

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Cybernet Communications, Inc. (U5472C) to Expand its Certificate of Public Convenience and Necessity to Provide (i) Full Facilities-Based Competitive Local Exchange Service throughout the service Territories of Pacific Bell Telephone Company, Verizon California, Inc., SureWest Telephone, and Citizens Telecommunications Company of California, Inc.; and (ii) Full Facilities-Based Interexchange Service Statewide.

Application 13-03-016
(Filed March 19, 2013)

DECISION GRANTING CYBERNET COMMUNICATIONS, INC. AUTHORITY TO EXPAND ITS CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE FULL FACILITIES-BASED LOCAL EXCHANGE SERVICE AND INTEREXCHANGE SERVICE

1. Summary

Pursuant to Public Utilities Code Section 1001, the Commission grants CyberNet Communications, Inc., a certificate of public convenience and necessity to provide full facilities-based local exchange telecommunications services and interexchange service in California subject to the terms and conditions set forth in the Ordering Paragraphs.

2. Background

In Decision (D.) 95-05-037, CyberNet Communications, Inc. (CyberNet) was granted a certificate of public convenience and necessity (CPCN) to provide resold interexchange service throughout California. In D.98-11-006 CyberNet

was granted a CPCN to provide resold competitive local exchange service throughout 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. d/b/a Frontier Communications of California (Citizens), and SureWest Telephone (SureWest).¹ With its current CPCN authority CyberNet provides a wide range of traditional and Internet Protocol-enabled data and voice communications services and broadband Internet access and related communications services to business customers in California.

On March 19, 2013 CyberNet, a California corporation, filed an application to expand its CPCN to include authorization to provide full facilities-based competitive local exchange service throughout the service territories of AT&T, Verizon, Citizens, and SureWest, and full facilities-based interexchange service in California.

CyberNet's principal place of business is located at 7750 Gloria Avenue, Van Nuys, California.

3. California Environmental Quality Act (CEQA)

Pursuant to the California Environmental Quality Act (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.

¹ SureWest was formerly known as Roseville Telephone Company.

² Unless otherwise noted, items labeled "Rule" are from the California Public Utilities Commission Rules of Practice and Procedure.

In the Proponent's Environmental Assessment and Response, CyberNet's proposed construction activities will generally include the installation of fiber optic cable and related equipment, primarily in existing conduits and other existing buildings and infrastructure. 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 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.)

CyberNet's proposed activities involve construction of reasonably short utility extensions (Class 3). In order to provide its service, CyberNet may need to undertake small scale outside plant construction activities in order to serve customer locations if, for example, there are no existing conduits or there is inadequate space in the existing conduits. Such activities may include trenching for the installation of short extensions of underground conduit and the installation of a limited number of new utility poles, equipment shelters, or other above-ground support structures.

CyberNet cannot identify the specific locations of customers it may serve with facilities such as fiber optic cable and related equipment. However, exemption of these activities is consistent with Commission precedent. CyberNet's proposed new construction activities are similar to those undertaken by other carriers that we have decided are categorically exempt from CEQA.

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

CyberNet 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 CyberNet 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 CyberNet's claimed CEQA exemptions for proposed construction projects:

- CyberNet 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 CyberNet’s submission for the proposed project to confirm that the claimed exemption(s) from CEQA are applicable.
- Within 21 days from the date of CyberNet’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 Supplement and find that:

- CyberNet’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 CyberNet'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 CyberNet 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 CyberNet's proposed process for Commission review of claimed CEQA exemptions for construction projects undertaken pursuant to CyberNet'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 CyberNet's claimed CEQA exemption(s) and issues a letter of denial to CyberNet, CyberNet must either redesign 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.

CyberNet 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 (R.) 95-04-043/Investigation (I.) 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, an applicant for authority to provide limited-facilities based and resold local exchange and interexchange services 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, CyberNet provided a Time Certificate Deposit Confirmation and Agreement that \$100,000 would be available to CyberNet for one year following certification. In its application CyberNet states that it is unable to ascertain the specific deposit amounts, if any, which may be required by AT&T, Verizon, Citizens, and SureWest. However, the Time Certificate Deposit Confirmation and Agreement provided by CyberNet includes funds for deposits up to \$25,000. Since CyberNet 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.

