

Decision 18-07-032 July 26, 2018

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of NGA 911, LLC 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 18-05-009

DECISION GRANTING NGA 911, LLC A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN ORDER TO PROVIDE COMPETITIVE FULL FACILITIES-BASED AND RESOLD LOCAL EXCHANGE AND INTEREXCHANGE SERVICES

Summary

Pursuant to Utilities Code Section 1001, we grant NGA 911, LLC, a Certificate of Public Convenience and Necessity to provide competitive full facilities-based and resold competitive local exchange and interexchange telecommunications services in California subject to the terms and conditions set forth in the Ordering Paragraphs.

This proceeding is closed.

1. Background

On May 4, 2018, NGA 911, LLC, (NGA) a limited liability corporation in California, filed an application for a Certificate of Public Convenience and Necessity (CPCN) to provide competitive full facilities-based and resold competitive local exchange services throughout the service territories of Pacific Bell Telephone Company, Frontier California Inc., Consolidated Communications of California, Inc. and Citizens Telecommunications Company of California, Inc., and full facilities-based interexchange services throughout California.

NGA proposes to provide emergency call routing, transport and related functionalities to state and municipal governmental agencies to support public service answering point (PSAP) operations. NGA will rely primarily on existing facilities obtained from other carriers and utilities but may consider constructing its own facilities as necessary. NGA expects that any outside plant construction would be small in scale, consisting of construction of relatively short conduit stubs or other below or above-ground facilities, where existing facilities are inadequate.

Notice of the application appeared on the Commission's daily calendar on May 10, 2018. No protests or responses to the application were filed. A prehearing conference (PHC) was held on June 15, 2018. The only attendees at the PHC were representatives from NGA. The Scoping Memo and Ruling (Scoping Memo) was issued on June 26, 2018.

NGA's principal place of business is located at 8383 Wilshire Blvd., Suite 800, Beverly Hills, CA 90211. There were no protests or responses filed in response to NGA's application.

2. Jurisdiction

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

NGA proposes to provide infrastructure facilities (such as conduit, and dark or lit fiber) for use in connection with the transport and transmission of communications. NGA will rely on existing facilities obtained from other carriers and utilities or construct its own facilities, as necessary. NGA is a telephone corporation and a public utility subject to our jurisdiction.

NGA does not expect to operate as an interstate common carrier as defined by § 153 of the Federal Telecommunications Act of 1996 (Act), as amended. However, to the extent it engages in operations as a telecommunications service provider, it will be eligible to interconnect with the public switched telephone network pursuant to § 251 and § 252 of the Act, and that if granted a CPCN, it will operate as a telephone corporation under Pub. Util. Code § 234(a) and obey the Pub. Util. Code and all Commission rules, decisions, and orders applicable to telephone corporations.

3. California Environmental Quality Act (CEQA)

Pursuant to CEQA and Rule 2.4¹ 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

¹ Unless otherwise noted, items labeled “Rule” are from the Commission’s Rules of Practice and Procedure.

environmental quality is restored or enhanced to the fullest extent possible under CEQA.

NGA seeks authority to provide competitive full facilities-based and resold competitive local exchange and interexchange telecommunications services in California, but intends to construct its own facilities, as necessary. NGA notes that any outside construction would be small in scale, consisting of construction of relatively short conduit routes, installations of poles where existing facilities are inadequate, and installation and construction of other small above-ground facilities. NGA believes that such construction would generally occur in existing roadways or other previously-developed and disturbed rights-of-way.

These activities fall within classes of projects that are exempt from CEQA. NGA did not identify any specific locations or projects in its application. Accordingly, NGA proposes that it be granted full facilities-based authority subject to compliance with the same expedited 21-day environmental review process that has been adopted for similarly situated carriers.

NGA requests approval to utilize a procedure for expedited review of its projects once it is aware of 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 and is appropriate for the type of construction outlined here, which appears to be categorically exempt. 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 which further environmental review is required. At the same time, the proposed CEQA review will enable NGA 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,² the following procedure will be used to obtain Commission approval of NGA claimed CEQA exemptions for proposed construction projects:

- NGA 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;

² See, e.g., Decision (D.) 06-04-063 (ClearLinx Network Corporation); D.06-04-067 (CA CLEC LLC).

