

Decision 14-12-042 December 18, 2014

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Telco Connection LLC for Registration as an Interexchange Carrier Telephone Corporation Pursuant to the Provisions of Public Utilities Code Section 1013.

Application 13-05-014
(Filed May 31, 2013)

DECISION GRANTING TELCO CONNECTION LLC A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN ORDER TO PROVIDE RESOLD INTEREXCHANGE SERVICE

Summary

Pursuant to Public Utilities Code Section 1001, the Commission grants Telco Connection LLC (Telco or applicant) a certificate of public convenience and necessity to provide resold interexchange service in California subject to the terms and conditions set forth in the Ordering Paragraphs.¹ The Commission finds that has been sufficiently rehabilitated since the time its prior application was dismissed in D.13-02-020 issued on February 28, 2013. In D.13-02-020, the Commission stated that “the applicant may reapply when he can show rehabilitation.”²

¹ While this application was filed pursuant to Pub. Util. Code § 1013, an expedited and ministerial registration process, the dismissal of Telco’s prior application in Decision (D) 13-02-020 on February 28, 2013 and resulting assignment to an Administrative Law Judge removed it from the registration track. It has therefore been evaluated as a certificate of public convenience and necessity under § 1001.

² See D.13-02-020 at 9.

1. Background

On May 31, 2013, Telco Connection LLC (Telco or applicant), a limited liability corporation in California, filed an application for a certificate of public convenience and necessity (CPCN) to provide resold interexchange service in California.

The current application is in response to the Commission's February 28, 2013, decision in Decision (D.) 13-02-020 which dismissed a prior application filed by Telco on July 23, 2012,³ for registration to operate as an interexchange carrier in California. The decision also rejected a proposed settlement between Telco and the Commission's Consumer Protection and Safety Division (CPSD), currently known as the Safety and Enforcement Division (SED).

Telco's prior application for registration was denied for violation of Rule 1.1 of Public Utilities Commission's (Commission) Rules of Practice and Procedure.⁴ Telco failed to disclose violations pertaining to public utilities, committed by Advanced Tel, Inc. (ATI), a company previously owned by Telco's sole officer, Mr. David A. Singer (Singer). In D.13-02-020, the Commission stated that "the applicant may reapply when he can show rehabilitation."⁵

³ See Application (A.) 12-07-015 filed on July 23, 2012.

⁴ Rule 1.1 states that "Any person who signs a pleading or brief, enters an appearance, offers testimony at a hearing, or transacts business with the Commission, by such act represents that he or she is authorized to do so and agrees to comply with the laws of this state; to maintain the respect due to the Commission, members of the Commission and its Administrative Law Judges (ALJs); and never to mislead the Commission or its staff by an article or false statement of fact or law."

⁵ See D.13-02-020, at 9.

Telco proposes to provide local exchange services to business and residential customers via connection with another provider.

Telco's principal place of business is located at 31821 Via Perdiz, Coto de Caza, California, 92679.

A prehearing conference (PHC) was held on November 12, 2013. At the PHC, Telco was required to file additional information regarding Singer's duties as president of ATI after ownership thereof was transferred to InterMetro Communications, Inc. (InterMetro) on March 31, 2006.⁶ The information requested relates to Singer's underlying assertion that he had no knowledge of the various regulatory violations committed by ATI after ownership thereof was acquired by InterMetro until he eventually left the company on August 2009.

On November 25, 2013, Telco submitted the supplemental information requested by the assigned ALJ during the PHC.

On December 20, 2013, Telco filed a response to the second request for supplemental information made by the assigned ALJ.

On September 23, 2014, the assigned ALJ issued a ruling requesting additional information which Telco provided on October 10, 2014.⁷

⁶ ATI became a wholly owned subsidiary of InterMetro and Singer remained president of ATI until he left the company in August 2009.

⁷ The October 10, 2014 Response was a re filing of Telco's October 8, 2014 Response, after the assigned ALJ issued a ruling on October 10, 2014, denying confidential treatment of Attachments A and B of the October 8, 2014 Response.

2. Rehabilitation by the Applicant

As stated previously, Telco's prior application to obtain a CPCN was dismissed by the Commission in D.13-02-020. The decision stated that the applicant may reapply when it can show that it has been rehabilitated.

