

PROPOSED DECISION

Agenda ID #11920 (Rev. 1)
Ratesetting
3/21/2013

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the application of Channel Islands Telephone Company (U7068C) to expand its existing certificate of public convenience and necessity to include full facilities-based authority to construct telecommunications facilities to serve certain previously-unserved Channel Islands.

Application 10-02-009
(Filed February 1, 2010)

**DECISION GRANTING CHANNEL ISLANDS TELEPHONE COMPANY
A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN ORDER TO
PROVIDE FULL FACILITIES-BASED TELECOMMUNICATIONS SERVICE
AND OPENING PENALTY PHASE**

Summary

Pursuant to Public Utilities Code Section 1001, we grant Channel Islands Telephone Company a Certificate of Public Convenience and Necessity to provide facilities-based local exchange and interexchange service to and within five, previously unserved Channel Islands.¹

We also find that the project, as mitigated, will not have significant adverse effects on the environment and approve the Initial Study/Mitigated Negative Declaration prepared by California Public Utilities Commission (Commission)

¹ Applicant seeks to provide service to the Channel Islands of San Miguel, Santa Rosa, Santa Barbara, Anacapa, and Santa Cruz.

staff for the project, as the Lead Agency under the California Environmental Quality Act.

Finally, we will open a Phase 2 of this proceed to determine whether Channel Islands Telephone Company violated Rule 1.1 of the Commission's Rules of Practice and Procedure by failing to inform the Commission that the California Secretary of State suspended its authority to conduct business in California for failure to comply with Franchise Tax filing obligations.²

1. Background

Channel Islands Telephone Company (Applicant), a California company, holds a certificate of public convenience and necessity (CPCN) authorizing the company to provide limited facilities-based local exchange and interexchange services in this state.³

In Decision (D.) 08-05-007, the California Public Utilities Commission (Commission) granted Applicant a CPCN,⁴ which authorized the provision of limited facilities-based interexchange services only but denied authority to construct facilities (other than within existing structures). A full facilities-based CPCN is required when a telecommunications provider wishes to perform construction other than very minor activities, such as the installation of switches in existing buildings or structures.

² Applicant's authority to conduct business in California was subsequently restored by the Secretary of State.

³ See D.08-05-007.

⁴ Applicant is authorized to provide limited facilities-based interexchange service by D.08-05-007.

In proceedings resulting in the adoption of D.08-05-007, Applicant initially requested authority to construct facilities on five of the Channel Islands in order to provide local exchange and interexchange service to and within these islands. Applicant explained in its initial application that the largest of the Channel Islands, Santa Catalina Island, is served by Pacific Bell Telephone Company, and two of the remaining islands, San Nicolas and San Clemente Islands, are controlled by the United States Navy. Four of the five remaining Channel Islands, including San Miguel, Santa Rosa, Santa Barbara, and Anacapa Islands, along with a portion of Santa Cruz Island, comprise the Channel Islands National Park. The remaining portion of Santa Cruz Island is owned by the Nature Conservancy.⁵

At that time, Applicant explained that San Miguel, Santa Rosa, Santa Barbara, Anacapa, and Santa Cruz Islands were not served by any local exchange or interexchange carrier. Although some analog cellular telephone service was available on these islands, this service was being discontinued. As a result, these five islands would lose public telephone service to serve National Park Service employees, ranch employees, and research personnel who live on the islands and the visitors to the national park each year.⁶

At that time, however, Applicant had only made preliminary siting determinations and noted that the final scope and configuration of Applicant's system would depend on the availability of funding for the project under the Commission's Rural Telecommunications Infrastructure Grant program and on approval by the National Park Service. Therefore, Applicant was not able to

⁵ D.08-05-007 at 2.

⁶ D.08-05-007 at 3.

provide a detailed environmental assessment as part of its prior application and proposed instead, that the procedure adopted by D.06-04-030 be utilized for addressing the construction of distributed antenna system (DAS) networks.

