

Decision 15-03-033 March 26, 2015

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Hunter Communications, Inc. for a Certificate of Public Convenience and Necessity to provide: (i) Full Facilities based and Resold Competitive Local Exchange Service throughout the service territories of Pacific Bell Telephone Company, Verizon California, Inc., SureWest Telephone, and Citizens Telecommunications Company of California, Inc.; and (ii) Full Facilities-Based and Resold Interexchange Service statewide.

Application 14-01-020
(Filed January 27, 2014)

DECISION GRANTING HUNTER COMMUNICATIONS, INC. A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN ORDER TO PROVIDE FULL FACILITIES-BASED AND RESOLD COMPETITIVE LOCAL EXCHANGE AND INTEREXCHANGE SERVICES WITHIN THE STATE OF CALIFORNIA

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DECISION GRANTING HUNTER COMMUNICATIONS, INC. A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN ORDER TO PROVIDE FULL FACILITIES-BASED AND RESOLD COMPETITIVE LOCAL EXCHANGE AND INTEREXCHANGE SERVICES WITHIN THE STATE OF CALIFORNIA

Summary

Pursuant to Public Utilities Code Section 1001, we grant Hunter Communications, Inc.¹ a certificate of public convenience and necessity to provide full facilities-based and resold competitive local exchange and interexchange services, subject to the terms and conditions set forth in the Ordering Paragraphs.

1. Background

On January 27, 2014, Hunter Communications, Inc. (Hunter) filed an application to request a certificate of public convenience and necessity (CPCN) authorizing the company to provide full facilities-based and resold competitive local exchange telecommunications services within the service territories of AT&T California (AT&T), Verizon California Inc. (Verizon), Citizens Telecommunications Company of California, dba a Frontier Communications of California, Inc. (Citizens), and SureWest Communications (SureWest) and interexchange services statewide in California. No protests to the application were filed.

Hunter was incorporated in March 1994 in the State of Oregon. It constructs and provides fiber-based dedicated network and point-to-point services (special access), which may be utilized for transmission of both voice

¹ Hunter is an Oregon corporation. Its principal place of business is located at 801 Enterprise Drive, Central Point, OR 97502.

and data communications, as well as last-mile fiber broadband Internet access services. Hunter's clients are small businesses, educational institutions, municipal government agencies, healthcare and financial institutions throughout Southern Oregon.

2. 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."

Hunter will be subject to the Commission's jurisdiction and must abide by the Commission's rules, including those regarding posting of service information on its website and compliance with applicable consumer protection rules.

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 California Public Utilities Commission (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.

Pursuant to CEQA and Rule 2.4² of the Commission's Rules of Practice and Procedure, the Commission examines projects to determine any potential environmental impacts in order that adverse effects are avoided and environmental quality is restored or enhanced to the fullest extent possible under CEQA.

Hunter intends to install telephone line facilities such as fiber optic cable within existing facilities of incumbent local exchange carriers.

Hunter seeks an exemption from CEQA requirements because it expects that its outside plant construction will be small in scale, i.e., trenching for installation of underground conduit, installation of new utility poles, equipment shelters or above-ground support structures. At minimum, Hunter requests that the Commission grant it authority for full facilities-based construction subject to compliance with an expedited 21-day environmental review process.

Hunter contends that these activities fall within the following classes of projects that are exempt from CEQA and for which neither an Environmental Impact Report nor a Negative Declaration is required.

- Class 1 Exemption: operation, repair, maintenance, leasing or minor alteration of existing public or private structures and facilities, with negligible or no expansion of an existing use. This includes existing facilities used to provide public utility services. 14 CCR § 15301.
- Class 3 Exemption: construction including water main, sewage, electrical, gas and *other utility extensions of reasonable length* to serve such construction. This includes the

² Unless otherwise noted, items labeled "Rule" are from the Commission's Rules of Practice and Procedure.

construction of limited numbers of new small facilities or utility extensions. 14 CCR § 15303.