In its current application, Telco answered "not true" to questions 8⁸ and 9⁹ of the application and disclosed regulatory violations committed by ATI that were discovered by CPSD during Telco's prior registration application.

⁸ Neither applicant, any of its affiliates, officers, directors partners, agents, or owners (directly or indirectly) of more than 10% of applicant, or anyone acting in a management capacity for applicant: (a) held one of these positions with a company that filed for bankruptcy; (b) been personally found liable, or held one of these positions with a company that has been found liable, for fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; (c) been convicted of a felony; (d) been (to his/her knowledge) the subject of a criminal referral by judge or public agency; (e) had a telecommunications license or operating authority denied, suspended, revoked, or limited in any jurisdiction; (f) personally entered into a settlement, or held one of these positions with a company that has entered into settlement of criminal or civil claims involving violations of sections 17000 et seq., 17200 et seq., or 17500 et seq. of the California Business & Professions Code, or of any other statute, regulation, or decisional law relating to fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; (g) been found to have violated any statute, law, or rule pertaining to public utilities or other regulated industries; or (h) entered into any settlement agreements or made any voluntary payments or agreed to any other type of monetary forfeitures in resolution of any action by any regulatory body, agency, or attorney general.

⁹ To the best of Applicant's knowledge, neither applicant, any affiliate, officer, director, partner, nor owner of more than 10% of applicant, of any person acting in such capacity whether or not formally appointed, is being or has been investigated by the Federal Communications Commission or any law enforcement or regulatory agency for failure to comply with any law, rule or order.

Telco disclosed the following violations:

1. On August 2, 2005, the Oregon Public Utility Commission (OPUC) canceled ATI's certificate of authority to provide interexchange switched toll and dedicated transmission telecommunications service in Oregon¹⁰ because ATI failed to file its 2004 annual report.¹¹ The OPUC rescinded the order on August 30, 2005¹² because ATI came into compliance by filing the required information with the OPUC;
2. On August 15, 2006, the Florida Public Service Commission ordered ATI to pay \$500, and any past due Regulatory Assessment Fees;¹³
3. On February 28, 2007, the South Dakota Public Service Commission revoked ATI's Certificate of Authority to provide interexchange telecommunications services in South Dakota¹⁴ for failure to submit an annual report and pay the gross receipts tax;¹⁵

¹⁰ *In the Matter of Advanced Tel Inc. Application for a Certificate of Authority to Provide Telecommunications Service in Oregon and Classification as a Competitive Provider*, Sept. 15, 2004, 2004 Ore. PUC LEXIS 445.

¹¹ *In the Matter of the Cancellation of the Certificate of Authority Held by Advanced Tel, Inc.*, Aug. 10, 2005, Order No. 05-905, 2005 Ore. PUC LEXIS 379.

¹² *In the Matter of Advanced Tel, Inc. Application for a Certificate of Authority to Provide Telecommunications Service in Oregon and Classification as a Competitive Provider*, Aug. 30, 2005, Order No. 05-967, see order at <http://apps.puc.state.or.us/edockets/docket.asp?DocketID=11560>.

¹³ *In re: Compliance investigation of IXC registration holders for apparent first-time violation of Section 364.336, F.S.*, Docket No. 060466-TI, PSC-06-0615-PAA-TIY (July 20, 2006) and PSC-06-0701-CO-TI (Aug. 15, 2006), 2006 Fla. PUC LEXIS 448.

¹⁴ *In the Matter of the Application of Advanced Tel, Inc. dba ATI for a Certificate of Authority to Provide Interexchange Telecommunications Services in South Dakota*, Dec. 14, 2005, 2005 S.D. PUC LEXIS 330.

¹⁵ *In The Matter of Advanced Tel, Inc. dba ATI's Failure to Pay the Gross Receipts*, Feb. 28, 2007, 2007 S.D. PUC LEXIS 54.

