

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Synergy DAS, LLC for a Certificate of Public Convenience and Necessity in order to provide Limited Facilities-based, Full Facilities Based and Resold Competitive Local Exchange, Access and Interexchange Service.

Application 12-08-020
(Filed August 20, 2012)

DECISION GRANTING SYNERGY DAS, LLC A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN ORDER TO PROVIDE LIMITED FACILITIES-BASED, FULL FACILITIES-BASED, AND RESOLD LOCAL EXCHANGE AND INTEREXCHANGE SERVICE

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**DECISION GRANTING SYNERGY DAS, LLC A CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY IN ORDER TO PROVIDE LIMITED
FACILITIES-BASED, FULL FACILITIES-BASED, AND RESOLD LOCAL
EXCHANGE AND INTEREXCHANGE SERVICE**

1. Summary

Pursuant to Public Utilities Code § 1001, we grant Synergy DAS, LLC a Certificate of Public Convenience and Necessity to provide limited facilities-based, full facilities-based, and resold local exchange and non-dominant interexchange services, subject to the terms and conditions set forth in the Ordering Paragraphs.

2. Background

On August 20, 2012, Synergy DAS, LLC (Synergy), a California limited liability corporation, filed an application for a Certificate of Public Convenience and Necessity (CPCN) authorizing the company to provide limited facilities-based, full facilities-based and resold local exchange telecommunications services in the service territories of Pacific Bell Telephone dba AT&T California (AT&T), Verizon California Inc. (Verizon), Citizens Telecommunications Company of California, Inc. dba Frontier Communications of California (Citizens), and SureWest Communications¹ (SureWest), and non-dominant interexchange services statewide in California.

No protests to the application were filed.

Synergy proposes to provide services to business customers using transport and backhaul linked by fiber optic cables or wireless radio frequency systems with conversion equipment attached to poles and other structures. The

¹ SureWest was formerly known as Roseville Telephone Company.

application states that Synergy is a “carrier’s carrier” providing “gap” coverage for wireless providers. Synergy’s principal place of business is located at 867 E. Front Street, Suite A, Ventura, CA 93001.

In its application, Synergy requests a CPCN authorizing the company to provide limited facilities-based, full facilities-based, and resold local exchange and interexchange telecommunications services.

3. California Environmental Quality Act (CEQA)

CEQA (Public Resources Code Sections 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 (hereafter CEQA Guidelines), Section 15002.)

CEQA requires the Commission to act as the designated lead agency to assess the potential environmental impact of a project so that adverse effects are avoided, alternatives are investigated, and environmental quality is restored or enhanced to the fullest extent possible. In Commission Rules of Practice and Procedure Rule 2.4(b), the Commission recognizes that certain classes of projects are exempt from CEQA. In cases where such exemptions apply, we are not required to issue an Environmental Impact Report or Negative Declaration.

Synergy states that, at this time, it does not yet know the specific projects that it will undertake in the future or the locations where projects will take place. According to the application, much of Synergy’s construction will involve installing equipment in or on existing structures, such as existing streetlights, poles, towers, buildings, fiber, conduits, ducts, rights-of-way, trenches, and other facilities and structures of other entities, and can be accomplished pursuant to

Synergy's limited facilities-based authority. CEQA review is generally not required for these types of limited facilities-based projects.

However, Synergy states that in some cases, it will need to undertake minor, ground-breaking activity primarily in existing, well-used rights-of-way and existing easements. In some cases, part of Synergy's construction projects may also take place on private property within existing easements. Synergy's full facilities-based projects would include trenching and the installation of underground conduit, replacing utility poles when requested to do so by the utility or to meet safety and engineering standards, installing new utility poles when existing poles are not available, and installing underground vaults to accommodate communications equipment, when an underground vault is required by a local agency. In some cases, underground conduit installation will involve the use of a directional bore method in addition to or instead of trenching.