Hunter represents that its anticipated activities will involve construction of reasonably short utility extensions (Class 3). Hunter cannot identify the specific locations of customers that it may serve at this time. However, its proposed new construction activities may be similar to those undertaken by other carriers that we have decided are categorically exempt from CEQA. See, e.g, Decision (D.) 06-04-063 (*ClearLinx Network Corporation*); D.06-04-067 (*CA-CLEC LLC*).

Hunter requests approval to utilize a procedure for expedited review of its projects once it is aware of a specific site(s) in which it plans construction. The proposed procedure tracks the expedited review procedure that we have approved for other carriers. Such a process will expedite CEQA review by, at minimum, granting Hunter authority for full facilities-based construction subject to compliance with an expedited 21-day environmental review process. By establishing this expedited review process, we are able to review the information on a specific project to confirm that it is categorically exempt from CEQA or to explain why further environmental review is required. At the same time, the proposed CEQA review process will enable Hunter to undertake construction of its projects in an efficient manner without experiencing delays caused by an unnecessarily protracted CEQA review.

Similar to the procedure approved for other carriers, the following procedure will be used to obtain Commission approval of Hunter's claimed CEQA exemptions for proposed construction projects:

- Hunter will provide the Commission's Energy Division with:
 - A detailed description of the proposed project, including:
 - Customer(s) to be served;

- The precise location of the proposed construction project; and
- Regional and local site maps.
- A description of the environmental setting, to include at a minimum:
 - Cultural, historical, and paleontological resources;
 - Biological resources; and
 - Current land use and zoning.
- A construction work plan, to include:
 - Commission Preconstruction Survey Checklist – Archaeological Resources;
 - Commission Preconstruction Survey Checklist – Biological Resources;
 - A detailed schedule of construction activities, including site restoration activities;
 - A description of construction/installation techniques;
 - A list of other agencies contacted with respect to siting, land use planning, and environmental resource issues, including contact information; and
 - A list of permits required for the proposed project.
- A statement of the CEQA exemption(s) applicable to the proposed project; and
- Documentation and factual evidence sufficient to support a finding that the claimed exemption(s) is (are) applicable.
- The Energy Division will review Hunter's submission for the proposed project to confirm that the claimed exemption(s) from CEQA are applicable.
- Within 21 days from the date of Hunter's submittal, the Energy Division will issue either:

- A Notice to Proceed (NTP) and file a Notice of Exemption with the State Clearinghouse, Office of Planning and Research, or
- A letter of denial stating the specific reasons why the claimed exemption(s) are not applicable to the proposed project.

We have reviewed the application and Supplement and find that:

- Hunter's proposed facilities-based project activities are very limited;
- These activities would in almost all circumstances be very likely to qualify for an exemption from CEQA; and
- The proposed process for reviewing the applicability of CEQA exemptions to Hunter's facilities-based projects is not only adequate for the Commission's purposes as CEQA Lead Agency, but is also in the public interest because it enables Hunter to respond in a timely manner to requests for service without the delay or burden of a full CEQA review when such review is unnecessary.

We therefore approve Hunter's proposed process for Commission review of claimed CEQA exemptions for construction projects undertaken pursuant to Hunter's full facilities-based authority, based on the specific facts of this case with the following modifications related to the Commission's Energy Division review and approval or disapproval of the proposed exemptions.

- If the Energy Division disapproves Hunter's claimed CEQA exemption(s) and issues a letter of denial to Hunter, Hunter must either re-design the specific project and facilities and then reapply for a finding of exemption from CEQA, or file a formal application with the Commission seeking the requisite approval and full CEQA review, before commencing any construction activities.

Hunter shall not perform any full facilities-based construction activities without first obtaining an NTP from the Energy Division or authorization by the Commission after the requisite environmental review.

We have previously determined that the public convenience and necessity require that competition be allowed in the provision of competitive local exchange service, Rulemaking 95-04-043/Investigation 95-04-044. Granting this application will benefit the public interest by expanding the availability of technologically advanced telecommunications services within the state.

