

Decision **DRAFT DECISION OF ALJ O'DONNELL** (Mailed 12/9/2003)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Telecom Consultants, Inc.
for a Certificate of Public Convenience as a
Non-Dominant Competitive Local Service and
Interexchange Service Provider Within the State
of California.

Application 03-05-024
(Filed May 16, 2003)

O P I N I O N**I. Summary**

Telecom Consultants, Inc. (Applicant) seeks a certificate of public convenience and necessity (CPCN) under Pub. Util. Code § 1001 for authority to resell local exchange and interexchange telecommunications services.¹ By this decision, we grant the requested authority subject to the terms and conditions set forth below. In addition, we impose a fine of \$500 for providing service without a CPCN.

II. Background

In prior decisions we authorized the provision of competitive interexchange services by carriers meeting specified criteria. In addition, we authorized the provision of competitive local exchange service, by carriers

¹ All references are to the Public Utilities Code unless otherwise specified.

meeting specified criteria, within the service territories of Pacific Bell Telephone Company (SBC), Verizon California Inc. (Verizon), Roseville Telephone

Company (RTC), and Citizens Telecommunications Company of California, Inc. (CTC).

Applicant, a California corporation, seeks authority to resell interexchange services as a nondominant interexchange carrier (NDIEC), and local exchange services as a competitive local carrier (CLC) throughout SBC, Verizon, RTC and CTC's service territories.

Applicant's principal place of business is located at 745 East Locust Avenue, Suite 109, Fresno, California 93720.

III. Financial Qualifications

To be granted a CPCN, an applicant for authority to resell local exchange and/or interexchange services must demonstrate that it has a minimum of \$25,000 of cash or cash equivalent to meet the firm's start-up expenses.² An applicant must also demonstrate that it has sufficient additional resources to cover all deposits required by local exchange carriers (LECs) and/or interexchange carriers (IECs) in order to provide the proposed service.³ Applicant represented that it will not be required to provide deposits to other telecommunications carriers in order to provide the proposed service. In addition, Applicant provided a bank statement that demonstrates that it has sufficient cash to satisfy the financial requirement.

² The financial requirement for CLCs is contained in Decision (D.) 95-12-056, Appendix C. The financial requirement for NDIECs is contained in D.91-10-041.

³ The requirement for CLC applicants to demonstrate that they have additional financial resources to meet any deposits required by underlying LECs and/or IECs is set forth in D.95-12-056, Appendix C. For NDIECs, the requirement is found in D.93-05-010.

IV. Technical Qualifications

Applicants for NDIEC and CLC authority are required to make a reasonable showing of technical expertise in telecommunications or a related business. As part of this application, Applicant submitted biographical information on its officers.

Applicant represents that no one associated with or employed by Applicant as an affiliate, officer, director, partner, or owner of more than 10% of Applicant was previously associated with any telecommunications carrier that filed for bankruptcy, or was sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order, except as follows.

Applicant's management formerly managed Integrated TeleServices, Inc. (ITS). In 1998, the Florida Public Service Commission approved a settlement with ITS regarding allegations of slamming 268 customers. Pursuant to the settlement, its CPCN was cancelled, it agreed to resolve all of the complaints, and it was barred from reapplying for a CPCN until January 1, 2001. Its management and principals were barred from seeking to provide telecommunications services in Florida until January 1, 2003.

ITS used a company called TelSave to implement presubscribed interexchange carrier (PIC) changes solicited by ITS's telemarketing subsidiary. Applicant represents that the subsidiary complied with all applicable requirements. However, TelSave delayed implementing the customer approved switches, in some cases up to 18 months. Applicant says the allegations of slamming were due to the long interval between when the customer agreed to the switch, and when it occurred. By the time the change appeared on the customer's bill, the customer didn't remember making the switch, had changed

his or her mind, or had switched to another carrier. In addition, TelSave, in some cases, submitted the same PIC change request several times resulting in multiple PIC change charges to customers for the same PIC change. Applicant alleges that TelSave's actions affected other carriers as well. Applicant says that ITS had very few customers in Florida, and did not anticipate expanding its customer base due to the financial difficulties it was having at the time. As a result, ITS agreed to the settlement rather than incur the costs involved in opposing the allegations.