In D.06-04-063, we found that facilities-based DAS projects were of a limited nature and would, in almost all circumstances, most likely qualify for an exemption from the California Environmental Quality Act (CEQA). The Commission determined that review of claimed CEQA exemptions for this type of project was adequate for the Commission's purposes as a Lead Agency under CEQA and in the public interest. However, because of the potentially environmentally sensitive setting in the Channel Islands, D.07-08-014 concluded that Applicant could not utilize the expedited process for this project.

D.08-05-007 granted a limited facilities-based CPCN to Applicant to allow Applicant to meet the qualifications required to apply for the Rural Telephone Infrastructure Grant. On August 21, 2008, (Note: Mailed August 22), the Commission authorized the expenditure of a Rural Telecommunications Grant funds to conduct an environmental assessment of Applicant's project.⁷

On February 1, 2010, Applicant filed an application to expand its existing CPCN authority to provide full facilities-based telecommunications service to the previously unserved Channel Islands. On October 23, 2012, a Status Conference was held to ascertain the status of the environmental review and to request information regarding a proceeding pending before the Federal Communications Commission (FCC) involving one of the Applicant's affiliates, North County Communications. Applicant provided the requested information.

⁷ Resolution T-17151.

On December 18, 2012, the assigned Administrative Law Judge (ALJ) conducted a second due diligence review because the application had been pending for almost two years awaiting completion of the environmental assessment. During the second background review, the assigned ALJ found the corporation listed as suspended on the California Secretary of State's website. Applicant failed to notify the Commission of its suspension.⁸ As a result, the assigned ALJ issued a ruling requiring Applicant to explain the basis for suspension by the California Secretary of State and the actions Applicant was required to take to lift the suspension. In addition, Applicant was required to provide evidence that it was re-authorized to do business in California. On December 27, 2012, Applicant filed a response to the ALJ ruling stating that for some unspecified period of time its authority to operate in California had been suspended by the California Secretary of State for failure to file tax return forms along with its minimum franchise tax payments.⁹ Applicant submitted its request for revivor to the California Secretary of State on December 19, 2012. Applicant provided a copy of its Certificate of Status showing it was listed as an active corporation in "Good Standing" as of December 20, 2012.

2. The Proposed Channel Islands Project

Pursuant to California Public Utilities Code (Pub. Util. Code) § 1001 and D.08-05-007, Applicant filed an Application with the Commission for authority to install telecommunication infrastructure to provide cellular and land line service

⁸ In order to be eligible for a CPCN, an entity must be authorized to conduct business in California.

⁹ Channel Islands Telephone Company states the minimum tax payments were made regularly.

on the five islands that make up the Channel Islands National Park. These islands are located off the coast of Ventura and Santa Barbara Counties and include Anacapa Island, San Miguel Island, Santa Barbara Island, Santa Cruz Island, and Santa Rosa Island. Applicant sought to install cellular telecommunication infrastructure at 15 project locations on the five islands.¹⁰ Applicant states that only one of the proposed sites would require ground-disturbance and an additional site on Anacapa Island would require about 20 linear feet of hand-trenching to connect cables into existing National Park Service conduits. At all other locations, Applicant states that the equipment would be mounted on exterior and interior walls or roofs of existing buildings or structures.

Before filing this application, Applicant followed the expedited procedure adopted in D.06-04-063 and attempted to obtain a determination from the Commission's Energy Division (ED) that this project is exempt from CEQA. However, ED determined it was not appropriate to issue a Notice to Proceed in this instance and that a formal application and CEQA review is required. The Application was filed on February 1, 2010, and included the Proponent's Environmental Assessment prepared by Applicant pursuant to Rules 2.4 and 2.5 of the Commission's Rules of Practice and Procedure.¹¹

The proposed Channel Islands Project (the Project) includes installation of telecommunication infrastructure at 15 project locations on the five islands.

