

Decision \_\_\_\_\_

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

In the Matter of the Application of Public Interest Telecom of California dba Alternative Technologies for a Certificate of Public Convenience And Necessity to Provide Limited Facilities-Based and Resold Local Exchange, IntraLATA and InterLATA Interexchange Telephone Service in all AT&T California, Verizon California, Citizens Telephone, and SureWest Telephone Local Exchange Areas.

Application 13-02-010  
(Filed February 19, 2013)

**DECISION GRANTING A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PUBLIC INTEREST TELECOM OF CALIFORNIA**

**TABLE OF CONTENTS**

<b>Title</b>	<b>Page</b>
1 Summary.....	2
2 Background.....	2
3 Financial Qualifications.....	3
4 Technical Qualifications.....	3
5 Tariffs.....	4
6 California Environmental Quality Act (CEQA).....	4
7 Request for Exemption from Certain Applicable Rules.....	5
8 Conclusion.....	5
9 Waiver of Comment Period.....	5
10 Categorization and Need for Hearings.....	5
11 Assignment of Proceeding.....	6
ORDER.....	8

ATTACHMENT A	List of deficiencies in draft tariff submitted
ATTACHMENT B	Requirements Applicable to Competitive Local Exchange Carriers and Interexchange Carriers
ATTACHMENT C	Annual Report
ATTACHMENT D	Calendar Year Affiliate Transaction Report

**DECISION GRANTING A  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO  
PUBLIC INTEREST TELECOM OF CALIFORNIA**

**1 Summary**

Public Interest Telecom of California dba Alternative Technologies seeks a certificate of public convenience and necessity under Pub. Util. Code § 1001 for authority to provide limited facilities-based and resold local exchange and interexchange telecommunications services. By this decision, we grant the requested authority subject to the terms and conditions set forth below.

**2 Background**

In prior decisions we authorized the provision of competitive interexchange services by carriers meeting specified criteria. In addition, we authorized the provision of competitive local exchange service, by carriers meeting specified criteria, within the service territories of Pacific Bell Telephone Company (Pacific), Verizon California Inc. (Verizon), SureWest Telephone (SureWest), and Citizens Telecommunications Company of California, Inc. (CTC).<sup>1</sup>

Public Interest Telecom of California dba Alternative Technologies (Applicant), a California corporation, seeks authority to provide limited facilities-based and resold interexchange services as a nondominant interexchange carrier (NDIEC), and limited facilities-based and resold local exchange services as a competitive local carrier (CLC) throughout Pacific, Verizon, SureWest and CTC's service territories.

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<sup>1</sup> SureWest was formerly known as Roseville Telephone Company.

Applicant's principal place of business is located at 1050 Heinz Avenue, Berkeley, CA 94710.

### **3 Financial Qualifications**

To be granted a CPCN, an applicant for authority to provide facilities-based and resold local exchange and/or interexchange services must demonstrate that it has a minimum of \$100,000 of cash or cash equivalent to meet the firm's start-up expenses.<sup>2</sup> An applicant must also demonstrate that it has sufficient additional resources to cover all deposits required by local exchange carriers (LECs) and/or interexchange carriers (IECs) in order to provide the proposed service.<sup>3</sup> Applicant represented that it will not be required to provide deposits to other telecommunications carriers in order to provide the proposed service. In addition, Applicant provided in Exhibit D financial statements that demonstrate that it has sufficient cash to satisfy the financial requirement.

### **4 Technical Qualifications**

Applicants for NDIEC and CLC authority are required to make a reasonable showing of technical expertise in telecommunications or a related business. Applicant submitted biographical information on its management that demonstrates that it possesses sufficient experience and knowledge to operate as a telecommunications provider.

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<sup>2</sup> The financial requirement for CLCs is contained in Decision (D.) 95-12-056, Appendix C. The financial requirement for NDIECs is contained in D.91-10-041.

<sup>3</sup> The requirement for CLC applicants to demonstrate that they have additional financial resources to meet any deposits required by underlying LECs and/or IECs is set forth in D.95-12-056, Appendix C. For NDIECs, the requirement is found in D.93-05-010.