Synergy contends that its full facilities-based construction activities may fall within certain categorical exemptions to CEQA, including but not limited to:

- Class 3 Exemption: Construction including water mains, sewage, electrical, gas and other utility extensions of reasonable length to serve such construction. This exemption includes the construction of limited numbers of new small facilities or utility extensions. (14 CCR §15303).
- Class 4 Exemption: Class 4 consists of minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry and agricultural purposes. Examples include, but are not limited to:
 - a) Grading on land with a slope of less than 10 percent,

- with certain exceptions², b) Filling of earth into previously excavated land with material compatible with the natural features of the site, c) Minor trenching and backfilling where the surface is restored.
- Class 32 (“In-fill” Exemption): Class 32 consists of projects characterized as in-fill development meeting certain conditions, as follows: (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; (c) The project site has no value as habitat for endangered, rare or threatened species; (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; (e) The site can be adequately served by all required utilities and public services.

Synergy therefore requests approval to utilize a procedure for expedited CEQA review of Synergy’s projects by Commission Energy Division (ED) staff, once Synergy is aware of a specific site(s) on which it plans construction. The Commission has previously approved an expedited CEQA review process for full facilities-based projects where it appears that the anticipated future projects may be categorically exempt.

We have previously granted other carriers authority to rely upon the expedited 21-day process for CEQA review by ED staff to determine if proposed

² Grading is not exempt from CEQA under a Class 4 exemption in a waterway, in any wetland, in an officially designated (by federal, state, or local government action) scenic area, or in officially mapped areas of severe geologic hazard such as an Alquist-Priolo Earthquake Fault Zone or within an official Seismic Hazard Zone, as delineated by the State Geologist.

construction projects are exempt from CEQA.³ Synergy's proposed construction activities, as described in the application, are limited and may, in some circumstances, fall within CEQA exemptions.

Accordingly, when Synergy wishes to undertake the full facilities-based projects described above, which Synergy believes are categorically or statutorily exempt from CEQA, Synergy may utilize the following expedited 21-day process for CEQA review by ED Staff:

A. Required Information From Synergy. Synergy will provide the Commission Energy Division with:

1. A detailed description of the proposed project, including:
 - a) Customer(s) to be served;
 - b) The precise location of the proposed construction project; and
 - c) Regional and local site maps.
2. A description of the environmental setting, including at a minimum:
 - a) Cultural, historical, and paleontological resources;
 - b) Biological resources; and
 - c) Current land use and zoning.
3. A construction work plan, including:
 - a) Commission Preconstruction Survey Checklist – Archaeological Resources;

³ See e.g., ClearLinx Network Corporation (Decision (D.) 06-04-063), New Path Networks, LLC (D.06-04-030), CA-CLEC LLC (D.06-04-067), Sunesys, Inc. (D.06-06-047), NextG Networks of California, Inc. (D.07-04-045), Broadband Associates International (D.07-08-026), Trillion Partners, Inc. (D.07-11-028), Freedom Telecommunications, Inc. (D.09-11-021), Central Valley Telecom, LLC (D.11-07-019).

- b) Commission Preconstruction Survey Checklist – Biological Resources;
 - c) A detailed schedule of construction activities, including site restoration activities;
 - d) A description of construction/installation techniques;
 - e) A list of other agencies contacted with respect to siting, land use planning, and environmental resource issues, including contact information; and
 - f) A list of permits required for the proposed project.
4. A statement of the CEQA exemption(s) claimed to apply to the proposed project.
 5. Documentation and evidence sufficient to support a finding that the claimed CEQA exemption(s) apply to the project.
 6. A proof of service showing that Synergy has served a copy of the above information on the city and county in which the project, if approved, will be constructed.
- B. Review by Commission Energy Division. The Commission Energy Division will then review the submission and notify Synergy of either its approval or its denial of Synergy's claim for CEQA exemption no later than 21 days after the date on which Synergy's submission is complete.
- C. Approval of Claimed CEQA Exemption(s)/Notice to Proceed. If the Commission Energy Division approves Synergy's claimed CEQA exemption(s), the staff will prepare a Notice to Proceed (NTP) and file a Notice of Exemption with the State Clearinghouse, Office of Planning and Research.
- D. Disapproval of Claimed CEQA Exemption(s). If the Commission Energy Division disapproves Synergy's claimed CEQA exemptions, ED Staff will issue to Synergy a letter which states the specific reasons that the claimed CEQA exemptions do not apply to the proposed project.

