

Decision PROPOSED DECISION OF ALJ PRESTIDGE (Mailed 1/16/2007)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Telecom House Incorporated
(U-5675-C) for a Certificate of Public Convenience
and Necessity to Provide Resold Local Exchange
Service in California.

Application 05-09-018
(Filed September 12, 2005)

**OPINION GRANTING APPLICATION FOR
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**

I. Summary

Telecom House Incorporated (Applicant) seeks a certificate of public convenience and necessity (CPCN) under Pub. Util. Code § 1001 for authority to provide resold local exchange telecommunications services in the State of California. Applicant currently holds a CPCN which authorizes the provision of resold interexchange services in this state.¹

By this decision, we grant the application, subject to the terms and conditions stated below. However, we note that Applicant has a history of failure to timely file reports and pay fees as required by the terms of its CPCN. If Applicant fails to comply with the terms of its CPCN or with applicable legal or

¹ See D.96-09-067, which granted Applicant CPCN #U-5675-C. At that time, Applicant was operating under the name of Sterling Communications, Inc.

regulatory requirements in the future, we shall initiate proceedings to revoke Applicant's CPCN.

II. Background

In prior decisions, we authorized the provision of competitive interexchange services by carriers meeting specified criteria. In addition, we authorized the provision of competitive local exchange service, by carriers meeting specified criteria, within the service territories of Pacific Bell Telephone Company (Pacific), Verizon California, Inc. (Verizon), SureWest Telephone Company (SureWest), previously named Roseville Telephone Company, and Citizens Telecommunications Company of California, Inc. (CTC).

Applicant, a California corporation, seeks authority to provide resold local exchange services within the service territories of Pacific and Verizon.

Applicant's principal place of business is located at Beverly Hills, California.

III. Financial Qualifications

To be granted a CPCN, an applicant for authority to provide resold local exchange and/or interexchange services must demonstrate that it has a minimum of \$25,000 of cash or cash equivalent to meet the firm's start-up expenses.² An applicant must also demonstrate that it has sufficient additional resources to cover all deposits required by local exchange carriers (LECs) and/or

² The financial requirement for competitive local carriers (CLCs) is contained in Decision (D.) 95-12-056, Appendix C. The financial requirement for IECs is contained in D.91-10-041.

interexchange carriers (IECs) in order to provide the proposed service.³

Applicant has provided financial documentation that demonstrates that it has sufficient cash to satisfy the financial requirement plus any required deposits.

IV. Technical and Managerial Qualifications

Applicants for IEC and CLC authority are required to make a reasonable showing of technical expertise in telecommunications or a related business.

Applicant submitted biographical information on its management which demonstrates their technical qualifications to operate as a telecommunications provider.

The Commission may also deny a CPCN application in order to protect the public interest if the applicant fails to demonstrate that its management is qualified to operate as a telecommunications provider in a manner that complies with applicable laws and regulatory requirements and adequately serves the public.⁴

On September 13, 2005, the FCC issued the FCC Forfeiture Order, which found Applicant to be in apparent violation of the following laws and FCC rules:

- Section 64.1195 of the FCC rules by willfully and repeatedly failing to register with the FCC as telecommunications provider until 2004, when Applicant had been operating as a telecommunications provider since 2000;

³ The requirement for CLC applicants to 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.

⁴ See D.04-05-033.

- Sections 54.1711(a) and 64.604(c)(5)(iii)(B) of the FCC rules by failing to submit required Telecommunications Reporting Worksheets from 2001 to 2005;
- Section 254(d) of the Communications Act of 1934, as amended, and Sections 54.706(a) and 64.604(c)(5)(iii)(A) of the FCC Rules by willfully and repeatedly failing to contribute to the Universal Service Fund and the Telecommunications Relay Service Fund on a timely basis.⁵

The FCC found that Applicant was apparently liable for a forfeiture of \$529,300 based on the above violations. The FCC Forfeiture Order directed Applicant to either pay the forfeiture or file a written response seeking reduction or cancellation of the forfeiture within 30 days and to file a report, supported by a sworn statement or declaration under penalty of perjury by a corporate officer, stating Applicant's plan to come into compliance with the payment and reporting requirements described in the FCC Forfeiture Order.

