ALJ/SCL/avs **PROPOSED DECISION** **Agenda ID #18498 (Rev. 1)**

**Ratesetting**

**7/16/20 Item 11**

Decision \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

|  |  |
| --- | --- |
| Application of Hudson Fiber Network Inc. for a Certificate of Public Convenience and Necessity to Provide Full Facilities-Based and Resold Competitive Local Exchange and Interexchange Services. | Application A.19-09-004 |

**DECISION GRANTING HUDSON FIBER NETWORK INC. A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN ORDER TO PROVIDE FULL FACILITIES‑BASED AND RESOLD COMPETITIVE LOCAL EXCHANGE SERVICE AND NON-DOMINANT INTEREXCHANGE SERVICE**

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DECISION GRANTING Hudson Fiber Network INC. A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN ORDER TO PROVIDE FULL FACILITIES‑BASED AND RESOLD COMPETITIVE LOCAL EXCHANGE SERVICE AND NON-DOMINANT INTEREXCHANGE SERVICE

# Summary

Pursuant to Public Utilities Code § 1001, we grant Hudson Fiber Network Inc. a certificate of public convenience and necessity to provide full facilities‑based and resoldcompetitive local exchange telecommunications serviceand non-dominant interexchange service in Californiasubject to the terms and conditions set forth in the Ordering Paragraphs.

This proceeding is closed.

# Background

On September 4, 2019, Hudson Fiber Network Inc. (Hudson)**,** a corporation authorized to do business in California filed an application for a certificate of public convenience and necessity (CPCN) to provide full facilities‑based and resold competitive local exchange telecommunications service and non-dominant interexchange service in the service territories of Pacific Bell Telephone Company d/b/a AT&T California (AT&T California), Frontier California Inc. (Frontier California),[[1]](#footnote-2) Citizens Telecommunications Company of California, Inc. d/b/a Frontier Communications of California (Frontier Communications), and Consolidated Communications of California Company (Consolidated Communications, formerly SureWest Telephone[[2]](#footnote-3)); and full facilities‑based and resold non-dominant interexchange service in California.

Hudson proposes to provide competitive local exchange telecommunications service and non-dominant interexchange service to governmental and non-residential customers via fiber-fed distribution network.[[3]](#footnote-4)

Hudson’s principal place of business is located at 3030 Warrenville Rd., Suite 340, Lisle, Illinois 60532.

The Application was noticed in the Commission’s Daily Calendar on September 10, 2019. No protest was filed in response to the Application. A prehearing conference was held on November 21, 2019 to discuss the issues of law and fact and determine the need for hearing and schedule for resolving the matter. The assigned Commissioner issued a Scoping Memo and Ruling on December 18, 2019. (Scoping Memo)

# 2. 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.”

Hudson proposes to provide point-to-point telecommunication services such as Private Line, Ethernet, Wavelength, and similar services to wholesale customers (*e.g.,* other carriers and providers), government customers, health care, education, financial services, and other enterprise customers. Hudson is a telephone corporation and a public utility subject to our jurisdiction.

# California Environmental Quality Act (CEQA)

Pursuant to CEQA and Rule 2.4[[4]](#footnote-5) 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 Applicant states in its Application that Hudson will initially utilize the existing fiber networks of its affiliates, ExteNet System, Inc. (California), LLC (U6959C) and ExteNet Systems, Inc. (U7367C) (ESI), along with the facilities of other companies. Hudson does not have specific plans regarding new construction at the time of the Application. Hudson anticipates additional facilities-based network construction within the service areas requested in this Application. Hudson requests approval to utilize a procedure for the expedited 21-day environmental review process for its projects once it is aware of a specific site(s) in which it plans construction. The proposed procedure tracks the expedited review procedure that we have approved for other carriers. Such a process will expedite CEQA review and is appropriate for the type of construction outlined here, which will be categorically exempt. By establishing this expedited review process, we are able to review the information on a specific project to confirm that it is categorically exempt from CEQA or to explain why further environmental review is required. At the same time, the proposed CEQA review process will enable Hudson to undertake construction of its projects in an efficient manner without experiencing delays caused by an unnecessarily protracted CEQA review.