4. Financial Requirements

a. Performance Bond

To be granted a CPCN, an applicant for authority to provide 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.³ 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.⁴ As part of its application, Hunter provided an audited financial statement as of December 31, 2012, which contained a qualified opinion concerning certain aspects of Hunter's financial statements as a result of how Hunter carries certain assets and accounts for certain construction projects. D.13-05-035 concluded that,

³ The financial requirement for Competitive Local Exchange Carriers is contained in D.95-12-056, Appendix C.

⁴ The requirement for Competitive Local Carrier applicants to demonstrate that they have additional financial resources to meet any deposits required by underlying Local Exchange Carriers and/or Interexchange Carriers is set forth in D.95-12-056, Appendix C. For Non-dominant Interexchange Carriers, the requirement is found in D.93-05-010.

consistent with authority granted it pursuant to Pub. Util. Code §§ 701 and 709, the Commission may require a performance bond by applicants requesting entry into California in order to serve the legitimate state interest of providing consumers with adequate protections until the entity establishes itself as a responsible carrier within the state. Therefore, Hunter proposes to submit a performance bond in the amount of \$100,000 payable to the Commission, within five days of its written acceptance of CPCN authority. The \$100,000 bond will remain in effect for a period of 12 full months following certification, then shall be reduced to \$25,000 and remain in effect throughout the duration of Hunter's operation within the State of California, as required under D.13-05-035.

We find that Hunter's proposal to post and keep a performance bond of \$100,000 in effect during its first year of operation, and thereafter keep a bond of \$25,000 in effect throughout the duration of its operation in California, is adequate to satisfy the financial requirements for issuance of a CPCN.

b. Audited Financial Statement

As noted above, Hunter provided an audited financial statement as of December 31, 2012, which contained a qualified opinion concerning certain aspects of Hunter's financial statements. In a ruling dated October 2, 2014, the assigned Administrative Law Judge (ALJ) proposed that, as a condition of obtaining a CPCN, Hunter must provide an audited financial statement to the telecommunications division each of its first three years of operation within the state of California. Hunter objects to this requirement, noting in its amended application that complying with this requirement would be prohibitive from a

cost standpoint.⁵ While we are mindful of cost constraints that telecommunications companies operate within and do not desire to place burdens upon any company that will impair its ability to remain competitive, we are equally mindful of our responsibility to provide consumers with adequate protections until a company establishes itself as a responsible carrier within the state. For this reason, we request that Hunter provide the Communications Division with one additional audited financial statement during its first three years of operation within the state of California.⁶

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.⁷ Section 14 of the application provided information concerning Hunter's founder and sole shareholder Richard W. Ryan. Mr. Ryan is identified as the only person at the company with key management responsibility, with authority to execute contracts on behalf of Hunter, and is the individual who maintains day to day control over all of Hunter's operations and activities. Hunter supplemented its application⁸ with a Statement of Qualifications identifying key technical staff

⁵ October 28, 2014 Amendment To Application By Hunter Communications, Inc. ("amended application") at2.

⁶ Hunter should prefer to provide one audited statement, prepared at a future interval that it chooses, rather than require this Commission to initiate an outside audit to confirm that any financial issues which qualified the December 2012 audit are not issues which undermine the viability of its business operations within the state of California.

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

⁸ Response of Hunter Communications, Inc. to ALJ Ruling Requesting Additional Information filed September 5, 2014.

members and their areas of technical expertise and experience. Mr. Ryan's resume and the qualifications of Hunter's key technical staff members, demonstrate sufficient expertise to operate as a telecommunications provider.

The application includes a sworn affidavit⁹ from Mr. Ryan that verifies that neither Hunter, himself, nor anyone involved with Hunter as an affiliate, officer, director, partner, or owner of more than 10% of Hunter, nor anyone acting in a management capacity for Hunter, has (a) held one of these positions with a company that filed for bankruptcy; been associated with a telecommunications carrier 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 the subject of criminal referral by a 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, regulations, 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,

⁹ The application included an affidavit as Exhibit E. Hunter's amended application includes an Exhibit 1 updating its affidavit. These documents satisfy D.13-05-035, Ordering Paragraph 14.

agency, or attorney general. Furthermore, to the best of Mr. Ryan's knowledge, neither Hunter, any affiliate, officer, director, partner, nor owner of more than 10% of Hunter, or 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.

