

*Draft***PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA****Communications Division  
Prog. Mgmt and Implementation Branch****RESOLUTION T-17152  
October 16, 2008****R E S O L U T I O N****Resolution T-17152. To reject the request of ConnectTo Communications, Inc. (U-6977-C) to be designated as an Eligible Telecommunications Carrier (ETC) in California.**

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**Summary**

This Resolution rejects the request of ConnectTo Communications, Inc. (U-6977-C) ("ConnectTo") to be designated as an Eligible Telecommunication Carrier ("ETC"). ConnectTo has not satisfied the requirements for ETC designation pursuant to Resolution T-17002 and has not complied with certain requirements of the Decisions<sup>1</sup> that granted ConnectTo's Certificate of Public Convenience and Necessity ("CPCN").

**Background**

ConnectTo Communications, Inc. ("ConnectTo") is a Federal Communications Commission ("FCC") licensed, California Public Utilities Commission ("CPUC") certificated<sup>2</sup> Competitive Local Exchange Carrier ("CLEC") within the service territories of AT&T/Pacific Bell and Verizon California.

On January 9, 2008, ConnectTo filed Advice Letter # 3 seeking ETC designation and requested authority to only be eligible to receive federal Lifeline and Link Up program subsidies, and not from the federal High Cost fund program. Previously, ConnectTo filed Advice Letter # 2 on July 11, 2007 requesting for ETC designation status, and subsequently withdrew the advice letter without prejudice.

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<sup>1</sup> Decision 06-01-033 and Decision 07-04-033

<sup>2</sup> ConnectTo was granted its CPCN by Decision 06-01-033 to provide resold local exchange and interexchange telecommunications services in California. Subsequently, ConnectTo filed for authority to expand its CPCN to provide limited facilities-based local exchange telecommunications services. ConnectTo's request was granted by Decision 07-04-033.

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ETCs are telephone carriers designated by state commissions and authorized by the FCC to receive federal Universal Service Fund (“USF”) support for providing local telephone service in high cost areas and to low income customers.

The ETC program was established to satisfy the statutory requirement of the Telecommunications Act of 1996. The federal USF support creates an incentive for the telephone carriers to provide quality residential telephone services at an affordable rate to low income consumers and/or those living in designated high cost areas, e.g., rural areas.

The CPUC has adopted comprehensive ETC guidelines and reporting requirements in Resolution T-17002 consistent with the FCC orders 97-157 and 05-46 to designate a telephone carrier as a qualified ETC. In addition, all carriers seeking ETC designation are required to comply with the applicable requirements as a CPUC certificated carrier as specified in the Decision(s) granting their CPCN.

**Discussion**

ConnectTo’s Advice Letter # 3 responded to Appendix A of Resolution T-17002 *The Comprehensive Procedures and Guidelines for ETC Designation*, because ConnectTo only seeks to participate in the federal Lifeline and Link-Up program subsidies and does not intend to draw from the federal High Cost Fund program. Thus, ConnectTo is not required to complete Appendix B of Resolution T-17002: *Comprehensive Reporting Requirements for ETCs to receive Federal High Cost Support*.

ConnectTo’s Advice Letter has been reviewed and evaluated by Communications Division (“CD”) staff for compliance with Resolution T-17002 and the orders contained in their CPCN Decisions. See Attachment A of this Resolution for a summary evaluation of ConnectTo’s compliance with ETC and CPCN requirements. CD staff analysis identified the following areas where ConnectTo’s Advice Letter # 3 did not comply with Resolution T-17002 Appendix A.

1. ConnectTo has not complied with the provisions of Section II-E: *Local Usage* which requires an ETC to offer a local usage plan that is comparable to the one offered by the Incumbent Local Exchange Carrier (“ILEC”) in the service areas for which it seeks ETC designation. ConnectTo’s basic residential flat rate is substantially higher than the local rates of both AT&T/Pacific Bell and Verizon California as shown in the table (1) below.

