

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Sun Microwave, Inc. for a certificate of public convenience and necessity to provide full facilities-based and resold competitive local exchange service throughout the service territories of Pacific Bell Telephone Company, Frontier California, Inc., Consolidated Communications of California Company, and Citizens Telecommunications Company of California, Inc. and full facilities-based and resold interexchange services on a statewide basis.

Application 17-03-007

**DECISION GRANTING SUN MICROWAVE, INC. A CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY TO PROVIDE COMPETITIVE RESOLD
AND FULL FACILITIES-BASED LOCAL EXCHANGE
TELECOMMUNICATIONS SERVICE AND INTEREXCHANGE SERVICE**

Table of Contents

Title	Page
DECISION GRANTING SUN MICROWAVE, INC. A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE COMPETITIVE RESOLD AND FULL FACILITIES-BASED LOCAL EXCHANGE TELECOMMUNICATIONS SERVICE AND INTEREXCHANGE SERVICE	1
Summary	2
1. Background	2
1.1. Applicant’s Prior History with the Commission	3
1.2. Prehearing Conference, and Scope.....	4
2. Requested Authorizations and Exemptions	5
2.1. CPCN Authority.....	5
2.2. Full Facilities-Based Construction Authority	6
2.3. Exemption from the Provisions of Sections 816-830, and 851	6
2.4. Exemption from Uniform System of Accounts Requirements.....	7
2.5. Exemption from Commission’s Tariffs Requirements	7
3. Jurisdiction	7
4. Limited versus Full Facilities-Based CPCN	8
5. California Environmental Quality Act.....	9
6. Financial Qualifications.....	16
7. Technical Qualifications.....	17
8. Tariffs (Detariffed Rates).....	19
9. Map of Service Territory	20
10. Rule 3.1(i) Statement.....	20
11. Expected Customer Base.....	21
12. Request for Treatment as a Non-Dominant Carrier	21
13. Exemption from Uniform System of Accounts (USOA) Requirements	21
14. Safety Considerations.....	23
15. Conclusion	23
16. Request to File Under Seal.....	24
17. Categorization and Need for Hearing	25
18. Comments on Proposed Decision	25
19. Assignment of Proceeding.....	25
Findings of Fact.....	25
Conclusions of Law	28
ORDER	30

Table of Contents (Cont'd.)

Title	Page
Attachment A - (Intentionally left blank.)	
Attachment B - Requirements Applicable to Competitive Local Exchange Carriers and Interexchange Carriers	
Attachment C - Annual Report	
Attachment D - Calendar Year Affiliate Transaction Report	

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Summary

Pursuant to Public Utilities Code Section 1001, the California Public Utilities Commission grants Sun Microwave, Inc. a Certificate of Public Convenience and Necessity. This certificate allows Sun Microwave, Inc. to provide both resold and full facilities-based competitive local exchange telecommunications services, and to provide interexchange telecommunications services in California as provided by, and subject to the terms and conditions set forth in, the Ordering Paragraphs.

For all future Sun Microwave, Inc.'s full facilities-based construction activities that involve potential statutory or categorical exemptions from the California Environmental Quality Act, we also authorize Sun Microwave, Inc. to utilize the California Public Utilities Commission's Energy Division (Energy Division)'s 21-day expedited environmental review procedure/process administered by the Energy Division's staff.

Application 17-03-007 is closed.

1. Background

Sun Microwave, Inc. (Sun Microwave or Applicant) is a California Corporation authorized to transact intrastate business in the State of California pursuant to a Certificate of Status issued by the California Secretary of State on March 8, 2017. Based on its Application, Applicant is a systems integrator concentrating on the development of point-to-point terrestrial microwave radio systems for businesses and governmental agencies, such as schools and

municipal governments. Currently Applicant has over 500 deployable communications systems, including those systems needed for the capabilities and functions similar or identical to those utilized by other carriers in providing services. This includes the systems needed for the implementation of network-to-network interconnections.

Burt Lonergan and Al Pfelt are the two owners of Sun Microwave, and both are involved in the day-to-day management and operations of the Applicant. Sun Microwave's principal place of business is located at 4887 Ronson Court, Suite I, San Diego, CA 92111.

On March 13, 2017, Sun Microwave submitted this Application 17-03-007 (Application) to the California Public Utilities Commission (Commission) for a Certificate of Public Convenience and Necessity (CPCN). The Application requested permission to provide full facilities-based and resold competitive local exchange service throughout the service territories of Pacific Bell Telephone Company d/b/a AT&T California (AT&T), Frontier California, Inc. (Frontier California), Consolidated Communications of California Company (Consolidated), and Citizens Telecommunications Company of California, Inc. d/b/a Frontier Communications of California (Frontier Communications); and full facilities-based and resold interexchange services on a statewide basis, pursuant to Section 1001 of the California Public Utilities Code. No protest or responses were filed to the Application.

