

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Surfnet Communications, Inc. for
Registration as an Interexchange Carrier
Telephone Corporation pursuant to the
Provisions of Public Utilities Code Section 1013.

Application 13-07-019
(Filed July 23, 2013)

**DECISION GRANTING SURFNET COMMUNICATIONS, INC. A CERTIFICATE
OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE
INTEREXCHANGE TELECOMMUNICATION SERVICE****Summary**

Pursuant to Public Utilities Code § 1001, we grant Surfnet Communications, Inc. (Surfnet) a Certificate of Public Convenience and Necessity to provide resold and limited facilities-based interexchange telecommunications service in California subject to the terms and conditions set forth in the Ordering Paragraphs.

1. Background

On July 23, 2013, Surfnet, a California corporation, filed an application for registration as an interexchange telecommunications carrier pursuant to Pub. Util. Code § 1013.¹ Surfnet Communications, Inc.'s (Surfnet) principal place of business is located at 25600 Hillside Road, Los Gatos, CA 95033.

¹ Pub. Util. Code § 1013 allows the Commission to apply a streamlined registration process and to exempt certain telephone corporations from the requirements of Public Utilities Code § 1001 which governs the issuance of Certificate of Public Convenience and Necessity (CPCN).

Questions regarding the nature of the services to be offered by Surfnet led to a determination that the application did not qualify for the ministerial registration process under Pub. Util. Code § 1013. Consequently, the application was assigned to an Administrative Law Judge (ALJ) and removed from the ministerial registration track. Surfnet's application has been evaluated as an application for a CPCN under § 1001 to provide resold and limited facilities-based interexchange telecommunications services in California.

In Resolution ALJ 176-3319, dated August 15, 2013, the Commission preliminarily categorized Surfnet's application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. Accordingly, we affirm that a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations in Resolution ALJ 176-3319.

2. Services Proposed to be Offered

Surfnet seeks Commission authorization to provide telecommunications services in California as a public utility. On August 11, 2014, the assigned ALJ issued a ruling calling for additional information describing Surfnet's proposed services to be offered and how those services relate to the Commission's jurisdiction. The ALJ's ruling directed the applicant to file a declaration under penalty of perjury and in compliance with Sections 2015.5 of the California Code of Civil Procedure that attests whether the applicant is a Common Carrier eligible to interconnect under the Federal Communications Act, Sections 251-252, and whether, if granted a CPCN, Applicant would operate as a Telephone Corporation under the Public Utilities Code, and obey the Code and all of the Commission's rules, decisions, and orders.

On August 22, 2014, Surfnet filed a response to the ALJ ruling, providing the information called for (August 22 Response). Together with its filed

response, Surfnet provided a declaration under penalty of perjury from Mark Morgenthaler, Chief Executive Officer (CEO) of Surfnet.

In its August 22, 2014, response to the ALJ's ruling, Surfnet described the services to be offered, including the technologies and protocols, and type of facilities that may be used to access its services. Surfnet's network will support high capacity circuits such as T-1s and DS-3s, and higher levels of Time Division Multiplexing (TDM) bandwidth. As described by Surfnet, the high capacity circuits may be provided on a point-to-point basis, or interconnected with the Public Switched Telephone Network (PSTN)² for handoff of traffic if requested by customers. Customers may access the high capacity services via telephone industry standardized "Plain Old Telephone Service" (POTS) ports, T-1 Ports or DS-3 Jack Interfaces. Surfnet also states that, as part of its resale offerings, it may provide some services or features using Internet Protocol (IP)-based technology such as Voice over IP (VoIP).

3. Jurisdiction

The ALJ ruling dated August 11, 2014, directed Surfnet to state the legal basis on which it claims that the Commission has jurisdiction to grant it a CPCN, and to address the relevant Public Utilities Code sections and any other relevant statutes or case law deemed relevant.