<b>Telephone Carrier Name</b>	<b>Basic Residential Flat Rate per Month</b>
ConnectTo	\$54.99
AT&T/Pacific Bell	\$10.69
Verizon California	\$16.85/\$17.25

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Table 1: Carrier Rates

The significant disparity of rates demonstrates that ConnectTo's local usage plan is not comparable to the ILECs local usage plans.

2. ConnectTo has not complied with the provisions of Section II - G: *Public Interest Determination* which states that each telecommunications carrier seeking ETC designation must file an Advice Letter with the Commission with information that demonstrate: a) the ETC designation will increase consumer choices; b) the advantages and disadvantages of its service offerings; and c) the absence of cream skimming.

ConnectTo did not address the requirements to demonstrate: a) the ETC designation will increase consumer choices; b) the advantages and disadvantages of its service offerings; and c) the absence of cream skimming. ConnectTo does not believe that they need to demonstrate with particular facts regarding public interest determination. CD staff believes that ConnectTo has not complied with Section II-G.

In addition to the areas of non-compliance with Resolution T-17002 ETC designation requirements, CD staff has identified that ConnectTo has not complied with certain reporting requirements contained in their CPCN Decisions 06-01-033 and 07-04-033:

1. ConnectTo did not file its 2007 Annual Reports that is required by General Order (G.O.) 104-A. (Decision 06-01-003, Ordering Paragraphs 5 & 7, Decision 07-04-033 Ordering Paragraphs 6 & 7). According to G.O. 104-A § 3, "The failure to file an annual report in accordance with the requirements of this General Order will subject a public utility to the penalties and sanctions provided by the Public Utilities Code."
2. ConnectTo did not file its 2007 Affiliate Transaction Reports that is required by Decision 93-02-019. (Decision 06-01-003, Ordering Paragraphs 5 & 7, Decision 07-04-033 Ordering Paragraphs 6 & 7). According to Decision 93-02-019 § I.C, "Each utility that does not have any affiliated entities is required to file an annual report but must file an annual statement to the Commission stating that the utility has no affiliated entities."
3. ConnectTo was 90 days late in paying its 2007 User Fees as required by Decision 06-01-003, Ordering Paragraphs 5 & 7; and Decision 07-04-033 Ordering Paragraphs 6 & 7. The Decisions state that they shall comply with the requirements applicable to competitive local exchange carriers that include remitting fees and surcharges. ConnectTo's 2007 User Fee payment was due on

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January 15, 2008. ConnectTo made payments only after receiving a notice from CD on June 20, 2008.

According to ConnectTo's Ordering Paragraph 16 of CPCN Decision 06-01-003 Attachment B and Decision 07-04-033 Attachment A, "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 Telecommunications Division to file or remit late."

On June 20, 2008, CD notified ConnectTo in writing that they are delinquent in its report filing and remittance of its User Fees. The report filing and User Fee payment are requirements as a CPUC certificated carrier. The letter ordered ConnectTo to correct their deficiencies or face revocation of their CPCN. On July 29, 2008, ConnectTo informed CD that it has paid its User Fees for the delinquent period.

In consideration of the above noted deficiencies, CD staff recommends that ConnectTo's Advice letter seeking ETC designation be rejected. After considering CD's recommendation, we are troubled that in the short period of time that ConnectTo has been granted authority to operate as a telephone company in California, they have not complied with the Decisions granting them their CPCN regarding payment of PUC User Fees and filing of required reports.

Accordingly, we direct ConnectTo to submit their 2007 Annual Report and 2007 Affiliate Transaction Reports within 30 days after the effective date of this resolution. Failure to comply with the order may result in revocation of their CPCN.

Because ConnectTo has not addressed all of the required elements in Resolution T-17002 regarding demonstration that granting them ETC designation is in the public interest and they have not filed reports required by the Decisions granting them their CPCN, we deny, at this time, ConnectTo's request to be designated as an ETC.