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

- NGA'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 NGA'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 NGA 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 NGA's proposed process for Commission review of claimed CEQA exemptions for construction projects undertaken pursuant to NGA'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 NGA's claimed CEQA exemption(s) and issues a letter of denial to NGA, NGA 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.

NGA 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 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 Qualifications

To be granted a CPCN, an applicant seeking authority to provide full-facilities based and resold local exchange and interexchange 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 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

³ The financial requirement for Competitive Local Exchange Carriers (CLEC) is contained in Decision 95-12-056, Appendix C. The financial requirement for Non-Dominant Interexchange Carriers (NDIEC) is contained in D.91-10-041.

carriers in order to provide the proposed service.⁴ In its application, NGA provided the requisite documentation that \$100,000 would be available to NGA for one year following certification. Since NGA has provided documentation that it possesses a minimum of \$100,000 that is reasonably liquid and available, it has demonstrated that it has sufficient funds to meet its start-up expenses and has fulfilled this requirement. NGA's financial documentation will be subject to verification and review by the Commission for one year to ensure that such funds are available.

NGA states that it does not anticipate that it will be required to pay any deposits in order to provide its proposed services; however, its financial showing includes \$20,000 in excess of the Commission's basic cash resource requirements to cover any deposits that may be required. Therefore, no additional resources are required at this time to cover deposits.

5. 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.⁵ NGA supplied biographical information on its management in Exhibit A to its application that demonstrates it has sufficient expertise and training to operate as a telecommunications provider.

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 NDIECs, the requirement is found in D.93-05-010.

⁵ D.95-12-056 at Appendix C, Rule 4.A.

In its application, NGA verified that no one associated with or employed by NGA as an affiliate, officer, director, partner, or owner of more than ten percent of NGA has: (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 §§ 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) been, or is being, investigated by the Federal Communications Commission or any law enforcement or regulatory agency for failure to comply with any law, rule or order.⁶

For the above reasons, we find that NGA is in compliance with the requirements of D.95-12-056.

⁶ These certifications are required by D.13-05-035, Ordering Paragraph 14.

6. Tariffs

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

7. 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.⁷ In its application, NGA provided a map of the location of its proposed service territory, in compliance with this requirement.

8. 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 General Order (GO) 104-A, Section 2. NGA states that it is not aware of any reportable matters pursuant to GO 104-A, Section 2. NGA, therefore, has nothing to report under this rule.

On a going-forward basis, though, NGA must file all reports required of a public utility under Commission jurisdiction.

9. Expected Customer Base

NGA provided its estimated customer base for the first and fifth years of operation in Part XVI of its application. Therefore, NGA has complied with this requirement.

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

10. Request for Treatment as a Non-dominant Carrier

NGA requests treatment as a NDIEC, which would include exemption from the requirements of Pub. Util. Code §§ 816-830 concerning stocks and security and § 851 concerning the encumbrance and transfer of utility property. The Commission detailed its rules regarding exemption of non-dominant carriers in D.85-01-008, and subsequently modified in D.85-07-081 and D.85-11-044. We grant Applicant's request for NDIEC status, provided that it follows all rules detailed in the above referenced decisions.⁸

11. 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. We feel satisfied that NGA will meet the Commission's minimum safety goals and expectations of competitive local exchange carriers (CLECs) because: (1) NGA has taken steps to meet the financial requirements as set forth in this decision for a facilities-based CLEC, and (2) NGA is 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."

⁸ 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.

12. Conclusion

We conclude that the application conforms to our rules for certification as a competitive local exchange and interexchange carrier. Accordingly, we grant NGA a CPCN to provide full facilities-based and resold competitive local exchange services 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 interexchange services throughout California, subject to compliance with the terms and conditions set forth in the Ordering Paragraphs.

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

NGA 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 its CPCN, NGA must submit a Tier 1 advice letter to the Communications Division, containing a copy of the license holder’s executed performance bond, and subsequently submit a Tier 1 advice letter annually, but not later than March 31 of each subsequent year, with a copy of the executed bond.

NGA 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 CPCN if NGA is more than 120 days late in providing the Communications Division a copy of its executed performance bond and has not been granted an extension of time by the Director of the Communications Division.