CyberNet proposed to initially interconnect with AT&T, Verizon, Citizens, and SureWest. As stated above, CyberNet has provided documentation that it

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 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 IECs is set forth in D.95-12-056, Appendix C. For NDIECs, the requirement is found in D.93-05-010.

has the funds available for the deposits that may be 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 CyberNet supplied biographical information on its management in Section XIV of its application and in its response to the Administrative Law Judge's request for additional information that demonstrated it has sufficient expertise and training to operate as a telecommunications provider.

In its application, CyberNet, with two exceptions, verified that no one associated with or employed by CyberNet as an affiliate, officer, director, partner, or owner of more than 10% of CyberNet 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.

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

Founder and President of CyberNet, Bruce Hakimi, previously served as President of Telecommunications International, Inc. (TCI). Following his departure from TCI, the company filed for Chapter 11 bankruptcy in 1995. In its decision granting CyberNet's current CPCN to provide competitive local exchange service and resold interexchange service statewide, the Commission determined that TCI's bankruptcy filing did not negatively reflect on Mr. Hakimi. We reaffirm that determination here.

On February 24, 2009, CyberNet was named as a respondent in the Omnibus NAL (*Annual CPNI Certification, Omnibus Notice of Apparent Liability for Forfeiture, 24 FCC Rcd 2299*), instituted by the Federal Communications Commission (FCC) Enforcement Bureau. The action was based upon carriers' failures to timely file annual certifications of compliance with the FCC's customer proprietary network information (CPNI) rules as required by 47 C.F.R. § 64.2009(e). CyberNet states that it was otherwise in compliance with the CPNI rules, but was unaware of the newly-established annual certification filing requirement until approximately six months after the deadline for the initial filing. CyberNet and the FCC Enforcement Bureau entered into a consent decree requiring CyberNet to make a voluntary \$700 contribution to the United States Treasury and comply with certain other requirements. The consent decree was adopted by the FCC on February 3, 2011, and CyberNet has remained in compliance with the CPNI rules and all other state and federal regulation applicable to its operations ever since.

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

6. Tariffs

Commission staff reviewed CyberNet'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, CyberNet 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.⁶ In Exhibit C of its application, CyberNet 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 a utility filing an application under Pub. Util. Code § 1001, provide a statement regarding General Order (GO) 104-A, Section 2. CyberNet states that it is not aware of any reportable matters pursuant to GO 104-A, Section 2. CyberNet, therefore, has nothing to report under this rule.

Going forward, on an ongoing basis, CyberNet must file all reports required of a public utility under Commission jurisdiction.

9. Expected Customer Base

CyberNet provided its estimated customer base for the first and fifth years of operation in Section XIII of its application. Therefore, CyberNet has complied with this requirement.

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

10. Conclusion

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

11. Categorization and Need for Hearing

In Resolution ALJ 176-3312, dated April 4, 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.

12. 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) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

13. Assignment of Proceeding

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

Findings of Fact

1. Notice of the application appeared on the Daily Calendar on March 28, 2013. No protests have been filed. A hearing is not required.
2. The Commission is the Lead Agency for this project under CEQA.

3. CyberNet's proposed construction activity falls within one or more CEQA categorical exemptions.

4. CyberNet's authority to provide local exchange services will not have a significant adverse effect upon the environment.

5. CyberNet 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. CyberNet has sufficient additional cash or cash equivalent to cover deposits that may be required by other telecommunications carriers in order to provide the proposed service.

7. CyberNet's management possesses sufficient experience, knowledge, and technical expertise to provide local exchange services to the public.

8. Except as noted, no one associated with or employed by CyberNet as an affiliate, officer, director, partner, or owner of more than 10% of CyberNet 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 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.

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

10. CyberNet provided a map of the location of its proposed service territory.

11. CyberNet 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.

12. CyberNet provided an estimate of its customer base for the first and fifth year of operation.

Conclusions of Law

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

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

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

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

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to CyberNet Communications, Inc. to provide 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. d/b/a/ Frontier Communications of California, and

SureWest Telephone, and interexchange service in California, subject to the terms and conditions set forth below.