In its August 22, 2014 response to the ALJ ruling, Surfnet attached the declaration of Mark Morgenthaler, Chief Executive Officer (CEO) of Surfnet. In

² As used herein, Public Switched Telephone Network means the same as the Public Switched Network, defined in 47 CFR 20.3: Any common carrier switched network, whether by wire or radio, including local exchange carriers, interexchange carriers, and mobile service providers, that use the North American Numbering Plan in connection with the provision of switched services.

his declaration, Morgenthaler attests that he has been advised by counsel that Surfnet meets the definition of a common carrier and telecommunications carrier under the Federal Telecommunications Act (47 USC 153(11)). Morgenthaler attests that Surfnet meets the eligibility requirements to interconnect with incumbent local carriers (ILECs) under Section 251 of the Federal Telecommunications Act, and meets the definition of a telephone corporation under California Public Utilities Code § 234(a).

Public Utilities Code § 216(a) defines the term "Public utility" to include a "telephone corporation," which in turn is defined in § 234(a) as "every corporation or person owning, controlling, operating, or managing any telephone line for compensation within this state." In its response to the ALJ ruling, Surfnet affirms that it meets the definition of a public utility under § 216.

As noted above, Surfnet states that, as part of its resell offerings, it may provide some services or features using IP-based technology such as VoIP. Pub. Util. Code § 710 states that the Commission, "shall not exercise regulatory jurisdiction or control over [VoIP] Voice over Internet Protocol and Internet Protocol enabled services except as required or expressly delegated by federal law or expressly directed to do so by statute or as set forth in subdivision (c)."

Pub. Util. Code § 239 defines the terms "Voice over Internet Protocol" (VoIP) and "Internet Protocol (IP) enabled service, as follows:"

239. (a) (1) "Voice over Internet Protocol" or "VoIP" means voice communications service that does all of the following:

- (A) Uses Internet Protocol or a successor protocol to enable real-time, two-way voice communication that originates from, or terminates at, the user's location in Internet Protocol or a successor protocol.
- (B) Requires a broadband connection from the user's location.

- (C) Permits a user generally to receive a call that originates on the public switched telephone network and to terminate a call to the public switched telephone network.

(2) A service that uses ordinary customer premises equipment with no enhanced functionality that originates and terminates on the public switched telephone network, undergoes no net protocol conversion, and provides no enhanced functionality to end users due to the provider's use of Internet Protocol technology is not a VoIP service.

(b) "Internet Protocol enabled service" or "IP enabled service" means any service, capability, functionality, or application using existing Internet Protocol, or any successor Internet Protocol, that enables an end user to send or receive a communication in existing Internet Protocol format, or any successor Internet Protocol format through a broadband connection, regardless of whether the communication is voice, data, or video.

Surfnet understands that its use of VoIP is not a regulated telecommunications service, but believes, based on prior Commission precedent, that provision of unregulated services in conjunction with use of regulated telecommunications services or facilities does not disqualify an applicant from applying for or receiving a CPCN. Surfnet states that the Commission has issued CPCNs to other carriers using IP-based technology to provide voice and data services in addition to non-IP based telecommunications services.³

³ Surfnet cites D.14-02-001, Application of Golden Bear Broadband, LLC for a Certificate of Public Convenience and Necessity in Order to Provide Full Facilities-Based and Resold Competitive Local Exchange Services, 2014 Cal. PUC LEXIS 72, at 6-7; Decision (D.) 13-12-050, Application of Schat Communications, LLC for a CPCN in Order to Provide Full Facilities - Based and Resold Competitive Local Exchange, Access, and Interexchange Service in the State of California, 2013 Cal. PUC LEXIS 751, at 5.

In seeking a CPCN, Surfnet understands and acknowledges that it will be subject to the Commission's jurisdiction regardless of the underlying technology used to provide its services. Surfnet also understands and acknowledges that it must abide by the Commission's rules, including annual reporting and surcharge remittance requirements.

3.1. Discussion

Based on the representations provided by Surfnet, we agree that Surfnet is a telephone corporation, and therefore a public utility subject to our jurisdiction. Accordingly, we have jurisdiction to grant Surfnet's application for a CPCN. Once a CPCN is granted, Surfnet shall be subject to the applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities, regardless of the underlying technology used to provide its services. Surfnet will be subject to the Consumer Protection Rules contained in General Order 168.