4. On June 22, 2009, the OPUC canceled ATI's authority again, because ATI failed to file its 2008 annual report and failed to submit the minimum \$100 revenue fee and associated late payment penalties for 2008.¹⁶ The OPUC rescinded this order on October 5, 2009, after cautioning ATI, in the future, to comply with the OPUC's rules and regulations.¹⁷

Telco also disclosed other regulatory actions against ATI, issued after Singer had already left ATI:

1. On February 2, 2010, the Washington Utilities and Transportation Commission canceled ATI's telecommunications provider registration¹⁸ (reaffirming this decision on March 5, 2010)¹⁹ for failure to pay regulatory fees and/or failure to file its 2008 annual report;
2. On February 8, 2010, the OPUC cancelled ATI's certificate of authority because ATI failed to comply with Oregon's Universal Service Fund requirements for the 3rd quarter of 2009;²⁰
3. On August 24, 2010, the Public Service Commission of the State of Nebraska revoked the Certificates of Public Convenience and Necessity issued to ATI to provide

¹⁶ *In the Matter of the Cancellation of the Certificate of Authority Held by Advanced Tel, Inc.*, June 22, 2009, Order No. 09-243, 2009 Ore. PUC LEXIS 191.

¹⁷ *In the Matter of Advanced Tel, Inc. Application for a Certificate of Authority to Provide Telecommunications Service in Oregon and Classification as a Competitive Provider*, Oct. 5, 2009, Order No. 09-400, 2009 Ore. PUC LEXIS 338.

¹⁸ *Washington Utilities and Transportation Commission, Complainant v. Advanced Tel, Inc., et al., Respondents*, Feb. 2, 2010, Docket UT-091666, 2010 Wash. UTC LEXIS 84.

¹⁹ *Id.* at UTC LEXIS 181.

²⁰ *In the Matter of the Cancellation of the Certificate of Authority Held by Advanced Tel, Inc.*, Feb 8, 2010, Order No. 10-043, 2010 Ore. PUC LEXIS 39.

telecommunications service for failing to file its 2009 annual report;²¹

4. On October 5, 2011, the Tennessee Regulatory Authority opened a docket to investigate ATI for failing to secure and provide a bond or letter of credit since August 11, 2009, in compliance with Tenn. Code Ann. § 65-4-125(j) and for failing to pay the required inspection fees;²² and
5. On May 4, 2012, the Federal Communications Commission (FCC) adopted a Consent Decree entered between the FCC's Enforcement Bureau and InterMetro to resolve an investigation into the unauthorized transfer of control of ATI to InterMetro. In the Consent Decree, InterMetro agreed to make a voluntary contribution of \$6,000 to the United States Treasury. InterMetro also agreed to implement a comprehensive Compliance Plan to ensure compliance with relevant regulatory statutes, rules and FCC orders.²³

Telco also presented a declaration from Singer and an affidavit from Mr. Ken Fish, a former officer of InterMetro. The above documents were intended to support Singer's underlying assertion that he was not in charge of ATI's regulatory compliance and did not have knowledge of the various regulatory violations and sanctions against ATI while he was president thereof, from the time ATI became a subsidiary of InterMetro, until he left the company in August 2009.

²¹ *In the Matter of the Nebraska Public Service Commission regarding the 2009 Annual Report*, Aug. 24, 2010, 2010 Neb. PUC LEXIS 264.

²² *In re: Show Cause Proceeding Against Advanced Tel, Inc. for Alleged Violations of Tenn. Code Ann. § 65-4-125(j) and Tenn. Code Ann. § 65-4-301(a)(1)*, Oct. 5, 2011, Docket No. 10-00208, 2011 Tenn. PUC LEXIS 164.

²³ *In the Matter of InterMetro Communications, Inc.*, May 4, 2012, 2012 FCC LEXIS 1940.

While the Commission remains dubious that Singer did not have knowledge of the various regulatory violations committed by ATI while he was president thereof, the Commission finds enough instances to show that Telco has been rehabilitated from the time its prior application was dismissed.

Telco properly disclosed the regulatory violations committed by ATI in its current application, and has not committed any new violations. The application has not been protested and the Commission has not received any complaints against Telco or Singer. In addition, Telco stated that it is committed to retain a regulatory consultant to ensure that Telco is in full compliance with all regulatory requirements in California.²⁴ Lastly, Telco's counsel stated in the PHC on November 12, 2013 that Singer was willing to have a regulatory consultant review everything he does for the first year.

Based on the foregoing, the Commission finds that Telco has been sufficiently rehabilitated since the dismissal of its prior application on February 28, 2013 in D.13-02-020.

