

Decision \_\_\_\_\_

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

Application of Fireline Network Solutions, Inc.  
 dba Fireline Broadband for a Certificate of Public  
 Convenience and Necessity to Provide Limited  
 Facilities-Based and Resold Local Exchange and  
 Interexchange Services in the State of California.

Application 12-04-013  
 (Filed April 13, 2012)

**DECISION GRANTING FIRELINE NETWORK SOLUTIONS, INC. A  
 CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN ORDER TO  
 PROVIDE LIMITED FACILITIES BASED AND RESOLD LOCAL EXCHANGE  
 AND INTEREXCHANGE SERVICES**

**Summary**

Fireline Network Solutions, Inc. d/b/a Fireline Broadband filed an application for a certificate of public convenience and necessity (CPCN) for authority to provide limited facilities-based and resold local exchange and interexchange services in the service territories of Pacific Bell Telephone Company, d/b/a AT&T California, and Verizon California Inc.

By this decision, we grant Fireline Network Solutions, Inc., a CPCN to provide limited facilities-based and resold local exchange telecommunications service, on the terms and conditions set forth in the ordering paragraphs.

**Background**

On April 13, 2012, Fireline Network Solutions, Inc. (Fireline or Applicant) applied for a CPCN to provide limited facilities-based and resold competitive local exchange services in the territories of Pacific Bell Telephone Company, d/b/a AT&T California, Verizon California, Inc. (Verizon) and to operate as a

non-dominant and interexchange carrier throughout California. The Applicant is a California corporation with its principal address at 1135 Westminster Blvd., Unit A, Alhambra, CA 91803.

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

The CEQA requires the Commission act, in certain circumstances, 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. However, since the Applicant states that it does not intend to construct any facilities, it can be said with certainty that there is no possibility that granting this application will have an adverse impact upon the environment. Before it can construct facilities other than equipment to be installed in existing buildings or structures, Applicant must file for additional authority and submit to any necessary CEQA review.

### **Financial Qualifications**

Pursuant to Rule 4.B<sup>1</sup> of Decision (D.) 95-12-056 (Appendix C), an applicant for a CPCN for authority to provide limited facilities-based and resold local exchange 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.

At Exhibit C to the application, the Applicant has provided financial statements that demonstrate that it has access to well over \$25,000 cash or cash

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<sup>1</sup> All references to Rules are to the Commission's Rules of Practice and Procedure.

equivalent. This amount is sufficient to cover start-up expenses and is reasonably liquid and available.

Applicant proposes to offer service within the territories of AT&T and Verizon. It is not anticipated that any additional resale and/or deposit agreements would be required by AT&T and Verizon. Thus, Applicant satisfies our financial qualifications requirements.

### **Managerial and Technical Qualifications**

To be granted a CPCN for authority to provide local exchange service, an applicant must make a reasonable showing of managerial and technical expertise in telecommunications or a related business.<sup>2</sup> Applicant has provided biographical information on its management (Exhibit F on 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 Fireline 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.

Applicant has also verified that no one associated with or employed by it as an affiliate, officer, director, partner or owner of more than 10% of Fireline was previously associated with any telecommunications carrier that has been found either civilly or criminally liable by a court of appropriate jurisdiction for a

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<sup>2</sup> D.95-12-056 at Appendix C, Rule 4.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.

### **Tariffs**

Commission staff reviewed Applicant's draft tariffs (Exhibit D to its application) 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.

### **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>3</sup> In its application (Exhibit B), Applicant provided a map of the location of its proposed service territory, in compliance with this requirement.

### **Expected Customer Base**

Applicant provided its estimated customer base for the first and fifth years of operation in its application (Exhibit E). The Applicant has complied with this requirement.

### **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

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<sup>3</sup> D.95-12-056 at Appendix C, Rule 4.E.

them in D.85-07-081 and D.85-11-044. We grant Applicant's request for nondominant carrier status, provided that Applicant follows all rules detailed in the above referenced decisions.

### **Conclusion**

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

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

In Resolution ALJ 176-3293, dated May 10, 2012, 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.

### **Waiver of Comment Period**

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 W. Anthony Colbert is the assigned Administrative Law Judge in this proceeding.

**Findings of Fact**

1. Notice of the application appeared on the Daily Calendar on April 23, 2012. No protests have been filed. A hearing is not required.

2. Applicant seeks authorization to provide limited facilities-based and resold local exchange and interexchange telecommunications services in the service territories of AT&T and Verizon.

3. 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.

4. 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.

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

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

7. 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.

8. Except for the deficiencies in Attachment A to this decision, Applicant's draft tariffs comply with the Commission's requirements.

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

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

11. Applicant does not propose to construct any facilities.

### **Conclusions of Law**

1. Applicant should be granted a CPCN to provide limited facilities-based and resold local exchange and interexchange telecommunications services in the service territories of AT&T and Verizon, subject to the terms and conditions set forth below.

2. Applicant has the financial ability to provide the proposed service.

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

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. Applicant's initial tariff filing should correct the tariff deficiencies shown in Attachment A to this decision.

6. Since Applicant does not propose to construct any facilities, it can be said with certainty that granting it authority to provide local exchange service will not have a significant adverse effect upon the environment.

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

1. A Certificate of Public Convenience and Necessity is granted to Fireline Network Solutions, Inc., to provide limited facilities-based and resold local exchange and interexchange telecommunications services in the service territories of Pacific Bell Telephone d/b/a AT&T California and Verizon California Inc., subject to the terms and conditions set forth below.

