

Decision \_\_\_\_\_

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

In the Matter of the Application of  
Connect First, Inc. for authorization to  
obtain a Certificate of Public Convenience  
and Necessity as a Telephone Corporation  
Pursuant to the Provisions of Public  
Utilities Code Section 1001.

Application 14-05-028  
(Filed May 30, 2014)

**DECISION GRANTING CONNECT FIRST, INC. A CERTIFICATE OF PUBLIC  
CONVENIENCE AND NECESSITY IN ORDER TO PROVIDE RESOLD  
INTEREXCHANGE SERVICE**

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**DECISION GRANTING CONNECT FIRST, INC. A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN ORDER TO PROVIDE RESOLD INTEREXCHANGE SERVICE****Summary**

Pursuant to Public Utilities Code Section 1001,<sup>1</sup> we grant Connect First, Inc. a certificate of public convenience and necessity to provide resold interexchange service in California subject to the terms and conditions set forth in the Ordering Paragraphs.

**1. Background**

Connect First, Inc. (Connect First or Applicant) is a corporation authorized to do business in California that provides software that supports customers in providing customer service. Connect First's principal place of business is located at 3101 Iris Avenue, Suite 200, Boulder, Colorado 80301.

On May 30, 2014, Connect First filed an application seeking a certificate of public convenience and necessity (CPCN) to operate as a provider of resold interexchange services in California pursuant to the provisions of § 1001 of the Pub. Util. Code.<sup>2</sup> In its application, Connect First acknowledged that it has been providing resold interexchange services in California without proper authorization from the Commission. The application appeared on the Commission's Daily Calendar on June 4, 2014.

On July 7, 2014, the Commission's Safety and Enforcement Division (SED) filed a protest to the application. The protest stated that Connect First has been

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<sup>1</sup> All statutory references herein are to the California Public Utilities Code unless otherwise indicated.

<sup>2</sup> All statutory references are to the Pub. Util. Code, unless otherwise noted.

operating without authority since 2010, in violation of sections 1001 and 1013, and has derived California intrastate revenue of \$54.

On July 21, 2014, the assigned Administrative Law Judge (ALJ) issued a ruling requesting additional information from the applicant, which was filed on October 9, 2014.<sup>3</sup>

On September 16, 2014, SED and Connect First (collectively, the parties) filed a Joint Motion for Approval of Settlement Agreement along with a copy of the actual settlement agreement.<sup>4</sup> The settlement agreement purports to resolve all the issues between the parties.

A prehearing conference (PHC) was held September 29, 2014. At the PHC, the parties raised no additional issues other than the pending joint motion for approval of the settlement agreement between the parties.

On October 20, 2014, the assigned ALJ issued a ruling removing Exhibit 4 of the application<sup>5</sup> from the record, and granting confidential treatment of Connect First's audited financial statements, filed as Attachment A of its October 9, 2014 filing.

## **2. Jurisdiction**

Public Utilities Code Section 216(a) defines the term "Public utility" to include a "telephone corporation," which in turn is defined in Public Utilities

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<sup>3</sup> Applicant's prior filings of the response on August 5, 2014, and October 5, 2014, were rejected by the CPUC Docket Office due to procedural defects.

<sup>4</sup> The Settlement Agreement is attached to this Decision as Attachment A.

<sup>5</sup> Exhibit 4 to Application 14-05-028 contains financial information in a form that is not acceptable under the Commission's rules. Applicant was required to submit its financial information in one of the forms acceptable to the Commission, which it did, on October 9, 2014.

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

Connect First provides software, intended for call centers, that supports customers in providing customer service. Therefore, Connect First is a telephone corporation and a public utility subject to our jurisdiction.

### **3. The Settlement Agreement and Terms**

As noted in the background above, the application was protested, and the parties to the proceeding were able to reach a settlement.

A settlement under Rule 12.1(a)<sup>6</sup> of the Rules of Practice and Procedure may be filed after the first PHC is held. In this case, the settlement agreement was filed before the PHC was held.