3. Jurisdiction

Public Utilities Code Section 216(a) defines the term "Public utility" to include a "telephone corporation," which in turn is defined in Public Utilities Code Section 234(a) as "every corporation or person owning, controlling, operating, or managing any telephone line for compensation within this state."

Telco proposes to provide enterprise-level toll-free wholesale services. Therefore, Telco is a telephone corporation and a public utility subject to our jurisdiction.

²⁴ See A.13-05-014 at 6.

4. California Environmental Quality Act (CEQA)

The CEQA requires the Commission act as the designated lead agency to assess the potential environmental impact of a project in order that adverse effects are avoided, alternatives are investigated, and environmental quality is restored or enhanced to the fullest extent possible. Since Telco states that it does not contemplate any proposed construction or extension of facilities as a result of this application, it can be seen with certainty that there is no possibility that granting this application will have an adverse impact upon the environment. Before it can construct facilities other than equipment to be installed in existing buildings or structures, Telco must file for additional authority, and submit to any necessary CEQA review.

5. Financial Qualifications

To be granted a CPCN, an applicant for authority to provide resold interexchange services must demonstrate that it has a minimum of \$25,000 cash or cash equivalent to meet the firm's start-up expenses.²⁵ 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.²⁶

²⁵ The financial requirement for Competitive Local Exchange Carriers (CLEC) 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.

²⁶ The requirement for Competitive Local Carrier (CLC) applicants to demonstrate that they have additional financial resources to meet any deposits required by underlying Local Exchange Carriers (LEC) and/or interexchange carriers is set forth in D.95-12-056, Appendix C. For NDIECs, the requirement is found in D.93-05-010.

In its reply to the ALJ ruling directing applicant to submit additional information, Telco submitted a surety bond in the amount of \$25,000²⁷ plus a statement that it has a fully paid deposit with Level 3 that is required in order to provide its proposed services. The above documentation shows that applicant possesses resources that are reasonably liquid and available. Applicant has demonstrated that it has sufficient funds to meet its start-up expenses and has fulfilled the financial requirement.

Telco proposes to initially interconnect with Level 3 Communications. As stated above, Telco has provided documentation that it has paid the required deposit in order to provide its proposed services. No additional resources are required at this time to cover deposits.

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.²⁸ Although Telco did not provide biographical information on its management, the application included a declaration from Telco's sole officer, Singer and an affidavit from Mr. Ken Fish, a former officer of the company that acquired ATI. The declaration from Singer and affidavit from Mr. Ken Fish included information regarding Singer's prior experience and duties as president of ATI, a company providing telecommunications service. In addition, during the PHC on

²⁷ See D.95-12-056, Appendix C, which provides that an applicant can submit a performance bond to satisfy the applicable unencumbered cash requirements required of applicants in order to obtain a CPCN.

²⁸ D.95-12-056 at Appendix C, Rule 4.A.

November 12, 2013, Telco's counsel stated that Telco has already been operating and providing telecommunications service but outside of California.

For the above reasons, we find that Singer possesses sufficient managerial and technical expertise in a telecommunications business and that Telco is in compliance with the requirements of D.95-12-056.

7. Map of Service Territory

Telco will provide interexchange service and intends to provide service statewide.

8. Request for Treatment as a Non-dominant Carrier

Applicant requests treatment as a NDIEC, 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 Applicant's request for NDIEC status, provided that they follow all rules detailed in the above referenced decisions.²⁹

9. Tariffs

Applicant has requested authority to operate on a de-tariffed basis. This request is granted as Telco is being granted treatment as an NDIEC³⁰ and is eligible for an exemption from the tariffing requirements as set out in D.98-08-031.³¹

²⁹ While the Commission has granted exemption from §§ 816 – 830 to others, exemption from §§ 851 – 854 has not been granted previously and is not granted here.

³⁰ See discussion under heading "8. Request for Treatment as a Non-dominant Carrier."

³¹ See D.98-08-031.

10. Safety

Telco Connection will operate as a switchless reseller and will not deploy facilities to support its services. Instead, Telco will be leasing facilities from other carriers. Therefore, Telco is not aware of any safety concerns for its proposed services.