The corporate identification number assigned to NGA, U-7347-C, must be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

13. Request to File Under Seal

Pursuant to Rule 11.4 of the Commission’s Rules, NGA moved for leave to file Exhibit F to the application as confidential materials under seal. NGA represents that the information is sensitive, and disclosure could place NGA at an unfair business disadvantage. We have granted similar requests in the past and do so here.

NGA's motion to file under seal its Exhibit F 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 Administrative Law Judge ruling. If NGA believes that it is necessary for this information to remain under seal for longer than three years, NGA may file a new motion showing good cause for extending this order by no later than 30 days before the expiration of this order.

14. Categorization and Need for Hearings

In Resolution ALJ 176-3417, dated May 31, 2018, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were necessary. No protests have been received. Since no protests were filed, it is determined that hearings were not necessary. This change to the preliminary determination was made in the Scoping Memo, issued on June 26, 2018, and is affirmed herein.

15. Comments on Proposed Decision

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to § 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

Clifford Rechtschaffen is the assigned Commissioner, Gerald F. Kelly is the assigned Administrative Law Judge.

Findings of Fact

1. Notice of the application appeared on the Daily Calendar on May 10, 2018. No protests have been filed. A hearing is not required.

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

3. NGA's proposed construction activities appear to fall within one or more CEQA categorical exemptions.

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

5. NGA 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. NGA 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.

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

8. No one associated with or employed by NGA as an affiliate, officer, director, partner, agent, or owner of more than 10 percent of NGA has: (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 §§ 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; or (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) been, or is being, investigated by the Federal Communications Commission or any law enforcement or regulatory agency for failure to comply with any law, rule or order.

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

10. NGA provided a map of the location of its proposed service territory.

11. NGA has no information to report under Rule 3.1(i).

12. NGA provided an estimate of its customer base for the first and fifth year of operation.

13. Pursuant to Rule 11.4, Exhibit F will remain filed under seal.

Conclusions of Law

1. NGA should be granted a CPCN to provide competitive full facilities-based and resold competitive local exchange services 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 interexchange services throughout California, subject to the terms and conditions set forth in the Ordering Paragraphs.

2. NGA should be allowed to use the Energy Division 21-day CEQA exemption process.
3. NGA once granted a CPCN, should be subject to the applicable Commission rules, decisions, GOs, and statutes that pertain to California public utilities.
4. NGA's initial tariff filing should correct the tariff deficiencies shown in Attachment A to this decision.
5. NGA should be granted non-dominant carrier status, subject to Commission rules and regulations as detailed in D.85-01-008 and modified in D.85-07-081 and D.85-11-044.
6. The corporate identification number assigned to NGA, U-7347-C, should be included in the caption of all original filings with the Commission, and in the title of other pleadings filed in existing cases.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to NGA 911, LLC to provide competitive full facilities-based and resold competitive local exchange services throughout the service territories of Pacific Bell Telephone Company, Frontier California, Inc., Consolidated Communications of California, and Citizens Telecommunications Company of California, Inc. and interexchange services throughout California subject to the terms and conditions set forth below.
2. The corporate identification number assigned to NGA 911, LLC, U7347C, must be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

3. NGA 911, LLC's initial tariff filing shall correct the tariff deficiencies shown in Attachment A to this decision.

4. NGA 911, LLC must file, in this docket, a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order. Written acceptance filed in this docket shall not reopen the proceeding.

5. The certificate granted by this decision will expire if not exercised within 12 months of the effective date of this decision. Written acceptance filed in this docket does not reopen the proceeding.

6. NGA 911, LLC, may not offer competitive local exchange services until tariffs are filed and authorized by this Commission, in accordance with General Order 96-B and as corrected for deficiencies set forth in Attachment A.

7. NGA 911, LLC must notify the Director of the Communications Division in writing at cdcompliance@cpuc.ca.gov of the date that local exchange service is first rendered to the public, no later than five days after service first begins.

8. NGA 911, LLC must submit to the Communications Division through and Advice Letter a tariff within 12 months of the effective date of this decision, failing which its certificate will be cancelled.

9. NGA 911, LLC 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, NGA 911, LLC 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.

