

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
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December 17, 2021

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Ratesetting

TO PARTIES OF RECORD IN APPLICATION 21-06-014:

This is the proposed decision of Administrative Law Judge Adeniyi Ayoade. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's January 27, 2022 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, ex parte communications are prohibited pursuant to Rule 8.2(c)(4).

/s/ ANNE E. SIMON

Anne E. Simon

Chief Administrative Law Judge

AES:lil

Attachment

Decision PROPOSED DECISION OF ALJ AYOADE (Mailed 12/17/2021)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Fiber Unity, Inc. for a
Certificate of Public Convenience and
Necessity to Provide Full
Facilities-Based and Resold
Competitive Local Exchange and
Non-Dominant Interexchange Service.

Application 21-06-014

**DECISION GRANTING FIBER UNITY, INC. A CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY IN ORDER TO PROVIDE FULL
FACILITIES-BASED AND RESOLD COMPETITIVE LOCAL
EXCHANGE AND INTEREXCHANGE SERVICES**

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Attachment A – Tariff Deficiencies

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**DECISION GRANTING FIBER UNITY, INC. A CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY IN ORDER TO PROVIDE FULL
FACILITIES-BASED AND RESOLD COMPETITIVE LOCAL
EXCHANGE AND INTEREXCHANGE SERVICES**

Summary

Pursuant to Public Utilities Code Section 1001, we grant Fiber Unity, Inc. a certificate of public convenience and necessity to provide full facilities-based and resold competitive local exchange and interexchange services in California subject to the terms and conditions set forth in the Ordering Paragraphs.

This proceeding is closed.

1. Background

On June 18, 2021, Fiber Unity, Inc. (Fiber Unity, or “Applicant”), a California corporation, filed an application for a certificate of public convenience and necessity (CPCN) to provide full facilities-based and resold competitive local exchange services in the service territories of Pacific Bell Telephone Company d/b/a AT&T California (AT&T California), Frontier California Inc. (Frontier California), Citizens Telecommunications Company of California, Inc. d/b/a Frontier Communications of California (Frontier Communications), and Consolidated Communications of California Company (Consolidated Communications, formerly SureWest Telephone), and full facilities-based resold interexchange services throughout California (Application).

Fiber Unity proposes to provide full facilities-based and resold competitive local exchange voice, data and video services statewide. Applicant intends to provide services to residential and small business customers initially in the San Diego area, using services and facilities of other carriers or its own facilities, such

as switches, routers and associated electronics, which Applicant will install and/or utilize facilities in existing structures.¹

Fiber Unity's principal place of business is located at 5872 Owens Avenue, Suite 200, Carlsbad, CA 92008.

The Application appeared on the Commission's public Calendar on June 22, 2021. No protest to the Application was received by the Commission.

A prehearing conference (PHC) was held on August 25, 2021. At the PHC, Fiber Unity confirmed that its Application included an error and clarified that it is not requesting an Eligible Telecommunications Carrier designation from the Commission in this Application and it is not an RDOF (Rural Digital Opportunity Fund) recipient.² The Assigned Commissioner's Scoping Memo and Ruling (Scoping Memo) was issued on September 22, 2021, addressing such matters as issues of law and fact in the proceeding, the need for hearing, scheduling for resolving the matter, and other matters deemed necessary.

On November 10, 2021, the Administrative Law Judge (ALJ) issued a ruling directing Applicant to provide sworn affidavits from its principal officers in support of its Application (Ruling). Fiber Unity provided the requested information in its Response filed with the Commission on November 17, 2021 (Response).

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.

¹ Application, at 3.

² Prehearing Conference Transcript 8:13-17.

Util. Code § 234(a) as “every corporation or person owning, controlling, operating, or managing any telephone line for compensation within this state.”

In its Application, Fiber Unity indicates that it proposes to provide full facilities-based and resold competitive local exchange voice, data and video telecommunications services statewide, and further acknowledges that “Fiber Unity will provide telephone services under the state law definitions above and that it will be subject to the Commission’s jurisdiction.” Accordingly, Fiber Unity is a telephone corporation and a public utility subject to our jurisdiction.