Accordingly, we find that Hunter is in compliance with the requirements of D.95-12-056 and D.13-05-035.

6. Detariffed Status

In Section 11 of its application, Hunter represents that it does not expect to provide any services under tariffs. If by this statement, Hunter is indicating that it intends to offer its service on a non-discriminatory basis and at competitive rates through individual case basis contracts, it is eligible for exemption from tariffing requirements pursuant to D.98-08-031. Concurrent with providing the performance bond described in paragraph 4 above, Hunter must provide additional written acknowledgement that it will comply with the consumer protection rules set forth in D.98-08-031, as such rules may be modified from time to time. Hunter must also agree to post all detariffed rates, charges, terms and conditions of its service on its internet site, pursuant to Rule 5.2 of the Telecommunications Industry Rules in General Order 96-B. It must also, at least 30 days before a change will occur, notify affected customers about higher rates or charges, about more restrictive terms or conditions, or about withdrawal of service, transfer of ownership or customer base pursuant to Rule 5.3.

7. Safety Considerations

With the adoption of the Safety Policy Statement of the California Public Utilities Commission on July 10, 2014, the Commission has, among other things,

heightened its focus on the potential safety implications of every proceeding. We have considered the potential safety implications here. At this point, Hunter is representing that it primarily installs telephone line facilities - such as fiber optic cable - within existing facilities of incumbent local exchange carriers. It contends that other construction activity which it may undertake, e.g., trenching for installation of underground conduit, installation of new utility poles, equipment shelters, or above-ground support structures, are activities that fall within certain CEQA exemptions.

Hunter will be providing telecommunications services within California. Ensuring that calls such as emergency calls are connected and completed is one important safety consideration when evaluating the fitness of an operator to provide telecommunications services. Our General Order (GO) 133-C governs service quality standards we expect of telecommunications services providers, and Hunter is required to comply with GO 133-C. Mr. Ryan is the sole operator of the company, which raises concerns about his ability to expand Hunter's operations in California and maintain adequate service quality level without additional managerial staff. We accordingly require Hunter to annually report on the number and detailed descriptions of service quality complaints with its annual report.

We feel satisfied that Hunter will meet the Commission's minimum safety goals and expectations of telephone corporations because: (1) Hunter has taken steps to meet the financial requirements as set forth in this decision for a facilities-based carrier, and (2) Hunter will be a public utility that is required pursuant to Pub. Util. Code § 451 to "... furnish and maintain such adequate, efficient, just and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities ... as are necessary to promote the safety, health,

comfort, and convenience of its patrons, employees, and the public.” Should Hunter seek to construct its own facilities, it will be subject to expedited CEQA review, as provided in paragraph 3 of this decision.

8. Map of Service Territory

To be granted a CPCN for authority to provide local exchange service, an applicant must provide a map of the service territories it proposes to serve.¹⁰ Hunter provided a map of its proposed service area, in Exhibit C to its application, in compliance with this requirement.

9. General Order (GO) 104-A Statement

Rule 3.1(i) requires that a utility filing an application under Pub. Util. Code § 1001, must provide a statement regarding GO 104-A. Hunter states that it has nothing to report under this rule.¹¹ On a going forward basis, however, Hunter must file all reports required of a public utility under Commission jurisdiction.

10. 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. As described in Section 4 above, Hunter will obtain and submit a bond of \$100,000 to the Commission, thereby satisfying both the minimum performance bond requirement and the overall financial requirements for issuance of a CPCN.

¹⁰ D.95-12-056 at Appendix C, Rule 4.E.

¹¹ Application at 7 Section 12.