In response to inquiries by the assigned Administrative Law Judge (ALJ), Applicant made two supplemental filings, dated December 22, 2005 and July 21, 2006, with the Commission to explain the FCC Forfeiture Order. Applicant responded that the FCC Forfeiture Order contains factual inaccuracies regarding certain alleged violations.

In both supplemental filings, Applicant stated that it has come into compliance with FCC requirements and that the company was negotiating a consent decree with the FCC that would involve Applicant's filing of a more detailed compliance plan and payment of a smaller, voluntary contribution to the U. S. Treasury over time, in lieu of the forfeiture.

⁵ See 2005 FCC Lexis 5114.

On September 14, 2006, the FCC adopted a consent decree with Applicant (FCC Consent Decree)⁶, which terminated the investigation and enforcement proceeding against Applicant, as described in the FCC Forfeiture Order. By its own terms, the FCC Consent Decree does not constitute an adjudication on the merits or a factual or legal finding as to Applicant's past compliance or non-compliance with the Telecommunications Act of 1934, as amended (the Act), or FCC rules and orders, and Applicant has not admitted or denied liability for violation of any statute, regulation, or administrative rule. Applicant has agreed to make a voluntary contribution to the U. S. Treasury in the amount of \$170,000 and to develop and maintain a program to promote its future compliance with FCC and legal requirements. The FCC Consent Decree also provides that the FCC will not use the facts developed in the enforcement proceeding against Applicant in any new proceeding against the Applicant or take any action on its own motion against Applicant with respect to Applicant's basic qualifications, including character qualifications, to be an FCC licensee or licensed common carrier, based on facts developed in the enforcement proceeding. However, the FCC may adjudicate complaints against Applicant for alleged violations of the Act or other types of alleged misconduct regardless of when the misconduct occurred, and may investigate new evidence that Applicant has violated the Act, FCC rules or orders, or the FCC Consent Decree.

In addition to questions regarding Applicant's previous compliance with FCC requirements, Applicant has also previously failed to comply with Commission regulatory requirements.

⁶ 2006 FCC LEXIS 5060.

On July 17, 2006, the Director of the Commission Communications Division (CD) notified Applicant by letter that Applicant had failed to file reports required under the terms of its existing CPCN as follows:

- User Fee Reports – No reports at all
- Public Program Surcharge payments – No reports since October 2004
- Annual Reports – No reports since 2003

CD's letter warned that if Applicant did not file all missing reports within 30 days, CD would initiate action to cancel Applicant's existing CPCN.

Applicant subsequently filed the missing reports with CD.

On September 21, 2006, the Director of CD wrote to Applicant noting serious discrepancies between Applicant's revenues as stated in its annual reports for 2003, 2004 and 2005 and its user fee reports and public program reports for these years. According to CD's letter, Applicant's annual reports stated the company's total income as follows:

- 2003 - \$1,685,469
- 2004 - \$2,756,506
- 2005 - \$2,635,714

However, the user fee reports stated that the company had no revenue for the years 2003 through 2005 and the public program reports stated that Applicant had only \$32,603 in customer billings for that period. The Director of CD ordered Applicant to submit a written explanation that clarified these discrepancies or to correct its statements and report all revenues and customer billings for 2003 through 2005, and to pay all appropriate fees and surcharges to the Commission by no later than October 23, 2006. Despite requests by CD, Applicant did not file a written explanation of these discrepancies or correct its reports and pay the additional fees and surcharges owed until March 2007, after

the Commission had issued a proposed decision recommending denial of this application.⁷

We are troubled by Applicant's history of failure to comply with regulatory requirements and the terms of its CPCN. However, Applicant has now filed all required reports and paid the fees due to the Commission. Applicant also states that it has hired an auditor who is experienced in the telecommunications field to review its reports and fee payments, and that the discrepancy between its annual reports and its fee reports previously filed with the Commission resulted from the fact that the annual reports reflected interstate, rather than California, revenues. Applicant states that it has developed and implemented a compliance plan to ensure that Applicant satisfies Commission requirements in the future. In addition, Applicant contends that since customers benefit from its competitively-priced telecommunications services, granting the application would be in the public interest.