3. Limited versus Full Facilities-Based CPCN

In its application, while Fiber Unity requests Full Facilities-Based CPCN authority, it also indicates that it “does not yet have detailed deployment plans, and therefore does not know the specific locations where it will construct facilities.”³ Applicant contends that the Commission has previously granted full facilities-based authority to other carriers looking to undertake minor ground-disturbing activities, while not yet having specific construction locations for their full facilities-based constructions, as those are often driven by customer demand.

Accordingly, Fiber Unity requests that it be granted the full facilities-based CPCN authority herein requested, and be allowed to utilize the Commission’s Energy Division’s 21 day expedited environmental review procedure (Commission’s Expedited Review Procedure) for expedited review of its projects once Fiber Unity has identified locations for construction of network facilities.⁴ If granted, Fiber Unity will seek review by the Energy Division through the

³ Application, at 7.

⁴ Citing, Decision (D.)17-02-008; D.13-07-039; D.08-12-027; among others.

Commission's Expedited Review Procedure before engaging in ground disturbing activities.

4. California Environmental Quality Act (CEQA)

Pursuant to CEQA and Rule 2.4⁵ 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 environmental quality is restored or enhanced to the fullest extent possible under CEQA.

In its Application and the submitted Proponent's Environmental Assessment (PEA), as Exhibit D to the Application, Fiber Unity's indicates that its proposed construction activities will generally include "relatively minor ground-disturbing activities, including: placement of fiber optic facilities in aerial and underground conduit configurations; installation or replacement of utility poles or conduit; installation of underground vaults; trenching, boring and grading." Fiber Unity explains that much of the construction will take place inside public rights of way, but occasionally, may take place on private property in existing easements. (Application, Section 7, at 6).

Fiber Unity contends that its proposed construction activities: 1) are similar to those undertaken by other carriers that the Commission has ruled are categorically exempt from CEQA;⁶ 2) are the types exempt from CEQA review;⁷ 3) fall within CEQA Exemptions 3, 4, and 32; or 4) includes boring and

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

⁶ Citing, D.06-04-063.

⁷ See, D. 13-07-0393.

installation of new conduit in an existing right-of-way⁸ and placing aerial fiber on existing utility poles which the Commission has found are activities exempt from CEQA.⁹

These activities fall within the following classes of projects that are exempt from CEQA and for which neither an Environmental Impact Report nor a Negative Declaration is required.

- Class 1 Exemption: operation, repair, maintenance, leasing or minor alteration of existing public or private structures and facilities, with negligible or no expansion of an existing use. This includes existing facilities used to provide public utility services. (14 CCR § 15301.)
- Class 2 Exemption: replacement or reconstruction of existing structures and facilities where the new structure will be located in the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced. (14 CCR § 15302.)
- Class 3 Exemption: construction including water main, sewage, electrical, gas and other utility extensions of reasonable length to serve such construction. This includes the construction of limited numbers of new small facilities or utility extensions. (14 CCR § 15303.)
- Class 4 Exemption: minor public or private alterations in the condition of land, water, and/or vegetation which do not involve the removal of healthy, mature, scenic trees except for forestry and agricultural purposes. Among other things, this includes filling of earth into previously excavated land with material compatible with the natural features of the site, and minor trenching and backfilling where the surface is restored. (14 CCR § 304.)

⁸ Citing, D.03-12-017.

⁹ Citing, D.13-07-039.

- Class 32 (“in fill”) Exemption: applies where: i) the projects are consistent with the applicable general plan designation and applicable general plan policies and applicable zoning designation and regulation; ii) proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; iii) the project site has no value as habitat for endangered, rare or threatened species; iv) approval of the project would not result in significant effects relating to traffic, noise, air quality or water quality; and v) the site can be adequately served by all required utilities and public services. (14 CCR § 15332.)

Fiber Unity’s proposed activities involves construction of reasonably short utility extensions and installation of a limited number of poles (Class Exemption 3); ground disturbing activity limited to minor trenching and backfilling (Class Exemption 4); boring and installation of new conduit in an existing right-of-way; installation of fiber cables on existing poles which the Commission has also found to meet exemptions under CEQA; and the construction will occur in existing right-of-way and/or in heavily-developed urban and suburban areas meeting the criteria for urban in-fill (Class Exemption 32). Exemption of these activities is consistent with Commission precedent, and Fiber Unity’s proposed new construction activities are similar to those undertaken by other carriers that we have decided are categorically exempt from CEQA.¹⁰

Because Fiber Unity does not yet know its exact future constructions needs or locations, Fiber Unity requests approval to utilize the Commission’s Expedited Review Procedure for expedited review of its projects once it is aware of specific

¹⁰ See D.06-04-063 (*ClearLinx Network Corporation*); D.06-04-067 (*CA-CLEC LLC*).

needs and site(s) in which it plans construction. (See PEA, Exhibit D to the Application).