11. Conclusion

The Commission concludes that the application conforms to our rules for certification as a non-dominant interexchange carrier. The Commission also concludes that Telco has adequately shown that it has been sufficiently rehabilitated from the time its prior application was dismissed on February 28, 2013. Accordingly, the Commission grants Telco a CPCN to provide resold interexchange telecommunications service subject to compliance with the terms and conditions set forth in the Ordering Paragraphs.

The CPCN granted by this decision provides benefits to Telco and corresponding obligations. Telco receives authority to operate in the prescribed service territory, it can request interconnection with other telecommunications carriers in accordance with Section 251 of the Federal Communications Act (47 U.S.C. 251), and it receives access to public rights of way in California as set forth in D.98-10-058 subject to the CEQA requirements set forth in this decision. In return, Telco is obligated to comply with all applicable Public Utilities Codes and Commission Rules, GOs, and decisions applicable to telecommunications carriers providing approved services. The applicable Codes, Rules, etc. include, but are not limited to consumer protection rules, tariffing, and reporting requirements. Moreover, Telco is obligated to pay all Commission prescribed user fees and public purpose program surcharges as set forth in the Appendix A of this decision, to comply with CEQA, and to adhere to Pub. Util. Code

Section 451 which states that every public utility "...shall furnish and maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities, as defined in Section 54.1 of the Civil Code, as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public."

12. Request to File Under Seal

Pursuant to Rule 11.4 of the Commission's Rules of Practice and Procedure, Telco filed a motion for leave to file under seal Exhibit 2 of Telco's Response filed on December 20, 2013. Exhibit 2 of the December 20, 2013 Response is a copy of a settlement agreement between Singer and InterMetro relating to issues in connection with the transfer of ownership of ATI to InterMetro.

The Commission grants the request to file under seal Exhibit 2 of Telco's Response filed on December 20, 2013.

Exhibit 2 of the December 20, 2013 Response, which is a copy of a settlement agreement between Singer and InterMetro, contains private and proprietary information. Moreover, the information involves a transaction not related to the application and was submitted merely to show the nature of the suit filed by Singer against InterMetro pursuant to a request from the assigned ALJ.

13. Categorization and Need for Hearings

In Resolution ALJ 176-3316, dated June 27, 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.

14. Waiver of Comments on Proposed 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.

15. Assignment of Proceeding

Carla J. Peterman is the assigned Commissioner and Rafael L. Lirag is the assigned ALJ in this proceeding.

Findings of Fact

1. Notice of the application appeared on the Daily Calendar on June 5, 2013. No protests have been filed. A hearing is not required.
2. Telco's prior application to obtain registration as an interexchange carrier was dismissed by the Commission in D.13-02-020 on February 28, 2013.
3. The Commission stated in D.13-02-020 that Telco may reapply when it has been rehabilitated.
4. Telco's application provided a disclosure of various regulatory actions involving ATI, a company formerly owned by Telco's sole officer, Singer, and a company where Singer previously served as president.
5. The Commission has not received any complaints against Telco.

6. Telco stated in its application that it is committed to retain a regulatory consultant to ensure that Telco is in full compliance with all regulatory requirements in California.

7. Public Utilities Code Section 216(a) defines the term “public utility” to include a “telephone corporation.”

8. Telco proposes to provide enterprise-level toll-free wholesale services.

9. Telco has a minimum of \$25,000 of cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses.

10. Telco has sufficiently paid deposits required by other telecommunications carriers in order to provide the proposed service.

11. Telco’s management possesses sufficient experience, knowledge, and technical expertise to provide local exchange services to the public.

12. Telco will operate on a de-tariffed basis.

13. Pursuant to Rule 11.4, Telco filed a motion for leave to file confidential materials under seal, including Exhibit 2 of Telco’s December 20, 2013 Response, containing a copy of a settlement agreement between Mr. Singer and InterMetro.

Conclusions of Law

1. Telco should be granted a CPCN to provide resold local exchange telecommunications service subject to the terms and conditions set forth in the Ordering Paragraphs.

2. Telco has sufficiently shown that it has been sufficiently rehabilitated from the time its prior application was dismissed by the Commission in D.13-02-020, issued on February 28, 2013.

