

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of Transbeam, Inc. for a Certificate of Public Convenience and Necessity to Provide Local Exchange and Interexchange Telecommunications Services within the State of California.

Application 13-09-019  
(Filed September 30, 2013)

**DECISION GRANTING TRANSBEAM, INC. A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN ORDER TO PROVIDE LOCAL EXCHANGE AND INTEREXCHANGE SERVICES WITHIN THE STATE OF CALIFORNIA**

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**DECISION GRANTING TRANSBEAM, INC. A CERTIFICATE OF  
PUBLIC CONVENIENCE AND NECESSITY IN ORDER TO PROVIDE  
LOCAL EXCHANGE AND INTEREXCHANGE SERVICES  
WITHIN THE STATE OF CALIFORNIA**

**1. Summary**

Pursuant to Public Utilities Code Section 1001, we grant Transbeam, Inc.<sup>1</sup> a certificate of public convenience and necessity to provide resold local exchange and non-dominant interexchange services, subject to the terms and conditions set forth in the Ordering Paragraphs.

**2. Background**

On September 30, 2013, Transbeam, Inc. (Transbeam) filed an application to request a certificate of public convenience and necessity (CPCN) authorizing the company to provide non-facilities-based, resold local exchange telecommunications services within the service territories of AT&T California (AT&T), Verizon California Inc. (Verizon), Citizens Telecommunications Company of California, Inc. (Citizens), and SureWest Communications (SureWest), and interexchange services statewide in California.

No protests to the application were filed.

Transbeam does not propose to deploy its own network facilities but will use existing facilities. Transbeam intends to lease unbundled network elements and resold network services from underlying carriers in order to provide dedicated switched local exchange and interexchange intraLATA and interLATA toll services as well as point to point broadband services for data transmission. It

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<sup>1</sup> Transbeam is a privately held corporation organized under the laws of the State of Delaware. Its principal place of business is located at 8 West 38<sup>th</sup> Street, New York, NY 10018.

does not intend to offer service to residential customers, but will provide services exclusively to commercial subscribers in accordance with its proposed tariff (Exhibit A).

### **3. California Environmental Quality Act (CEQA)**

CEQA (Public Resources Code Sections 21000 et seq.) applies to discretionary projects to be carried out or approved by public agencies. A basic purpose of CEQA is to “inform governmental decision-makers and the public about the potential significant environmental effects of the proposed activities.” (Title 14 of the California Code of Regulations (hereafter CEQA Guidelines), Section 15002.)

CEQA requires the California Public Utilities Commission (Commission) to act as the designated lead agency to assess the potential environmental impact of a project so that adverse effects are avoided, alternatives are investigated, and environmental quality is restored or enhanced to the fullest extent possible. In Commission Rules of Practice and Procedure Rule 2.4(b), the Commission recognizes that certain classes of projects are exempt from CEQA. In cases where such exemptions apply, we are not required to issue an Environmental Impact Report or Negative Declaration.

Transbeam seeks an exemption from CEQA requirements because it does not now, nor in the future, propose to deploy its own network facilities. Rather, Transbeam indicates that it will provide local exchange services through unbundled network elements and by purchasing the incumbent’s unbundled network element – platform replacement service. All interexchange services will be provided on a resale basis. Transbeam’s local exchange services may also be supplemented via resale of incumbent carrier services.

Since Transbeam states that it will not be constructing any facilities for the purpose of providing services under this CPCN, it can be said with certainty that there is little likelihood that granting this application will have an adverse impact upon the environment. CEQA review is not required for this type of non-facilities-based project. However, Transbeam is advised that should it desire to construct facilities within the State of California in the future, it must file for additional authority, and undergo the requisite environmental (CEQA) review before commencing any construction.