¹⁰ The initial project proposed 18 locations, but three locations were removed and not analyzed in the Initial Study/Environmental Assessment.

¹¹ Unless otherwise noted, items labeled "Rule" are from the Commission's Rules of Practice and Procedure.

Construction involves bringing teams of construction workers, telecommunications equipment, and tools to each of the project locations. Equipment, materials, and workers would be shuttled from the mainland to the intended island via boat or airplane, depending on the site location. The Project would be constructed over a period of approximately 34 and 42.5 weeks using only two-person crews.

Applicant explains that the Project is needed because National Park Service staff currently has limited ability to communicate between locations on the Channel Islands and with personnel and other contact points on the mainland. According to the application, cellular service is unreliable because the islands are at the outer limit of the cellular service area. Applicant also states that recreational visitors to the islands have no access to traditional land line telephone service and little to no cellular telephone reception. According to the application, the Project would provide improved communication for National Park Service staff, researchers, residents, and recreational visitors between the five islands, as well as between the islands and the mainland. In addition, Applicant states that the Project would provide communication in case of an emergency or accident to allow for swifter emergency response. It will also improve real-time reporting of weather data to allow for more accurate travel predictions, which will reduce unnecessary and/or aborted boat and aircraft trips to and from the islands both for the National Park Service and commercial/recreational vehicles. Finally, the communications system would provide cellular phone coverage in an area that currently does not provide such coverage thereby enhancing public safety.

3. Authority to Construct

Under ordinary circumstances, the project activities proposed by Applicant would generally fall within their existing authority to install fiber optic DAS facilities and related equipment pursuant to an informational advice letter process that the Commission has implemented on a case-by-case basis for DAS projects. However, because the proposed project lies within the environmentally sensitive Channel Islands National Park, the Commission staff, out of an abundance of caution, rejected the informal advice letter route for this particular project in favor of a formal application and full CEQA analysis.

4. Environmental Review

The CEQA (Public Resources Code Section 21000, et seq.) applies to discretionary projects to be carried out or approved by public agencies. A basic purpose of CEQA is to “inform governmental decision-makers and the public about the potential, significant environmental effects of the proposed activities.” (Title 14 of the California Code of Regulations, hereinafter, “CEQA Guidelines,” Section 15002.)

Pursuant to CEQA and Rule 2.4, the Commission examines projects to determine any potential environmental impacts in order that adverse effects are avoided and environmental quality is restored or enhanced to the fullest extent possible under CEQA.

The Commission is the Lead Agency for the Project under CEQA. The Lead Agency is the public agency with the greatest responsibility for supervising or approving the project as a whole (CEQA Guidelines Section 15051(b)). In particular, the Commission must consider the environmental documents and findings prepared by staff pursuant to CEQA before acting upon or approving the project (CEQA Guidelines Section 15074(b)).

The Application to construct the Project includes the Proponent's Environmental Assessment prepared by Applicant pursuant to Rule 2.4. Channel Islands Telephone proposes to install cellular telecommunications infrastructure at the following 15 locations:¹²

1. Santa Barbara Island Ranger Station
2. Deleted from the proposed project
3. San Miguel Island Ranger Station
4. San Miguel Island Marine Mammal Research Facility
5. Santa Cruz Island Scorpion Housing Area
6. Santa Cruz Island Scorpion Ranch
7. Santa Cruz Island Prisoners Harbor Day Use Area
8. Deleted from the proposed project
9. Santa Cruz Island Smugglers Adobe
10. Santa Cruz Island Smugglers Kiosk
11. Santa Rosa Island Main Ranch
12. Santa Rosa Island Campground
13. Deleted from the proposed project
14. Santa Rosa Island Maintenance Office
15. Santa Rosa Island Johnson's Lee
16. Santa Rosa Island Housing
17. Santa Rosa Island Power Station
18. Santa Rosa Island Ranch Residence

As the Lead Agency for the Project under CEQA, the Commission staff prepared and issued on December 14, 2012, an Initial Study and Mitigated

¹² Three locations initially proposed were removed from the project.