However, pursuant to Rule 1.2<sup>7</sup> of the Rules of Practice and Procedure, this decision deems that there exists good cause, to allow a deviation from the timing requirements for submission of settlement provided in Rule 12.1(a). Specifically, good cause is demonstrated in this case by the lack of prejudice to any person as a result of the filing deviation, and the fact that the timing deviation will allow for a speedy determination of the issues.

Moreover, the parties are fully cognizant of all the issues regarding the application and no new issues were raised during the PHC. This decision,

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<sup>6</sup> Rule 12.1(a) states that “Parties may, by written motion any time after the first pre-hearing conference and within 30 days after the last day of hearing, propose settlements on the resolution of any material issue of law or fact or on a mutually agreeable outcome to the proceeding...”

<sup>7</sup> Rule 1.2 states that “These rules shall be liberally construed to secure just, speedy, and inexpensive determination of the issues presented. In special cases and for good cause shown, and within the extent permitted by statute, the Commission may permit deviations from the rules.”

therefore, accepts the filing of the settlement agreement by the parties, prior to the holding of the PHC.

With regards to the proposed settlement itself, the parties agree that the proposed settlement agreement is intended to fully resolve all issues raised in SED's protest. In the Joint Motion for Approval of Settlement, the settling parties summarize the key terms and commitments in the settlement agreement as follows:

1. Connect First acknowledges that Public Utilities Code Section 1001 requires companies that provide telecommunications services in California to comply with the Commission's licensing requirements, and that Connect First failed to obtain the required authority before offering its services in California.<sup>8</sup>
2. In order to resolve the legal issues raised by SED in its Protest, Connect First will pay \$8,000 to the State of California General Fund no later than 30 calendar days after the date the Commission issues a decision approving this Agreement.<sup>9</sup>

The Commission finds that the settlement agreement is in the public interest. The settlement agreement is consistent with the Commission's well-established policy of supporting resolution of disputed matters through settlement, and avoids the time, expense, and uncertainty of evidentiary hearings and further litigation. There are also no disputed facts between the parties. The Commission also finds that the benefits to the public, including payment to the General Fund, outweigh the benefits of continued litigation and its associated cost.

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<sup>8</sup> See Settlement Agreement at 2.

<sup>9</sup> *Ibid.*

The Commission has historically favored settlements that are fair and reasonable in light of the record as a whole. The Commission finds that the joint statement of facts in the settlement agreement provides a clear and succinct description of the facts surrounding the dispute between the parties.

Further, the Commission finds that no part of the settlement agreement contravenes any statutory provisions or prior Commission decisions, and that it provides sufficient information for the Commission to discharge its future regulatory obligations with respect to the parties and their interests and obligations. The settlement agreement does not contradict current Commission rules and it does not constitute a precedent regarding any principle or issue in this proceeding or any future proceeding.

With respect to the amount of the penalty proposed, the Commission looks to the criteria established in Decision (D.) 98-12-075, Appendix B, which has provided guidance in similar cases. The Commission considers the following criteria: 1) the severity of the economic or physical harm resulting from the violation; 2) the utility's conduct to prevent, detect, disclose, and rectify the violation; 3) the utility's financial resources; 4) the public interest involved; 5) the totality of the circumstances; and 6) Commission precedent.

In this case, the Commission finds the proposed penalty payment amount of \$8,000 to be reasonable. Connect First has been operating since 2010 without Commission authority and only submitted to the jurisdiction of the Commission after SED investigation. Since no complaints have been filed with the Commission regarding applicant's provision of call center software and associated services, and because applicant has only had one customer in California to date, the Commission finds there to be minimal economic harm to its customers.

Based on Commission precedent and a review of the applicant's finances, the proposed penalty payment of \$8,000 is reasonable, represents a significant penalty to the applicant, but would not otherwise impact its ability to continue providing service to its customer base. The Commission finds that the settlement agreement is in the public interest, is reasonable in light of the record as a whole, and, is consistent with law. The settlement agreement likewise resolves all issues before the Commission in this proceeding.