#### **4. Financial Requirements**

To be granted a CPCN, an applicant such as Transbeam, must post a performance bond in order to obtain authority to provide telecommunications services, and to secure the payment of any monetary sanction (i.e., fines, penalties, restitution) that may be imposed should an enforcement proceeding be brought against it under § 1013(f) of the Public Utility Code. The performance bond amount is \$25,000 for new registrants who have not previously reported intrastate earnings. The performance bond must be executed within five days of written acceptance of CPCN authority and thereafter must remain in effect during all periods of operation.<sup>2</sup>

Transbeam must also demonstrate that it has sufficient additional resources to cover all deposits required by local exchange carriers (LECs) and/or interexchange carriers (IECs) in order to provide the proposed service<sup>3</sup>. Applicants must possess a minimum of \$25,000 of cash or cash equivalent,

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<sup>2</sup> Decision (D.) 13-05-035.

<sup>3</sup> The requirement for applicants to demonstrate that they have additional financial resources to meet any deposits required by underlying LECs and/or IECs is set forth in D.93-05-010.

reasonably liquid and readily available to meet the new firm's start-up expenses. However, an applicant for a CPCN, such as Transbeam, that will operate as Local Exchange Carrier (LEC) and Interexchange Carrier (IEC), and has profitable interstate operations, may demonstrate that it meets the minimum financial requirement by submitting an audited balance sheet and income statement demonstrating sufficient cash flow, as authorized in D.91-10-041 and D.95-12-056 (Appendix C, Rule 4.B).

Transbeam proposes that, in lieu of providing an audited financial statement to demonstrate that it meets minimum financial requirements, it will submit a performance bond in the amount of \$100,000 payable to the Commission, within five days of written acceptance of CPCN authority. The \$100,000 bond would remain in effect for a period of 12 full months, then would be reduced to \$25,000 and remain in effect throughout the duration of Transbeam's operation within the State of California, as required under D.13-05-035.

We find that Transbeam's proposal to post and keep a performance bond of \$100,000 in effect during its first year of operation, and thereafter keep a bond of \$25,000 in effect throughout the duration of its operation in California, is adequate to satisfy the financial requirements for issuance of a CPCN as an IEC and LEC.

## **5. Technical and Managerial Competence**

To be granted a CPCN for authority to provide local exchange and interexchange services, an applicant must make a reasonable showing of managerial and technical expertise in telecommunications or a related business.<sup>4</sup>

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<sup>4</sup> D.95-12-056 at Appendix C, Rule 4.A.

Transbeam supplied resumes and biographical information on its management in Exhibit E to its application. The biographies of these individuals demonstrate sufficient expertise and training to operate as a telecommunications provider, therefore, Transbeam has met this requirement.

In Sections 17, 18 and 19 of its application, Transbeam states that no one involved with Transbeam as an affiliate, officer, director, partner, or owner of more than 10% of Transbeam, was previously associated with a telecommunications carrier that filed for bankruptcy, or was (a) found personally liable for fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others, (b) been convicted of a felony, (c) been the subject of sanction by the Federal Communications Commission (FCC) or any state regulatory agency, or the subject of criminal referral by a judge or public agency for failure to comply with any regulatory statute, rule, or order, (d) has had a telecommunications license or operating authority denied, suspended, revoked or limited in any jurisdiction, (e) 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 (f) has entered into settlement of criminal or civil claims or has made voluntary payments or agreed to any other type of monetary forfeitures in resolution of any action by any regulatory body, agency or attorney general.

Marc Sellouk, Chief Executive Officer of Transbeam, filed a statement under penalty of perjury affirming that, to the best of his personal knowledge, the statements in Sections 17, 18 and 19 of the application are true.

Accordingly, we find that Transbeam is in compliance with the requirements of D.95-12-056 and D.13-05-035.

**6. Tariffs**

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

**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.<sup>5</sup> In Exhibit D to its Application, Transbeam provided a map of its proposed service area, in compliance with this requirement.

**8. General Order (GO) 104-A Statement**

Rule 3.1(i) sets forth the requirement that a utility filing an application under Pub. Util. Code §1001, must provide a statement regarding General Order 104-A. Transbeam states that, as a privately held company not owned by any other entity, it has nothing to report under this rule. On a going forward basis, however, Transbeam must file all reports required of a public utility under Commission jurisdiction.

