

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of ComNet (USA), LLC for Registration as an Interexchange Carrier Telephone Corporation Pursuant to the Provisions of Public Utilities Code Section 1013.

Application 16-08-019
(Filed August 18, 2016)

DECISION APPROVING SETTLEMENT AND GRANTING COMNET (USA), LLC, A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN ORDER TO PROVIDE LIMITED-FACILITIES BASED INTEREXCHANGE SERVICE

Summary

Pursuant to Public Utilities Code § 1001, we grant ComNet (USA), LLC a certificate of public convenience and necessity (U-7330-C) to provide limited facilities-based interexchange service in California subject to the terms and conditions set forth in the Ordering Paragraphs.¹ We also approve the settlement agreement between ComNet (USA), LLC and the Consumer Protection and Enforcement Division (CPED) (attached as Appendix I) which resolves all the issues raised by CPED in its protest.

This proceeding is closed.

¹ While this application was filed pursuant to Pub. Util. Code § 1013, an expedited and ministerial registration process, the protest and resulting assignment to an administrative law judge removed it from the registration track. It has therefore been evaluated as a certificate of public convenience and necessity under § 1001.

1. Background

On August 18, 2016, ComNet (USA), LLC (ComNet or Applicant), a limited liability corporation in California filed an application for a certificate of public convenience and necessity (CPCN) to provide limited facilities-based interexchange telecommunications services in the service territories of Pacific Bell Telephone Company d/b/a AT&T California (AT&T), Frontier California Inc. (Frontier California)², Citizens Telecommunications Company of California, Inc. d/b/a Frontier Communications of California (Frontier Communications), and Consolidated Communications of California Company (Consolidated, formerly SureWest Telephone³).

ComNet proposes to provide local exchange services to business and residential customers via prepaid debit/calling cards.

ComNet's principal place of business in California is located at 700 S. Flower Street, Suite 950, Los Angeles, California 90017. ComNet is a subsidiary of Hong Kong-based CITIC Telecom International Holdings, Limited, and is publicly traded on the Main Board of the Hong Kong Stock Exchange (stock code: 1883).

On October 3, 2016, the Commission's Consumer Protection and Enforcement Division (CPED) filed a protest to the application on the following grounds:

² Frontier California was formerly Verizon California, Inc. (Verizon). As of April 1, 2016, Verizon's operations in California were acquired and are now operated by Frontier California, Inc., pursuant to Decision (D.) 15-12-005.

³ SureWest Telephone was acquired by Consolidated Communications Inc. in 2012, pursuant to D.12-06-004, and SureWest Telephone changed its name to Consolidated Communications of California Company as of January 1, 2016.

1. ComNet has been operating in California without authority in violation of Public Utilities Code (Pub. Util. Code) §§ 885⁴, 1001 and/or 1013; and
2. ComNet failed to disclose in its application that its telecommunications licenses had been revoked by California and Michigan, a possible Rule 1.1⁵ violation.

3. Jurisdiction

Public Utilities Code (Pub. Util. Code) § 216(a) defines the term “Public utility” to include a “telephone corporation,” which in turn is defined in Public Utilities Code § 234(a) as “every corporation or person owning, controlling, operating, or managing any telephone line for compensation within this state.”

ComNet proposes to provide interexchange services using prepaid debit/calling cards. ComNet is a telephone corporation and a public utility subject to our jurisdiction.

4. Standard of Review for Settlements

On May 1, 2017, ComNet and CPED filed a joint motion to adopt the settlement agreement between ComNet and CPED. The proposed settlement agreement requires ComNet to pay a penalty of \$20,000 to the California general fund, and resolves all of the issues raised in CPED’s protest. The application is now uncontested.

Under our Rules, the Commission will only approve a settlement if it is “reasonable in light of the whole record, consistent with the law, and in the public interest.”⁶ In response to a ruling by the Administrative Law Judge (ALJ), the parties indicated the settlement was based on the criteria set forth in Decision

⁴ All statutory references are to the Public Utilities Code unless otherwise indicated.

⁵ All references to Rule or Rules refer to the Commission’s Rules of Practice and Procedure.

