice, access, or other voice services within Nevada County.

3. Bright Fiber proposes to provide broadband services to business and residential customers via facilities that will be constructed and owned by Bright Fiber.

4. Bright Fiber proposes to utilize broadband network facilities that were constructed through the Central Valley Next Generation Broadband Infrastructure Project.

5. Bright Fiber proposes to build a 100% FTTP last-mile internet network in a 26.2 square mile contiguous “underserved” area and will concurrently deploy the network in a 22.9 square mile “served” area of western Nevada County, California.

6. Bright Fiber proposes to construct the fiber optic project primarily underground, utilizing existing city, county and state right of ways.

7. Bright Fiber must possess a CPCN in order to obtain unbundled loops or unbundled switching under 47 USC 241.

8. On July 22, 2013, the Assigned ALJ, issued a Ruling requesting additional information from Bright Fiber on the type of services it planned to provide and the legal basis for its being granted a CPCN.

9. On October 15, 2013, Bright Fiber filed an amended CPCN application.

10. In its amended application Bright Fiber stated that it would not initially offer any local exchange voice, interexchange, or access services.

11. In its amended application Bright Fiber stated that its customer base would consist of residents, businesses and anchor institutions such as hospitals, schools, government offices and public safety entities that would benefit from affordable, faster and higher quality broadband services.

12. In its amended application, Bright Fiber said it plans to offer voice services over facilities deployed under any approved CASF grant when its customer base is sufficient to sustain those services and it receives interconnection to the PSTN.

13. Bright Fiber must receive additional authority from the Commission as part of its CASF grant application process before it can perform any construction activities other than installation of equipment in existing buildings or structures.

14. In owning, controlling, operating and managing telephone lines for compensation over which it provides telephone service, Bright Fiber will be a telephone corporation and a public utility as defined in Pub. Util. Code Sections 234(a) and 216(a).

15. Bright Fiber has a minimum of \$100,000 of cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses when combined with the sought-after CASF funding.

16. Bright Fiber 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.

17. Bright Fiber's management possesses sufficient experience, knowledge, and technical expertise to provide local exchange services to the public.

18. No one associated with or employed by Bright Fiber as an affiliate, officer, director, partner, or owner of more than 10% of Bright Fiber was: previously

associated with a telecommunications carrier that filed for bankruptcy; was sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order; or was previously associated with any telecommunication 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.

19. Bright Fiber's initial services will be broadband data services for which tariffs are not required.

20. Bright Fiber provided a map of the location of its proposed service territory.

21. Bright Fiber has no information to report under Rule 3.1(i), which requires that a utility filing an application under Pub. Util. Code § 1001, provide a statement regarding compliance with GO 104-A, Section 2.

22. Bright Fiber provided an estimate of its customer base for the first and fifth year of operation.

Conclusions of Law

1. Bright Fiber qualifies as a telephone corporation for the purposes of this application because it intends to provide local exchange voice, interexchange, access, or other voice services in addition to its broadband service.

2. Because Bright Fiber is a telephone corporation, it is subject to the Commission's jurisdiction.

3. Bright Fiber should be granted a CPCN to provide limited facilities-based local exchange voice, interexchange, and access in addition to its broadband service within Nevada County.

4. Bright Fiber should file tariffs with the Commission before it can offer local exchange services.

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

6. Pursuant to CEQA Guidelines Section 15061(b)(3), this decision is not subject to CEQA because it can be seen with certainty that there is no possibility that granting Bright Fiber limited facilities-based construction authority may result in a significant adverse effect on the environment.

O R D E R

IT IS ORDERED that:

1. Bright Fiber Network, LLC's Application for a Certificate of Public Necessity to provide limited facilities-based local exchange and access services in the territories of Pacific Bell Telephone Company d/b/a AT&T California and Verizon California Inc., and interexchange services in California is granted subject to the terms and conditions of this decision.

2. Bright Fiber Network, LLC shall not offer competitive local exchange services until tariffs are filed with and authorized by this Commission, and it must file local exchange tariffs within twelve months of the effective date of this order or its certificate of public convenience and necessity to provide local exchange service is subject to cancellation.

3. The corporate identification number assigned to Bright Fiber Network, LLC, U-xxxx-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.

4. Bright Fiber Network, LLC must obtain a performance bond of at least

\$25,000 in accordance with Decision 13-05-035. The performance bond must be a continuous bond (i.e., there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within five days of acceptance of its certificate of public convenience and necessity authority, Bright Fiber Network, LLC must submit a Tier-1 advice letter to the Director of the Communications Division, containing a copy of the license holder's executed bond, and submit a Tier-1 advice letter annually, but not later than March 31, with a copy of the executed bond.

5. Bright Fiber Network, LLC must not allow its performance bond to lapse during any period of its operation. Pursuant to Decision 13-05-035, the Commission may revoke a certificate of public convenience and necessity if a carrier is more than 120 days late in providing the Director of the Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Communications Division.

6. 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, Bright Fiber Network, LLC 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.