**9. Affidavit of Bond Amount**

In D.13-05-035 in Rulemaking 11-11-006, the Commission adopted revisions to the certification process for telephone corporations, and established a minimum performance bond requirement of \$25,000 for all entities applying for a CPCN for the first time, which have not previously reported revenues or submitted surcharges to the Commission. As described in Section 4 above, Transbeam will obtain a bond of \$100,000 and will submit a copy to the

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<sup>5</sup> D.95-12-056 at Appendix C, Rule 4.E.



Commission within five 5 days of written acceptance of the CPCN authority granted by this decision, thereby satisfying both the minimum performance bond requirement and the overall financial requirements for issuance of a CPCN.

**10. Expected Customer Base**

Transbeam indicates that its customer base for the first year of operation will be commercial subscribers exclusively. Transbeam does not intend to offer local or interexchange services to the public.

**11. Request for Treatment as a Non-dominant Carrier**

Transbeam requests treatment as a non-dominant interexchange carrier, (NDIEC), 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 subsequently modified them in D.85-07-081 and D.85-11-044. We grant Transbeam's request for NDIEC status, provided that it follows all rules detailed in the above referenced decisions.<sup>6</sup>

**12. Conclusion**

We conclude that the application conforms to our rules for certification as a local exchange and interexchange carrier. Accordingly, we grant Transbeam a CPCN to provide non-facilities-based and resold local exchange telecommunications service in the service territories of AT&T, Verizon, Citizens and SureWest and non-dominant interexchange service statewide, subject to

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<sup>6</sup> 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.

compliance with the terms and conditions set forth in the Ordering Paragraphs (OPs).

The CPCN granted by this decision provides benefits to Transbeam and corresponding obligations. Transbeam benefits by receiving authority to operate in the prescribed service territory, and by having the ability to request interconnection with other telecommunications carriers in accordance with Section 251 of the Federal Communications Act (47 U.S.C. 251). In return, Transbeam is obligated to comply with all applicable Public Utilities Codes and Commission Rules, General Orders (GOs), and decisions applicable to telecommunications carriers providing approved services. The applicable Codes, Rules, etc. include, but are not limited to, consumer protection rules, tariffing, and reporting requirements. Transbeam is also obligated to pay all Commission prescribed user fees and public purpose program surcharges as set forth in Appendix B of this decision, to comply with CEQA (when and if applicable), 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 Section 54.1 of the Civil Code, as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.”

### **13. Request to File Under Seal**

Pursuant to Rule 11.4 of the Commission’s Rules of Practice and Procedure, Transbeam has filed motions for leave to file Exhibit E to the application as confidential materials under seal. Transbeam represents that the information is sensitive, and the disclosure could place Transbeam at an unfair business disadvantage. We have granted similar requests in the past and do so here.

**14. Categorization and Need for Hearings**

In Resolution ALJ 176-3324, dated October 17, 2013, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. There is no apparent reason why the application should not be granted. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

**15. Waiver of Comment Period**

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.

**16. Assignment of Proceeding**

Carla J. Peterman is the assigned Commissioner and Patricia B. Miles is the assigned Administrative Law Judge in this proceeding.

**Findings of Fact**

1. Notice of the application appeared on the Daily Calendar on October 10, 2013. No protests have been filed. A hearing is not required.
2. Transbeam proposes no construction activity.
3. Transbeam authority to provide non-facilities-based and resold local exchange telecommunications will not have a significant adverse effect upon the environment.
4. If Transbeam obtains a performance bond, it will have a minimum of \$100,000 of cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses and required deposits.

5. Transbeam was unable to provide audited financial statements as required under D.91-10-041 and D.95-12-056.

6. In lieu of audited financial statements, Transbeam proposes that it will submit a performance bond in the amount of \$100,000 payable to the Commission, within five days of written acceptance of CPCN.

7. The \$100,000 bond would remain in effect for a period of 12 full months, then would be reduced to \$25,000 and remain in effect throughout the duration of Transbeam's operation within the State of California, as required under D.13-05-035.

8. Transbeam management possesses sufficient experience, knowledge, and technical expertise to provide resold local exchange services to the public.

9. No one associated with or employed by Transbeam as an affiliate, officer, director, partner, or owner of more than 10% of Transbeam was: previously associated with a telecommunications carrier that filed for bankruptcy; was sanctioned by the FCC or any state regulatory agency for failure to comply with any regulatory statute, rule, or order; or was 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.