If the Commission ED disapproves Synergy's claimed CEQA exemption(s), Synergy shall redesign the specific project and facilities and reapply for a finding of exemption from CEQA. In the alternative, Synergy may choose to file a formal application with the Commission seeking approval for the project, and undergo CEQA review before commencing any full facilities-based construction activities.

Synergy shall not engage in any construction activity relating to a pending CEQA exemption request before receiving a NTP from ED Staff. Synergy must follow the above procedures unless and until the Commission adopts different requirements for CEQA review, which are applicable to Synergy, in a subsequent proceeding.

We grant Synergy authorization to utilize the above procedure only for the types of projects described in its Application that do not exceed five miles in length and will be constructed in existing public rights-of-way and utility easements in developed urban or suburban areas. Other types of full facilities-based construction projects may require a different level of CEQA review. Therefore, if Synergy wishes to pursue full facilities-based construction projects other than as described in its Application, Synergy shall file for additional authority from the Commission and shall undergo any required CEQA review before commencing construction.

4. Financial Requirements

To be granted a CPCN, an applicant for authority to provide full facilities-based, limited-facilities based, and resold local exchange and interexchange services must demonstrate that it has a minimum of \$100,000 cash

or cash equivalent to meet the firm's start-up expenses.⁴ 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.⁵ In its application, Synergy provided a letter of credit showing that \$100,000, plus an amount equal to any deposits required by other carriers in order for Synergy to operate, will be available to Synergy for one year following certification. Synergy has provided sufficient documentation to show that it meets the Commission's financial requirements for issuance of a CPCN authorizing the provision of full facilities-based, limited facilities-based and resold local and interexchange services.

5. Technical and Managerial Competence

To be granted a CPCN for authority to provide local exchange and interexchange services, an applicant must make a reasonable showing of managerial and technical expertise in telecommunications or a related business.⁶ Synergy supplied resumes and biographical information on its management in Exhibit H to its application. The biographies of these individuals demonstrate sufficient expertise and training to operate as a telecommunications provider, therefore Synergy has met this requirement.

⁴ The financial requirement for Competitive Local Exchange Carriers (LECs) is contained in D.95-12-056, Appendix C. The financial requirement for Non-dominant Interexchange Carriers is contained in D.91-10-041.

⁵ The requirement for Competitive Local Carrier applicants to demonstrate that they have additional financial resources to meet any deposits required by underlying LECs and/or Interexchange Carriers is set forth in D.95-12-056, Appendix C. For Non-dominant Interexchange Carrier, the requirement is found in D.93-05-010.

⁶ D. 95-12-056 at Appendix C Rule 4.A.

In its application, Synergy verified, under penalty of perjury, that no one associated with or employed by Synergy as an affiliate, officer, director, partner, or owner of more than 10 percent of Synergy 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.

For the above reasons, we find that Synergy satisfies the Commission's requirements for regulatory disclosures.

6. Tariffs

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

7. Map of Service Territory

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

⁷ D. 95-12-056 at Appendix C Rule 4.E.

8. General Order 104-A Statement

Rule 3.1(i) sets forth the requirement that a utility filing an application under Pub. Util. Code § 1001, must provide a statement regarding General Order (GO) 104-A. Synergy states that it has nothing to report under this rule. On a going forward basis, however, Synergy must file all reports required of a public utility under Commission jurisdiction.

9. Affidavit of Bond Amount

In D.13-05-035 in Rulemaking 11-11-006, the Commission adopted revisions to the certification process for telephone corporations, and established a minimum performance bond requirement of \$25,000 for all entities applying for a CPCN for the first time, which have not previously reported revenues or submitted surcharges to the Commission. The requirement applies to new applications, as well as existing CPCN holders. Accordingly, Synergy must obtain the bond and submit a copy to the Commission within five days of written acceptance of the CPCN authority granted by this decision.

10. Expected Customer Base

Synergy provided its estimated customer base for the first and fifth years of operation in Exhibit G of its application.