The expedited review procedure has been approved for other carriers, and it is appropriate here also. By establishing this expedited review process, the Commission is able to review the information on a specific project to confirm that it is categorically exempt from CEQA; and if needed explain why further environmental review may be required.

Using this procedure, the Commission's Energy Division CEQA Review staff (review staff) will be able to expedite CEQA review of Applicant's future construction projects and determine if any requested exemption is appropriate for the type of construction proposed and if so, thus categorically exempt or otherwise. In the event the review staff determined that any proposed construction activities do not fall within an exemption, review staff will give Fiber Unity its determination, and give it an opportunity to modify its proposed construction activities or proceed with a needed CEQA application and reviews.

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

- Fiber Unity will provide the Commission's Energy Division with:
 - A detailed description of the proposed project, including:
 - Customer(s) to be served;
 - The precise location of the proposed construction project; and
 - Regional and local site maps.
 - A description of the environmental setting, to include at a minimum:

- Cultural, historical, and paleontological resources;
- Biological resources; and
- Current land use and zoning.
- A construction workplan, to include:
 - Commission Preconstruction Survey Checklist – Archaeological Resources;
 - Commission Preconstruction Survey Checklist – Biological Resources;
 - A detailed schedule of construction activities, including site restoration activities;
 - A description of construction/installation techniques;
 - A list of other agencies contacted with respect to siting, land use planning, and environmental resource issues, including contact information; and
 - A list of permits required for the proposed project.
- A statement of the CEQA exemption(s) applicable to the proposed project; and
- Documentation and factual evidence sufficient to support a finding that the claimed exemption(s) is (are) applicable.
- The Energy Division will review Fiber Unity's submission for the proposed project to confirm that the claimed exemption(s) from CEQA are applicable.
- Within 21 days from the date of Fiber Unity'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 the PEA submitted with the Application and find that:

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

Fiber Unity 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 the 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.

5. Financial Qualifications

To be granted a CPCN, an applicant for authority to provide full facilities-based and resold competitive 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.¹¹ In its Application, Fiber Unity provided a pro forma balance sheet and profit and loss statement, included as Confidential Exhibit H with its Application showing that Fiber Unity has a minimum of \$100,000 cash or cash equivalent, reasonably liquid and readily available to meet the firm's start-up expenses; and further provided a signed Guaranty attesting to Fiber Unity's Financial ability as Confidential Exhibit G to the Application. The documentation provided shows that Fiber Unity possesses a minimum of \$100,000 that is reasonably liquid and available, and thus it has demonstrated that it has sufficient funds to meet its start-up expenses and has fulfilled this requirement. The Fiber Unity's financial documentation will be subject to verification and review by the Commission for one year to ensure that such funds are available.

In addition to demonstrating financial fitness, Fiber Unity must also demonstrate it has an additional amount equal to the deposit required by AT&T

¹¹ The financial requirement for Competitive Local Exchange Carriers (CLEC) is contained in D.95-12-056, Appendix C. The financial requirement for Non-Dominant Interexchange Carriers (NDIEC) is contained in D.91-10-041.

California, Frontier California, Frontier Communications, and Consolidated Communications would be available to Fiber Unity for one year following certification.¹² In its Application, Fiber Unity explained that it does not yet have an Interconnection Agreement or other agreements with other carriers to purchase services, but that it anticipates that the requirement for a deposit (if any) will be negotiated as part of such agreements, and such a deposit “would be no more than \$10,000.” Based on its Application, Fiber Unity proposed to initially interconnect with AT&T California, Frontier California, Frontier Communications, and Consolidated Communications. Accordingly, in addition to its ability to provide the \$100,000 start-up expenses discussed above, Fiber Unity has provided documentation that it has the funds available for the deposit as may be required by AT&T California, Frontier California, Frontier Communications, and Consolidated Communications.

6. 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.¹³ Fiber Unity supplied biographical information on its management in Exhibit J to its application that demonstrates it has sufficient expertise and training to operate as a telecommunications provider.