Similar to the procedure approved for other carriers, the following procedure will be used to obtain Commission approval of Hudson’s claimed CEQA exemptions for proposed construction projects:

* Hudson will provide the Commission’s Energy Division with:
* A detailed description of the proposed project, including:
	+ - Customer(s) to be served;
		- The precise location of the proposed construction project; and
		- Regional and local site maps.
	+ A description of the environmental setting, to include at a minimum:
		- Cultural, historical, and paleontological resources;
		- Biological resources; and
		- Current land use and zoning.
	+ A construction workplan, to include:
		- Commission Preconstruction Survey Checklist—Archaeological Resources;
		- Commission Preconstruction Survey Checklist—Biological Resources;
		- A detailed schedule of construction activities, including site restoration activities;
		- A description of construction/installation techniques;
		- A list of other agencies contacted with respect to siting, land use planning, and environmental resource issues, including contact information; and
		- A list of permits required for the proposed project.
	+ A statement of the CEQA exemption(s) applicable to the proposed project; and
	+ Documentation and factual evidence sufficient to support a finding that the claimed exemption(s) is (are) applicable.
* The Energy Division will review Hudson’ssubmission for the proposed project to confirm that the claimed exemption(s) from CEQA are applicable.
* Within 21 days from the date of Hudson’s submittal, the Energy Division will issue either:
	+ A Notice to Proceed (NTP) and file a Notice of Exemption with the State Clearinghouse, Office of Planning and Research, or
	+ A letter of denial stating the specific reasons why the claimed exemption(s) are not applicable to the proposed project.

We have reviewed the application and Supplement and find that:

* Hudson’s proposed facilities‑based project activities are very limited;
* These activities would in almost all circumstances be very likely to qualify for an exemption from CEQA; and
* The proposed process for reviewing the applicability of CEQA exemptions to Hudson’s facilities‑based projects is not only adequate for the Commission’s purposes as CEQA Lead Agency, but is also in the public interest because it enables Hudson’s to respond in a timely manner to requests for service without the delay or burden of a full CEQA review when such review is unnecessary.

We therefore approve Hudson’sproposed process for Commission review of claimed CEQA exemptions for construction projects undertaken pursuant to Hudson’s full facilities‑based authority, based on the specific facts of this case with the following modifications related to the Commission’s Energy Division review and approval or disapproval of the proposed exemptions.

If the Energy Division disapproves Hudson’s claimed CEQA exemption(s) and issues a letter of denial to Hudson, Hudson must either re‑design the specific project and facilities and then reapply for a finding of exemption from CEQA, or file a formal application with the Commission seeking the requisite approval and full CEQA review, before commencing any construction activities.

Hudsonshall not perform any full facilities‑based construction activities without first obtaining an NTP from the Energy Division or authorization by the Commission after the requisite environmental review.

We have previously determined that the public convenience and necessity require that competition be allowed in the provision of competitive local exchange service, Rulemaking 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.

# Financial Qualifications

To be granted a CPCN, an applicant for authority to provide (full facilities‑based and resoldcompetitive local exchange servicesand interexchange services must demonstrate that it has a minimum of $100,000 cash or cash equivalent, reasonably liquid and readily available to meet the firm’s start‑up expenses.[[5]](#footnote-6) 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]](#footnote-7) In the application, Hudson provided a guaranty letter issued by its parent company, ESI,[[7]](#footnote-8) that $100,000, plus $25,000 for the deposit that Hudson will need to pay to established carriers in order to operate, would be available to Hudson for one year following certification. Since Hudson has provided documentation that it possesses a minimum of $100,000 that is reasonably liquid and available, it has demonstrated that it has sufficient funds to meet its start‑up expenses and has fulfilled this requirement. The Hudson’s financial documentation will be subject to verification and review by the Commission for one year to ensure that such funds are available.

# 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.[[8]](#footnote-9) Hudson supplied biographical information on its management in Exhibit I to its application that demonstrates it has sufficient expertise and training to operate as a telecommunications provider.

In its application, Hudson verified that no one associated with or employed by Hudson as an affiliate, officer, director, partner, or owner of more than 10 percent of Hudson, or anyone acting in a management capacity for Hudson**:**

(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 (to his/her knowledge) 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; or (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.[[9]](#footnote-10)

Also, to the best of Hudson’s knowledge, neither Hudson, or any affiliate, officer, director, partner, nor owner of more than 10% of Hudson, or any person acting in such capacity whether or not formally appointed, 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]](#footnote-11)

For the above reasons, we find that Hudson is in compliance with the requirements of D.13‑05‑035.