Applicant has verified that no one associated with or employed by it as an affiliate, officer, director, partner, or owner of more than 10% of its outstanding capital stock 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.

## **5 Tariffs**

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

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

CEQA requires the Commission as the designated lead agency to assess the potential environmental impact of a project in order that adverse effects are avoided, alternatives are investigated, and environmental quality is restored or enhanced to the fullest extent possible. Applicant will not be constructing any facilities, other than equipment to be installed in existing buildings or structures, for the purpose of providing interexchange or local exchange services. Therefore, it can be seen with certainty that there is no possibility that granting this application will have an adverse effect upon the environment. Applicant must file for additional authority, and submit to any required CEQA review,

before it can construct facilities other than equipment to be installed in existing buildings or structures.

## **7 Request for Exemption from Certain Applicable Rules**

Applicant requests authority to deviate on an ongoing basis from the following provisions of General Order No. 96-A that the Commission has granted to NDIECs: (1) Paragraph II.C(1)(b) which requires consecutive sheet numbering and prohibits the reuse of sheet numbers, and (2) Paragraph II.C(4) which requires that a separate sheet or series of sheets should be used for each rule. Since we have previously granted such authority to other NDIECs we will grant it to Applicant as well.

## **8 Conclusion**

We conclude that the application conforms to our rules for authority to provide competitive local exchange and interexchange telecommunications services. Accordingly, we shall approve the application subject to the terms and conditions set forth herein.

## **9 Waiver of Comment Period**

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.

## **10 Categorization and Need for Hearings**

In Resolution ALJ 176-3310 dated February 28, 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.

**11 Assignment of Proceeding**

Catherine J. K. Sandoval is the assigned Commissioner and Karl J. Bemederfer is the assigned Administrative Law Judge in this proceeding.

**Findings of Fact**

1. Notice of the application appeared in the Daily Calendar on February 21, 2013.
2. No protests have been filed.
3. A hearing is not required.
4. In prior decisions the Commission authorized competition in providing interexchange services for carriers meeting specified criteria.
5. In prior decisions the Commission authorized competition, by carriers meeting specified criteria, in providing local exchange telecommunications services within the service territories of Pacific, Verizon, SureWest and CTC.
6. 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.
7. Applicant has sufficient additional cash or cash equivalent to cover any deposits that may be required by other telecommunications carriers in order to provide the proposed service.
8. No one associated with or employed by it as an affiliate, officer, director, partner, or owner of more than 10% of its outstanding capital stock 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.

9. Applicant possesses sufficient experience and knowledge to provide telecommunications services.

10. As part of its application, Applicant submitted a draft of its initial tariff that contained the deficiencies identified in Attachment A to this decision. Except for those deficiencies, its draft tariffs complied with the Commission's requirements.

11. Applicant will not be constructing facilities, other than equipment to be installed in existing buildings or structures.

**Conclusions of Law**

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

2. Applicant has sufficient technical expertise to operate as a telecommunications carrier.

3. Public convenience and necessity require that Applicant's competitive local exchange and interexchange services be subject to the terms and conditions set forth herein.

4. Since Applicant will not be constructing any facilities, other than equipment to be installed in existing buildings or structures, it can be seen with certainty that there will be no significant effect on the environment.

5. The application should be granted to the extent set forth below.

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

7. Applicant's initial tariff filing should correct the deficiencies in its draft tariffs as indicated in Attachment A to this decision.



8. Applicant's request for exemption from certain provisions of General Order 96-A should be granted.

9. Because of the public interest in competitive local exchange and interexchange services, the following order should be effective immediately.

**O R D E R**

**IT IS ORDERED** that:

1. A certificate of public convenience and necessity is granted to Public Interest Telecom of California d/b/a Alternative Technologies to provide limited facilities-based local exchange telecommunications services in the territories of Pacific Bell Telephone, Verizon California Inc., Citizens Telecommunications Company of California, Inc. and SureWest Communications, subject to the terms and conditions set forth below.

