

Decision 04-05-049 May 27, 2004

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Evercom Systems, Inc., for a Certificate of Public Convenience and Necessity to Provide Switchless Resale of Interexchange Telecommunications Services within the State of California.

Application 03-11-026
(Filed November 13, 2003)

OPINION GRANTING A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

I. Summary

Evercom Systems, Inc. (Applicant) seeks a certificate of public convenience and necessity (CPCN) under Pub. Util. Code § 1001 for authority to resell interexchange telecommunications services.¹ By this decision, we grant the requested authority subject to the terms and conditions set forth below. In addition, Applicant will make a voluntary contribution to the State of California General Fund of \$11,000, in lieu of a fine, for operating without a CPCN.

II. Background

In prior decisions, we authorized the provision of competitive interexchange services by carriers meeting specified criteria.

Applicant, a Delaware corporation, seeks authority to resell interexchange services as a nondominant interexchange carrier (NDIEC).

¹ All section references are to the Public Utilities Code unless otherwise specified.

Applicant's principal place of business is located at 8201 Tristar Drive, Irving, Texas 75603.

III. Financial Qualifications

To be granted a CPCN, an applicant for authority to resell 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 interexchange carriers (IECs) in order to provide the proposed service.³ Applicant represented that it will not be required to provide deposits to other telecommunications carriers in order to provide the proposed service. In addition, Applicant provided a guarantee by its parent company, Evercom, Inc., and its ultimate parent company, Evercom Holdings, Inc., that demonstrates that it has sufficient cash to satisfy the financial requirement.

IV. Technical Qualifications

Applicants for NDIEC 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 that demonstrates that it possesses sufficient experience and knowledge to operate as a telecommunications provider.

² The financial requirement for NDIECs is contained in Decision (D.) 91-10-041.

³ The requirement for NDIECs, the requirement is found in D.93-05-010.

Applicant represents that no one associated with or employed by Applicant as an affiliate, officer, director, partner, or owner of more than 10% of Applicant was previously associated with any telecommunications carrier that filed for bankruptcy, or was sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order.

V. Tariffs

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

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 for the purpose of providing interexchange services. 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. Operation Without a CPCN

Applicant began providing services, prior to receipt of the CPCN sought in this application, in violation of § 1001. Applicant represents that it has been providing telecommunications services to prison inmates, under the same rules

that apply to payphone service providers, since the mid-1990s. In August 1998, Applicant began providing prepaid debit cards in certain confinement facilities.⁴ The cards provide inmates with an alternative to collect calls.

In August 2003, Applicant was informed by the staff of the Commission's Consumer Protection and Safety Division that use of the cards could require a CPCN. Applicant says that its counsel contacted the Commission's Legal Division in October 2003, and was informed that a CPCN was necessary. Applicant subsequently filed this application.

Applicant represents that it believed that it did not require a CPCN to provide prepaid debit cards, and filed the application as soon as it became aware of the requirement. It also represents that it has not expanded its debit card sales to other facilities since it became aware of the requirement.

Section 885 provides that:

“(a) Any entity offering the services of prepaid debit cards is subject to the registration requirements of Section 1013, ... unless that entity is certificated by the commission to provide telephone service. An entity subject to this requirement includes any of the following:

- (1) An entity that is an underlying interexchange carrier and offers and administers the services of prepaid debit cards.
- (2) An entity that purchases bulk time from an underlying interexchange carrier and thereby offers and administers the services of prepaid debit cards (that is the entity repackages and resells the time as prepaid debit cards).

⁴ Applicant initially provided the prepaid debit cards under the name Talton Invision, Inc. It began offering the prepaid debit cards under the name Evercom in January 1999.

- (b) Resellers of telephone prepaid debit cards who do not engage in any of the activities described in subdivision (a) are not subject to the registration requirement imposed by subdivision (a). Resellers that are not subject to the registration requirement imposed by subdivision (a) include both of the following:
 - (1) Retailers who only provide a marketing venue for telephone prepaid debit cards.
 - (2) Entities that only print information on telephone prepaid debit cards.
- (c) Telephone prepaid debit cards offered in a promotional manner or gratis shall not subject the provider to the registration requirement imposed by subdivision (a), unless the cards are issued in connection with the sale of related goods or services.”

Section 886 provides that entities “that are required to register, but have failed to do so, shall not offer the services of telephone prepaid debit cards,” and “shall be subject to fines or other sanctions” if they do so.