⁶ Rule 12.1(d).

(D.) 98-12-075 to determine an appropriate financial penalty, including the conduct of the utility, economic harm or harm to the regulatory process, the financial resources of the utility, and the role of precedent. CPED found no economic harm to consumers. CPED found harm to the regulatory process because ComNet operated without authority in violation of §§ 885 and 886. Due to a communication error, ComNet was not initially aware the Commission had revoked its operating authority. However, once ComNet became aware of the revocation, it immediately paid all outstanding user fees and surcharges, and has otherwise fully cooperated with the Commission. CPED found that ComNet has the financial resources to pay a penalty of \$20,000.

The penalty amount agreed upon in the settlement is consistent with penalties imposed by the Commission under similar circumstances in the past, and satisfies the requirements of §§ 2107 and 2108. The settlement is found to be reasonable in light of the whole record, consistent with the law, and in the public interest as required by Rule 12.1(d).

5. Limited versus Full Facilities-Based CPCN

In its application, ComNet did not identify which type of facilities-based CPCN for which it requested authorization. Given the language in the application, the application would be treated as a request for a limited facilities-based CPCN. The treatment of Application (A.)16-08-019 as a request for a limited facilities-based CPCN does not preclude ComNet from filing an application at a later date to pursue a full facilities-based CPCN. ComNet must not begin construction of facilities beyond those authorized by this decision until further approval is granted.

6. California Environmental Quality Act (CEQA)

Pursuant to the California Environmental Quality Act (CEQA)⁷ and Rule 2.4, the Commission acts as the designated lead agency to consider the environmental consequences of projects that are subject to our approval in order that adverse effects are avoided, alternatives are investigated, and environmental quality is restored or enhanced to the fullest extent possible. Since ComNet states that it does not intend to construct any facilities other than equipment to be installed in existing buildings or structures, 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, ComNet must file for additional authority, and submit to any necessary CEQA review.

7. Financial Qualifications

To be granted a CPCN, an applicant for authority to provide limited facilities based interexchange services must demonstrate that it has a minimum of \$25,000 cash or cash equivalent, reasonably liquid and readily available to meet the firm's start-up expenses.⁸ 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.⁹ In the application, ComNet verified that \$25,000 plus an amount equal

⁷ Public Resources Code § 21000 *et seq.*

⁸ 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.

⁹ The requirement for Competitive Local Carrier (CLC) applicants to demonstrate that they have additional financial resources to meet any deposits required by underlying Local

Footnote continued on next page

to the deposit required by AT&T, Frontier California, Frontier Communications, and Consolidated would be available to ComNet for one year following certification. Since ComNet has provided documentation that it possesses a minimum of \$25,000 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. ComNet's financial documentation will be subject to verification and review by the Commission for one year to ensure that such funds are available.

ComNet proposed to initially interconnect with AT&T, Frontier California, Frontier Communications, and Consolidated. In addition to the \$25,000 discussed above, ComNet attests that it is not required to pay any deposits to any local exchange carriers or interexchange carriers. Therefore, no additional resources are required at this time to cover deposits.

8. Technical Qualifications

To be granted a CPCN for authority to provide competitive local exchange and interexchange service, an applicant must make a reasonable showing of managerial and technical expertise in telecommunications or a related business.¹⁰ ComNet supplied biographical information on its management in Attachment B to its application that demonstrates it has sufficient expertise and training to operate as a telecommunications provider.

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.

¹⁰ D. 95-12-056 at Appendix C, Rule 4.A.