2. CyberNet Communications, Inc. may not offer competitive local exchange services until tariffs are filed with and authorized by this Commission, in accordance with General Order 96-B and as corrected for deficiencies set forth in Attachment A.

3. The corporate identification number assigned to CyberNet Communications, Inc., U-5472-C, must be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

4. CyberNet Communications, 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, CyberNet Communications, 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 31, with a copy of the executed bond.

5. CyberNet Communications, 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 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.

6. 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, CyberNet Communications, 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.

7. CyberNet Communications, 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.

8. CyberNet Communications, 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.

9. Prior to initiating service, CyberNet Communications, Inc. 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.

10. CyberNet Communications, Inc. 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.

11. CyberNet Communications, 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.

12. CyberNet Communications, 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.

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

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

15. If CyberNet Communications, Inc. wishes to engage in full facilities-based construction activities and believes that these activities are exempt from California Environmental Quality Act, CyberNet Communications, Inc. 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 16.

16. CyberNet Communications, Inc. will provide the Commission's 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; and
- e. Documentation supporting the finding of exemption from California Environmental Quality Act.
- f. The Energy Division will then review the submittal and notify CyberNet Communications, Inc. of either its approval or its denial of CyberNet Communications, Inc.'s claim for exemption from California Environmental Quality Act review within 21 days from the time that CyberNet Communications, Inc.'s submittal is complete.
- g. If the Energy Division approves CyberNet Communications, Inc.'s claimed California Environmental Quality Act exemption(s), the 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 CyberNet Communications, Inc. claimed California Environmental Quality Act exemptions, the staff will issue to CyberNet Communication, Inc. 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 CyberNet Communications, Inc.'s claimed California Environmental Quality Act exemption(s), CyberNet Communications, Inc., 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.
17. Application 13-03-016 is closed.

This order is effective today.

Dated _____, at San Francisco, California.

Attachment A

ATTACHMENT A

CyberNet Communications Inc., (U-5472-C) must submit a revised tariff based on the current active tariff filed with the Commission pursuant to its existing authority in Decision (D.) 95-05-037. The proposed tariff must include updates to the current active tariff to cover all services and rules applicable to the expanded authority in this Decision.

Based on the proposed tariff submitted with Application (A) 13-03-016 filed by CyberNet Communications Inc., (U-5472-C), the following is a list of deficiencies to be corrected in its tariff compliance filing.

1. G.O.96-B Sect 8.1 & 8.3 – Tariff must be available for inspection at an office in California and it should be posted on carrier’s web site.
2. G.O. 96-B Sect 8.5.7 – Item 2 – Tariff must give description of services rendered and types of standards to be maintained.
3. G.O. 96-B Sect 8.5.7 – Item 3 – Tariff does not describe the procedure to obtain service.
4. G.O. 96-B Sect 8.5.7 – Item 5 – D.95-07-054 Rule 3 – Items 1-7 Notices to appear on contract bills and deposit receipts showing the contact information about the PUC is not mentioned.
5. G.O. 96-B Sect 8.5.7 - Item 6 – D.95-07-054, Rule 4 Item A, B, C – Establishment and Reestablishment of Credit procedures not explained.
6. G.O. 96-B Sect 8.5.7 – Item 7 – D.95-07-054, Rule 5 - Tariff must explain that deposit shall be no greater than twice the monthly bill and should be refunded with interest as per Federal Reserve board.
7. G.O.96-B Sect 8.5.7 – Item 8, Item A-G Tariff must have procedure for submitting, review, deposits and settling disputes and this is not detailed as per regulations.
8. G.O. 96-B Sect 8.5.7 – Item 9 – Tariff must have method for collection of late payment charges and crediting payments. This is not mentioned.
9. G.O. 96-B Sect 8.5.7 - Item 10 – Tariff must explain Rule 8 Items A-G.
10. G.O. 96-B Sect 8.5.7 – Item 11 – Tariff must explain D.95-07-054 Rule 6 Item 1,2-1-8, C and D.
11. G.O. 96-B Sect 8.5.7 - Item 12 – Tariff must mention information on promotional offering.