Negative Declaration (ISMND) pursuant to CEQA. This ISMND reviewed the potential environmental impacts of the Project over the entire range of applicable environmental resources and concluded that the instant project could not have a significant effect on the environment with the required mitigation. The mitigation measures identified in the ISMND are designed to avoid potential environmental impact to rare, threatened, and endangered species, and to cultural resources on previously known or as of yet undiscovered historic properties during any ground disturbing activities. These mitigation measures will be made conditions of project approval.

The ISMND was submitted to the State Clearinghouse at the Office of Planning and Research and circulated to the interested agencies including the National Park Service, United States Fish and Wildlife Service, California Department of Fish and Wildlife, Native American Heritage Commission, County of Ventura, and County of Santa Barbara, among others. The comment period was from November 12, 2012 through December 14, 2012. Additionally, a "Notice of Intent to Adopt a Negative Declaration" was published twice during two successive weeks in the local paper of record. Comments on the ISMND were received from:

- Carly Wilburton, Air Quality Specialist, Santa Barbara County Air Pollution Control District
- Frank Arredondo, Ksen~Sku~Mu, Chumash MLD
- Fred Collins, Tribal Administrator, Northern Chumash Tribal Council (NCTC)
- Freddie Romero, Cultural Preservation Consultant, Santa Ynez Band of Chumash Indians Elders Council
- Joe Talaugon, Chairman, Santa Ynez Band of Chumash Indians Elders Council

- Julie Tumamait-Stenslie, Tribal Chair, Barbareno/Ventureno, Band of Mission Indians
- Mona Olivas Tucker, Tribal Chair, yak tityu tityu - Northern Chumash Tribe

The Commission has independently reviewed the Application for authority to construct telecommunication infrastructure at 15 project locations on five of the Channel Islands, including the ISMND prepared by Commission staff. The Commission finds that the ISMND was developed in accordance with CEQA and is adequate for the Commission's decision-making purposes as a Lead Agency pursuant to CEQA.

The Commission will order the filing of a Notice of Determination with the Office of Planning and Research pursuant to Public Resources Code Section 21152 and California Code of Regulations Section 15075, and makes the following findings:

- The Commission finds that the ISMND was developed in accordance with CEQA and is adequate for the Commission's decision-making purposes as a Lead Agency pursuant to CEQA;
- On the basis of the whole record, including the ISMND, there is no substantial evidence the project will have a significant adverse effect on the environment; and
- The Mitigated Negative Declaration reflects the Commission's independent judgment and analysis.

The National Park Service is the lead agency under the National Environmental Policy Act because the proposed project would involve lands under the National Park Service jurisdiction and would therefore require issuance of a right of way permit from the National Park Service. In addition, although the National Park Service manages facilities on San Miguel Island, the island is owned by the United States Navy. Applicant may also be required to obtain additional permits or approval from the United States Navy.

5. Financial Qualifications

To be granted a CPCN, an applicant for authority to provide full-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.¹³ 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.¹⁴ Applicant provided an inter-corporate guarantee along with supporting financial information of the guarantor showing that it has sufficient funds to meet its start-up expenses and has fulfilled this requirement.

6. 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.¹⁵ Applicant has retained CCG Consulting LLC for the design and installation of its proposed system. Applicant also supplied biographical information on its management to its application that demonstrated that it has sufficient expertise and training to operate as a telecommunications provider.

¹³ 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.

¹⁴ 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 IECs is set forth in D.95-12-056, Appendix C. For NDIECs, the requirement is found in D.93-05-010.

¹⁵ D.95-12-056 at Appendix C, Rule 4.A.