1.1. Applicant's Prior History with the Commission

According to the Application: (1) On April 12, 2007, Sun Microwave was granted a CPCN by the Commission to provide "partial-facilities-based" (limited facilities-based) local exchange and interexchange service in California (see Decision (D.) 07-04-006); (2) because Applicant never commenced service or

exercised the authority granted, the CPCN expired on April 12, 2008 (*See*, Ordering Paragraph 5 of D.07-04-006); (3) on April 19, 2012, the Commission revoked Applicant's D.07-04-006 CPCN for failure to submit Public Purpose Program surcharge reports. (*See*, Resolution T-17359.); and (4) because Applicant did not commence operation in California pursuant to the CPCN authority granted in D.07-04-006, Applicant had no annual or periodic surcharge reports and did not submit annual reports or periodic surcharge reports to the Commission. Applicant indicated that it never operated under the CPCN granted in D.07-04-006 at any time after the CPCN was issued and it had zero reportable revenues attributable to the CPCN. Applicant described its failure to surrender and/or have the CPCN cancelled as “inadvertent,” and regrets such failure, as Applicant believes such surrender/cancellation would have eliminated the needs for the above-described actions by the Commission.

1.2. Prehearing Conference, and Scope

On May 16, 2017, a telephonic prehearing conference (PHC) was held in this matter before Administrative Law Judge (ALJ) Adeniyi A. Ayoade. The conference was held in order to: discuss and establish the permanent service list for this proceeding, determine the scope of the proceeding and issues to be included in the scoping memo, *i.e.*, categorization of this proceeding and need for hearing, and schedule for the proceeding and other procedural matters relevant to this proceeding.

Following the PHC, the Scoping Memo and Ruling of the Assigned Commissioner and ALJ (Scoping Ruling) was issued on May 24, 2017, which identified the following issues to be within the scope of this proceeding: (1) whether the Applicant meets all the Commission’s requirements for certification as a competitive local exchange (CLEC) and interexchange carrier

(IEC) such that it should be granted a CPCN in order to provide full facilities-based and resold competitive local exchange and special access service in the service territories of AT&T, Frontier California, Frontier Communications and Consolidated; and full facilities-based interexchange services on a statewide basis; and (2) whether the Applicant should be authorized to utilize the California Public Utilities Commission's Energy Division's 21-day expedited environmental review procedure (Energy Division's 21-day expedited environmental review procedure) for its full facilities-based construction activities that involve potential statutory or categorical exemptions from the California Environmental Quality Act (CEQA)?

2. Requested Authorizations and Exemptions

2.1. CPCN Authority

Sun Microwave's Application seeks authority, as a competitive local exchange carrier (CLC) and a non-dominant interexchange carrier (NDIEC), to provide resold and full facilities-based competitive local exchange telecommunications services in California in the service territories of Pacific Bell Telephone Company d/b/a AT&T California (AT&T), Frontier California Inc. (Frontier California),¹ Citizens Telecommunications Company of California, Inc. d/b/a Frontier Communications of California (Frontier Communications), and Consolidated Communications of California Company (Consolidated, formerly

¹ Frontier California was formerly Verizon California, Inc. (Verizon). As of April 1, 2016, Verizon's operations in California were acquired and are now operated by Frontier California, Inc., pursuant to D.15-12-005.

SureWest Telephone),² and to provide interexchange telecommunications services in California on a statewide basis. Applicants' request and conditions for granting a CPCN are discussed in Sections 6 through 15 below.

2.2. Full Facilities-Based Construction Authority

Applicant requests full facilities-based authority for its future construction of facilities. Applicant requests Classes 1, 2 and 3 Exemptions from CEQA regarding its future construction pursuant to Title 14, California Code of Regulations Section 15301,³ subject to compliance with the expedited 21-day environmental review process. These exemptions have been adopted and used for similarly situated carriers.⁴ These requests are discussed in Sections 4 and 5 below.

2.3. Exemption from the Provisions of Sections 816-830, and 851

Applicant seeks exemption from the provisions of Sections 816-830 pertaining to the issuance of stocks and securities, and Section 851 pertaining to the transfer or encumbrance of utility assets when such transfer or encumbrance is for the purpose of securing debt, pursuant to D.96-02-072. These requests are evaluated and discussed in Section 12 below.

² SureWest Telephone was acquired by Consolidated Communications Inc. in 2012, pursuant to D.12-06-004, and SureWest Telephone changed its name to Consolidated Communications of California Company as of January 1, 2016.

³ See 14 CCR, § 15301, *et seq.*

⁴ As authorized in D.13-07-032, the expedited 21-day environmental review will be conducted by California Public Utilities Commission's Energy Division staff.

2.4. Exemption from Uniform System of Accounts (USOA) Requirements

Applicant requests exemption from the requirement to maintain its books and records in accordance with the USOA specified in Title 47 I.E. Part 32 consistent with D.99-02-038. That decision relieved CLCs that are not part of an incumbent local exchange carrier (ILEC) corporate entity from the requirement to keep their books of account in conformance with the Uniform System of Accounts. Applicant's request is discussed in Section 13 below.

2.5. Exemption from Commission's Tariffs Requirements

Pursuant to General Order (GO) 96-B, Telecommunications Industry Rule 5.1, Applicant requests exemption from the requirement to file its tariffs with the Commission. In addition, Applicant requests authorization to provide service on a detariffed basis to the extent permitted under Industry Rule 5 of GO 96-B, and promises to comply with the Consumer Protection Rules adopted in D.98-08-031. Applicant's request is granted as discussed in Section 8 below.

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."

Sun Microwave proposes to provide full facilities-based and resold competitive local exchange telecommunications service and interexchange services on a statewide basis. While Applicant does not intend to provide switched access service or basic single-line residential service at this time, Sun Microwave intends to provide infrastructure facilities (such as dark or lit fiber) for use in connection with the transport and transmission of

communications. Applicant will rely on existing telecommunications facilities obtained from other carriers and utilities. Accordingly, Sun Microwave is a telephone corporation and a public utility subject to the Commission's jurisdiction.