Under these circumstances, we will grant the application for authorization to provide resold local exchange services. However, we caution Applicant to timely comply with all requirements of its CPCN and applicable legal and regulatory requirements in the future, in order to avoid sanctions, including revocation of its CPCN.

⁷ Applicant also did not pay its 2006 fees, which were due in January 2007, until March 28, 2007.

V. Tariffs

Commission staff reviewed Applicant's draft tariffs for compliance with Commission rules and regulations. The deficiencies to be corrected by Applicant are set forth in Attachment A.

VI. California Environmental Quality Act (CEQA)

CEQA requires the Commission as the designated lead agency to assess the potential environmental impact of a project in order that adverse effects are avoided, alternatives are investigated, and environmental quality is restored or enhanced to the fullest extent possible. Applicant will not be constructing any facilities. Therefore, it can be seen with certainty that there is no possibility that granting this application will have an adverse effect upon the environment. Applicant must file for additional authority, and submit to any required CEQA review, before it can construct facilities.

VII. Motion to File Confidential Documents Under Seal

Applicant has filed two motions for leave to file confidential materials, including financial documents and a non-public version of its response to the FCC Forfeiture Order, under seal. We have granted similar motions in other cases, and we grant Applicant's motions, dated September 15, 2005 and December 22, 2005, here.

VIII. Conclusion

We grant the application, subject to the terms and conditions stated above.

IX. Comments on Proposed Decision

The proposed decision of the administrative law judge (ALJ) in this matter was mailed to the parties in accordance with Pub. Util. Code § 311 and Rule 14.2 of the Rules of Practice and Procedure.

Comments were received from Applicant on March 5, 2007. We have reviewed Applicant's comments and revised the proposed decision as appropriate.

X. Categorization and Need for Hearings

In Resolution ALJ 176-3159 dated September 22, 2005, the Commission preliminarily categorized this application as ratesetting and preliminarily determined that hearings were not necessary. No protests have been received. The applicant has been given an opportunity to provide additional information regarding the FCC Forfeiture Order and its qualifications to operate as a telecommunications provider in writing. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

XI. Assignment of Proceeding

Michael R. Peevey is the Assigned Commissioner and Myra J. Prestidge is the assigned ALJ in this proceeding.

Findings of Fact

1. Notice of the application appeared in the Daily Calendar on September 23, 2005.
2. No protests have been filed.
3. A hearing is not required.
4. In prior decisions, the Commission authorized competition in providing interexchange services for carriers meeting specified criteria.
5. In prior decisions, the Commission authorized competition, by carriers meeting specified criteria, in providing local exchange telecommunications services within the service territories of Pacific, Verizon, SureWest, and CTC.

6. Applicant currently holds a CPCN (#U-5675-C) which authorizes the provision of resold interexchange services in California.

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

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

9. Applicant's management has sufficient technical expertise to operate the company.

10. On September 13, 2005, the FCC has issued a Notice of Apparent Liability for Forfeiture and Order (FCC Forfeiture Order), which found that Applicant appeared to have engaged in the following violations of law and FCC Rules:

- a. Section 64.1195 of the FCC rules by willfully and repeatedly failing to register with the FCC as a telecommunications provider until 2004, when Applicant had been operating as a telecommunications provider since 2000;
- b. Sections 54.1711(a) and 64.604(c)(5)(iii)(B) of the FCC rules by failing to submit required Telecommunications Reporting Worksheets from 2001 to 2005; and
- c. Section 254(d) of the Communications Act of 1934, as amended, and Sections 54.706(a) and 64.604(c)(5)(iii)(A) of the FCC Rules by willfully and repeatedly failing to contribute to the Universal Service Fund and the Telecommunications Relay Service Fund on a timely basis.

11. The FCC Forfeiture Order directed Applicant to file a compliance plan and all required reports and either pay a forfeiture in the amount of \$529,300 or file a response that seeks a reduction in the amount to be paid.

12. In response to inquiries from the assigned ALJ, Applicant filed two supplemental filings in this proceeding, dated December 22, 2005 and July 21, 2006, regarding the FCC Forfeiture Order.

13. In the supplemental filings, Applicant stated that the FCC Forfeiture Order contains factual inaccuracies.

14. On September 21, 2006, the FCC approved a Consent Decree with Applicant, which terminated the investigation and enforcement proceeding that were the basis for the FCC Forfeiture Order.