¹² The requirement for Competitive Local Carrier (CLC) applicants to demonstrate that they have additional financial resources to meet any deposits required by underlying Local Exchange Carriers (LEC) 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.

¹³ D.95-12-056 at Appendix C, Rule 4.A.

In its November 17, 2021 Response to the ALJ,¹⁴ Fiber Unity verified that no one associated with or employed by Fiber Unity as an affiliate, officer, director, partner, or owner of more than 10 percent of Fiber Unity, or anyone acting in a management capacity for Fiber Unity:

- (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 (to his/her knowledge) 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; or (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.¹⁵

Also, to the best of Fiber Unity's knowledge, neither Fiber Unity, or any affiliate, officer, director, partner, nor owner of more than 10% of Fiber Unity, or any person acting in such capacity whether or not formally appointed, is being,

¹⁴ See Fiber Unity's Response to the ALJ's November 10, 2021 Ruling Requesting Supplemental Information from Applicant.

¹⁵ These certifications are required by D.13-05-035, Ordering Paragraph 14.

or has been investigated by the Federal Communications Commission (FCC) or any law enforcement or regulatory agency for failure to comply with any law, rule or order.¹⁶

For the above reasons, we find that Fiber Unity is in compliance with the requirements of D.13-05-035.

7. Tariffs

Fiber Unity has requested detariffed status and may be exempt from the requirement to file tariffs provided Fiber Unity complies with the consumer protection rules identified in D.98-08-031.¹⁷

In its Application, Fiber Unity indicated that it does not intend to offer basic telephone service or switched access, but that its services would be offered through “individual case basis contracts” on a “non- discriminatory basis to similarly situated customers,” while acknowledging that it will need to file a tariff if it wishes to offer basic residential service or switched access to California customers.¹⁸ Fiber Unity may offer services on a nontariffed basis as it does not intend to offer residential basic local exchange service.

8. 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.¹⁹ As Exhibit E to the Application, Fiber Unity provided a map of the location of its proposed service territory, in compliance with this requirement.

¹⁶ *Id.*

¹⁷ Detariffed status is not available for carriers providing residential competitive local exchange service.

¹⁸ Application, at 10.

¹⁹ D.95-12-056 at Appendix C, Rule 4.F.

9. 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. Fiber Unity states that it is not aware of any reportable matters pursuant to GO 104-A, Section 2. Fiber Unity, therefore, has nothing to report under this rule.

On a going forward basis, Fiber Unity must file all reports required of a public utility under Commission jurisdiction.

10. Expected Customer Base

Fiber Unity provided its estimated customer base for the first and fifth years of operation in confidential Exhibit I of its Application. Therefore, Fiber Unity has complied with this requirement.

11. Request for Treatment as a NDIEC

Fiber Unity requests treatment as a non-dominant interexchange carrier, 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. While the Commission has granted exemption from §§ 816 - 830 to others, exemption from §§ 851 - 854 is not commonly granted and an exception is not warranted here. 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. Applicant requests to provide service to business customers only. We grant Applicant's request for non-dominant interexchange carrier status, which provides an exemption from

Pub. Util. Code §§ 816-830 concerning stocks and security, provided that it follows all rules detailed in the above referenced decisions.²⁰

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

As permitted in D.99-02-038, Fiber Unity requests exemption from the requirement to maintain its books and records according with the USOA requirements USOA.²¹ In D.99-02-038, the Commission relieved NDIECs, non-dominant CLECs or CLCs from certain accounting requirements. According to D.99-02-038, “CLCs . . . and NDIECS which are not part of an [incumbent local exchange carrier] ILEC corporate entity could be relieved of the obligation to keep their books and records for their CLC and NDIEC operations in accordance with the USOA pursuant to Title 47, Code of Federal Regulations, Part 32,” but instead be required to keep their books and records in accordance with GAAP [Generally Accepted Accounting Principles].

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

²⁰ 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.

²¹ USOA was developed by the FCC and is set forth in Title 47, Code of Federal Regulations, Part 32. California adopted a version of the FCC’s USOA in Order Instituting Investigation 87-02-023.

Pursuant to D.99-02-038, the Commission grants Fiber Unity the requested relief from the requirements to keep its books of account in conformance with USOA. In granting this relief, the Commission requires Fiber Unity to maintain its books in accordance with GAAP; and further requires Fiber Unity to comply with Section 581 by making its accounting books available to the Commission upon demand.