12. G.O. 96-B Sect 8.5.7 – Item 13 – Tariff must mention conditions to provide for speculative projects.
13. G.O. 96-B Sect 8.5.7 - Item 15 – Tariff must provide explanation on extensions beyond free length.
14. G.O. 96-B Sect 8.5.8 – Tariff must provide sample forms for bills, service requests, notices etc.
15. D.95-07-054 App. B - Rule 1 – Tariff must include information that CLC information is required to be provided to applicant upon request.
16. D.95-07-054 App. B – Rule 2 – Tariff must state that in 10 days initiation procedures will be done and ULTS information will be provided. This is not mentioned.
17. D.95-07-054 App. B - Rule 3- Item A 1-7, B on deposit receipts not mentioned.
18. D.95-07-054 App. B – Rule 4 – Item A-C - Tariff must explain that cosigner or guarantor can help establish credit history and the non-requirement to provide SS#.
19. D.95-07-054 App. B – Rule 5 – Tariff must explain credit establishment using deposits and explain the maximum amount and that refund is due with interest within 30 days as per the Federal Reserve Board.
20. D.95-07-054 App. B – Rule 6 – Items 1, 2 – (1 – 8) Tariff must explain information regarding terms and complaint against carrier and have a notification for customers to establish change in ownership. Rate increase procedure is not mentioned.
21. D.95-07-054 App. B – Rule 7 – Tariff must explain that prorating of bills is not applicable to non-recurring charges.
22. D.95-07-054 App. B – Rule 8 –Items A-G - Tariff must explain procedure for submitting, reviewing, deposit requirement and settling of disputed bills.
23. D.95-07-054 App. B – Rule 9 – Tariff must mention late payment and credit payment methodology.
24. D.95-07-054 App. B – Rule 10-A 1-3, B, C – Tariff must mention discontinuance due to non-payment. Tariff needs to provide for warm line after disconnection to give continued access to 911.
25. D.95-07-054 App B – Rule 11 – Items A, B -Tariff must mention methodology on current rate information and unauthorized termination liability.

26. D.95-07-054 App B – Rule 12 - Tariff does not mention denial of service if credit is not satisfactorily established.
27. D.95-07-054 App B – Rule 14 – Tariff does not mention release of non-public information according to PU Code 2891 and 2893.
28. D.95-07-054 App B – Rule 15 – Blocking of 900/976 access as per customer request is not mentioned.
29. D.96-10-066 App B.4.B.10&11 – Tariff must provision for free listing in the directory.
30. G.O. 153 Appendix A Item 12 – Tariff must mention free provision of white pages.
31. D.96-02-072 App E.8.J.(2) – Tariff should be non-discriminatory with customers who desire not to have their numbers mentioned.
32. G.O.153 Sect 3.3, D95-07-054 App A, Sect E.7 – No Tariff shall depart from PU Code 489, 876 and G.O. 96B stipulation on ULTS offering.
33. Resolution T16901 – Tariff does not mention surcharges or taxes and fees for DDTP, CHCF, and ULTS.
34. D.02-08-067 OP1 & Attachment A –Tariff does not mention relocation of demarcation point – MPOE/LLDP.

(END OF ATTACHMENT A)

Attachment B

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. 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.

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

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

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/Information+for+providing+service/userfee.htm>. Please call (415) 703-2470 for questions regarding User Fee reporting and payment.

3. 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 Certificate of Public Convenience and Necessity authority, Applicant 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 no later than March 31, with a copy of the executed bond.

4. Applicant must not allow its performance bond to lapse during any period of 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 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.

5. 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).

6. 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).

7. Tariff filings must reflect all fees and surcharges to which Applicant is subject, as reflected in #2 above.

8. Applicant must file a service area map as part of its initial tariff.

9. 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.

10. 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.

11. 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.

12. Applicant must keep its books and records in accordance with the Generally Accepted Accounting Principles.

13. 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.

14. 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.

15. 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.

16. Applicant must ensure that its employees comply with the provisions of Pub. Util. Code § 2889.5 regarding solicitation of customers.

17. 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.

18. 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.

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

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

21. 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.

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

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 31 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 31 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 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

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 1 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)