#### **4. California Environmental Quality Act (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, alternatives are investigated, and environmental quality is restored or enhanced to the fullest extent possible. Since applicant states that it does not contemplate any proposed construction or extension of facilities as a result of this application, it can be seen with certainty that there is no possibility that granting this application will have an adverse impact upon the environment. Before it can construct facilities other than equipment to be installed in existing buildings or structures, applicant must file for additional authority, and submit to any necessary CEQA review.

#### **5. Financial Qualifications**

To be granted a CPCN, an applicant for authority to provide resold interexchange services must demonstrate that it has a minimum of \$25,000 cash or cash equivalent to meet the firm's start-up expenses.<sup>10</sup> An applicant must also demonstrate that it has sufficient additional resources to cover all deposits

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<sup>10</sup> The financial requirement for Competitive Local Exchange Carriers is contained in D.95-12-056, Appendix C. The financial requirement for NDIEC is contained in D.91-10-041.



required by local exchange carriers and interexchange carriers in order to provide the proposed service.<sup>11</sup>

In its reply to the ALJ ruling directing applicant to submit additional information, applicant submitted audited financial statements which reflect that applicant possessed the requisite \$25,000 cash or cash equivalent. The above documentation shows that applicant possesses resources that are reasonably liquid and available. Applicant has demonstrated that it has sufficient funds to meet its start-up expenses and has fulfilled the financial requirement.

Applicant also stated in its reply that there are no deposits that are required to be provided to other telecommunications carrier in order to provide applicant's services. Therefore, no additional resources are required at this time to cover deposits.

## **6. Technical 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.<sup>12</sup> Connect First supplied biographical information on its management in Exhibit 5 to its application, that demonstrated that it has sufficient expertise and training to operate as a telecommunications provider.

In its application, Connect First verified that no one associated with or employed by Connect First as an affiliate, officer, director, partner, or owner of

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<sup>11</sup> The requirement for Competitive Local Carrier applicants to demonstrate that they have additional financial resources to meet any deposits required by underlying Local Exchange Carriers and/or IECs is set forth in D.95-12-056, Appendix C. For NDIECs, the requirement is found in D.93-05-010.

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

more than 10% of Connect First was previously associated with a telecommunications carrier that filed for bankruptcy, was sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order, or has been found either civilly or criminally liable by a court of appropriate jurisdiction for a violation of § 17000, et seq. of the California Business and Professions Code, or for any actions which involved misrepresentations to consumers, nor is currently under investigation for similar violations.

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

#### **7. Tariffs**

Applicant has requested authority to operate on a de-tariffed basis. This request is granted as Connect First will not provide Basic Local, Access or Special Access Services. Connect First states in its application that it will offer its services at rates that are competitive with the rates of other interexchange service carriers in California and that its contracts with customers will be consistent with the consumer protection rules established in D.98-08-031 and contain all applicable commission fees and surcharges.

#### **8. Expected Customer Base**

Connect First provided its estimated customer base for the first and fifth years of operation in Section 15 of its application. Therefore, Connect First has complied with this requirement.

#### **9. Conclusion**

As a result of the above considerations, the Commission finds that the settlement agreement between SED and Connect First to be: (1) in the public interest; (2) reasonable in light of the record; and (3) consistent with the law.

With respect to the timing requirements for filing the settlement provided in Rule 12.1(a), the Commission finds that there is good cause in this particular instance, to accept the filing of the settlement prior to the holding of the PHC. This determination is pursuant to Rule 1.2, which permits a deviation from the rules to secure just, speedy, and inexpensive determination of the issues presented.

The record of this proceeding consists principally of the application, the protest filed by SED, and the joint motion to approve the settlement agreement. We find that a record based on these filed materials is adequate to enable us to determine that the settlement meets the Commission's standards for approval of settlements in general. Therefore the settlement agreement is approved.