In its application, Applicant verified that no one associated with or employed by Applicant as an affiliate, officer, director, partner, or owner of more than 10% of Applicant was previously associated with a telecommunications carrier that filed for bankruptcy, was sanctioned by the FCC 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.

Applicant made one exception to the above verification and disclosed that, at the time of filing the Application, Applicant's affiliate North Coast Communications Corporation was the subject of an ongoing investigation by the FCC for its apparent failure to timely file its annual certification of compliance with the FCC's customer proprietary network information rules as required by 47 C.F.R. § 64.2009(e). Applicant later provided additional information that the matter was resolved by an FCC Consent Decree which states:

The Consent Decree terminates an investigation and Notice of Apparent Liability for Forfeiture ("NAL") by the Bureau against North County Communications Corp. [NCCC] for possible violation of section 222 of the Communications Act of 1934, as amended ("Communications Act" or "Act"), 47 U.S.C. § 222, section 64.2009(e) of the Commission's rules, 47 C.F.R. § 64.2009(e), and the Commission's EPIC CPNI Order,¹ regarding NCCC's apparent failure to timely file a compliant annual customer proprietary network information (CPNI) certification pursuant to section 64.2009(e).

Pursuant to the Consent Decree, North Coast Communications Corporation was required to make a voluntary payment of \$400 to the United States Treasury.

Applicant states that the violation by North Coast Communications Corporation was an isolated incident and does not indicate a lack of managerial fitness.

Applicant informed the Commission of the pending FCC proceeding in its application and subsequently provided information regarding the resolution of the matter to the Commission pursuant to a request of the assigned ALJ.

For the above reasons, we find that Applicant is in compliance with the requirements of D.95-12-056.

7. Tariffs

D.08-05-007 approved Applicant's draft tariffs provided the deficiencies noted were corrected. Applicant submitted a revised draft on March 12, 2008 as required by D.08-05-007. Applicant's proposed services and rates mirrored those of Pacific Bell Telephone Company at that time.

Applicant proposes to submit a general rate case (GRC) application after it has completed construction and has had sufficient operating experience to enable it to prepare valid interstate test-year results, projections and cost studies. Applicant would not revise its rates until it is authorized to do so by the Commission pursuant to a resolution or decision following the submission of a GRC. Applicant states it would not request nor be eligible for state high cost funding until such time.

Applicant complied with the requirement to file tariffs with the Commission. Applicant's proposal to file a GRC after it has constructed the proposed facilities and has sufficient operating experience is reasonable. Applicant shall not change its tariffed rates and charges until authorized by a Commission decision following a GRC.

Applicant will not be eligible for funding from California High Cost Fund-A until the Commission has acted on a GRC filed by Applicant in

compliance with D.91-09-042 and in accordance with the implementing guidelines established in the Appendix of the same Decision.

8. 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.¹⁶ Applicant provided a map of the location of its proposed service territory, in compliance with this requirement.

9. Rule 3.1(i) Statement

Rule 3.1(i) sets forth the requirement that a utility filing an application under Pub. Util. Code § 1001, provide a statement regarding General Order (GO) 104-A, Section 2. Applicant states that it is not aware of any reportable matters pursuant to GO 104-A, Section 2 and therefore has nothing to report under this rule.

On a going forward basis, Applicant must file all reports required of a public utility under Commission jurisdiction.

10. Expected Customer Base

Applicant expects to provide service to approximately six residential lines and 18 business lines. In addition, Applicant will provide service to visitors to the Channel Islands National Park. Therefore, Applicant has complied with this requirement.

11. Conclusion

We conclude that the application conforms to our rules for certification as a competitive local exchange and interexchange carrier. We find that the proposed

¹⁶ D.95-12-056 at Appendix C, Rule 4.E.

project will expand the availability of telecommunications service in California by providing service within the previously unserved Channel Islands, provide service to the National Park Service staff, island residents, and visitors to the Channel Islands without causing significant adverse effects on the environment, provided that mitigation measures required by the ISMND are implemented.