# Tariffs

In its Application, Hudson requests detariffed status and seeks an exemption from filing a tariff pursuant to General Order (GO). Hudson states that it will only offer its services to governmental and enterprise customers and does not intend to offer residential basic services; therefore, it may be exempt from tariffing requirements to file tariffs provided that Hudson complies with the consumer protection rules identified in D.98‑08‑031 and D.07-09-019. Hudson also states that it “will offer its service on a non-discriminatory basis and at competitive rates, but will do so through individual case basis contracts.”[[11]](#footnote-12) In the future, if Hudson decides to offer services that require a tariff, such as local exchange services for residential customers, Hudson must submit proposed tariffs and/or user guides to the Communications Division via Tier 2 advice letters using the G.O. 96-B advice letter process before initiation of service.

# Map of Service Territory

To be granted a CPCN for authority to provide competitive local exchange service, an applicant must provide a map of the service territories it proposes to serve.[[12]](#footnote-13) In its Response, Hudson provided a map of the location of its proposed service territory, in compliance with this requirement.

# Rule 3.1(i) Statement

Rule 3.1(i) sets forth the requirement that a utility filing an application under Pub. Util. Code § 1001, provide a statement regarding GO 104‑A, Section 2. Hudson states that it is not aware of any reportable matters pursuant to GO 104‑A, Section 2. Hudson, therefore, has nothing to report under this rule.

On a going forward basis, though, Hudson must file all reports required of a public utility under Commission jurisdiction.

# Expected Customer Base

Hudson provided its estimated customer base for the first and fifth years of operation in Exhibit H of its application. Therefore, Hudson has complied with this requirement.

# Request for Treatment as a Non-dominant Carrier

Applicantrequests 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. While the Commission has granted exemption from §§ 816‑830 to others, exemption from § 851 is not commonly granted and an exception is not warranted here. 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. Applicant requests to provide service to business customers only. We grant Applicant’s request for non‑dominant interexchange carrier status, which provides an exemption from Pub. Util. Code §§ 816‑830 concerning stocks and security, provided that it follows all rules detailed in the above referenced decisions.

# 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. The Commission is satisfied that Hudson will meet the Commission’s minimum safety goals and expectations of competitive local exchange carriers (CLECs) because: (1) Hudson has taken steps to meet the financial requirements as set forth in this decision for a facilities-based CLEC, and (2) Hudson 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.”

# Conclusion

We conclude that the application conforms to our rules for certification as a competitive local exchange and interexchange carrier. Accordingly, we grant a CPCN to provide full facilities‑based and resold competitive local exchange telecommunications service in the service territory of AT&T California, Frontier California, Frontier Communications, and Consolidated Communications and non-dominant 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 Hudson and corresponding obligations. Hudson receives authority to operate in the prescribed service territory, and this authority enables Hudson, 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.[[13]](#footnote-14)  This authority also enables Hudsonto obtain access to public rights-of-way in California as set forth in D.98-10-058, , and approved in *T-Mobile West LLC v. City and County of San Francisco*, 6 Cal. 5th 1107 (2019)”-subject to the CEQA requirements set forth in this decision.

In return, Hudsonis 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, Hudson 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 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.”

# Request to File Under Seal

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

# Categorization and Need for Hearings

In Resolution ALJ 176‑3446, dated September 26, 2019, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were necessary. The Scoping Memo changed this preliminary determination and found that evidentiary hearing was not necessary.

# Comments on Draft Decision

This is 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.

# Assignment of Proceeding

Liane M. Randolph is the assigned Commissioner and Scarlett Liang-Uejio is the assigned Administrative Law Judge in this proceeding.