Applicant states that while it provides telephone prepaid debit cards, it does not purchase bulk time. Rather, it is invoiced monthly, and pays its underlying interexchange carrier for services rendered. For this reason, it represents that did not believe it needed a CPCN.

The operative provision of § 885 is the requirement that an entity “offering the services of prepaid debit cards is subject to the registration requirements of Section 1013, ... unless that entity is certificated by the commission to provide telephone service.” The examples in subsections (a)(1) and (2) do not limit the scope of the introductory provision. Applicant is reselling interexchange services without a CPCN. The prepaid debit card is merely a means for the

customer to pay for the service. As such, Applicant must obtain a CPCN either through the registration process, or through an application. As a result, Applicant violated § 885, and is subject to a fine pursuant to § 886.

It appears that Applicant's violation was inadvertent. However, Applicant could and should have known that it could not provide service until a CPCN had been granted. For the reasons discussed below, we will not deny the application because of the violation. In addition, we did not order Applicant to cease providing service to its existing customers in order to avoid interrupting service to those customers.

The Commission set the basis for future decisions assessing fines in D.98-12-075, Appendix B. In setting the amount of the fine, the Commission considers the severity of the offense, the utility's conduct, its financial resources, mitigating or exacerbating factors, and precedent. In this case, we find provision of service without a CPCN to be a serious offense because such violations cause harm to the integrity of the regulatory process. However, there is no evidence that the violation caused physical or serious economic harm to others. Applicant received gross revenues of approximately \$1.4 million from the unauthorized sale of the cards, of which approximately 30% was retained by the correctional facilities where the cards were sold. This amounts to about one percent of Applicant's gross California revenues. Therefore, we find that the violation was not especially severe. We find significant mitigation in the fact that; (1) the violation was unintentional, (2) Applicant took action to avoid further violations by seeking advice from our staff, (3) Applicant filed this application as a result of that advice, and (4) Applicant has not sought to expand its debit card sales to other facilities since it became aware of the violation.

The purpose of a fine is to deter future unlawful conduct by Applicant and others. Pursuant to § 2107, the Commission may impose fines ranging from \$500 to \$20,000 for each violation.

In D.04-01-039, the Commission imposed a fine of \$500 for providing service for less than a year without a CPCN. The applicant's resources in that case were approximately \$80,000. It billed customers \$19,000 for the first three months, and stopped adding new customers when it became aware of the violation.

In this case, Applicant has provided service without a CPCN for roughly five and a half years, and its resources and revenues from the unauthorized sales are substantially greater. Based on an examination of the financial resources of Applicant's parent and ultimate parent companies, filed under seal in this proceeding, we find that Applicant has access to substantially greater resources than the utility addressed in D.04-01-039. Therefore, a fine of \$2,000 for each year of operation without a CPCN would be sufficient to deter Applicant and others from future violations. Given the approximately five and a half year duration of the violation, a fine of \$11,000 would be appropriate.

In order to address any concerns the Commission may have regarding its operation without a CPCN, Applicant proposes to make a voluntary contribution to the State of California General Fund of \$11,000 in lieu of a fine. The contribution is equal to the amount of the appropriate fine. In addition, there would be some administrative efficiency in accepting the proposal rather than spending additional staff time processing a fine. Therefore, we will accept this proposal rather than impose a fine.

VIII. Conclusion

We conclude that the application conforms to our rules for authority to resell interexchange telecommunications services. Accordingly, we shall approve the application subject to the terms and conditions set forth herein.

IX. Request to File Under Seal

Applicant requests that the financial information filed with the application be kept under seal. The financial information consists of a guarantee by Evercom, Inc. and Evercom Holdings, Inc., and audited financial statements for Evercom, Inc. and Evercom Holdings, Inc. Applicant represents that the information is proprietary and sensitive. The information, if revealed, would place Applicant at an unfair business disadvantage. We have granted similar requests in the past and will do so here.

X. Categorization and Need for Hearings

In Resolution ALJ 176-3125 dated December 18, 2003, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. There is no apparent reason why the application should not be granted. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

XI. Comments on Draft Decision

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

XII. Assignment of Proceeding

Susan P. Kennedy is the Assigned Commissioner and Jeffrey P. O'Donnell is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. A notice of the filing of the application appeared in the Daily Calendar on December 5, 2003.

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. 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.