4. California Environmental Quality Act (CEQA)

Pursuant to the California Environmental Quality Act (CEQA) and Rule 2.4⁴ 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. The CEQA requires the Commission act as the designated lead agency to assess the potential environmental impact of a project in order that adverse effects are avoided,

⁴ Unless otherwise noted, items labeled "Rule" are from the Commission's Rules of Practice and Procedure.

alternatives are investigated, and environmental quality is restored or enhanced to the fullest extent possible.

Pursuant to California Pub. Util. Code § 1001, any telephone corporation that intends to begin construction of a line, plant system or an extension thereof must first obtain a CPCN from the Commission to operate. As indicated in its application, Surfnet at this time intends to use its own equipment such as switches in conjunction with existing outside plant (*e.g.* conduits, ducts and facilities) installed by carriers, utilities and municipalities. Therefore, Surfnet does not request full facilities-based authority pursuant to § 1001 in its application.

4.1. Discussion

Since Surfnet does not intend to construct any facilities other than equipment to be installed in existing buildings or structures for purposes of the authority sought in its application, it can be seen with certainty that there is no possibility that granting the application will have an adverse impact upon the environment.

Surfnet acknowledges that if the need arises for it to construct outside plant facilities in the future, it would need to apply to amend its CPCN for full facilities based authority and to comply with all applicable regulations and laws, including CEQA.

Before it can construct facilities other than equipment to be installed in existing buildings or structures, Surfnet must file for additional authority, and submit to any necessary CEQA review. Among other things, a Proponent's Environmental Assessment (PEA) is required for a full facilities-based CPCN.

Our treatment of the application as a request for limited facilities-based CPCN authority does not preclude Surfnet from filing an application at a later

date to pursue a full facilities-based CPCN. Surfnet must not begin construction of facilities beyond those authorized by this decision, however, until further approval is granted.

We have previously determined that the public convenience and necessity require that competition be allowed in the provision of competitive local exchange service, Rulemaking 95-04-043/Investigation 95-04-044. Granting this application will benefit the public interest by expanding the availability of technologically advanced telecommunications services within the state.

5. Financial Qualifications

To be granted a CPCN, an applicant for authority to provide 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.⁵ 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.⁶ In its application, Surfnet provided supporting documentation showing that it meets the requirement for a minimum of \$100,000 for limited facilities-based authority.

⁵ 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.

⁶ 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.

Surfnet requests confidential treatment of its supporting financial information, provided as a Confidential Attachment to its application. Surfnet represents that the information is sensitive, and disclosure could place it at an unfair business disadvantage. We have granted similar requests in the past and do so here to the following extent.

Surfnet's Confidential Attachment shall remain under seal 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 Commission order or ALJ ruling. If Surfnet believes that it is necessary for this information to remain under seal for longer than three years, Surfnet may file a new motion showing good cause for extending this order by no later than 30 days before the expiration of this order.

Accordingly, Surfnet has demonstrated that it has sufficient funds to meet start-up expenses and has fulfilled this requirement.

6. Technical and Managerial Fitness Qualifications

To be granted a CPCN for authority to provide interexchange service, an applicant must make a reasonable showing of managerial and technical expertise in telecommunications or a related business.⁷ Surfnet supplied biographical information on its management that demonstrates that it has sufficient expertise and training to operate as a telecommunications provider.

In its application, Surfnet verified that no one associated with or employed by Surfnet as an affiliate, officer, director, partner, or owner of more than 10% of Surfnet was previously associated with a telecommunications carrier that filed

⁷ D.95-12-056 at Appendix C, Rule 4.A.

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 Surfnet is in compliance with the requirements of D.95-12-056 relating to technical and managerial fitness qualifications for CPCN authority.

7. Tariffs

Based on the limited forms of service that Surfnet proposes to offer, Surfnet is not required to file tariffs as a condition of offering telecommunications services as proposed in its application.