In its application, ComNet verified that no one associated with or employed by ComNet as an affiliate, officer, director, partner, or owner of more than 10 percent of ComNet: (a) held one of these positions with a company that filed for bankruptcy; (b) been personally found liable, or held one of these positions with a company that has been found liable, for fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; (c) been convicted of a felony; (d) been the subject of a criminal referral by judge or public agency; (e) had a telecommunications license or operating authority denied, suspended, revoked, or limited in any jurisdiction; (f) personally entered into a settlement, or held one of these positions with a company that has entered into settlement of criminal or civil claims involving violations of §§ 17000, *et seq.*, §§ 17200, *et seq.*, or §§ 17500, *et seq.*, of the California Business & Professions Code, or of any other statute, regulation, or decisional law relating to fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; or (g) been found to have violated any statute, law, or rule pertaining to public utilities or other regulated industries; (h) entered into any settlement agreements or made any voluntary payments or agreed to any other type of monetary forfeitures in resolution of any action by any regulatory body, agency, or attorney general; or (i) is being, or has been investigated by the Federal Communications Commission or any law enforcement or regulatory agency for failure to comply with any law, rule or order. ¹¹

The Application noted the investigation by SED of the unauthorized provision of calling card services. SED and the applicant have now entered into

¹¹ These certifications are required by D.13-05-035, Ordering Paragraph 14.

a settlement resolving this issue, and SED no longer protests the Application. For the above reasons, we find that SBS is in compliance with the requirements of D.95-12-056.

The Commission's Consumer Protection and Enforcement Division (CPED) filed a protest to the application of ComNet for operating in California without authority in violation of Public Utilities Code (Pub. Util. Code) §§ 885¹², 1001 and/or 1013 and failure to disclose in its application that its telecommunications licenses had been revoked by California and Michigan, a possible Rule 1.1¹³ violation.

CPED and the applicant have now entered into a settlement resolving these issues and the CPED no longer protests the Application.

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

9. Tariffs

ComNet has requested detariffed status and may be exempt from the requirement to file tariffs provided that ComNet complies with the consumer protection rules identified in D.98-08-031. We have approved detariffed status for other carriers similarly situated, and we do so here.

10. Expected Customer Base

ComNet has been operating successfully in California for several years. Therefore, ComNet has complied with this requirement.

11. Request for Treatment as a Non-dominant Carrier

¹² All statutory references are to the Public Utilities Code unless otherwise indicated.

¹³ All references to Rule or Rules refer to the Commission's Rules of Practice and Procedure.

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.¹⁴

12. Safety Considerations

With the adoption of the *Safety Policy Statement of the California Public Utilities Commission* on July 10, 2014, the Commission has, among other things, heightened its focus on the potential safety implications of every proceeding. We have considered the potential safety implications here. We feel satisfied that ComNet will meet the Commission's minimum safety goals and expectations of competitive local exchange carriers (CLECs) because: (1) ComNet has taken steps to meet the financial requirements as set forth in this decision for a facilities-based CLEC, and (2) ComNet is a public utility that is required pursuant to Pub. Util. Code § 451 to "... furnish and maintain such adequate, efficient, just and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities ... as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public."

¹⁴ 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.

13. Conclusion

We conclude that the proposed settlement is consistent with our rules, and should be approved. The application conforms to our rules for certification as a competitive interexchange carrier. Accordingly, we grant ComNet a CPCN to provide limited facilities-based interexchange 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 ComNet and corresponding obligations. ComNet receives authority to operate in the prescribed service territory, and this authority enables ComNet, pursuant to section 251 of the 1934 Communications Act, as amended by the 1996 Telecommunications Act (47 U.S.C. 251) , to interconnect with telecommunications carriers.¹⁵ This authority also enables ComNet to obtain 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, ComNet is obligated to comply with all Public Utilities Code provisions, Commission rules, General Orders, and decisions applicable to telephone corporations providing approved services. The applicable statutes, rules, General Orders, and decisions include, but are not limited to consumer protection rules, tariffing, and reporting requirements. Moreover, ComNet 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 § 451 which states that every public utility "...shall furnish and maintain such adequate, efficient, just, and

¹⁵ The California Public Utilities Code uses the term "telephone corporation." Its counterpart in federal law is a "telecommunications carrier."

reasonable service, instrumentalities, equipment, and facilities, including telephone facilities, as defined in § 54.1 of the Civil Code, as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.”