6. Applicant will not be required to provide deposits to other telecommunications carriers in order to provide the proposed service.

7. Applicant possesses sufficient experience and knowledge to provide telecommunications services.

8. As part of its application, Applicant submitted a draft of its initial tariff that contained the deficiencies identified in Attachment A to this decision. Except for these deficiencies, Applicant's draft tariffs complied with the Commission's requirements.

9. Applicant will not be constructing facilities.

10. Public disclosure of the financial information filed under seal would place Applicant at an unfair business disadvantage.

11. In August 1998, Applicant began providing prepaid debit cards in certain confinement facilities without a CPCN.

12. Applicant has not expanded its debit card sales to other facilities since it became aware of the violation.

13. Section 885 provides that:

“(a) Any entity offering the services of prepaid debit cards is subject to the registration requirements of Section 1013, ... unless that entity is certificated by the commission to provide telephone service. An entity subject to this requirement includes any of the following:

- (1) An entity that is an underlying interexchange carrier and offers and administers the services of prepaid debit cards.
 - (2) An entity that purchases bulk time from an underlying interexchange carrier and thereby offers and administers the services of prepaid debit cards (that is the entity repackages and resells the time as prepaid debit cards).
- (b) Resellers of telephone prepaid debit cards who do not engage in any of the activities described in subdivision (a) are not subject to the registration requirement imposed by subdivision (a). Resellers that are not subject to the registration requirement imposed by subdivision (a) include both of the following:
- (1) Retailers who only provide a marketing venue for telephone prepaid debit cards.
 - (2) Entities that only print information on telephone prepaid debit cards.
- (c) Telephone prepaid debit cards offered in a promotional manner or gratis shall not subject the provider to the registration requirement imposed by subdivision (a), unless the cards are issued in connection with the sale of related goods or services.”

14. Section 886 provides that entities “that are required to register, but have failed to do so, shall not offer the services of telephone prepaid debit cards,” and “shall be subject to fines or other sanctions” if they do so.

15. Applicant is reselling interexchange services without a CPCN.

16. The prepaid debit card is merely a means for the customer to pay for the service.

17. Applicant's violation was inadvertent.

18. There is no evidence that the violation caused physical or serious economic harm to others.

19. There is signification mitigation in the fact that; (1) the violation was unintentional, (2) Applicant took action to avoid further violations by seeking advice from our staff, (3) Applicant filed this application as a result of that advice, and (4) Applicant has not sought to expand its debit card sales to other facilities since it became aware of the violation.

Conclusions of Law

1. Applicant has the financial ability to provide the proposed service.

2. Applicant has sufficient technical expertise to operate as a telecommunications carrier.

3. Public convenience and necessity that Applicant's interexchange 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 public utilities.

7. Applicant's initial tariff filing should correct the deficiencies noted in its draft tariffs as indicated in Attachment A to this decision.

8. Applicant violated § 885, and is subject to a fine pursuant to § 886.

9. Applicant's proposal to make a voluntary contribution of \$11,000 in lieu of a fine should be accepted.

10. Applicant's request to file its financial information under seal should be granted for two years.

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

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity (CPCN) is granted to Evercom Systems, Inc. (Applicant) to resell interexchange services, subject to the terms and conditions set forth below.

2. Applicant is authorized to file tariff schedules for the provision of interexchange 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 Telecommunications Division. Applicant shall comply with its tariffs.

3. 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.

4. The corporate identification number assigned to Applicant, U-6888-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.

5. Applicant shall comply with the Commission's rules and regulations for nondominant interexchange carriers (NDIECs) set forth in 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.

6. Applicant shall comply with the requirements applicable to NDIECs included in Attachment B to this decision.

7. Applicant is not authorized to construct facilities.

8. Applicant shall make a voluntary contribution of \$11,000. It shall pay the contribution within 20 days from the effective date of this order by tendering to the Fiscal Office of the California Public Utilities Commission a check in the amount of \$11,000 made payable to the State of California General Fund. The CPCN granted herein shall be void if the contribution is not paid in full as provided herein.

9. Applicant's request to have the financial information filed with the application kept under seal is granted for two years from the effective date of this decision. During that period the information shall not be made accessible or disclosed to anyone other than the Commission staff except on the further order or ruling of the Commission, the Assigned Commissioner, the assigned Administrative Law Judge (ALJ), or the ALJ then designated as Law and Motion Judge.