As defined by Section 153 of the Federal Telecommunications Act of 1996 (Act), Applicant is a Common Carrier eligible to interconnect with the public switched telephone network pursuant to Sections 251 and 252 of the Act. If granted a CPCN, it will operate as a telephone corporation under Pub. Util. Code § 234(a), and obey the Code and all Commission rules, decisions, and orders applicable to telephone corporations.

4. Limited versus Full Facilities-Based CPCN

In its Application, Sun Microwave requests authorization for a CPCN to provide Full Facilities-Based and resold local exchange telecommunications service in its Application, but did not specifically identify its future planned construction projects. Applicant provides that its future construction plans will be small in scale, consisting of construction of relatively short conduit routes, installations of poles where existing facilities are inadequate, installations of other above or below-ground facilities, and that the construction/installations would occur in existing roadways or other previously-developed and disturbed rights-of-way. Applicant contends that the minor construction activities would have no material impact on the environment, and proposes that in accordance with procedures adopted and used for similarly situated carriers, these construction activities are exempt from CEQA as Classes 1, 2 and 3 Exemptions subject to compliance with the Energy Division's expedited 21-day environmental review process.

Accordingly, Applicant requests categorical Exemptions Classes 1, 2 and 3 from CEQA for its proposed future construction pursuant to D.13-07-032. As authorized in D.13-07-032, the expedited 21-day environmental review will be conducted by California Public Utilities Commission's Energy Division staff.

The request for CEQA Classes 1, 2 and 3 Exemptions (pursuant to 14 CCR, § 15301, *et seq.*) is granted as discussed below. Sun Microwave shall not begin construction of facilities beyond those authorized by this decision until further approval is granted by the Energy Division of the Commission via a determination that the project is categorically exempt from review pursuant to the requirements of California Environmental Quality Act (CEQA), as discussed below. Sun Microwave may be required to submit a Proponent's Environmental Assessment (PEA) depending on the scope of facilities it intends to construct.

5. California Environmental Quality Act

CEQA requires that the Commission acts as the designated lead agency in order to assess the potential environmental impact of projects. Pursuant to CEQA and Rule 2.4⁵ of the Commission's Rules of Practice and Procedure, the Commission examines projects to determine potential environmental impacts, ensure that adverse effects are avoided, alternatives are investigated, and environmental quality is restored or enhanced to the fullest extent possible under CEQA.

Regarding its current construction plans, Sun Microwave provides that: (1) it will rely on existing facilities obtained from other carriers and utilities or construct its own facilities, as necessary; (2) any plant construction will be small

⁵ Unless otherwise noted, items labeled "Rule" are from the Commission's Rules of Practice and Procedure.

in scale, consisting of construction of relatively short conduit routes, installations of poles where existing facilities are inadequate, and installation or construction of other, small above-ground facilities; and (3) these construction will occur in existing roadways or other previously-developed and disturbed rights-of-way. Applicant's current construction does not appear to trigger a CEQA review. Accordingly, because Applicant does not intend to construct any facilities other than equipment to be installed in existing buildings or structures at this time, 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, Applicant must file for additional authority, and submit to any necessary CEQA review.

Regarding its future construction, Applicant did not identify any specific construction plan, but Applicant submitted a PEA, as Exhibit D to the Application. In the PEA, Applicant indicated that its future construction will be small in scale, consisting, mainly, of construction of relatively short conduit routes, installations of poles where existing facilities are inadequate, and other above- or below-ground facilities, and that the construction would occur in existing roadways or other previously-developed and disturbed rights-of-way.

Applicant contends that its proposed future construction qualifies for CEQA exemptions Classes 1, 2 and 3 pursuant to 14 CCR §§ 15301, 15302 and 15303, subject to compliance with the Energy Division's expedited 21-day environmental review process that has been adopted and used for similarly situated carriers.

Section 21084 of the Public Resources Code requires that CEQA guidelines include a list of classes of projects which have been determined not to have a

significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA. In response, the Secretary for Resources has found that certain classes of projects, listed in 14 CCR §§ 15301-15333, do not have a significant effect on the environment, and are declared to be categorically exempt from the requirement for the preparation of environmental documents.

Pursuant to the CEQA guidelines, the following activities fall within classes of projects that are exempt from CEQA 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 2 Exemption: replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced. This includes replacement or reconstruction of existing utility systems and/or facilities involving negligible or no expansion of capacity. 14 CCR § 15302.
- Class 3 Exemption: construction including water main, sewage, electrical, gas and *other utility extensions of reasonable length* to serve such construction. This includes the construction of limited numbers of new small facilities or utility extensions. 14 CCR § 15303.

As noted above, Applicant expects that its future construction will be small in scale, consisting of construction of relatively short conduit routes, installations of poles where existing facilities are inadequate, and other above- or below-ground facilities. Further, such construction generally would occur in existing roadways or other previously-developed and disturbed rights-of-way.

Thus, Sun Microwave contends that its future projects would fall within one or more categorical exemptions under CEQA.

The scope of Applicant's future construction is limited, and appears to be well within the activities that are exempt from CEQA under Classes 1, 2 and 3 Exemptions. As described in its Application, Sun Microwave's future construction activities will include: (1) minor alteration of existing structures and facilities (Class 1 Exemption); (2) replacement or reconstruction of existing structures and facilities (Class 2 Exemption); and (3) construction of reasonably short utility extensions and a limited number of new small facilities (Class 3 Exemption among other categorical exemptions).