11. Request for Treatment as a Non-dominant Carrier

Synergy requests treatment as a non-dominant interexchange 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 non-dominant carriers in D.85-01-008, and subsequently modified in D.85-07-081 and D.85-11-044. We grant Synergy's request for non-dominant

interexchange carrier status, provided that it follows all rules detailed in the above referenced decisions.⁸

12. Conclusion

We conclude that the application conforms to our rules for certification as a competitive local exchange and interexchange carrier. Accordingly, we grant Synergy DAS, LLC a CPCN to provide full facilities-based and resold local exchange telecommunications service in the service territory of AT&T, Verizon, Citizens and SureWest and non-dominant interexchange service statewide, subject to compliance with the terms and conditions set forth in the Ordering Paragraphs.

13. Request to File Under Seal

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

14. Categorization and Need for Hearings

In Resolution ALJ 176-3300, dated September 13, 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.

⁸ While the Commission has granted exemption from §§ 816 – 830 to others, exemption

Footnote continued on next page

15. Comments on Draft Decision

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2), the otherwise applicable 30-day period for public review and comment is waived.

16. Assignment of Proceeding

Catherine J.K. Sandoval is the assigned Commissioner and Patricia B. Miles is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Notice of the application appeared on the Daily Calendar on September 5, 2012. No protests have been filed. A hearing is not required.
2. The Commission is the Lead Agency for this project under CEQA.
3. Synergy's proposed construction activity falls within one or more CEQA categorical exemptions.
4. Synergy's authority to provide local exchange services will not have a significant adverse effect upon the environment.
5. Synergy has a minimum of \$100,000 of cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses.
6. Synergy's management possesses sufficient experience, knowledge, and technical expertise to provide local exchange services to the public.
7. No one associated with or employed by Synergy as an affiliate, officer, director, partner, or owner of more than 10 percent of Synergy was: previously associated with a telecommunications carrier that filed for bankruptcy; was

from §§ 851 – 854 has not been granted previously and is not granted here.

sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order; or was previously associated with any telecommunication carrier that has been found either civilly or criminally liable by a court of appropriate jurisdiction for a violation of § 17000 et seq. of the California Business and Professions Code, or for any actions which involved misrepresentations to consumers, nor is currently under investigation for similar violations.

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

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

10. Synergy 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.

11. Synergy provided an estimate of its customer base for the first and fifth year of operation in Exhibit G to its application. Synergy represents that the information is sensitive, and disclosure could place Synergy at an unfair business disadvantage.

12. Pursuant to Rule 11.4, Synergy filed motions for leave to file Exhibits E and G as confidential materials under seal.

Conclusions of Law

1. Synergy should be granted a CPCN to provide resold, limited facilities based, and full facilities-based local exchange telecommunications service in the service territories of AT&T, Verizon, Citizens, and SureWest and non-dominant interexchange service in California, subject to the terms and conditions set forth in the OPs, including obtaining a performance bond, as required by D.13-05-035.

2. Synergy should be allowed to use the Energy Division 21-day CEQA exemption process.
3. Synergy, once granted a CPCN, should be subject to the applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.
4. Synergy's initial tariff filing should correct the tariff deficiencies shown in Attachment A to this decision.
5. Synergy's motion to file under seal Exhibits E and G to its application, should be granted for two years.
6. Synergy should be granted non-dominant 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.

O R D E R

IT IS ORDERED that:

1. A Certificate of Public Convenience and Necessity is granted to Synergy DAS, LLC to provide resold, limited facilities-based and full facilities-based local exchange telecommunications services in the territories of Pacific Bell Telephone dba AT&T California, Verizon California Inc., Citizens Telecommunications Company of California, Inc. dba Frontier Communications of California and SureWest Communications, and interexchange service in California, subject to the terms and conditions set forth below.
2. Synergy DAS, LLC may not offer competitive local exchange or interexchange services until tariffs are corrected for the deficiencies set forth in Exhibit A, and are filed with and authorized by this Commission, in accordance with General Order 96-B.