7. Bright Fiber Network, 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.

8. Bright Fiber Network, 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. Applicant must pay a minimum user fee of \$100 or 0.18% of gross intrastate revenue, whichever is greater. Under Public Utilities 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.

9. Prior to initiating service, Bright Fiber Network, 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.

10. Prior to initiating service, Bright Fiber Network, LLC must provide the Commission's Communications Division with the name and address of its designated regulatory/official contact persons(s). This information must be provided electronically, using the "Regulatory/Official Contact Information Update Request" found at <http://www.cpuc.ca.gov/PUC/telco/Information+for+providing+service/>. This information must be updated if the name or telephone number changes, or at least annually.

11. Bright Fiber Network, 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.

12. Bright Fiber Network, 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 using the form contained in Attachment D.

13. Bright Fiber Network, 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.

14. Application 13-03-010 is closed.

This order is effective today.

Dated _____, at San Francisco, California.

ATTACHMENT A

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ATTACHMENT B**REQUIREMENTS APPLICABLE TO COMPETITIVE LOCAL EXCHANGE CARRIERS AND INTEREXCHANGE CARRIERS**

1. Applicant must file, in this docket with reference to this decision number,¹ 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 Universal Lifeline Telephone Service Trust Administrative Committee Fund (Pub. Util. Code § 879);
- b. The California Relay Service and Communications Devices Fund (Pub. Util. Code § 2881; D.98-12-073);
- c. The California High Cost Fund-A (Pub. Util. Code § 739.3; D.96-10-066, at 3-4, App. B, Rule 1.C);
- d. The California High Cost Fund-B (D.96-10-066, at 191, App. B, Rule 6.F.; D.07-12-054);
- e. The California Advanced Services Fund (D.07-12-054);
- f. The California Teleconnect Fund (D.96-10-066, at 88, App. B, Rule 8.G).
- g. The User Fee provided in Pub. Util. Code §§ 431-435. The minimum annual User Fee is \$100, as set forth in D.13-05-035.

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

¹ Written acceptance filed in this docket does not reopen the proceeding.

revised. Current and historical surcharge rates can be found at <http://www.cpuc.ca.gov/PUC/Telco/Consumer+Information/surcharges.htm>.

- Carriers must report and remit CPUC telephone program surcharges online using the CPUC Telecommunications and User Fees Filing System (TUFFS). Information and instructions for online reporting and payment of surcharges are available at <http://www.cpuc.ca.gov/PUC/Telco/Information+for+providing+service/Surcharge+Remittance.htm>. To request a user ID and password for TUFFS online filing and for questions, please e-mail Telco_surcharges@cpuc.ca.gov.
- Carriers must file and pay the PUC User Fee (see above item 2g) upon receiving the User Fee statement sent by the Commission. User Fees cannot be reported or paid online. Instructions for reporting filing are available at <http://www.cpuc.ca.gov/PUC/Telco/Information+for+providing+service/userfee.htm>. Please call (415) 703-2470 for questions regarding User Fee reporting and payment.

3. Applicant must obtain a performance bond of at least \$25,000 in accordance with Decision 13-05-035. The performance bond must be a continuous bond (i.e., there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within five days of acceptance of Certificate of Public Convenience and Necessity authority, Applicant must submit a Tier-1 advice letter to the Director of Communications, containing a copy of the license holder's executed bond, and submit a Tier-1 advice letter annually, but not later than March 31, with a copy of the executed bond.

4. Applicant must not allow its performance bond to lapse during any period of its operation. Pursuant to Decision 13-05-035, the Commission may revoke a Certificate of Public Convenience and Necessity if a carrier is more than 120 days late in providing the Director of the Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Communications Division.

5. Tariff filings must reflect all fees and surcharges to which Applicant is subject, as reflected in #2 above.

6. Applicant must file a service area map as part of its initial tariff.

7. 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. In addition, Applicant must provide the Commission's Communications Division with the name and address of its designated regulatory/official contact persons(s). This information must be provided electronically, using the "Regulatory/Official Contact Information Update Request" found at <http://www.cpuc.ca.gov/PUC/telco/Information+for+providing+service/>. This information must be updated if the name or telephone number changes, or at least annually.

8. 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.

9. 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.

10. Applicant must 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 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.

12. Applicant must 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 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.

14. Applicant must ensure that its employees comply with the provisions of Pub. Util. Code § 2889.5 regarding solicitation of customers.

15. 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.

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, and has not received written permission from the Communications Division to file or remit late, the Communications Division must prepare for Commission consideration a resolution that revokes Applicant's CPCN.

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

18. Applicant must send a copy of this decision to concerned local permitting agencies no 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 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 Pub. Util. Code §§ 2107 and 2108.

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 C)

ATTACHMENT D**CALENDAR YEAR AFFILIATE TRANSACTION REPORT**

An original and a machine readable, copy using Microsoft Word and Excel, 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 May 1st of the year following the calendar year for which the annual report is submitted.

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 D)