

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of opticAccess, LLC for a Certificate of Public Convenience and Necessity to Provide Full Facilities-Based and Resold Competitive Local Exchange Service, Access and Interexchange Service in the State of California.

Application 12-07-014
(Filed July 17, 2012)

DECISION GRANTING OPTICACCESS, LLC A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN ORDER TO PROVIDE FULL FACILITIES-BASED LOCAL EXCHANGE SERVICE, ACCESS AND INTEREXCHANGE SERVICE

1. Summary

Pursuant to Pub. Util. Code § 1001, we grant opticAccess, LLC a certificate of public convenience and necessity to provide resold and full facilities-based local exchange telecommunications services, interexchange and access services in California subject to the terms and conditions set forth in the Ordering Paragraphs herein.

2. Background

On July 17, 2012, opticAccess, LLC (opticAccess or Applicant), a limited liability corporation in California filed an application (Application) for a certificate of public convenience and necessity (CPCN) to provide resold and full facilities-based telecommunications services in the service territories of Pacific Bell Telephone Company d/b/a AT&T California (AT&T), Verizon California

Inc. (Verizon), Citizens Telecommunications Company of California, Inc. (Citizens), and SureWest Communications¹ (SureWest) and access and interexchange service throughout California.

Applicant proposes to provide local exchange services to business customers through a combination of its own facilities and unbundled network elements from incumbent local exchange carriers. Applicant will offer wavelength and point-to-point services on a wholesale basis and to large enterprise customers on an individually negotiated contract basis. It will not offer residential services, and it also proposes to resell the local exchange and interexchange services of other carriers to business customers.

Applicant's principal place of business is located at 533 Airport Blvd., Suite 400, Burlingame, CA.

Simultaneously to the filing of its Application, opticAccess filed a motion requesting a shortened period of time for protests and replies to the protests, and expedited issuance of the CPCN because of the highly competitive nature of the telecommunications industry. On August 6, 2012, the assigned Administrative Law Judge issued a ruling denying the motion because the requested shortened protest and reply period and expedited review process would not provide the public or the Commission with a sufficient amount of time to appropriately review the application.

No party protests this Application.

¹ SureWest was formerly known as Roseville Telephone Company.

3. California Environmental Quality Act (CEQA)

Pursuant to CEQA and Rule 2.4² 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.

As described in the Proponent's Environmental Assessment and Response, opticAccess' proposed construction activities generally will include activities such as trenching, underground conduit installation and the installation of new poles. These activities will be relatively minor in scope and take place primarily in existing, well-used rights-of-way and utility easements in developed areas.

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 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 California Code of Regulation (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

² Unless otherwise noted, items labeled "Rule" or "Rules" are from the Commission's Rules of Practice and Procedure.

features of the site, and minor trenching and backfilling where the surface is restored. 14 CCR § 15304.

- 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.

opticAccess’ proposed activities involve construction of reasonably short utility extensions (Class 3). The primary ground-disturbing activity will be limited to minor trenching and backfilling (Class 4) and often will occur in heavily-developed urban and suburban areas meeting the criteria for urban in-fill (Class 32).

Exemption of these activities is consistent with Commission precedent. opticAccess’ proposed new construction activities are similar to those undertaken by other carriers that we have decided are categorically exempt from CEQA. *See, e.g.,* Decision (D.) 08-12-027 (*ATC Outdoor DAS*); D.10-04-038 (*SnowCrest Telephone, Inc.*); D.10-01-014 (*Pacific LightWave*); D.09-11-021 (*Freedom Telecommunications, Inc.*) and D.09-07-043 (*Public Wireless, Inc.*).

opticAccess requests approval to utilize a procedure for expedited review of its projects once it is aware of a specific site(s) in which it plans construction. The proposed procedure tracks the expedited review procedure that we have

approved for other carriers. Such a process will expedite CEQA review and is appropriate for the type of construction outlined here, which will be categorically exempt. By establishing this expedited review process, we are able to review the information on a specific project to confirm that it is categorically exempt from CEQA, or to explain why further environmental review is required. At the same time, the proposed CEQA review process will enable opticAccess to undertake construction of its projects in an efficient manner without experiencing delays caused by an unnecessarily protracted CEQA review.