The Commission also concludes that the application conforms to its rules for certification as a competitive interexchange carrier. Accordingly, the Commission grants Connect First a CPCN to provide resold interexchange telecommunications service in California subject to compliance with the terms and conditions set forth in the Ordering Paragraphs.

The CPCN granted by this decision provides benefits to Connect First and corresponding obligations. Connect First 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, Connect First 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, tariffing, and reporting requirements. Moreover, Connect First 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."

#### **10. Categorization and Need for Hearings**

In Resolution ALJ 176-3337, dated June 12, 2014, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. On July 7, 2014, SED filed a protest to the application. Hence, on September 29, 2014, the assigned ALJ held a PHC. Since the parties have reached settlement and the Joint Motion for Approval of Settlement Agreement has been filed, no hearings are necessary in this proceeding

#### **11. 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.

#### **12. Assignment of Proceeding**

Michael Picker is the assigned Commissioner and Rafael Lirag is the assigned ALJ in this proceeding.

**Findings of Fact**

1. Notice of the application appeared on the Daily Calendar on June 4, 2014. On July 7, 2014, SED filed a protest to the application. On September 29, 2014, the assigned ALJ held a PHC.

2. The parties negotiated and reached settlement. A Joint Motion for Approval of Settlement Agreement was filed on September 16, 2014.

3. With the filing of the settlement agreement, this proceeding becomes an uncontested matter. In approving the transaction and accepting the settlement agreement, we are granting the relief requested.

4. Good cause exists to not disallow the filing of the joint settlement agreement prior to when the PHC was held.

5. Public Utilities Code Section 216(a) defines the term “public utility” to include a “telephone corporation.

6. Connect First proposes to provide software that supports customers in providing customer service.

7. The settlement agreement conveys to the Commission sufficient information to permit the Commission to discharge its future regulatory obligations with respect to the parties and their interests.

8. Connect First has a minimum of \$25,000 of cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses.

9. Connect First does not require any deposits to be provided to other telecommunications carrier in order to provide its services.

10. Connect First’s management possesses sufficient experience, knowledge, and technical expertise to provide interexchange services to the public.

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

12. Connect First will not provide Basic Local, Access or Special Access Services and may be granted a CPCN on a de-tariffed basis.

13. Connect First provided an estimate of its customer base for the first and fifth year of operation.

14. Approving the CPCN application and the settlement agreement is the relief requested by the parties and this relief is not opposed by any party in this proceeding.

### **Conclusions of Law**

1. Nothing in the settlement agreement contravenes any statute or Commission decision or rule.

2. The benefits to the public of the settlement agreement outweigh the benefits of continued litigation.

3. The penalty level of the settlement agreement is reasonable given the totality of the circumstances.

4. The settlement agreement is (1) reasonable in light of the record; (2) consistent with the law; and (3) in the public interest.

5. The settlement agreement should be approved.
6. Connect First is a telephone corporation and a public utility as defined in Pub. Util. Code Sections 234(a) and 216(a).
7. Hearings are not necessary in this proceeding.
8. Connect First should be granted a CPCN to provide resold interexchange telecommunications service in California subject to the terms and conditions set forth in the Ordering Paragraphs.
9. Connect First, once granted a CPCN, should be subject to the applicable Commission rules, decisions, GOs, and statutes that pertain to California public utilities.
10. Hearings are not necessary in this proceeding.

**ORDER**

**IT IS ORDERED** that:

1. The September 16, 2014, Joint Motion for Approval of Settlement Agreement by the Commission's Safety and Enforcement Division and Connect First, Inc., pursuant to Rule 12.1 of the Commission's Rules of Practice and Procedure, is granted, and the settlement agreement, Attachment A to this decision, is approved.
2. Connect First, Inc. shall make a settlement payment of \$8,000.00 by check or money order payable to the California Public Utilities Commission and mailed or delivered to the Commission's Fiscal Office at 505 Van Ness Avenue, San Francisco, California 94102, within 30 days of the effective date of this order. Connect First, Inc. shall write on the face of the check or money order "For deposit to the General Fund per Decision \_\_\_\_\_."