11. Expected Customer Base

Hunter provided its estimated customer base for the first and fifth years of operation in Section 13 of its application. Therefore Hunter has complied with this requirement.

12. Conclusion

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

The CPCN granted by this decision provides benefits to Hunter and corresponding obligations. Hunter benefits by receiving authority to operate in the prescribed service territory, and by having the ability to request interconnection with other telecommunications carriers in accordance with Section 251 of the Federal Communications Act (47 U.S.C. 251). In return, Hunter 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. Hunter is also obligated to pay all Commission prescribed user fees and public purpose program surcharges as set forth in Attachment B of this decision, to comply with CEQA (when and if applicable), and to adhere to Pub. Util. Code § 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.”

13. Request to File Under Seal

Pursuant to Rule 11.4 of the Commission’s Rules of Practice and Procedure, Hunter filed motions for leave to file Exhibit F of its original application and to file Exhibit 2 of its amended application as confidential materials under seal. Hunter represents that the information is sensitive, and the disclosure could place Hunter at an unfair business disadvantage. We have granted similar requests in the past regarding financial information, accordingly Exhibits F and 2 are deemed confidential.

14. Categorization and Need for Hearing

In Resolution ALJ 176-3330, dated February 15, 2014, 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.

15. Waiver of Comment Period

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

Michael Picker is the assigned Commissioner and Patricia B. Miles is the assigned ALJ in this proceeding.

Findings of Fact

1. Notice of the application appeared on the Daily Calendar on January 31, 2014. No protests have been filed. A hearing is not required.

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

3. The Commission is the Lead Agency for any construction project that Hunter may undertake, and Hunter anticipates that any such projects will fall within one or more CEQA categorical exemptions.

4. Hunter's authority to provide the anticipated facilities-based and resold local exchange and interexchange telecommunications services will not have a significant adverse effect upon the environment.

5. Hunter has demonstrated that it 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. Hunter has posted a performance bond of \$100,000 which shall remain in effect during its first year of operation, in order to satisfy the minimum financial requirement.

7. Hunter has sufficient additional cash or cash equivalent to cover deposits that may be required by other telecommunications carriers in order to provide the proposed service.

8. Hunter's management and technical staff possess sufficient experience, knowledge, and technical expertise to provide telecommunication services to the public.

9. No one associated with or employed by Hunter as an affiliate, officer, director, partner, or owner of more than 10% of Hunter was: previously associated with a telecommunications carrier that filed for bankruptcy; was

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

10. Hunter meets the qualifications for exemption from tariffing requirements and has agreed to abide by the consumer protection rules adopted in D.98-08-031.

11. Hunter provided a map of the location of its proposed service territory.

12. Hunter has no information to report under Rule 3.1(i), which requires that a utility filing an application under Pub. Util. Code § 1001, provide a statement regarding compliance with GO 104-A, Section 2.

13. Hunter provided an estimate of its customer base for the first and fifth year of operation in its application.

14. Pursuant to Rule 11.4, Hunter filed motions for leave to file confidential materials under seal, including Exhibit F of its original application and Exhibit 2 of its amended application.

Conclusions of Law

1. Hunter should be granted a CPCN to provide facilities-based local exchange telecommunications services within the service territories of AT&T, Verizon, Citizens and SureWest, and interexchange service in California, subject to the terms and conditions set forth in the Ordering Paragraphs.

2. Hunter, once granted a CPCN, will be subject to the applicable Commission rules, decisions, GOs, and statutes that pertain to California public utilities.

3. Hunter's motion to file under seal, Exhibit F to its original application and Exhibit 2 to its amended application should be granted for three years.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Hunter Communications, Inc. to provide full facilities-based local exchange telecommunications services within the service territories of Pacific Bell Telephone Company d/b/a/ AT&T California, Verizon California Inc., Citizens Telecommunications Company of California, Inc. d/b/a/ Frontier Communications of California and SureWest Telephone, and interexchange services statewide in California, subject to the terms and conditions set forth below.