The Commission has recognized that similar projects (as described above) fall within one or more categorical exemptions under CEQA.⁶ Accordingly, Applicant is correct that exempting the above-listed activities (as Classes 1, 2 and 3 Exemptions) is consistent with Commission precedent,⁷ which in the past has exempt from CEQA review activities falling in these classes. Because Applicant's proposed constructions are similar to those undertaken by other carriers which the Commission deemed categorically exempt from CEQA,⁸ Applicant's proposed construction may also be categorically exempt from CEQA, subject to the Energy Division 21-day expedited review procedure. Accordingly, Applicant's future construction activities meet the requirements for Classes 1, 2

⁶ See D.13-07-032, where the Commission granted full facilities-based authority to Vodex Communications Corporation subject to compliance with an expedited 21-day environmental review process.

⁷ See D.13-07-032, D.08-12-027, D.10-01-014, D.09-07-043, and D.15-02-012.

⁸ See D.06 04 063 and D.06 04 067.

and 3 Exemptions from CEQA review, and no Environmental Impact Report or a Negative Declaration is required.

The proposed Energy Division 21-day expedited review procedure is an expedited review procedure that the Commission has approved for other carriers. Such a procedure will expedite CEQA review and is appropriate for the type of construction outlined here. By establishing this expedited review procedure, Commission staff is 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 expedited review process will enable Applicant to undertake construction of its projects in an efficient manner without experiencing delays caused by an unnecessarily protracted full CEQA review.

As in other cases where applicants failed to identify the specific future construction or locations where ground-disturbing construction activities may occur, we grant Applicant's full facilities-based authority to undertake its yet-to-be-identified construction pursuant to D.08-12-027, and D.13-07-032.

Applicant shall not undertake such activities without the requisite approval from the local jurisdiction in the rural areas it proposes to install equipment, or from the Energy Division where appropriate.

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

- Applicant 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 workplan, 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 Applicant's submission for the proposed project to confirm that the claimed exemption(s) from CEQA are applicable.
- Within 21 days from the date of Applicant'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.

In conclusion, having reviewed the Application and information provided, we find that Applicant's proposed facilities-based project activities are very limited, and that its proposed activities will qualify for an exemption from CEQA. In addition, we conclude that the proposed process for reviewing the applicability of CEQA exemptions to Applicant's facilities-based projects is adequate for the Commission's purposes as CEQA Lead Agency, and is in the public interest because it enables Applicant 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 Applicant's proposed process for Commission review of claimed CEQA exemptions for construction projects undertaken pursuant to Applicant'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 rejects Applicant's claimed CEQA exemption(s) and issues a letter of denial to Applicant, Applicant 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.

Applicant 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 public convenience and necessity requires 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.

6. Financial Qualifications

To be granted a CPCN, an applicant for authority to provide competitive Full Facilities-Based and resold local exchange services must demonstrate that it has a minimum of \$100,000 cash or cash equivalent, reasonably liquid and readily available to meet the firm's startup expenses.⁹ Applicant must also demonstrate that it has sufficient additional resources to cover all deposits required by local exchange carriers (LECs) in order to provide the proposed service,¹⁰ and must obtain a performance bond of at least \$25,000 in accordance with D.13-05-035.

Applicant provided a financial record¹¹ that establishes that Applicant, through Parent, possesses a minimum of \$100,000 that is reasonably liquid and

⁹ The financial requirement for CLECs is contained in D.95-12-056, Appendix C. The financial requirement for NDIECs is contained in D.91-10-041.

¹⁰ The requirement that CLC applicants demonstrate that they have additional financial resources to meet any deposits required by underlying LECs and/or IECs is set forth in D.95-12-056, Appendix C. For NDIECs, the requirement is found in D.93-05-010.

¹¹ See Confidential Exhibit F to the Application; and Confidential Exhibit 1 (Supplemental Financial Information) submitted by Applicants on May 22, 2017 and June 12, 2017 pursuant to Commission's request.

available and also demonstrated that it has sufficient funds to meet its startup expenses. Applicant meets the Commission's financial requirement for a CPCN to provide competitive full facilities-based and resold local exchange services. Applicant's financial documentation will be subject to verification and review by the Commission for one year to ensure that such funds are available.

Applicant proposed to interconnect with AT&T, Frontier California, Frontier Communications, and Consolidated. In addition to the \$100,000 discussed above, Applicant has provided information showing that while it "will not be required to pay any deposits in order to provide its proposed services," it has the funds available for any deposit that may be required by AT&T, Frontier California, Frontier Communications, and Consolidated. Therefore, no additional resources are required at this time to cover deposits.

7. Technical Qualifications

To be granted a CPCN for authority to provide competitive local exchange and interexchange service, an applicant must make a reasonable showing of managerial and technical expertise in telecommunications or a related business.¹² Applicant provided information about its two key principal officers/owners, both of whom have sufficient technical and managerial experience and ability to conduct the proposed operations. The information provided shows that Applicant possesses sufficient expertise and qualifications to operate as a telecommunications provider.

In addition, we find that Applicant is in compliance with the requirements of D.95-12-056. Other than the history noted and discussed under Section 1.1

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

above, Applicant verified that no one associated with or employed by Applicant as an affiliate, officer, director, partner, or owner of more than ten percent of 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 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; (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; or (i) 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.