14. Categorization and Need for Hearings

In Resolution ALJ 176-3384, dated September 15, 2016, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. On October 3, 2016, CPED filed a protest to the application and requested a hearing. On February 24, 2017, the assigned ALJ held a pre-hearing conference (PHC). At the PHC, CPED withdrew its request for a hearing. The issues raised in CPED’s protest have been resolved and the application is now uncontested. There is no apparent reason why the application should not be granted. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

15. Comments on Draft Decision

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

16. Assignment of Proceeding

Carla J. Peterman is the assigned Commissioner and Dan H. Burcham is the assigned ALJ in this proceeding.

Findings of Fact

1. Notice of the application appeared on the Daily Calendar on September 2, 2016.

2. A timely protest was filed by CPED. In its protest, CPED raised the following issues: a) ComNet has been operating in California without authority in violation of Public Utilities Code (Pub. Util. Code) §§ 885, 1001 and/or 1013 and b) ComNet failed to disclose in its application that its telecommunications licenses had been revoked by California and Michigan, a possible Rule 1.1 violation.

3. CPED and ComNet have entered into a proposed settlement agreement wherein ComNET agreed to pay a penalty of \$20,000 thereby resolving all issues raised in the protest. A hearing is not required.

4. ComNet is a telephone corporation and a public utility as defined in Pub. Util. Code § 234(a) and § 216(a).

5. ComNet will not construct any facilities other than equipment to be installed in existing buildings or structures.

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

7. ComNet has sufficient additional cash or cash equivalent to cover deposits that may be required by other telephone corporations in order to provide the proposed service.

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

9. Other than the issues raised by CPED in its protest as indicated in Finding of Fact No. 2, no one associated with or employed by ComNet as an affiliate, officer, director, partner, agent, or owner of more than 10 percent of ComNet: (a) held one of these positions with a company that filed for bankruptcy; (b) been personally found liable, or held one of these positions with a company that has been found liable, for fraud, dishonesty, failure to disclose, or misrepresentations

to consumers or others; (c) been convicted of a felony; (d) been the subject of a criminal referral by judge or public agency; (e) had a telecommunications license or operating authority denied, suspended, revoked, or limited in any jurisdiction; (f) personally entered into a settlement, or held one of these positions with a company that has entered into settlement of criminal or civil claims involving violations of §§ 17000, *et seq.*, §§ 17200, *et seq.*, or §§ 17500, *et seq.*, of the California Business & Professions Code, or of any other statute, regulation, or decisional law relating to fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; or (g) been found to have violated any statute, law, or rule pertaining to public utilities or other regulated industries; (h) entered into any settlement agreements or made any voluntary payments or agreed to any other type of monetary forfeitures in resolution of any action by any regulatory body, agency, or attorney general; or (i) is being, or has been investigated by the Federal Communications Commission or any law enforcement or regulatory agency for failure to comply with any law, rule or order.

10. ComNet requested and is eligible for exemption from tariffing requirements and must observe the consumer protection rules adopted in D.98-08-031.

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

12. ComNet has been successfully operating in California for several years. It need not provide estimates of its expected customer base for the first five years of operation.

13. A penalty of \$20,000 should be imposed for operating without authority and failing to accurately disclose information in its application.

14. The proposed settlement agreement is reasonable in light of the whole record, consistent with the law, and in the public interest.

Conclusions of Law

1. ComNet should be granted a CPCN to provide competitive limited facilities based local exchange telecommunications service in the service territories of AT&T, Frontier California, Frontier Communications, Consolidated and interexchange service in California, subject to the terms and conditions set forth in the Ordering Paragraphs.

2. ComNet should be granted competitive limited facilities-based authority and may not construct any facilities other than equipment to be installed in existing buildings or structures.

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

4. ComNet should be granted an exemption from the requirement to file tariffs.

5. ComNet should be granted non-dominant carrier status, subject to Commission rules and regulations as detailed in D.85-01-008 and modified in D.85-07-081 and D.85-11-044.

6. The proposed settlement agreement is reasonable in light of the whole record, consistent with the law, and in the public interest and should be approved.