10. Except for the deficiencies identified in Attachment A to this decision, Transbeam's draft tariffs comply with the Commission's requirements.

11. Transbeam provided a map of the location of its proposed service territory.

12. Transbeam 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.

13. Transbeam provided an estimate of its customer base for the first and fifth year of operation in its application.

14. Pursuant to Rule 11.4, Transbeam filed a motion for leave to file Exhibit E as confidential material under seal.

### **Conclusions of Law**

1. Transbeam should be granted a CPCN to provide non-facilities-based resold local exchange telecommunications services within the service territories of AT&T, Verizon, Citizens, SureWest, and non-dominant, non-facilities-based interexchange services statewide in California, subject to the terms and conditions set forth in the OPs, including obtaining a performance bond, as required by D.13-05-035.

2. In lieu of audited financial statements, Transbeam should submit a Tier-1 Advice Letter to the Director of the Communications Division submitting a copy of an executed performance bond in the amount of \$100,000 payable to the Commission, within five days of written acceptance of its CPCN to satisfy the financial requirements of D.91-10-041 and D.95-12-056.

3. The \$100,000 bond would remain in effect for a period of 12 full months then would be reduced to \$25,000 and remain in effect throughout the duration of Transbeam's operation within the State of California, as required under D.13-05-035.

4. Transbeam once granted a CPCN, will be subject to the applicable Commission rules, decisions, GOs, and statutes that pertain to California Public Utilities.

5. Transbeam's initial tariff filing should correct the tariff deficiencies shown in Attachment A to this decision.

6. Transbeam's motion to file under seal Exhibit E to its application should be granted for two years.

7. Transbeam 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 Transbeam Inc. to provide non-facilities-based resold local exchange telecommunications services within the service territories of AT&T California, Verizon California Inc., Citizens Telecommunications Company of California, Inc., and SureWest Communications, and interexchange services statewide in California, subject to the terms and conditions set forth below.

2. Transbeam Inc. may not offer competitive local exchange telecommunications services or interexchange services until its tariffs are corrected for the deficiencies set forth in Exhibit A, and are filed with and authorized by the California Public Utilities Commission, in accordance with General Order 96-B.

3. The corporate identification number assigned to Transbeam Inc., U-7256-C, must be included in the caption of all original filings with the California Public Utilities Commission, and in the titles of other pleadings filed in existing cases.

4. Transbeam, Inc. must obtain a performance bond in the amount of \$100,000, issued by a corporate surety company authorized to transact surety

business in California, and the California Public Utilities Commission must be listed as the obligee on the bond. Within five days of acceptance of its certificate of public convenience and necessity authority, Transbeam, Inc. must submit a Tier-1 Advice Letter to the Director of Communications, containing a copy of the license holder's executed bond. The \$100,000 bond must remain in effect for a period of 12 full months. Within five days before expiration of the 12-month period, Transbeam, Inc. must provide evidence that it has obtained a performance bond of \$25,000 in accordance with Decision 13-05-035, as described in Ordering Paragraph 5.

5. The \$25,000 performance bond must be a continuous bond (i.e., there will be no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the California Public Utilities Commission must be listed as the obligee on the bond. Within five days before expiration of the 12-month period covered by the \$100,000 bond described in Ordering Paragraph 4, Transbeam, Inc. must submit a Tier-1 Advice Letter to the Director of Communications, containing a copy of the license holder's executed bond, and submit a Tier-1 Advice Letter annually, but not later than March 31st, with a copy of the executed bond.

6. Transbeam Inc. must not allow its performance bond to lapse during any period of its operation. Pursuant to Decision 13-05-035, the California Public Utilities Commission may revoke a certificate of public convenience and necessity if a carrier is more than 120 days late in providing the Director of 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.

7. 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, Transbeam, Inc. is subject to the Consumer Protection Rules contained in General Order 168, and all applicable California Public Utilities Commission rules, decisions, General Orders, and statutes that pertain to California Public Utilities.