Applicant represents that in late 1999, ITS determined that it could not operate profitably under its underlying carrier contracts. After attempts at renegotiation, ITS decided to file for bankruptcy. It filed for bankruptcy on January 10, 2000, in the United States Bankruptcy Court, Eastern District of California, Fresno Division. ITS continued to operate, and its assets were sold to ECI Communications, Inc. (ECI).⁴ Applicant's management provided consultant services to ECI until February of 2003.

Applicant's management managed ITS from its inception until it was sold to ECI in 2001. ITS received a CPCN to resell interexchange services by D.95 01-005. By D.00-05-013, the Commission granted it authority to resell local exchange services. Our records show that our Consumer Affairs Branch received very few complaints between 1998 and 2001, all of which were resolved. Given the above record, we conclude that ITS provided adequate service to its California customers when it was run by Applicant's management. Therefore, we find that Applicant has sufficient expertise and knowledge to operate as a telecommunications carrier in California. However, we caution Applicant that

⁴ The sale was approved by D.02-01-017.

we expect its full compliance with all applicable rules, regulations, and Commission decisions.

V. Operation without a CPCN

Applicant began providing interexchange services prior to receipt of the CPCN sought in this application, in violation of §1001. On October 14, 2003, the assigned Administrative Law Judge (ALJ) learned of the unauthorized provision of services, and asked Applicant for an explanation. Applicant explained that it was advised by its consultant, on approximately June 15, 2003, that it had negotiated a resale agreement with a certificated telecommunications carrier and that the carrier knew that Applicant had applied for, but not yet received, a CPCN. Applicant represented that its consultant did not inform it that it could not begin to offer service. Therefore, Applicant believed it could begin providing service.

Applicant represents that it did not advertise its services. The customers it acquired learned by word-of-mouth that it would be offering services. They consisted of friends and family of Applicant's management, and/or former customers of ITS or ECI. Applicant provided interexchange services to 41 customers. The total amount billed to customers in August, September, and October 2003 was approximately \$19,000. Upon being informed that it was operating without authorization, Applicant promptly stopped accepting new customers, and sought the services of an attorney. Applicant states that it did not intend to violate the Commission's requirements, and says that it will take the necessary steps to ensure complete compliance in the future.

It appears that Applicant's violation was inadvertent. However, Applicant could and should have known that it could not provide service until a CPCN had been granted. Applicant is responsible for its actions, including the actions or

inactions of persons in its employ. For the reasons discussed below, we will not deny the application because of the violation. In addition, we did not order Applicant to cease providing service to its existing customers in order to avoid interrupting service to those customers. However, we will impose a fine.

The Commission set the basis for future decisions assessing fines in D.98-12-075, Appendix B. In setting the amount of the fine, the Commission considers the severity of the offense, the utility's conduct, its financial resources, mitigating or exacerbating factors, and precedent. In this case, we find provision of service without a CPCN to be a serious offense because such violations cause harm to the integrity of the regulatory process. Here, there is no evidence that the violation caused physical harm to others. In addition, while other carriers apparently lost some customers to Applicant, we find no evidence that any serious economic harm resulted, or that Applicant significantly benefited from the violation. We find signification mitigation in the fact that: (1) the violation was unintentional; (2) Applicant did not advertise its services; (3) when informed of the violation, Applicant promptly ceased accepting new customers; and (4) Applicant took action to avoid further violations by seeking appropriate legal assistance. The purpose of a fine is to deter future unlawful conduct by Applicant and others. Pursuant to § 2107, the Commission may impose fines ranging from \$500 to \$20,000 for each violation. Applicant's financial resources are approximately \$80,000, and the billed amounts for the initial invoices totaled approximately \$19,000. Therefore, we believe a fine of \$500 will be sufficient to deter Applicant and others from future violations. A fine of this amount is generally consistent with other fines imposed by the Commission for violations of this magnitude.