3. A certificate of public convenience and necessity is granted to Connect First, Inc., to provide resold interexchange telecommunications services in California, subject to the terms and conditions set forth below.

4. The corporate identification number assigned to Connect First, Inc., U-7271-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.

5. Connect First, 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, Connect First, Inc. must submit a Tier-1 Advice Letter (AL) to the Director of Communications, containing a copy of the license holder's executed bond, and submit a Tier 1 AL annually, but not later than March 31, with a copy of the executed bond.

6. Connect First, 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.

7. Although Connect First, Inc. is granted a certificate of public necessity and convenience on a de-tariffed basis, it 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.



8. Connect First, 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. Connect First, 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. In accordance with Decision 13-05-035, Connect First, Inc. must pay a minimum user fee of \$100.00 or 0.18% of gross intrastate revenue, whichever is greater.

10. Prior to initiating service, Connect First, 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.

11. Prior to initiating service, Connect First, 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.

12. If applicable, Connect First, 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.

13. Connect First, 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. Connect First, 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.

15. Application 14-05-028 is closed.

This order is effective today.

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

**ATTACHMENT A****SETTLEMENT AGREEMENT<sup>1</sup>**

In order to avoid the costs and risks of further litigation and to expeditiously resolve this matter, the Safety and Enforcement Division of the California Public Utilities Commission (SED), and Connect First, Inc. and its predecessors, successors, affiliates, and assigns (Connect First) hereby agree upon the following terms for the settlement (Settlement) of SED's Protest of Connect First's Application A.14-05-028 (Application) for a Certificate of Public Convenience and Necessity (CPCN) pursuant to provisions of Public Utilities Code Section 1001.

**I. JOINT FACTUAL STATEMENT**

1. On early 2014 the Commission's Communication Division (CD) informed Connect First that it must obtain authority to provide telecommunications service in California. In response, on May 30, 2014 Connect First filed A.14-05-028.

2. On July 15, 2014 SED filed a protest of A.14-05-028 alleging that Connect First had been operating without authority since 2010. In its application, Connect First acknowledged that "it has been providing resold interexchange services in the state of California without proper Commission authorization."

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<sup>1</sup> The original version of the settlement agreement filed by SED and Connect First on September 16, 2014, includes the signatures of the individuals listed at the end of the settlement agreement. Also, the attached version of the settlement agreement contains formatting changes that differ from the original document.

3. According to its application, Connect First is a corporation that provides call center software and associated services, organized in Florida since 2005 with its principal offices located in Boulder, Colorado.

4. Through data requests, SED learned that Connect First's primary business is selling software that supports customers in providing customer service. A small part of those business customers reside in California, although the majority of the business involves providing non-telecommunications services. A small part of the customer service software involves selling regulated telecommunications service to its customers. As a result, Connect First acknowledges that it must obtain authority to operate in California.

6. Neither Connect First nor its officers and managers have been sanctioned previously by the Commission. Connect First has shown willingness to resolve the regulatory issues raised by SED Staff. Staff found no complaints filed with the Federal Communications Commission (FCC), Better Business Bureau (BBB), and the Commission's Consumer Affairs Branch (CAB).

## **II. AGREEMENT**

6. Acknowledgement. Connect First acknowledges that Public Utilities Code Section 1001 requires companies that provide telecommunications services in California to comply with the Commission's licensing requirements, and that Connect First failed to obtain the required authority before offering its services in California. Connect First states that it will fully meet its regulatory and legal obligations and its responsibilities to its customers and members of the public in California in the future.

7. Penalty Payment. In order to resolve the legal issues raised by SED in its Protest, Connect First will pay \$8,000 to the State of California General Fund no later than 30 calendar days after the date the Commission issues a decision approving this Agreement. The memo area of the checks shall indicate the Decision number approving this settlement, and shall include the words “for remittance to the State General Fund.” The check shall be made payable to the California Public Utilities Commission (CPUC) and sent to the following address: CPUC Fiscal Office, 505 Van Ness Avenue, San Francisco, CA 94102.