8. Transbeam 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 order.

9. Transbeam Inc. must annually pay the user fee and public purpose surcharges specified in Attachment B. Per the instructions in Exhibit E to Decision 00-10-028, the Combined California Public Utilities Commission Telephone Surcharge Transmittal Form must be submitted even if the amount due is \$0. Under Public Utilities Code Section 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.

10. Prior to initiating service, Transbeam, Inc. must provide the California Public Utilities 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.

11. No later than five days after service first begins, Transbeam, Inc. must notify the Director of the Communications Division in writing of the date that



local exchange and interexchange service is first rendered pursuant to the certificate granted in this proceeding.

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

13. Transbeam Inc. 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.

14. Transbeam Inc. must file a tariff within 12 months of the effective date of this order, or its certificate will be cancelled.

15. Transbeam Inc.'s motion to file under seal its Exhibits E is granted for a period of three years after the date of this order. During this three-year period, this information shall not be publicly disclosed except on further California Public Utilities Commission order or Administrative Law Judge ruling. If Transbeam, Inc. believes that it is necessary for this information to remain under seal for longer than three years, Transbeam, 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.

16. Application 13-09-019 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

## **Attachment A**

List of deficiencies in tariff filed by Transbeam, Inc., U-7256-C, in A.13-09-019 to be corrected in its tariff compliance filing.

1. Sheet 6 - Explanation of Symbols: Explanation of symbols must match the lettering and description format provided in G.O. 96-B. See G.O. 96-B, Section 8.5.3.
2. Sheet 13 - Service Initiation and Charges: Must include text that within 10 days of initiating service, the Company shall state in writing for all new customers all material terms and conditions that could affect what the customer pays for telecommunications services provided by the Company. See Decision 95-07-054, Appendix B, 3.0, Rule 2.
3. Sheet 46 - Rule 2.5.1-(B), Establishment of Credit: Must include text specifying that each applicant for service shall provide credit information satisfactory to the Company or pay a deposit. In addition, must include that a cosigner or guarantor may be used providing the cosigner or guarantor has acceptable credit history with serving the Company or another acceptable local carrier. Must also include text that Company cannot refuse a deposit to establish credit for service, however, it may request that the deposit be in cash or other acceptable form of payment (e.g., cashier's check, money order, bond, letter of credit). See Decision 95-07-054, Appendix B, 3.0, Rule 4.
4. Sheet 52 - Rule 2.5.3, Billing and Collection of Charges: Must insert text provided in D. 95-07-054, Appendix B, 3.0, Rule 3A.7, pertaining to credit establishment for CLCs. See Decision 95-07-054, Appendix B, 3.0, Rule 3A.7.
5. Applicant must include in the tariff language pertaining to 911.  
*See Decision 13-07-019.*

Note: In the application, applicant states that it will provide local exchange and interexchange services exclusively to commercial subscribers (page 3, section 3). In the same section, it further states that services will be available to subscribers on individual case basis arrangements. If and when the Company offers residential service, then the tariff must include a Rule on Universal Lifeline Telephone Service (Rule 2, Appendix B, D.95-07-054).

**(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,<sup>7</sup> a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order.
2. Applicant is subject to the following fees and surcharges that must be regularly remitted. Per the instructions in Exhibit E to Decision (D.) 00-10-028, the Combined California PUC Telephone Surcharge Transmittal Form must be submitted even if the amount due is \$0.
  - 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. The minimum annual User Fee is \$100, as set forth in D.13-05-035.

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<sup>7</sup> 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](mailto: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. Tariff filings must reflect all fees and surcharges to which Applicant is subject, as reflected in #2 above.

6. Applicant must file a service area map as part of its initial tariff.
7. 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.
8. 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.
9. 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.
10. Applicant must keep its books and records in accordance with the Generally Accepted Accounting Principles.
11. 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.
12. Applicant must file an annual report with the Director of the Communications Division, in compliance with GO 104-A, on a calendar-year basis with the information contained in Attachment C to this decision.
13. 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.
14. Applicant must ensure that its employees comply with the provisions of Pub. Util. Code § 2889.5 regarding solicitation of customers.

15. 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.

16. 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 CPCN.

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

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

19. 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.

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

21. 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 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 31<sup>st</sup> 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 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 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)**