Independently, the ALJ has evaluated the facts presented in Applicant's "Prior History with the Commission" in Section 1.1 above, and finds that Applicant's prior history, as described above, is insufficient to deprive Applicant the requested CPCN herein. In addition, there is no information in this record

that contradicts Applicant's accounts herein, and no protests or responses to the application have been received.

8. Tariffs (Detariffed Rates)

In its Application, Applicant indicated that it will provide its services and facilities on an individually-negotiated contract basis, and will not provide switched access service or basic single-line residential service. Accordingly, Applicant contends that "no tariff is required" for its services. Applicant's contention herein is deemed (1) a request, by Applicant, for exemption from the Commission's tariffs requirements; and (2) further, a request by Applicant to offer its services on a detariffed basis. As discussed below, Applicant's request to provide its retail services on a detariffed basis is granted.

Pursuant to GO 96-B -Telecommunications Industry Rules (Telecommunications Rules),¹³ the Commission may grant exemptions "from the general requirement ... that a Utility serve its California customers under its filed tariffs." Such exemptions, allowing the Utility to provide detariffed service, may be granted to a specific Utility or type of Utility, or for specific services offered by the Utility or type of Utility."¹⁴ Accordingly, the Commission has the discretion to allow Applicant to provide its retail services on a detariffed basis and require it to comply with the conditions contained in GO 96-B.

Applicant must comply with all of the Commission's requirements as contained in GO 96-B with regards to the provision of detariffed services. Thus, according to the Telecommunications Rules, Applicant must: (1) post all of its

¹³ As authorized in D.07-09-019.

¹⁴ See GO-96-B, Industry Rule 5, under "Detariffed and Non-tariffed Service."

detariffed rates, terms, and conditions of service on an internet site pursuant to Rule 5.2 of GO 96-B; and (2) notify its customers of any service not provided under tariff, of higher rates or charges, of more restrictive terms or conditions, withdrawal of service, or transfer of ownership or customer base pursuant to Rule 5.3 of GO 96-B. Further, Applicant must post a description of its services and price list on its website, and file an Access Service tariff prior to billing any carriers for Intrastate Switched Access service.

9. Map of Service Territory

To be granted a CPCN for authority to provide competitive local exchange service, an applicant must provide a map of the service territories it proposes to serve.¹⁵ Applicant included map of the location of its proposed service territory, in Exhibit E to the Application, in compliance with this requirement.

10. Rule 3.1(i) Statement

Rule 3.1(i) sets forth the requirement that a utility filing an application under Pub. Util. Code § 1001, provide a statement regarding GO 104-A, Section 2. Applicant states in its Application that it has no information to report on any matters reportable under GO 104-A, Section 2. Applicant is not a publicly traded company and has no proxy statements, 10-Ks, or annual reports to provide. Accordingly, we find that Applicant has nothing to report under this rule, and it should be exempt from GO 104-A. Going forward, Applicant must file all reports required of a public utility under Commission jurisdiction.

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

11. Expected Customer Base

Rule 3.1 (j) requires CPCN applicants to provide their estimated numbers of customers and their requirements for the first and fifth years of service. Applicant provided its estimated customer base for the first and fifth years of operation in its Application. Therefore, Applicant complied with this requirement.¹⁶

12. Request for Treatment as a Non-Dominant Carrier

Applicant requests treatment as a NDIEC¹⁷ and seeks 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 find that Applicant meets the Commission's requirements regarding these matters, and accordingly we grant Applicant's request for NDIEC status. We require that Applicant comply with all rules detailed in D.85-01-008, as modified in D.85-07-081 and D.85-11-044.¹⁸

13. Exemption from USOA Requirements

As permitted in D.99-02-038, Sun Microwave requests exemption from the requirement to maintain its books and records according to the USOA.¹⁹ In

¹⁶ See Section XVI of the Application.

¹⁷ That is, non-dominant interexchange carrier.

¹⁸ 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.

¹⁹ USOA was developed by the Federal Communications Commission (FCC) and is set forth in Title 47, Code of Federal Regulations, Part 32. California adopted a version of the FCC's USOA in Order Instituting Investigation 87-02-023.

D.99-02-038, the Commission relieves NDIECs, non-dominant CLECs or CLCs from certain accounting requirements. According to D.99-02-038, “CLCs ... and NDIECS which are not part of an ILEC corporate entity should be relieved of the obligation to keep their books and records for their CLC and NDIEC operations in accordance with the USOA pursuant to Title 47, Code of Federal Regulations, Part 32,” but should be required to keep their books and records in accordance with GAAP.”²⁰

Thus, pursuant to D.99-02-038, the Commission has the power to exempt NDIECs and CLCs that are not part of an incumbent local exchange carrier corporate entity from complying with USOA requirements. In D.99-02-038, the Commission found that the exemption applied to carriers offering local and interexchange services including CLECs, and concluded that the exemption “will not hinder the Commission’s enforcement responsibilities,” because exempt CLCs, NDIECs and CLECs are still required to maintain their books in accordance with the GAAP, and continue to make their accounting records available to the Commission upon demand pursuant to § 581.

Pursuant to D.99-02-038, the Commission (1) grants Sun Microwave relief from the requirement to keep its books of account in conformance with USOA, (2) requires Sun Microwave to maintain its books in accordance with GAAP, and (3) further requires Sun Microwave to comply with Section 581 by making its accounting books available to the Commission upon demand.