2. Applicant may not offer competitive local exchange services until tariffs are filed with and authorized by this Commission, in accordance with General Order 96-B and as corrected for deficiencies set forth in Exhibit A.

3. The corporate identification number assigned to Applicant (U-7251-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. In addition to all the requirements applicable to competitive local exchange carriers and interexchange carriers included in Attachments B, C, and D to this decision, Applicant is subject to the Consumer Protection Rules contained in General Order 168, and all applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

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

6. Applicant must annually pay the user fee and public purpose surcharges specified in Attachment B. 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. Therefore, carriers should report user fees even if the amount due is \$0.

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 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.

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

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

12. Application 13-020-010 is closed.

This order is effective today.

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



**ATTACHMENT A**

List of deficiencies in tariff filed by Public Interest Telecom of California dba Alternative Technologies (U-7251-C) in A.13-02-010 to be corrected in its tariff compliance filing.

1. Sheet 1, Title Page: Carrier must include company name - Public Interest Telecom of California - in addition to fictitious business name (dba name).

See GO 96-B, Section 8.5.1.

2. Sheet 9, Rule 2.1: Availability of Tariff: Carrier must comply with G.O. 96-B, Section 8, on the availability and publication of the tariff. Specifically, the carrier must provide a telephone number at which a caller may (1) ask questions regarding the utility's tariffs, (2) order copies of the tariffs, and (3) find out times and places at which the caller may inspect or copy the tariffs. In addition, if Public Interest Telecom does not publish its tariffs on the Internet, it shall provide free copies to a current customer, and may charge not more than 20 cents per page to any other requester. The telephone number shall be toll-free to customers within the utility's service area. See GO 96-B, Section 8.

3. Sheet 9, Rule 2.2: The tariff (including no longer effective tariffs) must be made available for public inspection or copying within the carrier's California service area (not the Commission). Delete availability of the tariff at the Commission on tariff sheet 20. (GO 96-B Sect 8.1.3)

4. Sheet 38, Rule 6.2.7, Advance Payments, Deposits, and Guarantors: Public Interest Telecom of California must add "Each applicant for service shall provide credit information satisfactory to the Company or pay a deposit" before existing text. See Decision 95-07-054, Appendix B, 3.0, Rule 4.

5. Sheet 44, Rule 8.1.1, Rendering of Bills: Tariff must include the following text at the end of the rule: "All nonrecurring and usage charges incurred during the billing period shall be billed in addition to prorated amounts." See Decision 95-07-054, Appendix B, 3.0, Rule 7.

6. Sheet 79, Rule 26.2.1, Unauthorized Service Termination and Transfer: Carrier must change the last sentence of the rule to "A penalty or fine of up to \$500 payable to the Commission may apply to each violation of this Rule." The following text must also be included at the end of the rule: "As prescribed under Public Utilities Code Section 2108, each day of a continuing violation shall constitute a separate and distinct offense. The Company will reimburse the original carrier for reestablishing service at the tariff rate of the original carrier." See Decision 95-07-054, Appendix B, 3.0, Rule 11(B).

7. Section 3, Exchange Services: Tariff must include office hours, a telephone number, and (if applicable) an e-mail address for customers to contact the Company with requests for information on services and promotional offerings. See GO 96-B, Section 8.5.7.

8. Sheet 102, Rule 38: Tariff must include surcharges for the California Advanced Services Fund. See Resolution T-16901.

9. Sheet 32, Rule 3.3.2: Carrier must correct typographical error. "Let" should be replaced by the word "less."

10. Sheets 34, 73, and 140: Carrier must change all references to General Order 96-A to General Order 96-B.

**(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, 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.

Note: These fees change periodically. In compliance with Resolution T-16901, December 2, 2004, Applicant must check the joint tariff for surcharges and fees filed by Pacific Bell Telephone Company (dba AT&T California) and apply the current surcharge and fee amounts in that joint tariff on end-user bills until further revised. 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](mailto: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/Consumer+Information?userfee.htm>. Please call (415) 703-2470 for questions regarding 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 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)**