13. 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. The Commission is satisfied that Fiber Unity will meet the Commission's minimum safety goals and expectations of CLECs because: (1) Fiber Unity has taken steps to meet the financial requirements as set forth in this decision for a facilities-based CLEC, and (2) Fiber Unity 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."

14. Conclusion

We conclude that the application conforms to our rules for certification as a competitive local exchange and interexchange carrier. Accordingly, we grant Fiber Unity a CPCN to provide full facilities-based and resold competitive local exchange services in the service territories of AT&T California, Frontier California, Frontier Communications, and Consolidated Communications, and full facilities-based and resold 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 Fiber Unity and corresponding obligations. Fiber Unity receives authority to operate in the prescribed service territory, and this authority enables Fiber Unity, pursuant to Section 251 of the 1934 Communications Act, as amended by the 1996 Telecommunications Act (47 U.S.C. § 251), to interconnect with telecommunications carriers.²² This authority also enables Fiber Unity to obtain access to public rights-of-way in California as set forth in D.98-10-058, and approved in *T-Mobile West LLC v. City and County of San Francisco*, 6 Cal. 5th 1107 (2019) - subject to the CEQA requirements set forth in this decision.

In return, Fiber Unity is obligated to comply with all Public Utilities Code provisions, Commission rules, General Orders, and decisions applicable to telephone corporations providing approved services. The applicable statutes, rules, General Orders, and decisions include, but are not limited to consumer protection rules, tariffing, and reporting requirements. Moreover, Fiber Unity is obligated to pay all Commission prescribed user fees and public purpose program surcharges as set forth in the 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.”

²² The California Public Utilities Code uses the term “telephone corporation.” Its counterpart in federal law is a “telecommunications carrier.”

15. Request to File Under Seal

Pursuant to Rule 11.4 of the Commission's Rules of Practice and Procedure, Fiber Unity filed a motion for leave to file Confidential Exhibit I (Applicant's estimated customers for the first and fifth year); Confidential Exhibit F (Applicant's projected operating costs and revenues); Confidential Exhibit G (Signed Guaranty attesting to Fiber Unity's Financial ability); and Confidential Exhibit H (Applicant's profit and loss statements, and balance sheet), to the Application under seal. Fiber Unity represents that the information is sensitive, and disclosure could place Fiber Unity at an unfair business disadvantage. We have granted similar requests in the past and do so here.

16. Comments on Proposed Decision

The proposed decision of ALJ Ayoade in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____ by _____.

17. Assignment of Proceeding

Darcie L. Houck is the assigned Commissioner and Adeniyi A. Ayoade is the assigned ALJ in this proceeding.

Findings of Fact

1. Fiber Unity is a telephone corporation and a public utility as defined in Pub. Util. Code § 234(a) and § 216(a).
2. Fiber Unity's proposed construction activities appear to fall within one or more CEQA categorical exemptions.
3. Applicant proposed to use the Energy Division 21-day CEQA exemption process where appropriate.

4. Fiber Unity's proposed construction activities appear to fall within one or more CEQA categorical exemptions.

5. Fiber Unity 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. Fiber Unity has sufficient additional cash or cash equivalent to cover deposits that may be required by other telephone corporations in order to provide the proposed service.

7. Fiber Unity'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 Fiber Unity as an affiliate, officer, director, partner, agent, or owner (directly or indirectly) of more than 10 percent of Fiber Unity, or anyone acting in a management capacity for Fiber Unity:

- (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; or
- (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.

9. To the best of Fiber Unity's knowledge, neither Fiber Unity, or any affiliate, officer, director, partner, nor owner of more than 10 percent of Fiber Unity, or any person acting in such capacity whether or not formally appointed, is being, or has been investigated by the FCC or any law enforcement or regulatory agency for failure to comply with any law, rule or order.

10. Fiber Unity requested and is eligible for exemption from tariffing requirements and must observe the consumer protection rules adopted in D.98-08-031.

11. Fiber Unity's requested relief from the requirement to keep its books of account in conformance with USOA may be granted so far as Applicant is required to maintain its books in accordance with GAAP, and make its accounting books available to the Commission upon demand.