2. The corporate identification number assigned to Hunter Communications, Inc., (U-7281-C), must be included in the caption of all original filings with the California Public Utilities Commission, and in the titles of other pleadings filed in existing cases.

3. Within five days of acceptance of its certificate of public convenience and necessity authority, Hunter Communications, Inc. must obtain a performance bond in the amount of \$100,000, issued by a corporate surety company authorized to transact surety business in California, and the California Public Utilities Commission must be listed as the obligee on the bond. The \$100,000 bond must remain in effect for a period of 12 full months.

4. Within five days before expiration of the 12-month period, Hunter Communications, Inc. must provide evidence that it has obtained a performance bond of \$25,000 in accordance with Decision 13-05-035. The \$25,000 performance bond must be a continuous bond (i.e., there will be no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the California Public Utilities Commission must be listed as the obligee on the bond.

5. Hunter Communications, Inc. must submit a Tier-1 Advice Letter to the Director of Communications annually, but not later than March 31st of each year, with a copy of the executed bond.

6. Hunter Communications, Inc. must not allow its performance bond to lapse during any period of its operation. Pursuant to Decision 13-05-035, the California Public Utilities 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. 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, Hunter Communications, Inc. is subject to the Consumer Protection Rules contained in General Order (GO) 168, and all applicable California Public Utilities Commission rules, decisions, GOs, and statutes that pertain to California Public Utilities.

8. Hunter Communications, Inc. must file, in this docket, a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order.

9. Hunter Communications, Inc. 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. Hunter Communications, Inc. 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.

10. In addition to all of the requirements above, Hunter Communications, Inc. must also, within three years of the effective date of this order, file an audited financial report with the Commission's Communications Division.

11. Prior to initiating service, Hunter Communications, Inc. must provide the California Public Utilities 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.

12. Prior to initiating service, Hunter Communications, Inc. must provide the Commission's Communications Division with the name and address of its designated regulatory/official contact person(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.

13. Hunter Communications, Inc. must post all detariffed rates, terms and conditions of service on an internet site pursuant to Rule 5.2 of the Telecommunications Industry Rules in General Order 96-B.

14. No later than five days after service first begins, Hunter Communications, Inc. must notify the Director of the Communications Division in writing of the date that local exchange and non-dominant interexchange service is first rendered pursuant to the certificate granted in this proceeding.

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

16. Hunter Communications, Inc. must file an annual report with the Director of the Communications Division, in compliance with General Order 104-A, on a calendar-year basis with the information contained in Attachment C to this decision. Included in the annual report shall be the number and detailed descriptions of customer complaints for the preceding calendar year. The audited report required to be filed in Ordering Paragraph 10, shall satisfy the annual report requirement for the year in which it is filed.

17. Hunter Communications, Inc. shall be subject to and comply with the requirements of General Order 133-C, the Commission's Rules Governing Telecommunications Services, and with subsequent modifications to General Order 133-C approved by the Commission.

18. Hunter Communications, Inc.'s motions to file under seal its Exhibits F and 2 are 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 California Public Utilities Commission order or Administrative Law

Judge ruling. If Hunter Communications, Inc. believes that it is necessary for this information to remain under seal for longer than three years, Hunter Communications, Inc. may file a new motion showing good cause for extending this order by no later than 30 days before the expiration of this order.

19. Application 14-01-020 is closed.

This order is effective today.

Dated March 26, 2015, at San Francisco, California.

MICHAEL PICKER

President

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

CARLA J. PETERMAN

LIANE M. RANDOLPH

Commissioners

ATTACHMENT A

(Intentionally left blank.)

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,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 D.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 the 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 D.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. 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).

6. 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).

7. Tariff filings must reflect all fees and surcharges to which Applicant is subject, as reflected in #2 above.

8. Applicant must file a service area map as part of its initial tariff.

9. 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.

10. 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.

11. 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.

12. Applicant must keep its books and records in accordance with the Generally Accepted Accounting Principles.

13. 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.

14. 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.

15. 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.

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

17. 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.

18. 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.

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

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

21. 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.

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

23. 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)