#### **IV. GENERAL PROVISIONS**

8. Scope and Effect of Agreement. This Agreement represents a full and final resolution of SED’s Protest, and the matters giving rise thereto. The parties understand that this Settlement Agreement is subject to approval by the Commission. As soon as practicable after the Parties have signed the Settlement Agreement, a Motion for Commission Approval and Adoption of the Settlement Agreement will be filed. The Parties agree to support the Settlement Agreement, recommend that the Commission approve it in its entirety without change and use their best efforts to secure Commission approval of it in its entirety without modification. The Parties agree that, if the Commission fails to adopt the Settlement Agreement in its entirety without material change, the Parties shall convene a settlement conference within 15 days thereof to discuss whether they can resolve any issues raised by the Commission’s actions. If the Parties cannot mutually agree to resolve the issues raised by the Commission’s actions, the Settlement Agreement shall be rescinded and the Parties shall be released from their obligation to support this Settlement Agreement. Thereafter, the Parties may pursue any action they deem appropriate, but agree to cooperate to establish a procedural schedule for the remainder of the proceeding.

9. Successors. This Agreement and all covenants set forth herein shall be binding upon and shall inure to the benefit of the respective Parties hereto, their successors, heirs, assigns, partners, representatives, executors, administrators, subsidiary companies, divisions, units, agents, attorneys, officers, and directors.

10. Knowing and Voluntary Execution. The Parties acknowledge each has read this Agreement, that each fully understands the rights, duties and privileges created hereunder, and that each enters this Agreement freely and voluntarily.

11. Authority to Execute Agreement. The undersigned acknowledge and covenant that they have been duly authorized to execute this Agreement on behalf of their respective principals and that such execution is made within the course and scope of their respective agency or employment.

12. Entire Agreement. The Parties expressly acknowledge that the consideration recited in this Agreement is the sole and only consideration of this Agreement, and that no representations, promises, or inducements have been made by the Parties or any director, officer, employee, or agent thereof other than as set forth expressly in this Agreement.

13. Choice of Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of California and the rules, regulations and General Orders of the California Public Utilities Commission.

14. Execution in Counterparts. This Agreement may be executed by any of the Parties in counterparts with the same effect as if all Parties had signed one and the same document. All such counterparts shall be deemed to be an original and shall together constitute

one and the same Agreement. A signature transmitted by facsimile shall be regarded as an original signature.

CONNECT FIRST, INC.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Geoff Mina  
Chief Executive Officer  
Connect First, Inc.  
3101 Iris Avenue, Suite 200  
Boulder, Colorado 80301

SAFETY AND ENFORCEMENT  
DIVISION

Dated: \_\_\_\_\_

\_\_\_\_\_  
Denise Tyrrell  
Interim Director  
Safety and Enforcement Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

**(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>1</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>1</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 non-dominant interexchange carrier (NDIEC). The effectiveness of its future NDIEC tariffs is subject to the requirements of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).
  4. Tariff filings must reflect all fees and surcharges to which Applicant is subject, as reflected in #2 above.
  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 (CPCN) authority, Applicant must submit a Tier 1 Advice Letter (AL) to the Director of Communications, containing a copy of the license holder's executed bond, and submit a Tier 1 AL 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 CPCN 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. 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.

8. If applicable, 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 keep its books and records in accordance with the Generally Accepted Accounting Principles.
10. 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.
11. 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.
12. 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.
13. Applicant must ensure that its employees comply with the provisions of Pub. Util. Code § 2889.5 regarding solicitation of customers.
14. 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.
15. 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.

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

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

18. 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.

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

20. 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.

- a. Form of organization (*e.g.*, corporation, partnership, joint venture, strategic alliance, etc.);
- b. Brief description of business activities engaged in;
- c. Relationship to the utility (*e.g.*, controlling corporation, subsidiary, regulated subsidiary, affiliate);
- d. Ownership of the utility (including type and percent ownership)
- e. Voting rights held by the utility and percent; and
- f. 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)**