10. If Applicant believes that further protection of the information kept under seal is needed, it may file a motion stating the justification for further withholding of the information from public inspection, or for such other relief as the Commission's rules may then provide. This motion shall be filed no later than one month before the expiration date.

11. This proceeding is closed.

This order is effective today.

Dated May 27, 2004, at San Francisco, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners

I dissent.

/s/ CARL W. WOOD
Commissioner

I reserve the right to file a dissent.

/s/ LORETTA M. LYNCH
Commissioner

I reserve the right to file a concurrence.

/s/ GEOFFREY F. BROWN
Commissioner

ATTACHMENT A

The following is the list of deficiencies filed by Evercom Systems, Inc. in A.03-11-026 to be corrected in its tariff compliance filing.

1. Sheet 8: Include the fee and surcharges shown in Attachment to this decision.
2. Sheet 10: Include the phone number and address of the Commission's Consumer Affairs Branch.
3. Sheet 11, Rule 10: Disputed Bills should be filled in. Because the debit cards may not work as advertised, there should be a paragraph stating that Evercom will review the charges on any disputed billing by a debit card. In addition, a paragraph should discuss the customer's right to call or write to Commission's Consumer Affairs Branch when Evercom has not satisfied the customer.
4. Sheet 13: Remove the phone number and address of the Commission's Consumer Affairs Branch.

(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 1.10% surcharge applicable to all intrastate services except or 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-16795, dated December 18, 2003, effective January 1, 2004);
 - b. The current 0.30% 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 Relay Service and Communications Devices Fund (Pub. Util. Code § 2881; D.98-12-073 and Resolution T-16816, dated January 22, 2004, effective February 1, 2004);
 - c. The user fee provided in Pub. Util. Code §§ 431-435, which is 0.11% of gross intrastate revenue (Resolution M-4810);
 - d. The current 0.17% 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-16793, dated December 18, 2003, effective January 1, 2004);

- e. The current 2.20% 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-16794, dated December 18, 2003, effective January 1, 2004); and
- f. The current 0.0% 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-16782, dated December 18, 2003).

3. Applicant is a nondominant interexchange carrier (NDIEC). The effectiveness of its future NDIEC tariffs is subject to the schedules set forth in Ordering Paragraph 5 of D.90-08-032 (37 CPUC2d 130 at 158), as modified by D.91-12-013 (42 CPUC2d 220 at 231) and D.92-06-034 (44 CPUC2d 617 at 618):

- “5. All NDIECs are hereby placed on notice that their California tariff filings will be processed in accordance with the following effectiveness schedule:
 - “a. Inclusion of FCC-approved rates for interstate services in California public utilities tariff schedules shall become effective on one (1) day’s notice.
 - “b. Uniform rate reductions for existing services shall become effective on five (5) days’ notice.
 - “c. Uniform rate increases, except for minor rate increases, for existing services shall become effective on thirty (30) days’ notice, and shall require bill inserts, a message on the bill itself, or first class mail notice to customers of the pending increased rates.
 - “d. Uniform minor rate increases, as defined in D.90-11-029, for existing services shall become effective on not less than five (5) working days’ notice. Customer notification is not required for such minor rate increases. “

- “e. 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.
- “f. Advice letter filings merely revising the text or location of text material which do not cause an increase in any rate or charge shall become effective on not less than five (5) days’ notice.”

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 Telecommunications 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 Telecommunications Division in writing of the date interLATA service is first rendered to the public within five days after service begins, and again within five days after intraLATA service begins.¹

¹ California is divided into ten Local Access and Transport Areas (LATAs), each containing numerous local telephone exchanges. InterLATA describes services,

Footnote continued on next page

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 Telecommunications 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 Telecommunications 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 Telecommunications 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 Telecommunications 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.

revenues and functions relating to telecommunications originating within one LATA and terminating in another LATA. IntraLATA describes services, revenues and functions relating to telecommunications originating within a single LATA.

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

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 Telecommunications Division's Bankruptcy Coordinator.

(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 §§ 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 Section I-F of Decision 93-02-019.

6. Utilities that do not have affiliated entities must file, in lieu of the annual transaction report, an annual statement to the commission stating that the utility had no affiliated entities during the report period. This statement must be signed by a corporate officer of the utility, stating under penalty of perjury under the laws of the State of California (CCP 2015.5) that the annual report is complete and accurate with no material omissions.

(END OF ATTACHMENT D)