8. Conclusion

We conclude that Surfnet's application conforms to our rules for issuance of a CPCN as a competitive limited facilities-based interexchange carrier. There is no apparent reason why the application should not be granted. Accordingly, we grant Surfnet a CPCN to provide resold and limited facilities-based interexchange telecommunications service in California subject to compliance with the terms and conditions set forth in the Ordering Paragraphs of this decision.

Applicant 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 subsequently modified in D.85-07-081 and D.85-11-044. We grant Applicant's request for non-dominant interexchange carrier status, provided that it follows all rules detailed in the above referenced decisions.⁸

The CPCN granted by this decision provides benefits to Surfnet and corresponding obligations. Surfnet receives authority to operate in the prescribed service territory, it can request interconnection with other telecommunications carriers in accordance with Section 251 of the Federal Communications Act (47 U.S.C. 251), and it receives access to public rights of way in California as set forth in D.98-10-058 subject to the CEQA requirements set forth in this decision. In return, Surfnet is obligated to comply with all applicable Public Utilities Codes and Commission Rules, General Orders, and decisions applicable to telecommunications carriers providing approved services. The applicable Codes, Rules, etc. include, but are not limited to consumer protection rules, and reporting requirements. Moreover, Surfnet is obligated to pay all Commission prescribed user fees and public purpose program surcharges as set forth in the Appendix B of this decision, to comply with CEQA, and to adhere to Pub. Util. Code Section 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."

⁸ 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.

9. Waiver of Comments on Proposed 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.

10. Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner and Linda A. Rochester is the assigned ALJ in this proceeding.

Findings of Fact

1. Notice of the application appeared on the Daily Calendar on August 2, 2013. No protests have been filed. A hearing is not required.
2. Surfnet is a telephone corporation and a public utility as defined in Pub. Util. Code §§ 234(a) and 216(a).
3. In support of its request for a CPCN, Surfnet described the services that it proposes to offer, including the technologies and protocols to be used, and the type of facilities that may be used to access its services.
4. In its application, and as supported by its response to an ALJ ruling, Surfnet provided a description of services to be offered and declaration of its Chief Executive Officer to show that it meets the definition of a common carrier and telecommunications carrier under the Federal Telecommunications Act (47 USC 153(11)).
5. The Commission acts as the designated lead agency under CEQA to assess the potential environmental impact of a project in order that adverse effects are avoided, alternatives are investigated, and environmental quality is restored or enhanced to the fullest extent possible.

6. Surfnet does not intend to construct any facilities other than equipment to be installed in existing buildings or structures for purposes of the authority sought in its application.

7. Based on the limited facilities-based authority sought by Surfnet, it can be seen with certainty that there is no possibility that granting Surfnet's application will have an adverse impact upon the environment.

8. Surfnet provided supporting documentation on a confidential basis to demonstrate that it meets the requirement for a minimum of \$100,000 of cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses.

9. Surfnet provided information establishing that its management personnel possess sufficient experience, knowledge, and technical expertise to provide local exchange services to the public.

10. No one associated with or employed by Surfnet as an affiliate, officer, director, partner, or owner of more than 10% of Surfnet 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.

Conclusions of Law

1. Surfnet should be granted a Certificate of Public Convenience and Necessity to provide resold and limited facilities based interexchange service in California, subject to the terms and conditions set forth in the Ordering Paragraphs in this decision.

2. Surfnet is in compliance with the requirements of D.95-12-056 relating to technical and other fitness qualifications for the limited facilities based CPCN authority sought.

3. Surfnet meets the requirements to interconnect with incumbent local carriers (ILECs) under Section 251 of the Federal Telecommunications Act, and meets the definition of a telephone corporation under California Public Utilities Code § 234(a).

4. Based on the representations provided by Surfnet regarding the services it proposes to provide, and the facilities to be used, Surfnet meets the definition of a telephone corporation and public utility, and this Commission has jurisdiction to grant Surfnet's application for a CPCN.