²⁰ “GAAP” refers to “Generally Accepted Accounting Principles.”

14. 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. Applicant is a public utility that is required, pursuant to Section 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". In addition, Applicant has taken steps to meet the financial requirements set forth in D.95-12-056 in order to meet the Commission's goal of adequate, efficient, safe and reliable service to consumers, and we are satisfied that Applicant will meet the Commission's minimum safety goals and expectations of interexchange telephone carriers and/or telephone corporations.

15. Conclusion

We conclude that Sun Microwave's Application conforms to our rules for certification as a competitive local exchange carrier. We grant Applicant a CPCN to provide interexchange services in California, and resold and full facilities-based competitive local exchange telecommunications services in California in the service territory of AT&T, Frontier California, Frontier Communications and Consolidated subject to compliance with the terms and conditions set forth in the Ordering Paragraphs.

The CPCN granted by this decision provides benefits to Applicant and corresponding obligations. Applicant receives authority to operate in the prescribed service territory, and this authority enables Applicant, pursuant to Section 251 of the 1934 Communications Act, as amended by the 1996

Telecommunications Act (47 U.S.C. 251), to interconnect with telecommunications carriers.²¹ This authority also enables Applicant to obtain 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, Applicant is obligated to comply with all Public Utilities Code provisions, Commission rules, GOs, and decisions applicable to telephone corporations providing approved services. The applicable statutes, rules, GOs, and decisions include, but are not limited to consumer protection rules, tariffing, and reporting requirements. Moreover, Applicant is 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, 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 § 54.1 of the Civil Code, as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.”

16. Request to File Under Seal

Pursuant to Rule 11.4 of the Commission’s Rules of Practice and Procedure, Applicant has filed motions for leave to file Exhibit F to the Application (Financial Information); and Exhibit 1 to Applicant’s May 22, 2017 and June 12, 2017 responses to the Commission (Supplemental Financial Information) as confidential materials under seal. Applicant represents that the information contained in the exhibits is sensitive, and its disclosure could place

²¹ The California Public Utilities Code uses the term “telephone corporation.” Its counterpart in federal law is a “telecommunications carrier.”

Applicant at an unfair business disadvantage. We have granted similar requests in the past, and we do so here.

17. Categorization and Need for Hearing

In Resolution ALJ 176-3394, dated March 23, 2017, the Commission preliminarily categorized this Application as ratesetting, and preliminarily determined that hearings were not necessary. No protests were received and there is no reason in the record of this proceeding why the Application should not be granted. Accordingly, it is not necessary to disturb the preliminary determinations, and a public hearing is not necessary.

18. 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.

19. Assignment of Proceeding

Liane M. Randolph is the assigned Commissioner and Adeniyi A. Ayoade is the assigned ALJ in this proceeding.

Findings of Fact

1. On March 13, 2017, Sun Microwave filed Application 17-03-007 for a CPCN in order to provide full facilities-based and resold competitive local exchange telecommunications services, and interexchange telecommunications services in California.
2. Notice of the Application appeared on the Daily Calendar on March 16, 2017.
3. No protest to the Application was filed.

4. Applicant provided all information required by the Commission and the Application conforms to Commission's rules for certification as a competitive local exchange carrier.

5. Applicant has a minimum of \$100,000 of cash or cash equivalent that is reasonably liquid and readily available to meet its startup expenses, and Applicant 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.

6. Applicant's management possesses sufficient experience, knowledge, and technical expertise to provide local exchange services to the public.

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

8. Applicant provided an estimate of its customer base for the first and fifth year of operation.

9. Other than as discussed in Section 1.1 above, no one associated with or employed by Applicant as an affiliate, officer, director, partner, agent, or owner of more than ten percent of 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 the subject of a criminal referral by judge or public agency; (d) had a telecommunications license or operating authority denied, suspended, revoked, or limited in any jurisdiction; (e) 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; (f) been found to have violated any statute, law, or rule pertaining to public utilities or other regulated industries; (g) 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; or (h) 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.

10. Applicant's authority to provide telecommunications services will not have a significant adverse effect upon the environment.

11. Applicant's future construction would occur in existing roadways or other previously-developed and disturbed rights-of-way; would be small in scale and consist of construction of relatively short conduit routes; installations of poles where existing facilities are inadequate and other above or below-ground facilities.

12. Applicant's proposed construction activities fall within one or more CEQA categorical exemptions as discussed in Section 5 above.

13. Applicant proposes to utilize the Energy Division's 21-day expedited environmental review procedure for its full facilities-based construction activities for potential statutory or categorical exemptions from CEQA.

14. It is reasonable to authorize Applicant to utilize the Energy Division's 21-day expedited environmental review procedure for its full facilities-based construction activities for potential statutory or categorical exemptions from CEQA, where appropriate.

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

16. It is reasonable to grant Applicant's request to provide its services on a detariffed basis and to require that Applicant comply with the Telecommunications Rules regarding the provision of detariffed services by telephone corporations as contained in GO 96-B and authorized in D.07-09-019.

17. It is reasonable to grant Applicant's request for non-dominant carrier status, provided Applicant follows all rules detailed in D.85-01-008, as modified in D.85-07-081 and D.85-11-044.

18. It is reasonable to grant Applicant's request for relief from the requirement to keep its books of account in conformance with USOA, so far as Applicant is required to maintain its books in accordance with GAAP, and make its accounting books available to the Commission upon demand.