Accordingly, we grant Applicant a CPCN to provide full facilities-based local and interexchange service in the previously unserved Channel Islands subject to compliance with the terms and conditions set forth in the ISMND and in the Ordering Paragraphs.

12. Request to File Under Seal

Pursuant to Rule 11.4 of the Commission's Rules of Practice and Procedure, Applicant filed a motion for leave to file Exhibit E to the application as confidential materials under seal. Applicant represents that the information is sensitive, and disclosure could place Applicant at an unfair business disadvantage. We have granted similar requests in the past and do so here.

13. Categorization and Need for Hearings

In Resolution ALJ 176-3249, dated February 25, 2010, 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.

14. Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to § 311(g)(2) of the Pub. Util. Code and

Rule 14.6(c)(2), the otherwise applicable 30-day period for public review and comment is waived.

15. Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner and Katherine Kwan MacDonald is the assigned ALJ.

Findings of Fact

1. Notice of the application was published in the Commission's Daily Calendar on February 10, 2010. No protests have been filed.
2. Applicant holds a CPCN authorizing the provision of limited facilities-based telecommunications services in this state.
3. Applicant seeks authority to expand its CPCN authorization to construct telecommunication infrastructure at 15 project locations on five of the Channel Islands (the Project) to provide cellular telephone and land line service.
4. The Commission's ED determined that the Project should undergo CEQA review because of the project's location in the environmentally sensitive Channel Islands.
5. The Commission is the lead agency for the Project under CEQA.
6. Commission staff prepared and issued an ISMND pursuant to CEQA on November 14, 2012.
7. The ISMND prepared by the Commission analyzed the potential environmental impacts of the Project over the entire range of applicable environmental resources and concluded that the project would not have a significant adverse effect on the environment with the required mitigation.
8. Commission staff filed the ISMND with the State Clearinghouse Office of Planning and Research on November 14, 2012, in order to circulate the ISMND

for formal comment for 30 days from November 12, 2012 through December 14, 2012. No comments were received.

9. The Commission's ISMND identified a number of project elements that are required to be addressed by Applicant as Conditions of Approval. These elements were associated with avoiding impacts in the areas of rare, threatened and endangered species and cultural resources.

10. The Mitigation Measures outlined in the Commission's ISMND are required mitigation and will be made Conditions of Approval for the Project.

11. The Commission has independently considered the ISMND for Applicant's Project in its decision-making process in accordance with the CEQA Guidelines Section 15096(f).

12. On the basis of the whole record, including the ISMND, the Commission finds that there is no substantial evidence the Project will have a significant effect on the environment.

13. The Project will increase the availability of telecommunications services in this state by serving previously unserved areas.

14. The Final ISMND must be formally adopted by the Commission on an expedited basis so that Applicant may obtain Rural Telephone Infrastructure Grant funding needed for completion of the Project.

15. The Final ISMND can be found at:

<http://www.cpuc.ca.gov/Environment/info/mha/channelislands/channelislands.htm>.

16. 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.

17. Applicant'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 Applicant as an affiliate, officer, director, partner, or owner of more than 10% of Applicant was: previously associated with a telecommunications carrier that filed for bankruptcy; was sanctioned by the FCC 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. During the pendency of this Application, Applicant's authority to operate in California was suspended by the California Secretary of State for failing to meet Franchise Tax Board filing obligations.

20. Applicant failed to inform the Commission of its suspension by the California Secretary of State.

21. Applicant provided information in regarding its suspension in response to a ruling issued by the assigned ALJ.

22. The Secretary of State issued a Certificate of Good Standing on December 20, 2012.

23. Applicant's draft tariffs were approved in D.08-05-007. Applicant filed revised tariffs as directed by D.08-05-007 on March 12, 2008.