12. Fiber Unity provided a map of the location of its proposed service territory.

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

14. Fiber Unity provided an estimate of its customer base for the first and fifth year of operation.

15. Pursuant to Rule 11.4, Fiber Unity filed motions for leave to file confidential materials under seal, including confidential: Exhibit I (Applicant's estimated customers for the first and fifth year); Exhibit F (Applicant's projected operating costs and revenues); Exhibit G (Signed Guaranty attesting to Fiber

Unity's Financial ability); and Exhibit H (Applicant's profit and lost statements, and Balance sheet), to the Application.

Conclusions of Law

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

2. Fiber Unity should be allowed to use the Energy Division 21-day CEQA exemption process for its future construction projects.

3. Fiber Unity, once granted a CPCN, should be subject to the applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

4. Fiber Unity should be granted an exemption from the requirement to file tariffs.

5. Fiber Unity should be granted an exemption from the requirement to maintain its books of accounts in conformance with USOA pursuant to D.99-02-038.

6. Fiber Unity's motion to file under seal its Exhibits F, G, H and I to the application, should be granted for three years.

7. Fiber Unity 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.

8. This proceeding should be closed.

O R D E R**IT IS ORDERED** that:

1. A certificate of public convenience and necessity is granted to Fiber Unity, Inc. to provide full facilities-based and resold competitive local exchange services in the territories of Pacific Bell Telephone Company d/b/a AT&T California, Frontier California Inc., Citizens Telecommunications Company of California, Inc. d/b/a/ Frontier Communications of California, and Consolidated Communications of California Company, and interexchange services in California, subject to the terms and conditions in this decision.
2. Fiber Unity, Inc. is authorized to provide its competitive full facilities-based and resold local exchange telecommunications services on a detariffed non-discriminatory basis, and Fiber Unity, Inc. is required to comply with the Telecommunications Rules regarding the provision of detariffed services by telephone corporations as contained in General Order 96-B and authorized in Decision 07-09-019.
3. Fiber Unity, Inc. is exempt from the requirement to maintain its books of account in conformance with the Uniform System of Accounts pursuant to Decision 99-02-038.
4. Fiber Unity, Inc. is authorized to maintain its books in accordance with the Generally Accepted Accounting Principles, and make its accounting books available to the Commission upon demand pursuant Section 581.
5. The corporate identification number assigned to Fiber Unity, Inc., U7389C, must be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

6. Fiber Unity, Inc. must file, in this docket, a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this decision. Written acceptance filed in this docket does not reopen the proceeding.

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

8. Fiber Unity, Inc. must notify the Director of the Communications Division of the date that competitive local exchange service is first rendered to the public, no later than five days after service first begins, by email to cdcompliance@cpuc.ca.gov.

9. Fiber Unity, Inc. must obtain a performance bond of at least \$25,000 in accordance with Decision 13-05-035. The performance bond must be a continuous bond (*i.e.*, there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within five days of acceptance of its certificate of public convenience and necessity authority, Fiber Unity, Inc. must submit a Tier-1 Advice Letter to the Communications Division, containing a copy of the license holder's executed bond, and submit a Tier-1 Advice Letter annually, but not later than March 31 of each year, with a copy of the executed bond.

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

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, Fiber Unity, Inc. 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. Fiber Unity, Inc. must report intrastate revenue and pay the resulting public purpose program surcharges specified in Attachment B monthly, through the Commission's proprietary Telecommunications and User Fee Filing System (TUFFS) even if there are no revenues (\$0) and resulting surcharges to report and remit. Communications Division must issue a compliance directive to the Fiber Unity, Inc. primary contact, providing directions for reporting and remitting surcharges and the User Fee through the TUFFS system.

13. Fiber Unity, Inc. must pay an annual minimum user fee of \$100 or at the standard user fee remittance rate applied to the gross intrastate revenue, whichever is greater. The standard user fee remittance rate is posted on the Commission's webpage. Under Public Utilities Code Section 405, carriers that are in default of reporting and submitting user fees more than 30 days after the quarterly user fee payment due dates of January 15th, April 15th, July 15th, and October 15th, or more than 30 days after the January 15th due date for those utilities paying the annual minimum user fee of \$100, will be subject to penalties including suspension or revocation of their authority to operate in California.