15. Under the terms of the Consent Decree, Applicant neither admitted nor denied violations of the Act and FCC rules and orders.

16. The Consent Decree requires Applicant to make a voluntary contribution of \$170,000 to the United States Treasury and to develop and maintain a compliance program to promote Applicant's future compliance with legal and FCC requirements.

17. Under the terms of the Consent Decree, the FCC agreed not to take any action on its own motion against Applicant based on facts developed in the investigation that led up to the FCC Forfeiture Order, or to take any action on its own motion against Applicant with respect to Applicant's basic qualifications, including character, to be a Commission licensee or a common carrier.

18. On July 17, 2006, CD issued a letter to Applicant regarding Applicant's failure to file required reports with the Commission as required by the terms of its existing CPCN, as follows:

- a. User Fee Payments - no reports at all
- b. Public Program Surcharge payments - No reports since October 2004
- c. Annual reports - No reports since 2003.

19. In its July 17, 2006 letter to Applicant, CD directed Applicant to file all required reports within 30 days.

20. Although Applicant subsequently filed the missing reports with CD, there were serious discrepancies between Applicant's income as stated in its annual reports for 2003, 2004, and 2005 and Applicant's user fee reports and public program reports for this period.

21. On September 21, 2006, the Director of CD ordered Applicant by letter to submit a written explanation of these discrepancies to CD and/or to correct its reports and pay all appropriate surcharges and fees owed to the Commission by no later than October 23, 2006.

22. Applicant did not file a written explanation of the discrepancies between its annual reports and its user fee reports and public program reports as directed by CD and did not submit corrected reports and pay additional fees and surcharges owed to the Commission until March 2007, after the Commission had issued a proposed decision recommending denial of this application.

23. Applicant has now filed required reports and paid the required fees to the Commission for 2003 through 2006.

24. As part of its application, Applicant submitted a draft of its initial tariff. Except for the deficiencies noted in Attachment A, Applicant's draft tariff complies with Commission requirements.

25. Applicant will not be constructing any facilities pursuant to this CPCN.

Conclusions of Law

1. Applicant has the financial ability and technical expertise to provide the proposed service.

2. Applicant has demonstrated the ability to operate as a telecommunications carrier in a manner that serves the public.

3. Public convenience and necessity require that Applicant's provision of resold competitive local exchange services be subject to the terms and conditions set forth herein.

4. Since Applicant will not be constructing any facilities, it can be seen with certainty that there will be no significant effect on the environment.

5. The application should be granted to the extent set forth below.

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

7. Because of the public interest in competitive local exchange services, the following order should be effective immediately.

8. It is appropriate to grant Applicant's motions to file confidential materials under seal dated September 12, 2005 and December 22, 2005, based on the circumstances of this case.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity (CPCN) is granted to Telecom House Incorporated (Applicant) to operate as a resale provider of competitive local exchange services subject to the terms and conditions set forth below.

2. Applicant is authorized to provide local exchange services in the service territories of Pacific Bell Telephone Company, Verizon California Inc., SureWest Telephone Company, and Citizens Telecommunications Company of California, Inc.

3. Applicant is authorized to file tariff schedules for the provision of competitive local exchange services with the deficiencies noted in Attachment A corrected. Applicant may not offer services until tariffs are on file. Applicant's initial filing shall be made in accordance with General Order (GO) 96-A, excluding Sections IV, V, and VI. The tariff shall be effective not less than one day after tariff approval by the Commission's Communications Division.

Applicant shall comply with its tariffs.

4. The certificate granted, and the authority to render service under the rates, charges, and rules authorized, will expire if not exercised within 12 months after the effective date of this order.

5. The corporate identification number assigned to Applicant, U-5675-C, shall be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

6. Applicant shall comply with all applicable rules adopted in the Local Exchange Competition proceeding (Rulemaking 95-04-043/Investigation 95-04-044), the Commission's rules and regulations for non-dominant interexchange carriers set forth the Decision (D.) 93-05-010 and D.90-08-032, as well as all other applicable Commission rules, decisions, GOs, and statutes that pertain to California public utilities, subject to the exemptions granted in this decision.