2. Fireline Network Solutions, Inc. may not offer competitive local exchange service until tariffs are filed with and authorized by this Commission, in accordance with General Order 96-B, and the tariffs have been corrected for deficiencies set forth in Attachment A.

3. The corporate identification number assigned to Fireline Network Solutions, Inc., U-7239-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. Fireline Network Solutions, Inc. 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.

5. Fireline Network Solutions, Inc. 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.

6. Fireline Network Solutions, Inc. must report surcharges and user fees regularly even if the amount due is \$0. Instructions on the remittance and payment of surcharges and user fees are provided in Attachment B.

7. Prior to initiating service, Fireline Network Solutions, Inc. 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. Fireline Network Solutions, Inc. 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. Fireline Network Solutions, Inc. 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.

10. Fireline Network Solutions, Inc. 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.

11. Fireline Network Solutions, Inc. must file a tariff within 12 months of the effective date of this order, or its certificate will be cancelled.

12. Application 12-04-013 is closed.

This order is effective today.

Dated \_\_\_\_\_, at Irvine, California.

## **ATTACHMENT A**

List of deficiencies in tariff filed by Fireline Network Solutions, Inc., U-7239-C, in A.12-04-013 to be corrected in its initial tariff compliance filing.

1. GO 96-B Sections 8.4.1 and 8.5.1 – CPUC assigned utility ID (U-7235-C) must be on the Title Page and on each sheet in the upper left header under the Company name and address.
2. GO 96-B Sect 8.5.3 – The tariff’s preliminary statement must be revised to define the services offered by the utility, i.e., whether the service is for wholesale or retail and business or residential customers only.
3. GO 96-B Sect 8.5.6 – The Company must publish in its tariff a list of all contracts or deviations under which the utility provides service at rates or under conditions other than those contained in its tariff. For each such contract or deviation, the list must state: name and location of the customer, type of service, dates of execution and expiration, etc.
4. GO 96-B 8.5.7 – Tariff must include information on how a customer can find promotions or additional information on your services.
5. GO 96-B Sect 8.5.7, 13 – Tariff rules on the provision of temporary service or services to speculative projects must be included.
6. GO 96-B Sect 8.5.7, 15 - Tariff rules must be included with respect to line extensions, conditions regarding contributions or advances to individuals or developers, deposits, refunds, ownership and maintenance.
7. D.95-07-054 -Appendix B, Rule 1, Items A-G – Tariff must include CLC information that the utility must provide to the applicant or customer upon request.
8. D.95-07-054 - Appendix B, Rule 15 – Tariff must include a rule that access to 900/976 service can be blocked at the request of the customer.
9. D.96-02-072 Appendix E 8.J.(2) – The tariff must be revised to mention how the non-published services are handled.
10. GO 96-B Sect 8.5.5, D.09-10-066 - Taxes and Surcharges must be revised to reflect the current user fee and surcharge rates.
11. D.02-08-067 Ordering Paragraph 1 Attachment A – The tariff must comply with Ordering Paragraph 1 of D.02-08-067 and local loop demarcation points.

**(End of Attachment A)**

## 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,<sup>4</sup> a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order.

2. All carriers authorized by this Commission to operate in California are required to assess surcharges and user fees on their end-user intrastate service revenue, and must comply with the reporting and payment filing requirements in accordance with the directions of the Commission

Fireline is subject to the following fees and telephone surcharges that must be filed and remitted on a regular basis, even if the amount due is zero.

- a. The current 1.15% surcharge applicable to all intrastate services except for those excluded by Decision (D.) 94-09-065, as modified by D.95-02-050, to fund the Universal Lifeline Telephone Service (Public Utilities (PU) Code § 879; Resolution T-17071, 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 (PU Code § 2881; Resolution T-17127 effective January 1, 2008);
- c. The user fee provided in PU Code §§ 431-435, which is 0.18% of gross intrastate revenue for the 2007-2008 fiscal year (Resolution M-4819); the minimum annual user fee for registration license holders I \$100;

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<sup>4</sup> Written acceptance filed in this docket does not reopen the proceeding.

- d. The current 0.40% 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 (PU Code §739.30; D.96-10-066, at 3-4, App. B, Rule 1.C; set by Resolution T-17357, effective July 1, 2012):
- e. The current 0.30% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-066, at 191, App. B, Rule 6.F; D.07-12-054; Resolution T-17311 effective May 1, 2011);
- f. The current 0.14% 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; Resolution T-17343 effective November 1, 2011);
- g. The current 0.079% surcharge applicable to all intrastate services except for those excluded by 94-09-065, as modified by D.95-02-050, to fund the California Teleconnect Fund (set by Resolution T-17142, effective June 1, 2008).

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

You 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 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 email [telco\\_surcharge@cpuc.ca.gov](mailto:telco_surcharge@cpuc.ca.gov).

You must file and pay the PUC User Fee (see above item 2c) upon receiving the User Fee statement sent by the

Commission. User Fees cannot be reported or paid online. Instruction for reporting and filing are available at

<http://www.cpuc.ca.gov/PUC/Telco/Information+for+providing+service/userfee.htm>.

You can call (415) 703-2470 for inquiries relative to User Fee reporting and payment.

3. Applicant is a competitive local exchange carrier (CLC). 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 non-dominant interexchange carrier (NDIEC). The effectiveness of its future NDIEC tariffs is subject to the requirement of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).

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

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 must immediately notify the Communications Division's Bankruptcy Coordinator.

21. 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 31<sup>st</sup> 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)**