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

- opticAccess 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 work plan, 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 Commission's Energy Division will review opticAccess' submission for the proposed project to confirm that the claimed exemption(s) from CEQA are applicable.
- Within 21 days from the date of opticAccess' submittal, the Energy Division will issue either:
 - A Notice to Proceed (NTP) and file a Notice of Exemption with the State Clearinghouse, Office of Planning and Research; or
 - A letter of denial stating the specific reasons why the claimed exemption(s) are not applicable to the proposed project.

We have reviewed the Application and find that:

- opticAccess' 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 opticAccess' facilities-based projects is not only adequate for the Commission's purposes as a CEQA Lead Agency, but is also in the public interest

because it enables opticAccess 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 opticAccess' proposed process for Commission review of claimed CEQA exemptions for construction projects undertaken pursuant to opticAccess' full facilities-based authority, based on the specific facts of this case with the following modification related to the Commission's Energy Division review and approval or disapproval of the proposed exemptions.

- If the Energy Division disapproves opticAccess' claimed CEQA exemption(s) and issues a letter of denial to opticAccess, opticAccess 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.

opticAccess 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.

4. Financial Qualifications

To be granted a CPCN for authority to provide limited-facilities-based and resold local exchange and interexchange services, an applicant must demonstrate

that it has a minimum of \$100,000 cash or cash equivalent to meet the firm's start-up expenses.³ An applicant must also demonstrate that it has sufficient additional resources to cover all deposits required by local exchange carriers and/or interexchange carriers in order to provide the proposed service.⁴ In the Application, opticAccess provided verification that \$100,000 would be available to opticAccess for one year following certification. Since opticAccess has provided documentation that it possesses a minimum of \$100,000 that is reasonably liquid and available, it has demonstrated that it has sufficient funds to meet its start-up expenses and has fulfilled this requirement.

opticAccess stated that no deposit is required by AT&T, Verizon, Citizens, and SureWest. Therefore, no additional resources are required at this time to cover deposits.

5. Technical Qualifications

To be granted a CPCN for authority to provide local exchange and interexchange service, an applicant must make a reasonable showing of managerial and technical expertise in telecommunications or a related business.⁵ opticAccess supplied biographical information on its management in Exhibit F to

³ 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.

⁴ The requirement for CLEC applicants to demonstrate that they have additional financial resources to meet any deposits required by underlying Local Exchange Carriers and/or Incumbent Local Exchange Carriers is set forth in D.95-12-056, Appendix C. For NDIECs, the requirement is found in D.93-05-010.

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

its Application that demonstrated that it has sufficient expertise and training to operate as a telecommunications provider.

In its Application, opticAccess verified that no one associated with or employed by opticAccess as an affiliate, officer, director, partner, or owner of more than 10% of opticAccess was previously associated with a telecommunications carrier that filed for bankruptcy, was sanctioned by the Federal Communications Commission or any State regulatory agency for failure to comply with any regulatory statute, rule, or order, or has been found either civilly or criminally liable by a court of appropriate jurisdiction for a violation of § 17000, et seq. of the California Business and Professions Code, or for any actions which involved misrepresentations to consumers, nor is currently under investigation for similar violations.

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

6. Tariffs

In its Application, opticAccess states that it does not intend to offer residential basic services and will only be offering services on a wholesale basis or to large enterprise customers through individual contracts. Consequently, opticAccess requests exemption from tariffing requirements pursuant to General Order (GO) 96-B and D.07-09-018. We have granted similar requests before and find opticAccess' request reasonable. Thus, we grant opticAccess' request for detariffing of nonresidential service offerings. If opticAccess decides to offer residential basic services in the future, it should file the applicable tariffs consistent with CPUC's rules and orders. opticAccess may not offer such services until tariffs are filed with and authorized by the Commission.

7. Map of Service Territory

To be granted a CPCN for authority to provide local exchange service, an applicant must provide a map of the service territories it proposes to serve.⁶ In its Application, opticAccess provided a map of the location of its proposed service territory, in compliance with this requirement.

8. Rule 3.1(i) Statement

Rule 3.1(i) sets forth the requirement that opticAccess file an application under Pub. Util. Code § 1001, and provide a statement regarding GO 104-A, Section 2. opticAccess states that it is not aware of any reportable matters pursuant to GO 104-A, Section 2. opticAccess, therefore, has nothing to report under this rule.