19. Pursuant to Rule 11.4, Applicant filed motions for leave to file Exhibit F to the Application and Exhibit 1 to its May 22, 2017 and June 12, 2017 responses to the Commission as confidential materials under seal.

20. An evidentiary hearing is not required in this proceeding.

Conclusions of Law

1. Sun Microwave, Inc. is a telephone corporation and a public utility as defined in Pub. Util. Code § 234(a) and 216(a).

2. Applicant meets the Commission's financial requirement for a CPCN to provide competitive full facilities-based and resold local exchange services, and possesses sufficient expertise and qualifications to operate as a telecommunications provider.

3. Applicant should be granted a CPCN to provide competitive full facilities-based and resold local exchange telecommunications service in the service territories of AT&T, Frontier California, Frontier Communications, Consolidated, and interexchange telecommunications services in California, subject to the terms and conditions set forth in the Ordering Paragraphs.

4. Applicant meets the Commission's certification/verification requirement for a CPCN as set forth in D.95-12-056.

5. Applicant should be subject to all applicable Commission rules, decisions, GOs, and statutes that pertain to California public utilities.

6. Applicant's proposed construction qualifies as Classes 1, 2 and 3 Exemptions to CEQA, and its authority to provide telecommunications services will not have a significant adverse impact on the environment.

7. Applicant should be authorized to utilize the Energy Division's 21-day expedited environmental review procedure for its full facilities-based construction activities for potential statutory or categorical exemptions from CEQA, where appropriate.

8. Applicant should be required to obtain a performance bond of at least \$25,000 in accordance with D.13-05-035.

9. Applicant should be granted non-dominant carrier status, subject to Commission rules and regulations detailed in D.85-01-008, and as modified in D.85-07-081 and D.85-11-044.

10. Applicant should be granted relief from the requirement to maintain its books of account in conformance with USOA pursuant to D.99-02-038.

11. Applicant should be required to maintain its books in accordance with GAAP, and make its accounting books available to the Commission upon demand pursuant Section 581.

12. Applicant should be granted an exemption from the requirement to file tariffs, and be required to comply with the Telecommunications Rules regarding the provision of detariffed services by telephone corporations as contained in GO 96-B and authorized in D.07-09-019.

13. Applicant should be granted leave to place Exhibit F to the Application and Exhibit 1 to its May 22, 2017 and June 12, 2017 responses to the Commission under seal for three years as confidential materials.

14. This proceeding does not require an evidentiary hearing.

15. This proceeding should be closed.

O R D E R

IT IS ORDERED that:

1. A Certificate of Public Convenience and Necessity is granted to Sun Microwave, Inc. to provide competitive full facilities-based and resold local exchange telecommunications services in the territories of Pacific Bell Telephone Company d/b/a AT&T California (AT&T), Frontier California Inc., Citizens Telecommunications Company of California, Inc. d/b/a Frontier Communications of California, and Consolidated Communications of California Company, and interexchange telecommunications services in California subject to the terms and conditions set forth below.

2. The corporate identification number assigned to Sun Microwave, Inc. U-7339-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. Sun Microwave, 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.

4. The certificate granted by this order will expire if not exercised within 12 months of the effective date of this order.

5. Sun Microwave, Inc. 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 California Public Utilities Commission must be listed as the obligee on the bond. Within five days of acceptance of its certificate of public convenience and necessity authority, Sun Microwave, Inc. must submit a Tier-1 advice letter to the Communications Division, 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.

6. Sun Microwave, 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 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, Sun Microwave, Inc. is subject to the Consumer Protection Rules contained in General Order 168, and all applicable California Public Utilities

Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

8. Sun Microwave, Inc. must pay public purpose surcharges specified in Attachment B, and the Combined California Public Utilities Commission Telephone Surcharge Transmittal Form must be submitted even if the amount due is \$0.

9. Sun Microwave, Inc. must pay a minimum annual user fee of \$100 or 0.30 percent 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. Prior to initiating service, Sun Microwave, 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.

11. Sun Microwave, Inc. is exempt from the requirement to maintain its books of account in conformance with the Uniform System of Accounts pursuant to Decision 99-02-038.

12. Prior to initiating service, Sun Microwave, Inc. must provide the California Public Utilities 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/communications>. This information must be updated if the name or telephone number changes, or at least annually.

13. Sun Microwave, Inc. is authorized to maintain its books in accordance with the Generally Accepted Accounting Principles, and make its accounting books available to the Commission upon demand pursuant Section 581.

14. Sun Microwave, Inc. is authorized to provide its competitive full facilities-based and resold local exchange telecommunications services on a detariffed basis, and Sun Microwave, Inc. is required to comply with the Telecommunications Rules regarding the provision of detariffed services by telephone corporations as contained in General Order 96-B and authorized in Decision 07-09-019.

15. Sun Microwave, Inc. must submit an affiliate transaction report to the Director of the Communications Division at cdcompliance@cpuc.ca.gov, in compliance with Decision 93-02-019, on a calendar year basis using the form contained in Attachment D.

16. Sun Microwave, Inc. submit file an annual report to the Director of the Communications Division at cdcompliance@cpuc.ca.gov, in compliance with General Order 104-A, on a calendar-year basis with the information contained in Attachment C to this decision.