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

25. Applicant 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.

26. Applicant estimates it will provide service to six residential lines and 18 business lines, as well as serve provide service to visitors to the Channel Islands National Park.

27. Pursuant to Rule 11.4, Applicant moved to file confidential materials contained in Exhibit E to the application under seal.

Conclusions of Law

1. The application is uncontested, and a public hearing is not necessary.
2. It is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-3249 regarding the category of this proceeding and the need for a hearing.
3. The Applicant's Channel Islands Project is in the public interest. Applicant's CPCN authority should be expanded to allow Applicant to construct the Channel Islands Project, as described in the application and subject to the mitigation measures required by the ISMND.
4. As a CPCN holder, Applicant should be subject to the applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.
5. Applicant should not revise its rates until authorized to do so by the Commission pursuant to a GRC.
6. Applicant's motion to file under seal its Exhibit E to the application should be granted for two years.
7. The ISMND developed by Commission staff was prepared pursuant to CEQA and is adequate for the Commission's decision-making purposes.
8. The Final ISMND is competent, comprehensive, and has been completed in compliance with CEQA and the Public Resources Code.
9. The Final ISMND reflects our independent judgment.

10. The Final ISMND should be adopted by the Commission as adequate for our decision-making purposes pursuant to CEQA.

11. Under Rule 14.6(c) the comment period is waived.

12. Approving this Decision and adopting the Final ISMND is in the public interest and outweighs a full comment period.

13. In order to expedite construction of the Channel Islands Project, our approval of this application should be made effective immediately.

14. Authorization to construct the Project should expire if not exercised within two years, unless this time is extended by the Commission's Energy Division at least 30 days in advance of the expiration of authority.

15. A.10-02-009 should remain open to determine whether Applicant violated Rule 1.

O R D E R

IT IS ORDERED that:

1. The Certificate of Public Convenience and Necessity of the Channel Islands Telephone Company, is expanded to include full facilities-based authority to construct telecommunication infrastructure at 15 project locations on the five islands that make up the Channel Islands National park (the Channel Islands Project), as described in the Final Initial Study/Mitigated Negative Declaration and Application, subject to the conditions listed in the Ordering Paragraphs.

2. The Final Initial Study/Mitigated Negative Declaration prepared by Commission staff for the Channel Islands Telephone Company's Channel Islands Project is adopted.

3. Commission staff must file a Notice of Determination for the Study/Mitigated Negative Declaration with the State Office of Planning and Research within the time required by law.

4. The Mitigation Measures outlined in the Commission's Final Study/Mitigated Negative Declaration are required as Conditions of Approval for the Channel Islands Project. Channel Islands Telephone Company must comply with these mitigation measures in its construction of the Channel Islands Project.

5. The Channel Islands Telephone Company authorization to construct the Channel Islands Project must expire if not exercised within two years, unless this time is extended at least 30 days in advance of expiration by the Commission's Energy Division.

6. Our authorization for Channel Islands Telephone Company to construct the Channel Islands Project may be revoked or modified, after giving notice to Channel Islands Telephone Company, if the public convenience, necessity, or health and safety so require.

7. The corporate identification number assigned to Channel Islands Telephone Company, U7068C, must be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

8. In addition to all the requirements applicable to competitive local exchange carriers and interexchange carriers, Channel Islands Telephone Company 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.

9. Channel Islands Telephone Company's motion to file under seal its Exhibit E is granted. The information will remain under seal for a period of two years after the date of this order. 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 Channel Islands Telephone Company or as ordered by a court of competent jurisdiction. If Channel Islands Telephone Company believes that it is necessary for this information to remain under seal for longer than two years, Channel Islands Telephone Company may file a new motion at least 30 days before the expiration of this limited protective order.

10. Application 10-02-009 remains open to consider whether the Commission should impose penalties for the alleged violation of Rule 1.1 of the Commission's Rules of Practice and Procedure.

This order is effective today.

Dated _____, at San Francisco, California.