14. Prior to initiating service, Fiber Unity, Inc. must provide the Commission's Consumer Affairs Branch with the name(s), address(es), e-mail address, and telephone number(s) of its designated contact person(s) for purposes of resolving consumer complaints. This information must be updated if the name(s), address(es), or telephone number(s) change, or at least annually.

15. Prior to initiating service, Fiber Unity, Inc. must provide the Commission's Communications Division with the name(s), address(es), e-mail address, and telephone number(s) of its designated regulatory/official contact person(s). This information must be provided electronically, using the "Contact Information Request Update" form at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone> under Service Provider Requirements and Programs. This information must be updated if the name or telephone number changes, or at least annually by June 1 of each calendar year.

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

17. Fiber Unity, Inc. must submit an annual report to the Director of the Communications Division, by email to 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 Commission's Energy Division is authorized to review, process, and act upon Fiber Unity's requests for a determination that its full facilities-based construction activities are exempt from the requirements of the California Environmental Quality Act.

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

- a. A detailed description of the proposed project, including:
 - i. Customer(s) to be served;
 - ii. The precise location of the proposed construction project; and
 - iii. Regional and local site maps.
- b. A description of the environmental setting, including at a minimum:
 - i. Cultural, historical, and paleontological resources;
 - ii. Biological resources; and
 - iii. Current land use and zoning.
- c. A construction workplan, including:
 - i. Commission Preconstruction Survey Checklist – Archaeological Resources;
 - ii. Commission Preconstruction Survey Checklist – Biological Resources;
 - iii. A detailed schedule of construction activities, including site restoration activities;
 - iv. A description of construction/installation techniques;
 - v. A list of other agencies contacted with respect to siting, land use planning, and environmental resource issues, including contact information; and
 - vi. A list of permits required for the proposed project.
- d. A statement of the California Environmental Quality Act exemption(s) claimed to apply to the proposed project;
- e. Documentation supporting the finding of exemption from California Environmental Quality Act; and
- f. The Energy Division will then review the submittal and notify Fiber Unity, Inc. of either its approval or its denial of Fiber Unity, Inc.'s claim for exemption from California Environmental Quality Act review within 21 days from the time that Fiber Unity, Inc.'s submittal is complete.

20. If the Energy Division approves Fiber Unity, Inc.'s claimed California Environmental Quality Act (CEQA) exemption(s), the review 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 disapproves Fiber Unity, Inc.'s claimed CEQA exemptions, the review staff shall issue to Fiber Unity, Inc. a letter which states the specific reasons that the claimed CEQA exemptions do not apply to the proposed project.

21. If the Energy Division disapproves Fiber Unity, Inc.'s claimed California Environmental Quality Act (CEQA) exemption(s), Fiber Unity, Inc. shall 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 full facilities-based construction activities.

22. Fiber Unity, Inc.'s motion to file under seal its Exhibits F, G, H and I to its Application is granted for a period of three years after the 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 Fiber Unity, Inc. believes that it is necessary for this information to remain under seal for longer than three years, Fiber Unity, Inc. may file a new motion showing good cause for extending this order by no later than 30 days before the expiration of this order.

23. Application 21-06-014 is closed.

This order is effective today.

Dated _____, at San Francisco, California.

ATTACHMENT A

TARIFF DEFICIENCIES

*"This Attachment is Intentionally Left Blank
(DeTariff Granted)"*

(END OF ATTACHMENT A)

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

1. Applicant must file, in this docket with reference to this decision number,¹ a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order.

2. The certificate granted and the authority to render service under the rates, charges, and rules authorized will expire if not exercised within 12 months of the date of this 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, carriers authorized to operate in California shall report intrastate revenue and remit the resulting public purpose program surcharges specified as follows monthly, through the Commission's proprietary Telecommunications and User Fee Filing System (TUFFS) even if there is no intrastate revenue (\$0) and resulting surcharges to report and remit. Communications Division shall issue a compliance directive to the carrier's primary contact, providing directions for reporting and remitting surcharges and the User Fee through TUFFS.

- a. The Universal Lifeline Telephone Service Trust
Administrative Committee Fund (Pub. Util. Code § 277);
- 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 § 275.6);
D.96-10-066, at 3-4, App. B, Rule 1.C);
- d. The California High-Cost Fund-B (Pub. Util. Code § 276.5),
D.96-10-066, at 191, App. B, Rule 6.F.; D.07-12-054);

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

- e. The California Advanced Services Fund (Pub. Util. Code § 281; D.07-12-054);
- f. The California Teleconnect Fund (Pub. Util. Code § 280; D.96-10-066, at 88, App. B, Rule 8.G);
- g. The User Fee provided in Pub. Util. Code §§ 431-435. The minimum annual User Fee is \$100, as set forth in D.13-05-035.