17. Applicant is authorized to utilize the California Public Utilities Energy Division's 21-day expedited environmental review procedure for its full facilities-based construction activities that involve potential statutory or categorical exemptions from the California Environmental Quality Act where appropriate.

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

19. If Sun Microwave, Inc. wishes to engage in full facilities-based construction activities and believes that these activities are exempt from California Environmental Quality Act, Sun Microwave, Inc. shall first apply to the Commission's Energy Division staff for a determination of exemption from California Environmental Quality Act using the following procedure set forth in Ordering Paragraph 20.

20. Sun Microwave, Inc. will provide the Commission's Energy Division (Energy Division) with:

- a. A detailed description of the proposed project, including:
 - i. Customer(s) to be served;
 - ii. The precise location of the proposed construction project; and
 - iii. Regional and local site maps.
- b. A description of the environmental setting, including at a minimum:
 - i. Cultural, historical, and paleontological resources;
 - ii. Biological resources; and
 - iii. Current land use and zoning.
- c. A construction workplan, including:
 - i. Commission Preconstruction Survey Checklist – Archaeological Resources;
 - ii. Commission Preconstruction Survey Checklist – Biological Resources;
 - iii. A detailed schedule of construction activities, including site restoration activities;
 - iv. A description of construction/installation techniques;
 - v. A list of other agencies contacted with respect to siting, land use planning, and environmental resource issues, including contact information; and

- vi. A list of permits required for the proposed project.
- d. A statement of the California Environmental Quality Act exemption(s) claimed to apply to the proposed project; and
- e. Documentation supporting the finding of exemption from California Environmental Quality Act.
- f. The Energy Division will then review the submittal and notify Sun Microwave, Inc. of either its approval or its denial of Sun Microwave, Inc.'s, claim for exemption from California Environmental Quality Act review within 21 days from the time that Sun Microwave, Inc.'s, submittal is complete.
- g. If the Energy Division approves Sun Microwave, Inc.'s, claimed California Environmental Quality Act exemption(s), the staff will prepare a Notice to Proceed and file a Notice of Exemption with the State Clearinghouse, Office of Planning and Research.
- h. If the Energy Division disapproves Sun Microwave, Inc.'s, claimed California Environmental Quality Act exemptions, the staff will issue to Applicant a letter which states the specific reasons that the claimed California Environmental Quality Act exemptions do not apply to the proposed project.
- i. If the Energy Division disapproves Sun Microwave, Inc.'s, claimed California Environmental Quality Act exemption(s), Sun Microwave, Inc. shall either re-design the specific project and facilities and then reapply for a finding of exemption from California Environmental Quality Act, or file a formal application with the Commission seeking the requisite approval and full California Environmental Quality Act review, before commencing any full facilities-based construction activities.

21. Sun Microwave, Inc.'s, motion to file Exhibit F to the Application (Financial Information); and Exhibit 1 to its May 22, 2017 and June 12, 2017 responses to the Commission (Supplemental Financial Information) as confidential materials

under seal is granted for a period of three years from the effective date of this decision. During this three-year period, this information shall not be publicly disclosed except on further Commission order or the Administrative Law Judge ruling. If Sun Microwave, Inc. believes that it is necessary for this information to remain under seal for longer than three years, Sun Microwave, 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.

22. Application 17-03-007 is closed.
23. This order should be effective today.

This order is effective today.

Dated _____, at San Francisco, California.

ATTACHMENT A

THIS ATTACHMENT IS INTENTIONALLY LEFT BLANK

(END OF ATTACHMENT A)

ATTACHMENT B**REQUIREMENTS APPLICABLE TO COMPETITIVE LOCAL EXCHANGE CARRIERS AND INTEREXCHANGE CARRIERS**

1. Applicant must file, in this docket with reference to this decision number,¹ a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order.
2. The certificate granted and the authority to render service under the rates, charges and rules authorized will expire if not exercised within 12 months of the date of this order.
3. 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

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

joint tariff for surcharges and fees filed by Pacific Bell Telephone Company (dba AT&T California) and apply the current surcharge and fee amounts in that joint tariff on end-user bills until further revised. Current and historical surcharge rates can be found at <http://www.cpuc.ca.gov/General.aspx?id=1124>

- 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/General.aspx?id=1010>

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 3g) upon receiving the User Fee statement sent by the Commission. Instructions for reporting and filing are available at <http://www.cpuc.ca.gov/General.aspx?id=1009>. Please call (415) 703-2470 for questions regarding User Fee reporting and payment.

4. If 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).

5. If 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 #3 above.

7. 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 its certificate of public convenience and necessity authority, Applicant must submit a Tier-1 advice letter to the

Communications Division, 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.

8. Applicant 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 Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Communications Division.

9. Applicant must submit to the Director of the Communications Division at cdcompliance.cpuc.ca.gov a service area map as part of its initial tariff.

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

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

12. Applicant must notify the Director of the Communications Division at cdcompliance@cpuc.ca.gov in writing of the date that local exchange service is first rendered to the public, no later than five days after service first begins.

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

14. 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.

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

16. Applicant must file an affiliate transaction report with the Director of the Communications Division at cdcompliance@cpuc.ca.gov, in compliance with D.93-02-019, on a calendar-year basis using the form contained in Attachment D.

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

18. 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 at cdcompliance@cpuc.ca.gov in writing of its compliance.

19. If Applicant is 90 days or more late in filing an annual report, or in remitting the surcharges and fee listed in #3 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.

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

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

22. 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.

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

24. 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)