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

9. Expected Customer Base

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

10. Request for Treatment as a Non-dominant Carrier

opticAccess 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. The Commission detailed its rules regarding exemption of non-dominant carriers in D.85-01-008, and

⁶ D.95-12-056 at Appendix C, Rule 4.E.

subsequently modified in D.85-07-081 and D.85-11-044. We grant opticAccess' request for non-dominant interexchange carrier status, provided that they follow all rules detailed in the above referenced decisions.⁷

11. Conclusion

We conclude that the Application conforms to our rules for certification as a competitive local exchange and interexchange carrier. Accordingly, we grant opticAccess a CPCN to provide full facilities-based and resold local exchange telecommunications service in the service territories of AT&T, Verizon, Citizens, and SureWest and access and interexchange service in California subject to compliance with the terms and conditions set forth in the Ordering Paragraphs herein.

12. Request to File Under Seal

Pursuant to Rule 11.4, opticAccess has filed motions for leave to file Exhibits D and E to the Application as confidential materials under seal. opticAccess represents that the information is sensitive, and disclosure could place opticAccess at an unfair business disadvantage. We have granted similar requests in the past and do so here.

13. Categorization and Need for Hearings

In Resolution ALJ 176-3298, dated August 2, 2012, 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

⁷ While the Commission has granted exemption from Pub. Util. Code §§ 816-830 to others, exemption from §§ 851 - 854 has not been granted previously and is not granted here.

these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

14. Comments on Draft Decision

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2), the otherwise applicable 30-day period for public review and comment is waived.

15. Assignment of Proceeding

Catherine J.K. Sandoval is the assigned Commissioner and Kelly A. Hymes is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Notice of the Application appeared on the Daily Calendar on July 20, 2012. No protests have been filed. A hearing is not required.
2. The Commission is the Lead Agency for this project under CEQA.
3. opticAccess' proposed construction activity falls within one or more CEQA categorical exemptions.
4. opticAccess' authority to provide local exchange services will not have a significant adverse effect upon the environment.
5. opticAccess 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. opticAccess' management possesses sufficient experience, knowledge, and technical expertise to provide local exchange services to the public.
7. No one associated with or employed by opticAccess as an affiliate, officer, director, partner, or owner of more than 10 percent of opticAccess was previously associated with a telecommunications carrier that filed for bankruptcy; sanctioned by the Federal Communications Commission or any

State regulatory agency for failure to comply with any regulatory statute, rule, or order; or previously associated with any telecommunication carrier that has been found either civilly or criminally liable by a court of appropriate jurisdiction for a violation of § 17000, et seq. of the California Business and Professions Code, or for any actions which involved misrepresentations to consumers, nor is currently under investigation for similar violations.

8. opticAccess does not intend to offer residential services and therefore requested detariffing of its nonresidential offerings pursuant to GO 96-B and D.07-09-018.

9. opticAccess provided a map of the location of its proposed service territory.

10. opticAccess 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.

11. opticAccess provided an estimate of its customer base for the first and fifth year of operation.

12. Pursuant to Rule 11.4, opticAccess filed a Motion for leave to file confidential materials under seal in Exhibits D and E to the Application.

Conclusions of Law

1. opticAccess should be granted a CPCN to provide resold and full facilities-based local exchange telecommunications service in the service territories of AT&T, Verizon, Citizens, and SureWest and access and interexchange services in California, subject to the terms and conditions set forth in the Ordering Paragraphs.

2. opticAccess should be allowed to use the Energy Division's 21-day CEQA exemption process.

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

4. opticAccess should be granted detariffing of nonresidential offerings as identified in this decision.

5. opticAccess' motion to file under seal its Exhibits D and E to the Application should be granted for two years.

6. opticAccess 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.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to opticAccess, LLC to provide resold and full facilities-based local exchange telecommunications services in the territories of Pacific Bell Telephone Company d/b/a AT&T California, Verizon California Inc., Citizens Telecommunications Company of California, Inc. and SureWest Communications, subject to the terms and conditions set forth below.

2. The corporate identification number assigned to opticAccess, LLC, U7245C, must be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

3. 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, opticAccess, LLC is subject to the Consumer Protection Rules contained

in General Order 168, and all applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

4. opticAccess, LLC must file, in this docket, a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order.