10. NGA 911, LLC must not allow its performance bond to lapse during any period of its operation. Pursuant to Decision 13-05-035, the Commission may revoke a certificate of public convenience and necessity if a carrier is more than 120 days late in providing the Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Director of the Communications Division.

11. 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, NGA 911, LLC is subject to the consumer protection rules contained in General Order 168, and all applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

12. NGA 911, LLC must pay the 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.

13. NGA 911, LLC must pay a minimum user fee of \$100 or 0.33 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.

14. Prior to initiating service, NGA 911, LLC must provide the Commission's Consumer Affairs Branch with the name and address of its designated contact person(s) for purposes of resolving consumer complaints. This information must be updated if the name or telephone number changes, or at least annually.

15. Prior to initiating service, NGA 911, LLC 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/communications>. This information must be updated if the name or telephone number changes, or at least annually.

16. NGA 911, LLC must file an affiliate transaction report with 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.

17. NGA 911, LLC 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.

18. The staff of the Commission's Energy Division is authorized to review, process, and act upon NGA 911, LLC requests for a determination that its full facilities-based construction activities are exempt from the requirements of the California Environmental Quality Act.

19. If NGA 911, LLC wishes to engage in full facilities-based construction activities and believes that these activities are exempt from California Environmental Quality Act, NGA shall first apply to the Commission's Energy Division staff for a determination of exemption from California Environmental Quality Act by providing the Commission's Energy Division with:

- a. A detailed description of the proposed project, including:
 - i. Customer(s) to be served;
 - ii. The precise location of the proposed construction project; and

- iii. Regional and local site maps.
 - b. A description of the environmental setting, including at a minimum:
 - i. Cultural, historical, and paleontological resources;
 - ii. Biological resources; and
 - iii. Current land use and zoning.
 - c. A construction 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 NGA of either its approval or its denial of NGA's claim for exemption from California Environmental Quality Act review within 21 days from the time that NGA's submittal is complete.
20. If the Energy Division approves NGA 911, LLC claimed California Environmental Quality Act exemption(s), the staff shall prepare a Notice to Proceed and file a Notice of Exemption with the State Clearinghouse, Office of Planning and Research. If the Energy Division denies NGA's claimed California

Environmental Quality Act exemptions, the staff shall issue to NGA a letter which states the specific reasons that the claimed California Environmental Quality Act exemptions do not apply to the proposed project.

21. If the Energy Division disapproves NGA 911, LLC claimed California Environmental Quality Act exemption(s), NGA 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.

22. NGA 911, LLC's motion to file under seal its Exhibit F 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 Administrative Law Judge ruling. If NGA believes that it is necessary for this information to remain under seal for longer than three years, NGA may file a new motion showing good cause for extending this order by no later than 30 days before the expiration of this order.

23. This order is effective today.

Dated July 26, 2018, at Sacramento, California.

MICHAEL PICKER

President

CARLA J. PETERMAN

LIANE M. RANDOLPH

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

Commissioners

ATTACHMENT A

List of deficiencies in tariff filed by **NGA 911**. (U-7347-C) in A.18-05-009 to be corrected in its tariff compliance filing.

1. General Order 96-B Section 9.1 requires that each utility shall “compile, publish, and make them accessible for public copying and inspection in accordance with General Rules 9.1.1 to 9.1.3”. Section 9.1.2 “strongly encourages all utilities, and requires certain utilities as described below, to publish and keep up-to-date their respective tariffs, as currently in effect, at sites on the Internet freely accessible to the public. A utility that serves California customers under tariffs, and whose gross intrastate revenues, as defined in Public Utilities Code Section 435(c) and reported to the Commission for purposes of the Utilities Reimbursement Account, exceed \$10 million, shall publish, and shall thereafter keep up-to-date, its currently effective California tariffs at a site on the Internet. The Internet site shall be accessible, and the tariffs shall be downloadable, at no charge to the public.” If gross intrastate revenues exceed \$10 million, then CLC must revise the tariff to include website location for tariff download. Otherwise, CLC should be encouraged to post on website.
2. General Order 96-B Section 9.5.1 requires identifying "U" number of the utility. Revise tariff to include U-number.
3. General Order 96-B Section 9.5.5 requires “all of its rate schedules....the rates and charges...” Pricing information is blank; revise the tariff to include pricing.
4. General Order 96-B Section 9.5.6 states that “if a utility has no such contract or other deviation then in effect, a statement of this fact shall be provided instead of this list”. Revise tariff to include statement of no deviations (or list deviations if applicable).
5. General Order 96-B Section 9.5.7 (11) requires specific information on Discontinuance of Service. Information is incomplete in tariff, revise the tariff to include requirements of General Order. 96-B Sec D.95-07-054 App B, Rule 6.B.2.
6. General Order 96-B Section 9.5.7 (12) requires “Information on Services and Promotional Offerings - How to get information on services (including types of services, rate plans, conditions on eligibility, other terms and conditions) and promotional offerings available from the utility. Rule shall include office hours, telephone number, and (if applicable) e-mail address for contacting utility with requests for such information”. Information is incomplete in tariff, revise the tariff to include requirements of General Order 96-B Sec 9.5.7 Rule 12.