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

4. Telco is a telephone corporation and a public utility as defined in Pub. Util. Code §§ 234(a) and 216(a).

5. Telco's motion to file under seal Exhibit 2 of Telco's December 20, 2013 Response, containing a copy of a settlement agreement between Singer and InterMetro, should be granted for three years.

6. Telco 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.

7. Telco should be granted permission to operate on a de-tariffed basis pursuant to D.98-08-031.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Telco Connection LLC to provide resold interexchange telecommunications services in California, subject to the terms and conditions set forth below.

2. The corporate identification number assigned to Telco Connection LLC, U7270C, must be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

3. Telco Connection LLC (Telco) must obtain a performance bond of at least \$25,000 in accordance with Decision 13-05-035. This bond requirement is in addition to, and distinct from, the performance bond obtained by Telco to comply with the financial requirements required to obtain a certificate of public convenience and necessity. The performance bond must be a continuous bond (*i.e.*, there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the

Commission must be listed as the obligee on the bond. Within five days of acceptance of its certificate of public convenience and necessity authority, Telco must submit a Tier-1 advice letter to the Director of Communications, containing a copy of the license holder's executed bond, and submit a Tier-1 advice letter annually, but not later than March 31, with a copy of the executed bond.

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

5. In addition to all the requirements applicable to interexchange carriers included in Attachments A, B, and C to this decision, Telco Connection 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.

6. Telco Connection 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.

7. Telco Connection LLC must annually pay the user fee and public purpose surcharges specified in Attachment A. Per the instructions in Exhibit E to Decision 00-10-028, the Combined California Public Utilities Commission Telephone Surcharge Transmittal Form must be submitted even if the amount due is \$0. Applicant must pay a minimum user fee of \$100 or 0.18% of gross intrastate revenue, whichever is greater. Under Public Utilities Code 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.

8. Prior to initiating service, Telco Connection 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.

9. Prior to initiating service, Telco Connection LLC must provide the Commission's Communications Division with the name and address of its designated regulatory/official contact persons(s). This information must be provided electronically, using the "Regulatory/Official Contact Information Update Request" found at

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

This information must be updated if the name or telephone number changes, or at least annually.

10. Telco Connection 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 C.

11. Telco Connection 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 B to this decision.

12. Telco Connection LLC's (Telco) motion to file under seal Exhibit 2 of its December 20, 2013 Response, containing a copy of a settlement agreement

between Mr. David Singer and InterMetro Communications, Inc., is granted for a period of three years after the date of this order. During this three year period, this information shall not be publicly disclosed except on further Commission order or Administrative Law Judge ruling. If Telco believes that it is necessary for this information to remain under seal for longer than three years, Telco may file a new motion showing good cause for extending this order by no later than 30 days before the expiration of this order.

13. Application 13-05-014 is closed.

This order is effective today.

Dated December 18, 2014, at San Francisco, California.

MICHAEL R. PEEVEY
President
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
CARLA J. PETERMAN
MICHAEL PICKER
Commissioners

ATTACHMENT A

REQUIREMENTS APPLICABLE TO COMPETITIVE LOCAL EXCHANGE CARRIERS AND INTEREXCHANGE CARRIERS

1. Applicant must file, in this docket with reference to this decision number,¹ a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order.

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

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

Note: These fees change periodically. In compliance with Resolution T-16901, December 2, 2004, Applicant must check the joint tariff for surcharges and fees filed by Pacific Bell

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

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.
- Carriers must file and pay the PUC User Fee (see above item 2g) upon receiving the User Fee statement sent by the Commission. User Fees cannot be reported or paid online. Instructions for reporting filing are available at <http://www.cpuc.ca.gov/PUC/Telco/Information+for+providing+service/userfee.htm>. Please call (415) 703-2470 for questions regarding User Fee reporting and payment.

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

advice letter annually, but not later than March 31, with a copy of the executed bond.

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

5. 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).

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. In addition, Applicant must provide the Commission's Communications Division with the name and address of its designated regulatory/official contact persons(s). This information must be provided electronically, using the "Regulatory/Official Contact Information Update Request" found at

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

This information must be updated if the name or telephone number changes, or at least annually.

9. If applicable, 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 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 C.

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 A)

ATTACHMENT B

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 B)

ATTACHMENT C

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 C)