5. Surfnet, once granted a CPCN, should be subject to the applicable Commission rules, decisions, General Orders, including the Consumer Protection Rules in General Order 168, and statutes that pertain to California public utilities, regardless of the underlying technology used to provide its services.

6. Based on the authority sought to provide interexchange service, which excludes authority to offer local exchange basic service, Surfnet is eligible for a CPCN on a de-tariffed basis.

7. Surfnet's request for confidential treatment of documents relating to its financial qualifications should be granted for a period of three years from the effective date of this decision.

8. Surfnet should be granted a certificate of public convenience and necessity for non-dominant interexchange 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 Surfnet Communications, Inc. to provide resold and limited facilities-based interexchange telecommunications service in California, subject to the terms and conditions set forth below, and as prescribed in Attachments A, B, and C of this decision.
2. The corporate identification number assigned to Surfnet Communications, Inc. is U7265C. This identification number 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. Surfnet 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, Surfnet 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.

4. Surfnet 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.

5. In addition to all the requirements applicable to interexchange carriers included in this decision, Surfnet Communications, Inc. is subject to the Consumer Protection Rules in General Order 168, and all applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

6. Surfnet 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.

7. Surfnet Communications, Inc. must annually pay the user fee and public purpose surcharges specified in Attachment A. 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. Applicant must pay a minimum user fee of \$100 or 0.189 percent of gross intrastate revenue, whichever is greater. Under Public Utilities 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.

8. Prior to initiating service, Surfnet 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.

9. Prior to initiating service, Surfnet Communications, Inc. must provide the Commission's Communications Division with the name and address of its designated regulatory/official contact persons(s). This information must be provided electronically, using the "Regulatory/Official Contact Information Update Request" found at

<http://www.cpuc.ca.gov/PUC/telco/Information+for+providing+service/>.

This information must be updated if the name or telephone number changes, or at least annually.

10. Surfnet Communications, Inc. must notify the Director of the Communications Division in writing of the date that telecommunications service is first rendered to the public, no later than five days after service first begins.

11. Surfnet 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 B to this decision.

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

13. If Surfnet Communications, Inc. (Surfnet) wishes to engage in full facilities-based construction activities and believes that these activities are exempt from California Environmental Quality Act (CEQA), Surfnet shall first

apply to the Commission's Energy Division staff for a determination of exemption from CEQA.

14. Surfnet Communications, Inc. (Surfnet) request to keep confidential documents identified as "Confidential Attachment 1" and "Confidential Attachment 2" is granted as follows. The information shall remain under seal for three years after the date of this order. During this period, these documents shall not be publicly disclosed except on further Commission order or Administrative Law Judge ruling. If Surfnet believes it is necessary for this information to remain under seal for longer than three years, it may file a motion showing good cause for extending this order by no later than 30 days before the expiration of this order.

15. Application 13-07-019 is closed.

This order is effective today.

Dated _____, at San Francisco, California.

ATTACHMENT A
REQUIREMENTS APPLICABLE TO 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 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>.

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

- 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 non-dominant interexchange carrier (NDIEC).

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. In addition, Applicant must provide the Commission's Communications Division with the name and address of its designated regulatory/official contact persons(s). This information must be provided electronically, using the "Regulatory/Official Contact Information Update Request" found at

<http://www.cpuc.ca.gov/PUC/telco/Information+for+providing+service/>.

This information must be updated if the name or telephone number changes, or at least annually.

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

5. Applicant must obtain a performance bond of at least \$25,000 in accordance with D.13-05-035. The performance bond must be a continuous bond (i.e., there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within five days of acceptance of its certificate of public convenience and necessity authority,

Applicant must submit a Tier-1 advice letter to the 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.

6. Applicant must not allow its performance bond to lapse during any period of its operation. Pursuant to D.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.

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

8. 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.

9. 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 B to this decision.

10. 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 C.

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

12. 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.

13. 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.

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

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

16. 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.

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

18. 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 A)

ATTACHMENT B
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 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 B)

ATTACHMENT C**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 C)