# Findings of Fact

1. Hudson is a telephone corporation and a public utility as defined in Pub. Util. Code § 234(a) and § 216(a).
2. Hudson’s proposed construction activities appear to fall within one or more CEQA categorical exemptions.
3. Hudson’s authority to provide telecommunications services will not have a significant adverse effect upon the environment.
4. Hudson has a minimum of $100,000 of cash or cash equivalent that is reasonably liquid and readily available to meet its start‑up expenses.
5. Hudson has additional $25,000 cash or cash equivalent to cover deposits that may be required by other telephone corporations in order to provide the proposed service.
6. Hudson’s management possesses sufficient experience, knowledge, and technical expertise to provide local exchange services to the public.
7. No one associated with or employed by Hudson as an affiliate, officer, director, partner, agent, or owner (directly or indirectly) of more than 10 percent of Hudson, or anyone acting in a management capacity for Hudson**:**  (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; or (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.
8. To the best of Hudson’s knowledge, neither Hudson, or any affiliate, officer, director, partner, nor owner of more than 10 percent of Hudson, or any person acting in such capacity whether or not formally appointed, 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.
9. Hudson requests and is eligible for exemption from tariffing requirements and must observe the consumer protection rules adopted in D.98‑08‑031 and D.07-09-019.
10. Hudson provided a map of the location of its proposed service territory.
11. Hudson has no information to report under Rule 3.1(i), which requires that a utility filing an application under Pub. Util. Code §1001, provide a statement regarding compliance with GO 104‑A, Section 2.
12. Hudson provided an estimate of its customer base for the first and fifth year of operation.
13. Pursuant to Rule 11.4, Hudsonfiled motions for leave to file confidential materials under seal, including Exhibit G, Financial Showing, and Exhibit H**,** Estimated Customer Base,to the Application.

# Conclusions of Law

1. Hudson should be granted a CPCN to provide full facilities‑based **and** resoldcompetitive local exchange telecommunications servicein the service territories of AT&T California, Frontier California, Frontier Communications, Consolidated Communications; and full facilities-based and resold non‑dominant interexchange service in California, subject to the terms and conditions set forth in the Ordering Paragraphs.
2. Hudson should be allowed to use the Energy Division 21‑day CEQA exemption process.
3. Hudson, once granted a CPCN, should be subject to the applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.
4. Hudsonshould be granted an exemption from the requirement to file tariffs.
5. Hudson’s motion to file under seal its Exhibit G, Financial Showing, and Exhibit H**,** Estimated Customer Base, to the Application, should be granted for three years.
6. Hudson 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.