7. Applicant shall comply with the requirements applicable to competitive local exchange carriers included in Attachment B to this decision.

8. Applicant is not authorized to construct facilities.

9. The confidential documents of Applicant, which have been filed under seal as an attachment to the motions for leave to file confidential materials under seal dated September 12, 2005 and December 22, 2005, shall remain under seal for a

period of two years from the date of this decision, and during that period, the information shall not be accessible or disclosed to anyone other than Commission staff except on the further order or ruling of the Commission, the Assigned Commissioner, the Chief Administrative Law Judge (ALJ), the assigned ALJ, or the ALJ then designated as Law and Motion Judge. If Applicant believes that further protection of this information is needed after two years, Applicant may file a motion stating the justification for further withholding the information from public inspection, or for such other relief as the Commission Rules may then provide. This motion must be filed no later than 30 days before the expiration of this protective order.

10. Application 05-09-018 is closed.

This order is effective today.

Dated _____, at San Francisco, California.

ATTACHMENT A

List of deficiencies in tariff filed by Telecom House Incorporated in A.05-09-018 to be corrected in its tariff compliance filing.

1. Sheet 25, Rule 12I: Replace “Customer” with “non-prevailing party” and delete the word “all”.
2. Sheet 40, Rule 21B: Replace “The Customer shall reimburse the Company for all costs, expenses and fees, including reasonable attorneys’ fee, incurred by the Company in its defenses against such actions.” with “The non prevailing party may be liable for reasonable court costs and attorney fees as determined by the CPUC or by the court.”
3. Sheet 66, Taxes and Surcharges: Your tariff must state that your taxes and surcharges are in compliance with Resolution T-16901 and concur with the tariff provisions for taxes and surcharges in SBC California tariffs.
4. Sheet 68, C: Replace “50 untimed local calls” with “60 untimed local calls.” Refer to Decision 96-00-066.
5. Please add the procedure the customer may use to request amortization of unpaid charges that is in compliance to Decision 95-07-054, Appendix B, Rule 6.B.(2).5.
6. Please add a description and rule for Caller ID and CPNI Restrictions that is in compliance with Decision 95-07-054, Appendix B, Rule 14.

(END OF ATTACHMENT A)

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

1. Applicant shall file, in this docket, a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order.
2. Applicant is subject to the following fee and surcharges that must be regularly remitted per the instructions in Appendix E to Decision (D.) 00-10-028. The Combined California PUC Telephone Surcharge Transmittal Form must be submitted even if the amount due is zero.
 - a. The current 1.15% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the Universal Lifeline Telephone Service Trust Administrative Committee Fund (Pub. Util. Code § 879; Resolution T-17071, dated March 1, 2007, effective April 1, 2007);
 - b. The current 0.37% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California Relay Service and Communications Devices Fund (Pub. Util. Code § 2881, D.98-12-073, and Resolution T-17072, dated March 1, 2007, effective April 1, 2007);
 - c. The user fee provided in Pub. Util. Code §§ 431-435, which is 0.11% of gross intrastate revenue (Resolution M-4816, dated March 15, 2006, effective April 1, 2006);
 - d. The current 0.21% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California High Cost Fund-A (Pub. Util. Code § 739.3; D.96-10-066, pp. 3-4, App. B, Rule 1.C; Resolution T-16963, dated December 1, 2005, effective January 1, 2006);
 - e. The current 1.30% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as

modified by D.95-02-050, to fund the California High Cost Fund-B (D.96-10-066, p. 191, App. B, Rule 6.F., Resolution T-17078, dated March 1, 2007, effective April 1, 2007); and

- f. The current 0.13% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California Teleconnect Fund (D.96-10-066, p. 88, App. B, Rule 8.G, Resolution T-16888, dated December 1, 2005, effective January 1, 2006).

Note: These fees change periodically. In compliance with Resolution T-16901, December 2, 2004, Applicant should check the joint tariff for surcharges and fees filed by Pacific Bell (dba SBC California) and apply the current surcharge and fee amounts in that joint tariff on end-user bills until further revised.