7. D.95-07-054, App B, Rule 1 states “CLC information required to be provided to applicant upon request”. Information is described but not provided, revise tariff to include information compliant with D.95-07-054, App B, Rule 1.
8. D.95-07-054, App B, Rule 2 requires “all applicants for residential service must be given information regarding the Universal Lifeline program and its availability”. Revise tariff to include information compliant with D.95-07-054, App B, Rule 2.
9. D.95-07-054, App B, Rule 10B requires that the tariff include language regarding fraud (intention to defraud the CLC). Revise the tariff to include language compliant with D.95-07-054 App B, Rule 10B.
10. D.95-07-054, App B, Rule 10C requires that “for residence service disconnected for nonpayment, the CLC must continue to provide access to 911 services to the customer”. Revise the tariff to include language compliant with D.95-07-054 App B, Rule 10C.
11. D.95-07-054, App B, Rule 12 requires the CLC to include language regarding “failure to establish credit or pay deposit. Revise the tariff to include language compliant with D.95-08-054 Appendix B, Rule 12.
12. D.95-07-054, App B, Rule 13 refers to “Liability of CLC” (not liable for any failure of performance due to causes beyond its control). Revise the tariff to include language compliant with D.95-08-054 Appendix B, Rule 13.
13. D.95-07-054, App B, Rule 15 requires the CLC to block customer’s access to 900 and 976 services and inform customers of the availability of blocking. Revise the tariff to include language compliant with D.95-08-054 Appendix B, Rule 15.
14. Decision 96-10-066 Appendix B.4.B. Items 10 and 11 require that the tariff contain language regarding directories. Revise the tariff to include language compliant with Decision 96-10-066 Appendix B.4.B. Items 10 and 11.
15. General Order 153 Appendix A Item 12i requires that the tariff contain language regarding directories. Revise the tariff to include language compliant with G.O. 153 Appendix A Item 12i.
16. General Order 153 Section 3.3 requires that the tariff contain language regarding tariff filings of Universal Lifeline Telephone Service (ULTS) Offerings. Revise tariff to include language compliant with G.O. 153 Section. 3.3.

17. D.95-07-054 App A, Section E.7 requires that CLCs file tariffs in accordance with PU Code 876 (file a schedule of rates and charges providing a class of lifeline telephone service). Revise tariff to include language compliant with D. 95-07-054 App. A Section E.7.

18. Resolution T-16901 requires that the tariff contain language regarding surcharges and taxes. Revise the tariff to reflect current surcharge and user fee information listed on the CPUC's website (<http://www.cpuc.ca.gov/General.aspx?id=1124>).

(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,⁹ 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 decision.

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).

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

- 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 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 submit and pay the PUC User Fee (see above item 2g) upon receiving the User Fee statement sent by the Commission. Instructions for reporting 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 submissions 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 Director of the Communications Division.

9. Applicants providing local exchange service must submit to the Communications Division a service area map as part of their 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. 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 in writing at cdcompliance@cpuc.ca.gov 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 submit an annual report to the Director of the Communications Division at cdcompliance@cpuc.ca.gov, in compliance with GO 104-A, on a calendar-year basis with the information contained in Attachment C to this decision.

16. Applicant must submit an affiliate transaction report to 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 in writing at cdcompliance@cpuc.ca.gov 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 submitted to 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 submit 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 submitted to 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 submit, 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)