3. The corporate identification number assigned to Synergy DAS, LLC, U-7254-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, Synergy DAS, LLC is subject to the Consumer Protection Rules contained in General Order 168, and all applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

5. Synergy DAS, LLC (Synergy) must obtain a performance bond of at least \$25,000 in accordance with Decision 13-05-035. The performance bond must be a continuous bond (*i.e.*, there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within five days of written acceptance of the certificate granted herein, Synergy must submit a Tier-1 advice letter to the Director of Communications, containing a copy of the license holder's executed bond.

6. Synergy DAS, LLC (Synergy) must annually and not later than March 31, submit a Tier-1 advice letter to the Director of Communications, containing a copy of the license holder's executed bond. Synergy must not allow its performance bond to lapse during any period of its operation. Pursuant to Decision 13-05-035, the Commission may revoke a Certificate of Public Convenience and Necessity if a carrier is more than 120 days late in providing the Director of the Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Communications Division.

7. Synergy DAS, LLC must file, in this docket, a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order.

8. Synergy DAS, LLC must annually pay the user fee and public purpose surcharges specified in Attachment B. Per the instructions in Exhibit E to Decision 00-10-028, the Combined California Public Utilities Commission Telephone Surcharge Transmittal Form must be submitted even if the amount due is \$0. Under Public Utilities Code Section 405, carriers that are in default of reporting and submitting user fees for a period of 30 days or more will be subject to penalties including suspension or revocation of their authority to operate in California. Therefore, carriers should report user fees even if the amount due is \$0.

9. Prior to initiating service, Synergy DAS, LLC must provide the Commission's Consumer Affairs Branch with the name and address of its designated contact person(s) for purposes of resolving consumer complaints. This information must be updated if the name or telephone number changes, or at least annually.

10. Synergy DAS, LLC shall file for additional authority from the Commission and shall undergo any required California Environmental Quality Act (CEQA) review before commencing full facilities-based construction projects. For the types of projects described in its application, that fall within CEQA's exemptions, that do not exceed five miles in length and that are constructed in existing public rights-of-way and utility easements in developed urban or suburban areas, Synergy DAS, LLC may utilize the expedited 21-day process for CEQA review by Commission Energy Division Staff.

11. Synergy DAS, LLC must notify the Director of the Communications Division in writing of the date that local exchange and non-dominant interexchange service is first rendered to the public, no later than five days after service first begins.

12. Synergy DAS, LLC must file an affiliate transaction report with the Director of the Communications Division, in compliance with Decision 93-02-019, on a calendar year basis using the form contained in Attachment D.

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

14. Synergy DAS, LLC must file a tariff within 12 months of the effective date of this order, or its certificate will be cancelled.

15. The staff of the Commission's Energy Division is authorized to review, process, and act upon Synergy DAS, LLC's requests for a determination that its full facilities-based construction activities are exempt from the requirements of the California Environmental Quality Act.

16. If Synergy DAS, LLC (Synergy) wishes to engage in full facilities-based construction activities and believes that these activities are exempt from California Environmental Quality Act, Synergy shall first apply to the Commission's Energy Division staff for a determination of exemption from California Environmental Quality Act using the following procedure set forth in Ordering Paragraph 17.

17. Synergy DAS, LLC (Synergy) will provide the Commission's Energy Division with:

- a. A detailed description of the proposed project, including:

- i. Customer(s) to be served;
 - ii. The precise location of the proposed construction project; and
 - iii. Regional and local site maps.
- b. A description of the environmental setting, including at a minimum:
 - i. Cultural, historical, and paleontological resources;
 - ii. Biological resources; and
 - iii. Current land use and zoning.
- c. A construction work plan, including:
 - i. Commission Preconstruction Survey Checklist – Archaeological Resources;
 - ii. Commission Preconstruction Survey Checklist – Biological Resources;
 - iii. A detailed schedule of construction activities, including site restoration activities;
 - iv. A description of construction/installation techniques;
 - v. A list of other agencies contacted with respect to siting, land use planning, and environmental resource issues, including contact information; and
 - vi. A list of permits required for the proposed project.
- d. A statement of the California Environmental Quality Act exemption(s) claimed to apply to the proposed project; and
- e. Documentation supporting the finding of exemption from California Environmental Quality Act.
- f. The Energy Division will then review the submission and notify Synergy of either its approval or its denial of Synergy's claim for exemption from California Environmental Quality Act review within 21 days from the time that Synergy's submission is complete.
- g. If the Energy Division approves Synergy's claimed California Environmental Quality Act exemption(s), the staff will prepare a Notice to Proceed and file a Notice of

Exemption with the State Clearinghouse, Office of Planning and Research.