3. Applicant is a competitive local exchange carrier (CLC). The effectiveness of its future tariffs is subject to the schedules set forth in Appendix C, Section 4.E of D.95-12-056:

“E. CLCs shall be subject to the following tariff and contract filing, revision and service pricing standards:

- “(1) Uniform rate reductions for existing tariff services shall become effective on five (5) working days’ notice. Customer notification is not required for rate decreases.
- “(2) Uniform major rate increases for existing tariff services shall become effective on thirty (30) days’ notice to the Commission, and shall require bill inserts, or first class mail notice to customers at least 30 days in advance of the pending rate increase.
- “(3) Uniform minor rate increases, as defined in D.90-11-029, shall become effective on not less than five (5) working days’ notice to the Commission. Customer notification is not required for such minor rate increases.

- “(4) Advice letter filings for new services and for all other types of tariff revisions, except changes in text not affecting rates or relocations of text in the tariff schedules, shall become effective on forty (40) days’ notice.
- “(5) Advice letter filings revising the text or location of text material which do not result in an increase in any rate or charge shall become effective on not less than five (5) days’ notice to the Commission.
- “(6) Contracts shall be subject to GO 96-A rules for NDIECs, except interconnection contracts.
- “(7) CLCs shall file tariffs in accordance with PU Code § 876.”

4. Applicant may deviate from the following provisions of GO 96-A:

(a) paragraph II.C.(1)(b), which requires consecutive sheet numbering and prohibits the reuse of sheet numbers; and (b) paragraph II.C.(4), which requires that “a separate sheet or series of sheets should be used for each rule.” Tariff filings incorporating these deviations shall be subject to the approval of the Commission’s Communications Division. Tariff filings shall reflect all fees and surcharges to which Applicant is subject, as reflected in 2 above.

5. Applicant shall file a service area map as part of its initial tariff.

6. Prior to initiating service, Applicant shall 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 shall be updated if the name or telephone number changes, or at least annually.

7. Applicant shall notify the Director of the Communications Division in writing of the date that local exchange service is first rendered to the public, no later than five days after service first begins.

8. Applicant shall keep its books and records in accordance with the Generally Accepted Accounting Principles.

9. In the event Applicant's books and records are required for inspection by the Commission or its staff, it shall 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.

10. Applicant shall file an annual report with the Director of the Communications Division, in compliance with GO 104-A, on a calendar-year basis with the information contained in Attachment C to this decision.

11. Applicant shall file an affiliate transaction report with the Director of the Communications Division, in compliance with D.93-02-019, on a calendar-year basis using the form contained in Attachment D.

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

13. Within 60 days of the effective date of this order, Applicant shall comply with Pub. Util. Code § 708, Employee Identification Cards, and notify the Director of the Communications Division in writing of its compliance.

14. If Applicant is 90 days or more late in filing an annual report, or in remitting the surcharges and fee listed in 2 above, the Communications Division shall prepare for Commission consideration a resolution that revokes Applicant's CPCN unless it has received written permission from the Communications Division to file or remit late.

15. Applicant is exempt from General Order 96-A, subsections III.G(1) and (2), and Rule 18(b) of the Commission's Rules of Practice and Procedure.

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

17. 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.

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

19. Applicant shall send a copy of this decision to concerned local permitting agencies not later than 30 days from the date of this order.

(END OF ATTACHMENT B)

ATTACHMENT C ANNUAL REPORT

An original hard copy, and a machine-readable electronic copy, on a CD or floppy disk using Microsoft Word or a compatible format, shall be filed with the California Public Utilities Commission, 505 Van Ness Avenue, Room 3107, San Francisco, CA 94102-3298. The filing shall be made 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 Sections 2107 and 2108 of the Public Utilities Code.

Required information:

1. Exact legal name and U # of 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. The number and date of the Commission decision granting the Utility's CPCN.
7. Date operations were begun.
8. Description of other business activities in which the utility is engaged.
9. A list of all affiliated companies and their relationship to the utility. State if affiliate is:
 - 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.

For answers to any questions concerning this report, call (415) 703-2883.

(END OF ATTACHMENT C)

**ATTACHMENT D
CALENDAR YEAR AFFILIATE TRANSACTION REPORT**

1. Each utility shall 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 shall 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 should 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 should 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 tariffed 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 Sections 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)