ORDER

**IT IS ORDERED** that:

1. A certificate of public convenience and necessity is granted to Hudson Fiber Network Inc. to provide full facilities‑based and resoldcompetitive local exchange telecommunications servicein 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; and full facilities‑based and resold non-dominant interexchange service in California**,** subject to the terms and conditions set forth below.
2. The corporate identification number assigned to Hudson Network Inc., U7371C, 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. Hudson Fiber Network 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 decision. Written acceptance filed in this docket s not reopen the proceeding.
4. The certificate granted by this decision will expire if not exercised within 12 months of the effective date of this decision.
5. Hudson Fiber Network Inc. must notify the Director of the Communications Division of the date that local exchange service is first rendered to the public, no later than five days after service first begins, by email to cdcompliance@cpuc.ca.gov.
6. Hudson Fiber Network 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, Hudson Fiber Network Inc. must submit a Tier-1 advice letter to the Communications Division, 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.
7. Hudson Fiber Network 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 Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Communications Division.
8. 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, Hudson Fiber Network Inc. is subject to the Consumer Protection Rules contained in General Order 168, and all applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.
9. Hudson Fiber Network Inc. 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.
10. Hudson Fiber Network Inc. must pay an annual minimum user fee of $100 or 0.34 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.
11. Prior to initiating service, Hudson Fiber Network Inc. 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.
12. Prior to initiating service, Hudson Fiber Network Inc. 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.
13. Hudson Fiber Network Inc. must submit an affiliate transaction report to the Director of the Communications Division, by email to cdcompliance@cpuc.ca.gov, in compliance with Decision 93‑02‑019, on a calendar year basis using the form contained in Attachment D.
14. Hudson Fiber Network Inc. must submit an annual report to the Director of the Communications Division, by email to cdcompliance@cpuc.ca.gov, in compliance with General Order 104‑A, on a calendar‑year basis with the information contained in Attachment C to this decision.
15. Hudson Fiber Network Inc. must submit an application for expanded authority to operate without NDIEC status prior to construction of full facilities.
16. The staff of the Commission’s Energy Division is authorized to review, process, and act upon Hudson Fiber Network Inc.’s requests for a determination that its full facilities‑based construction activities are exempt from the requirements of the California Environmental Quality Act.
17. If Hudson Fiber Network Inc. wishes to engage in full facilities‑based construction activities and believes that these activities are exempt from California Environmental Quality Act, Hudson Fiber Network Inc. shall first apply to the Commission’s Energy Division staff for a determination of exemption from California Environmental Quality Act by providing the Commission’s Energy Division (Energy Division) with:
	1. A detailed description of the proposed project, including:
		1. Customer(s) to be served;
		2. The precise location of the proposed construction project; and
		3. Regional and local site maps.
	2. A description of the environmental setting, including at a minimum:
		1. Cultural, historical, and paleontological resources;
		2. Biological resources; and
		3. Current land use and zoning.
	3. A construction workplan, including:
		1. Commission Preconstruction Survey Checklist—Archaeological Resources;
		2. Commission Preconstruction Survey Checklist—Biological Resources;
		3. A detailed schedule of construction activities, including site restoration activities;
		4. A description of construction/installation techniques;
		5. A list of other agencies contacted with respect to siting, land use planning, and environmental resource issues, including contact information; and
		6. A list of permits required for the proposed project.
	4. A statement of the California Environmental Quality Act exemption(s) claimed to apply to the proposed project; and
	5. Documentation supporting the finding of exemption from California Environmental Quality Act.
	6. The Energy Division will then review the submittal and notify Hudson Fiber Network Inc. (Hudson) of either its approval or its denial of Hudson’s claim for exemption from California Environmental Quality Act review within 21 days from the time that Hudson’s submittal is complete.
18. If the Energy Division approves Hudson Fiber Network Inc.’s(Hudson)claimed California Environmental Quality Act exemption(s), the staff shall prepare a Notice to Proceed and file a Notice of Exemption with the State Clearinghouse, Office of Planning and Research. If the Energy Division disapproves Hudson’sclaimed California Environmental Quality Act exemptions, the staff shall issue to Hudsona letter which states the specific reasons that the claimed California Environmental Quality Act exemptions do not apply to the proposed project.
19. If the Energy Division disapproves Hudson Fiber Network Inc.’s(Hudson)claimed California Environmental Quality Act exemption(s), Hudsonshall either re‑design the specific project and facilities and then reapply for a finding of exemption from California Environmental Quality Act, or file a formal application with the Commission seeking the requisite approval and full California Environmental Quality Act review, before commencing any full facilities‑based construction activities.
20. Hudson Fiber Network Inc.’s(Hudson) motion to file under seal its Exhibit G, Financial Showing, and Exhibit H**,** Estimated Customer Base, to the Application, are granted for a period of three years after the date of this decision. During this three year period, this information shall not be publicly disclosed except on further Commission order or Administrative Law Judge ruling. If Hudsonbelieves that it is necessary for this information to remain under seal for longer than three years, Hudson may file a new motion showing good cause for extending this order by no later than 30 days before the expiration of this order.
21. Application 19-09-004 is closed.

This decision is effective today.

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

**ATTACHMENT A**

(This Attachment is Intentionally Left Blank)

**(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,[[14]](#footnote-15) 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);

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 (d/b/a 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>.