## **Comments**

In compliance with PU Code § 311 (g), notice letters were e-mailed on September 08, 2008 to all California ETC informing these parties that this draft resolution is available at the Commission's website <http://www.cpuc.ca.gov/static/documents/index.htm> and is available for public comments. In addition, CD informed these parties of the availability of the conformed resolution at the same website.

## **Findings**

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1. ConnectTo is an FCC licensed, CPUC certificated competitive local exchange carrier within the service territories of AT&T/Pacific Bell and Verizon California.
2. On January 9, 2008, ConnectTo filed Advice Letter # 3 seeking ETC designation and requested authority to only be eligible to receive federal Lifeline and Link Up program subsidies, and not from the federal High Cost fund program.
3. ConnectTo's Advice Letter # 3 did not fully comply with the procedures and guidelines for ETC designation established in Resolution T-17002 Appendix A.
  - a. ConnectTo's local usage plan is not comparable to the one offered by the ILEC in the service areas for which it seeks designation. (Section II-E)
  - b. ConnectTo did not demonstrate: a) the ETC designation will increase consumer choices; b) the advantages and disadvantages of its service offerings; and c) the absence of cream skimming.(Section II-G)
4. ConnectTo has not complied with certain requirements contained in their CPCN Decisions 06-01-033 and 07-04-033.
  - a. ConnectTo did not file its 2007 Annual Reports that is required by General Order 104-A. (Decision 06-01-003, Ordering Paragraphs 5 & 7, Decision 07-04-033 Ordering Paragraphs 6 & 7)
  - b. ConnectTo did not file its 2007 Affiliate Transaction Reports that is required by Decision 93-02-019. (Decision 06-01-003, Ordering Paragraphs 5 & 7, Decision 07-04-033 Ordering Paragraphs 6 & 7)
  - c. ConnectTo was more than 90 days late in paying its 2007 User Fees. (Decision 06-01-003, Ordering Paragraphs 5 & 7, Decision 07-04-033 Ordering Paragraphs 6 & 7)
5. ConnectTo is directed to submit their 2007 Annual Report and 2007 Affiliate Transaction Reports within 30 days after the effective date of this resolution. Failure to comply with the order may result in revocation of their CPCN.
6. In compliance with PU Code § 311 (g), notice letters were e-mailed on September 08, 2008 to all California ETC informing these parties that this draft resolution is available at the Commission's website <http://www.cpuc.ca.gov/static/documents/index.htm> and is available for public

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comments. In addition, CD informed these parties of the availability of the conformed resolution at the same website.

7. CD staff recommends that ConnectTo's Advice Letter seeking ETC designation be rejected.

**THEREFORE, IT IS ORDERED that:**

1. The request of ConnectTo Communications, Inc. to be designated as an Eligible Telecommunications Carrier in California is rejected.
2. ConnectTo is directed to submit their 2007 Annual Report and 2007 Affiliate Transaction Reports within 30 days after the effective date of this resolution. Failure to comply with the order may result in revocation of their CPCN

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on October 16, 2008. The following Commissioners approved it.

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PAUL CLANON  
Executive Director

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**ATTACHMENT A  
Compliance with Resolution T-17002  
and CPCN (D.06-01-033 and D.07-04-033)**

Company Name:	<b>ConnectTo Communications, Inc.</b>
Utility Number:	<b>U-6977-C</b>
Advice Letter #	<b>3</b>
Date Filed:	<b>1/9/08</b>