- h. If the Energy Division disapproves Synergy's claimed California Environmental Quality Act exemptions, the staff will issue to Synergy a letter which states the specific reasons that the claimed California Environmental Quality Act exemptions do not apply to the proposed project.
- i. If the Energy Division disapproves Synergy's claimed California Environmental Quality Act exemption(s), Synergy shall either re-design the specific project and facilities and then reapply for a finding of exemption from California Environmental Quality Act, or file a formal application with the Commission seeking the requisite approval and full California Environmental Quality Act review, before commencing any full facilities-based construction activities.

18. Synergy DAS, LLC's (Synergy) motion to file under seal its Exhibits E and G 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 Synergy or as ordered by a court of competent jurisdiction. If Synergy believes that it is necessary for this information to remain under seal for longer than two years, Synergy may file a new motion at least 30 days before the expiration of this limited protective order.

19. This proceeding is closed.

This order is effective today.

Dated _____, at San Francisco, California.

ATTACHMENT A

List of deficiencies in tariff filed by Synergy DAS, LLC (U-7254-C) in Application .12-08-020 to be corrected in its tariff compliance filing. Revisions to tariffs are filed using the Advice Letter process in G.O.96B

1. Tariff Accessibility – Please state California address at which the tariff is available for inspection or provide Internet URL where tariffs are posted (G.O.96.B, 8.1.3)
2. Tariff Sheet Format – The Company’s proposed tariff must include a Utility ID # on the tariff header. Add U # and leave the number blank until a U # has been assigned. (See G.O.96.B, 8.4.1)
3. Title Page – The title page submitted has U # of 6928 (or U-6928-C). Please leave the U # blank until a U # has been assigned. (G.O.96B, 8.5.1)
4. Table of Contents – (G.O.96B, 8.5.2)
 - Missing sheets 1-7 and a short description of each sheet.
 - Item 3-RULES, please add the text “Description of Service.....17”
 - Missing “Preliminary Statement and Explanation of Symbols.....4 - 5”
 - Missing “Service Area and exchange Boundaries.....6 - 7”
5. Preliminary Statement and Explanation of Symbols, tariff sheets 4- 5 – need to be added to the Table of Contents.
6. Service Area and Exchange Boundaries, sheets 6 - 7 – Must include a map of California and exchange boundaries. (G.O.96B, 8.5.4)
7. Description of Service – please add to the Table of Contents page.

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,⁹ a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order.

2. Applicant is subject to the following fees and surcharges that must be regularly remitted. Per the instructions in Exhibit E to Decision (D.) 00-10-028, the Combined California PUC Telephone Surcharge Transmittal Form must be submitted even if the amount due is \$0.

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

Note: These fees change periodically. In compliance with Resolution T-16901, December 2, 2004, Applicant must check the joint tariff for surcharges and fees filed by Pacific Bell Telephone Company (dba AT&T California) and apply the

⁹ Written acceptance filed in this docket does not reopen the proceeding.

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.
- 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. Synergy DAS, LLC (Synergy) must obtain a performance bond of at least \$25,000 in accordance with Decision 13-05-035. The performance bond must be a continuous bond (*i.e.*, there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within five days

of written acceptance of the certificate granted herein, Synergy must submit a Tier-1 advice letter to the Director of Communications, containing a copy of the license holder's executed bond.

6. Tariff filings must reflect all fees and surcharges to which Applicant is subject, as reflected in #2 above.
7. Applicant must file a service area map as part of its initial tariff.
8. 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.
9. 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.
10. 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.
11. Applicant must keep its books and records in accordance with the Generally Accepted Accounting Principles.
12. 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.
13. 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.

14. 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.

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

16. 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.

17. 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.

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

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

20. 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.

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

22. 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)