5. opticAccess, LLC must annually pay the user fee and public purpose program surcharges regularly, even if the amount due is \$0. Instructions on the remittance and payment of surcharges and user fees are provided in Attachment B. Under Pub. Util. Code § 405, carriers that are in default of reporting and submitting user fees for a period of 30 days or more will be subject to penalties including suspension or revocation of their authority to operate in California. Therefore, carriers should report user fees even if the amount due is \$0.

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

7. opticAccess, LLC must notify the Director of the Commission's Communications Division in writing of the date that local exchange service is first rendered to the public, no later than five days after service first begins.

8. opticAccess, LLC must file an affiliate transaction report with the Director of the Commission's Communications Division, in compliance with Decision 93-02-019, on a calendar-year basis using the form contained in Attachment D to this decision.

9. opticAccess, LLC must file an annual report with the Director of the Communications Division, in compliance with General Order 104-A, on a calendar-year basis with the information contained in Attachment C to this decision.

10. opticAccess, LLC is exempt from the requirement to file tariffs for nonresidential service offerings.

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

12. If opticAccess wishes to engage in full facilities-based construction activities and believes that these activities are exempt from California Environmental Quality Act, opticAccess, LLC shall first apply to the Commission's Energy Division staff for a determination of exemption from California Environmental Quality Act using the following procedure set forth in Ordering Paragraph 14.

13. opticAccess, LLC (opticAccess) will provide 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 work plan, including:
 - i. Commission Preconstruction Survey Checklist – Archaeological Resources;
 - ii. Commission Preconstruction Survey Checklist – Biological Resources;
 - iii. A detailed schedule of construction activities, including site restoration activities;
 - iv. A description of construction/installation techniques;
 - v. A list of other agencies contacted with respect to siting, land use planning, and environmental resource issues, including contact information; and
 - vi. A list of permits required for the proposed project.
- d. A statement of the California Environmental Quality Act exemption(s) claimed to apply to the proposed project; and
- e. Documentation supporting the finding of exemption from California Environmental Quality Act.
- f. The Energy Division will then review the submittal and notify opticAccess of either its approval or its denial of opticAccess' claim for exemption from California Environmental Quality Act review within 21 days from the time that opticAccess' submittal is complete.
- g. If the Energy Division approves opticAccess' claimed California Environmental Quality Act exemption(s), Energy Division staff will prepare a Notice to Proceed and file a Notice of Exemption with the State Clearinghouse, Office of Planning and Research.
- h. If the Energy Division disapproves opticAccess' claimed California Environmental Quality Act exemptions, the staff will issue to opticAccess a letter which states the specific reasons that the claimed California Environmental Quality Act exemptions do not apply to the proposed project.
- i. If the Energy Division disapproves opticAccess' claimed California Environmental Quality Act exemption(s),

opticAccess shall either re-design the specific project and facilities and then reapply for a finding of exemption from California Environmental Quality Act, or file a formal application with the Commission seeking the requisite approval and full California Environmental Quality Act review before commencing any full facilities-based construction activities.

14. opticAccess, LLC's motion to file under seal its Exhibits D and E is granted. The information will remain under seal for a period of two years after the date of this order. During this two-year period, this information will remain under seal and may not be viewed by any person other than the assigned Commissioner, the assigned Administrative Law Judge (ALJ), the Assistant Chief ALJ, or the Chief ALJ, except as agreed to in writing by opticAccess, LLC or as ordered by a court of competent jurisdiction. If opticAccess, LLC believes that it is necessary for this information to remain under seal for longer than two years, opticAccess, LLC may file a new motion at least 30 days before the expiration of this limited protective order.

15. Application 12-07-014 is closed.

This order is effective today.

Dated _____, at San Francisco, California.

ATTACHMENT A

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REQUIREMENT FOR FILING TARIFF

Exemption from filing tariffs is granted.

(END OF ATTACHMENT A)

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

1. Applicant must file, in Application 12-07-014 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. All carriers authorized by the Commission to operate in California are required to assess surcharges and user fees on their end-user intrastate service revenue, and must comply with the reporting and payment filing requirements in accordance with the directions of the Commission.