**ETC Pre-qualification Checklist**

ITEM	Complied? Yes or No
<b>1. Resolution T17002 Compliance</b>	
<b>a. Appendix A</b>	Yes
i. <u>Section I.A.</u> Service Area Map	Yes
ii. <u>Section I.B.</u> Designated Services <ul style="list-style-type: none"> <li>❖ Single party service</li> <li>❖ Voice grade access to the public switched network</li> <li>❖ Local usage</li> <li>❖ Dual Tone multi-frequency signaling or its functional equivalent</li> <li>❖ Access to operator services</li> <li>❖ Access to interexchange services</li> <li>❖ Access to directory assistance</li> <li>❖ Toll limitation for qualifying low-income consumers</li> </ul>	Yes to all
iii. <u>Section I.C.</u> List of services that they propose not to offer and extension of time.	N/A
iv. <u>Section I.D.</u> Waiver of the requirement that an ETC not disconnect lifeline for non-payment of toll.	N/A
v. <u>Section I.E.</u> Advertising plan	Yes
vi. <u>Section I.F.</u> Implement tariff changes via Advice Letter filing process.	Yes
vii. <u>Section I.G.</u> Request additional time to perform network upgrades.	N/A
viii. <u>Section II.A.</u> Commitment to Provide service	Yes
ix. <u>Section II.B.</u> 2-year service quality improvement plan	Yes
x. <u>Section II.C.</u> Ability to Remain Functional	Yes
xi. <u>Section II.D.</u> Consumer Protection	Yes
xii. <u>Section II.E.</u> Local Usage	No
xiii. <u>Section II.F.</u> Equal Access	Yes
xiv. <u>Section II.G.</u> Public Interest Determination	No
<b>b. Appendix B</b>	No <sup>3</sup>
i. <u>Section I.A.</u> Carrier information	N/A
ii. <u>Section I.B.</u> Basic Residential Service Rate	N/A
iii. <u>Section I.C.</u> Filing Dates	N/A
iv. <u>Section II.A.</u> A two-year service quality improvement plan, including, as appropriate, maps detailing progress towards meeting its prior two-year improvement plan, explanations	N/A

<sup>3</sup> ConnectTo does not seek support from the High Cost Fund program.

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ITEM	Complied? Yes or No
<p>of how much universal service support was received and how the support was used to improve service quality in each wire center for which designation was obtained, and an explanation of why network improvement targets, if any, have not been met. <u>If a designated ETC has submitted a five-year plan in a GRC application that has been approved by the Commission and is still in effect, the carrier may refer to its GRC filing and submit a progress report on the plan covered by the GRC.</u></p>	
<p>v. <u>Section II.B. Detailed information on outages in the ETC's network caused by emergencies, including the date and time of onset of the outage, a brief description of the outage, the particular services affected by the outage, the geographic areas affected by the outage, and steps taken to prevent a similar outage situation in the future. If an ETC has submitted a Major Service Interruptions report in accordance with CPUC Memorandum dated October 5, 1977, the ETC need not submit the same report. However, in their self-certification letter, the ETC should cite the date(s) of submission of the report; and</u></p>	N/A
<p>vi. <u>Section II.C. Information on the number of unfulfilled requests for service from potential customers for the past year and the number of complaints per 1,000 handsets or lines. If an ETC has submitted the Held Primary Service Order and Customer Trouble Reports in accordance with Sections 3.1 and 3.3 of G. O. 133-B, the ETC need not submit the same reports. However, in their self-certification letter, the ETC should cite the date(s) of submission of the reports.</u></p>	N/A
<p><b>2. CPCN Compliance (Decision 06-01-033 and Decision 07-04-033)</b></p>	
<p>a. 2007 Annual Report (D.06-01-003, O.P. 5 &amp; 7, D.07-04-033 O.P. 6 &amp; 7)</p>	No
<p>b. 2007 Annual Affiliate Transaction Report (D.06-01-003, O.P. 5 &amp; 7, D.07-04-033 O.P. 6 &amp; 7)</p>	No
<p>c. 2007 User Fee Payment (D.06-01-003, O.P. 5 &amp; 7, D.07-04-033 O.P. 6 &amp; 7.</p>	Late (July 2, 2008)