Note: These fees change periodically. In compliance with Resolution T-16901, December 2, 2004, Applicant must check the joint tariff for surcharges and fees filed by Pacific Bell Telephone Company (d/b/a 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 <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/telecommunications-surcharges-and-user-fees/surcharge-rates>.

- i. Carriers must report and remit CPUC telephone program surcharges online using the CPUC TUFFS. Information and instructions for online reporting and payment of surcharges are available at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/telecommunications-surcharges-and-user-fees>. To request a user ID and password for TUFFS online filing and for questions, please e-mail Telcosurcharge@cpuc.ca.gov.
- ii. Carriers must submit and pay the PUC User Fee (*see* Item 3.g above) quarterly, through the Commission's TUFFS system within 15 days after the end of each calendar quarter (December 31, March 31, June 30 and September 30) and by the 30th day after the 15-day reporting and payment requirement to avoid a one-time 25% penalty. For questions regarding the User Fee, please email userfees@cpuc.ca.gov.

4. If Applicant is a competitive local exchange carrier, the effectiveness of its future competitive local exchange carrier 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, the effectiveness of its future non-dominant interexchange carrier tariffs is subject to the requirement of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).

6. Tariff filings must reflect all fees and surcharges to which Applicant is subject, as reflected in Item 3 above.

7. Applicant must obtain a performance bond of at least \$25,000 in accordance with Decision 13-05-035. The performance bond must be a continuous bond (*i.e.*, there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within five days of acceptance of its certificate of public convenience and necessity authority, Applicant must submit a Tier-1 Advice Letter to the Communications Division, containing a copy of the license holder's executed bond, and submit a Tier-1 Advice Letter annually, but not later than March 31, with a copy of the executed bond.

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

9. Applicants providing local exchange service must submit a service area map as part of their initial tariff to the Communications Division.

10. Prior to initiating service, Applicant must provide the Commission's Consumer Affairs Branch with the name(s), address(es), e-mail address(es) and telephone number(s) of its designated contact person(s) for purposes of resolving consumer complaints. This information must be provided electronically, using the "Contact Information Request Update" form found at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone> under Service Provider Requirements and Programs. This information must be updated if the name(s), address(es), and telephone number(s) change, or at least annually by June 1 of each calendar year.

11. In addition, Applicant must provide the Commission's Communications Division with the name(s), address(es), and telephone number(s) of its designated regulatory/official contact persons(s). This information must be provided electronically, using the "Contact Information Request Update" form found at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone> under Service Provider Requirements and Programs. This information must be updated if the name(s), address(es), and telephone number(s) change, or at least annually by June 1 of each calendar year.

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

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 of its compliance in writing, by email to cdcompliance@cpuc.ca.gov.

19. If Applicant is 90 days or more late in submitting 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 issue a citation pursuant to Resolution T-17601. Failure to comply with the issued citation or timely appeal the citation may result in a revocation of the company's operating authority and/or a referral to the CPUC Consumer Protection and Enforcement Division (CPED) for enforcement action, which could result in additional fines, penalties, or other sanctions.

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

21. Applicant is exempt from Pub. Util. Code §§ 816-830.
22. If Applicant decides to discontinue service or file for bankruptcy, it must immediately notify the Communications Division's Bankruptcy Coordinator.
23. 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**

In addition to the annual reports requirement pursuant to General Order 104-A, submit the following information electronically via email to cdcompliance@cpuc.ca.gov 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 any questions concerning this report, please send an email to cdcompliance@cpuca.ca.gov with a subject line that includes: "CD Annual Reports."

(END OF ATTACHMENT C)

ATTACHMENT D
CALENDAR YEAR AFFILIATE TRANSACTION REPORT

Submit the following information electronically via e-mail to cdcompliance@cpuc.ca.gov no later than May 1st of the year following the calendar year for which the annual affiliate transaction 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.

For any questions concerning this report, please send an e-mail to cdcompliance@cpuca.ca.gov with a subject line that includes: "CD Annual Reports."

(END OF ATTACHMENT D)