Applicant is subject to the following fees and telephone surcharges that must be filed and remitted on a regular basis, even if the amount due is zero:

- a. The Universal Lifeline Telephone Service Trust Administrative Committee Fund (Pub. Util. Code § 879);
- b. The California Relay Service and Communications Devices Fund (Pub. Util. Code § 2881; D.98-12-073);
- c. The California High Cost Fund-A (Pub. Util. Code § 739.3; D.96-10-066, at 3-4, App. B, Rule 1.C);
- d. The California High Cost Fund-B (D.96-10-066, at 191, App. B, Rule 6.F.; D.07-12-054);
- e. The California Advanced Services Fund (D.07-12-054);
- f. The California Teleconnect Fund (D.96-10-066, at 88, App. B, Rule 8.G).
- g. The User Fee provided in Pub. Util. Code §§ 431-435.

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

Note: These fees change periodically. In compliance with Resolution T-16901, December 2, 2004, Applicant must check the joint tariff for surcharges and fees filed by Pacific Bell Telephone Company (dba AT&T California) and apply the current surcharge and fee amounts in that joint tariff on end-user bills until further revised. Current and historical surcharge rates can be found at <http://www.cpuc.ca.gov/PUC/Telco/Consumer+Information/surcharges.htm>.

- Carriers must report and remit CPUC telephone program surcharges online using the CPUC Telecommunications and User Fees Filing System (TUFFS). Information and instructions for online reporting and payment of surcharges are available at <http://www.cpuc.ca.gov/PUC/Telco/Information+for+providing+service/Surcharge+Remittance.htm>. To request a user ID and password for TUFFS online filing and for questions, please e-mail Telco_surcharges@cpuc.ca.gov.
- Carriers must file and pay the PUC User Fee (see above item 2g) upon receiving the User Fee statement sent by the Commission. User Fees cannot be reported or paid online. Instructions for reporting filing are available at <http://www.cpuc.ca.gov/PUC/Telco/Consumer+Information?userfee.htm>. Please call (415) 703-2470 for questions regarding User Fee reporting and payment.

3. Applicant is a competitive local exchange carrier (CLC). The effectiveness of its future tariffs is subject to the requirements of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).

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

5. Prior to initiating service, Applicant must provide the Commission's Consumer Affairs Branch with the name and address of its designated contact

person(s) for purposes of resolving consumer complaints. This information must be updated if the name or telephone number changes, or at least annually.

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

7. Applicant must notify the Director of the Communications Division in writing of the date local service is first rendered to the public within five days after service begins.

8. Applicant must 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 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.

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

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

12. Applicant must 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 must comply with Pub. Util. Code § 708, Employee Identification Cards, and notify the Director of the Communications Division in writing of its compliance.

14. If Applicant is 90 days or more late in filing an annual report, or in remitting the surcharges and fee listed in #2 above, and has not received written permission from the Communications Division to file or remit late, the Communications Division must prepare for Commission consideration a resolution that revokes Applicant's certificate of public convenience and necessity.

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

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

17. Applicant is exempt from the requirements of Pub. Util. Code § 851 for the transfer or encumbrance of property whenever such transfer or encumbrance serves to secure debt.

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

19. Applicant must send a copy of this decision to concerned local permitting agencies no later than 30 days from the date of this order.

(END OF ATTACHMENT B)

ATTACHMENT C**ANNUAL REPORT**

An original and a machine readable, copy using Microsoft Word or compatible format must be filed with the California Public Utilities Commission, State Office Building, 505 Van Ness Avenue, Room 3107, San Francisco, CA 94102-3298, no later than March 31st of the year following the calendar-year for which the annual report is submitted.

Failure to file 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 opticAccess, LLC is engaged.
 9. List of all affiliated companies and their relationship to opticAccess, LLC. State if affiliate is a:
 - a. Regulated public utility.
 - b. Publicly held corporation.

10. Balance sheet as of December 31st of the year for which information is submitted.

11. Income statement for California operations for the calendar-year for which information is submitted.

12. Cash Flow statement as of December 31st of the calendar-year for which information is submitted, for California operations only.

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

(END OF ATTACHMENT C)

ATTACHMENT D**CALENDAR-YEAR AFFILIATE TRANSACTION REPORT**

An original and a machine readable copy, using Microsoft Word and Excel, or compatible format must be filed with the California Public Utilities Commission, State Office Building, 505 Van Ness Avenue, Room 3107, San Francisco, CA 94102-3298, no later than May 1st of the year following the calendar-year for which the annual report is submitted.

1. Each utility must list and provide the following information for each affiliated entity and regulated subsidiary that opticAccess 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 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 the 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)