1. 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 Telcosurcharge@cpuc.ca.gov.
2. 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 send an email to userfees@cpuc.ca.gov for additional questions regarding User Fee reporting and payment.
3. If Applicant is a competitive local exchange carrier, the effectiveness of its future competitive local exchange carrier tariffs is subject to the requirements of General Order 96‑B and the Telecommunications Industry Rules (D.07‑09‑019).
4. If Applicant is a non‑dominant interexchange carrier, the effectiveness of its future non‑dominant interexchange carrier tariffs is subject to the requirement of General Order 96‑B and the Telecommunications Industry Rules (D.07‑09‑019).
5. Tariff filings must reflect all fees and surcharges to which Applicant is subject, as reflected in Item 3 above.
6. 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 Communications Division, 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.
7. 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 Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Communications Division.
8. Applicants providing local exchange service must submit a service area map as part of their initial tariff to the Communications Division.
9. 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.
10. 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 “Communications Utility Contact Update Form” 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.
11. Applicant must notify the Director of the Communications Division, in writing submitted by email to cdcompliance@cpuc.ca.gov, no later than five days after service first begins, of the date that local exchange service is first rendered to the public.
12. Applicant must keep its books and records in accordance with the Generally Accepted Accounting Principles.
13. In the event Applicant’s books and records are required for inspection by the Commission or its staff, it must either produce such records at the Commission’s offices or reimburse the Commission for the reasonable costs incurred in having Commission staff travel to its office.
14. Applicant must submit an annual report to the Director of the Communications Division at cdcompliance@cpuc.ca.gov, in compliance with GO 104‑A, on a calendar‑year basis with the information contained in Attachment C to this decision.
15. Applicant must submit an affiliate transaction report to the Director of the Communications Division at cdcompliance@cpuc.ca.gov, in compliance with D.93‑02‑019, on a calendar‑year basis using the form contained in Attachment D.
16. Applicant must ensure that its employees comply with the provisions of Pub. Util. Code § 2889.5 regarding solicitation of customers.
17. Within 60 days of the effective date of this order, Applicant must comply with Pub. Util. Code § 708, Employee Identification Cards, and notify the Director of the Communications Division of its compliance in writing, by email to cdcompliance@cpuc.ca.gov.
18. If Applicant is 90 days or more late in submitting 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 file or remit late, the Communications Division must prepare for Commission consideration a resolution that revokes Applicant’s CPCN.
19. Applicant is exempt from Rule 3.1(b) of the Commission’s Rules of Practice and Procedure.
20. Applicant is exempt from Pub. Util. Code §§ 816‑830.
21. If Applicant decides to discontinue service or file for bankruptcy, it must immediately notify the Communications Division’s Bankruptcy Coordinator.
22. Applicant must send a copy of this decision to concerned local permitting agencies no later than 30 days from the date of this order.

**(END OF ATTACHMENT B)**

**ATTACHMENT C**

**ATTACHMENT C**

 **ANNUAL REPORT**

In addition to the annual reports requirement pursuant to General Order 104-A, submit the following information electronically via email to cdcompliance@cpuc.ca.gov 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.

1. Number and date of the Commission decision granting the Certificate of Public Convenience and Necessity.
2. Date operations were begun.
3. Description of other business activities in which the utility is engaged.
4. List of all affiliated companies and their relationship to the utility. State if affiliate is a:

a. Regulated public utility.

b. Publicly held corporation.

1. Balance sheet as of December 31st of the year for which information is submitted.
2. Income statement for California operations for the calendar year for which information is submitted.
3. Cash Flow statement as of December 31st of the calendar year for which information is submitted, for California operations only.

For any questions concerning this report, please send an email to cdcompliance@cpuca.ca.gov with a subject line that includes: “CD Annual Reports.”

**(END OF ATTACHMENT C)**

**ATTACHMENT D**

**ATTACHMENT D**

**CALENDAR YEAR AFFILIATE TRANSACTION REPORT**

Submit the following information electronically via email to cdcompliance@cpuc.ca.gov no later than May 1st of the year following the calendar year for which the annual affiliate transaction 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.
1. 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.
2. 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.
3. 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.
4. 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.
5. 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.

For any questions concerning this report, please send an email to cdcompliance@cpuca.ca.gov with a subject line that includes: “CD Annual Reports.”

**(END OF ATTACHMENT D)**

1. 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. [↑](#footnote-ref-2)
2. 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. [↑](#footnote-ref-3)
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. [↑](#footnote-ref-4)
4. Unless otherwise noted, items labeled “Rule” are from the Commission’s Rules of Practice and Procedure. [↑](#footnote-ref-5)
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. [↑](#footnote-ref-6)
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. [↑](#footnote-ref-7)
7. Hudson’s December 5, 2019 Response to Administrative Law Judge’s E-mail Ruling Directing the Filing of Additional Information, Exhibit K. [↑](#footnote-ref-8)
8. D. 95‑12‑056 at Appendix C, Rule 4.A. [↑](#footnote-ref-9)
9. These certifications are required by D.13-05-035, Ordering Paragraph 14. [↑](#footnote-ref-10)
10. *Id*. [↑](#footnote-ref-11)
11. Application at 10. [↑](#footnote-ref-12)
12. D.95‑12‑056 at Appendix C, Rule 4.E. [↑](#footnote-ref-13)
13. The California Public Utilities Code uses the term “telephone corporation.” Its counterpart in federal law is a “telecommunications carrier.” [↑](#footnote-ref-14)
14. Written acceptance filed in this docket does not reopen the proceeding. [↑](#footnote-ref-15)