O R D E R

IT IS ORDERED that:

1. The settlement agreement between ComNet (USA), LLC and the Consumer Protection and Enforcement Division attached hereto as Appendix 1 is approved.
2. ComNet (USA), LLC shall pay a penalty of \$20,000, payable to the State of California General Fund, by check or money order delivered to the Commission's Fiscal Office, 505 Van Ness Avenue, San Francisco, California 94102, within 30 days of the effective date of this decision.
3. A certificate of public convenience and necessity is granted to ComNet (USA), LLC to provide limited facilities-based interexchange service in the territories of Pacific Bell Telephone Company d/b/a AT&T California, Frontier California Inc., Citizens Telecommunications Company of California, Inc. d/b/a/ Frontier Communications of California, and Consolidated Communications of California Company, subject to the terms and conditions set forth below.
4. The corporate identification number assigned to ComNet (USA), LLC, U-7330-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. ComNet (USA), LLC must file, in this docket, a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this decision. Written acceptance filed in this docket does not reopen the proceeding.
6. The certificate granted by this decision will expire if not exercised within 12 months of the effective date of this decision.

7. ComNet (USA), LLC (ComNet) 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, ComNet 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.

8. ComNet (USA), LLC 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.

9. 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, ComNet (USA), LLC is subject to the Consumer Protection Rules contained in General Order 168, and all applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

10. ComNet (USA), LLC (ComNet) must pay the public purpose surcharges specified in Attachment B, and the Combined California Public Utilities Commission Telephone Surcharge Transmittal Form must be submitted even if the amount due is \$0.

11. ComNet must pay an annual minimum user fee of \$100 or 0.23 percent of gross intrastate revenue, whichever is greater. 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.

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

13. Prior to initiating service, ComNet (USA), LLC must provide the Commission's Communications Division with the name(s), address(es), and telephone number(s) of its designated regulatory/official contact person(s). This information must be provided electronically, using the "Regulatory/Official Contact Information Update Request" found at <http://www.cpuc.ca.gov/communications>. This information must be updated if the name or telephone number changes, or at least annually.

14. ComNet (USA), LLC must submit an affiliate transaction report to 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. ComNet (USA), LLC must submit an annual report to 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.

16. ComNet (USA), LLC must not construct any facilities other than equipment installed in existing buildings or structures.

17. Application 16-08-019 is closed.

This decision is effective today.

Dated _____, at San Francisco, California.

ATTACHMENT A

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(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,¹⁶ a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order.
2. The certificate granted and the authority to render service under the rates, charges, and rules authorized will expire if not exercised within 12 months of the date of this decision.
3. 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).

¹⁶ Written acceptance filed in this docket does not reopen the proceeding.

- 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/General.aspx?id=1124>.

- i. 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/General.aspx?id=1010>. To request a user ID and password for TUFFS online filing and for questions, please e-mail Telco_surcharges@cpuc.ca.gov.
- ii. Carriers must submit and pay the PUC User Fee (see Item 3.g above) upon receiving the User Fee statement sent by the Commission. Instructions for reporting and filing are available at <http://www.cpuc.ca.gov/General.aspx?id=1009>. Please call (415) 703-2470 for questions regarding User Fee reporting and payment.

4. If 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).

5. If 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).

6. Tariff filings must reflect all fees and surcharges to which Applicant is subject, as reflected in Item 3 above.

7. 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 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.

8. Applicant 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.

9. Applicants providing local exchange service must submit to the Director of the Communications Division a service area map as part of their initial tariff.

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

11. In addition, Applicant must provide the Commission's Communications Division with the name(s), address(es), and telephone number(s) 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/communications>. This information must be updated if the name(s), address(es), and telephone number(s) change, or at least annually.

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

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

14. 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.

15. Applicant must submit an annual report to 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.

16. Applicant must submit an affiliate transaction report to 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.

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

18. 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.

19. If Applicant is 90 days or more late in filing an annual report, or in remitting the surcharges and fee listed in #3 above, and has not received written permission from the Communications Division to submit or remit late, the Communications Division must prepare for Commission consideration a resolution that revokes Applicant's CPCN.

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

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

22. 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.

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

24. 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 submitted to 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 submit 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 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 submitted to 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 submit, 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)