VI. Tariffs

Commission staff reviewed Applicant's draft tariffs for compliance with Commission rules and regulations. The deficiencies are noted in Attachment A to this decision. Applicant shall correct these deficiencies in its tariff compliance filing as a condition of our approval of its tariffs.

VII. California Environmental Quality Act (CEQA)

CEQA requires the Commission 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. Applicant represents that it will not be constructing any facilities for the purpose of providing interexchange or local exchange services. Therefore, it can be seen with certainty that there is no possibility that granting this application will have an adverse effect upon the environment. Applicant must file for additional authority, and submit to any required CEQA review, before it can construct facilities.

VIII. Conclusion

We conclude that the application conforms to our rules for authority to provide competitive local exchange and interexchange telecommunications services. Accordingly, we shall approve the application subject to the terms and conditions set forth herein.

IX. Comments on Draft Decision

The draft decision in this matter was mailed to the parties in accordance with § 311(g)(1), and Rule 77.7 of the Commission's Rules of Practice and Procedure. No comments were filed.

X. Categorization and Need for Hearings

In Resolution ALJ 176-3113 dated May 22, 2003, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received.

There is no apparent reason why the application should not be granted. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

XI. Assignment of Proceeding

Geoffrey F. Brown is the Assigned Commissioner and Jeffrey P. O'Donnell is the assigned ALJ in this proceeding.

Findings of Fact

1. Notice of the application appeared in the Daily Calendar on May 19, 2003.
2. No protests have been filed.
3. A hearing is not required.
4. In prior decisions the Commission authorized competition in providing interexchange services for carriers meeting specified criteria.
5. In prior decisions the Commission authorized competition, by carriers meeting specified criteria, in providing local exchange telecommunications services within the service territories of SBC, Verizon, RTC and CTC.
6. Applicant has a minimum of \$25,000 of cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses.
7. Applicant will not be required to provide deposits to other telecommunications carriers in order to provide the proposed service.
8. Applicant possesses sufficient experience and knowledge to provide telecommunications services.

9. Applicant began providing interexchange services without a CPCN.
10. Applicant did not advertise its services.
11. Applicant provided interexchange services to 41 customers.
12. The total amount billed to customers in August, September, and October 2003 was approximately \$19,000.
13. Upon being informed that it was operating without authorization, Applicant promptly stopped accepting new customers, and sought the services of an attorney.
14. While Applicant did not intend to violate the Commission's requirements, Applicant could and should have known that it could not provide service until a CPCN had been granted.
15. Applicant is responsible for its actions, including the actions or inactions of persons in its employ.
16. There is no evidence that the violation caused physical harm, or serious financial harm to others.
17. There is no evidence that Applicant significantly benefited from the violation.
18. Applicant's financial resources are approximately \$80,000.
19. A fine of \$500 is generally consistent with other fines imposed by the Commission for offences of this magnitude.
20. As part of its application, Applicant submitted a draft of its initial tariff that contained the deficiencies identified in Attachment A to this decision. Except for those deficiencies, its draft tariffs complied with the Commission's requirements.
21. Applicant will not be constructing facilities in order to provide the proposed services.

Conclusions of Law

1. Applicant has the financial ability to provide the proposed service.
2. Applicant has sufficient technical expertise to operate as a telecommunications carrier.
3. Applicant violated §1001 by providing interexchange services in August, September and October 2003 prior to receipt of the CPCN sought herein.
4. The Commission set the basis for future decisions assessing fines in D.98-12-075, Appendix B.
5. In setting the amount of the fine, the Commission will consider the severity of the violation, the utility's conduct, its financial resources, mitigating or exacerbating factors and precedent.
6. Provision of service without a CPCN is a serious violation because such violations cause harm to the integrity of the regulatory process.
7. The purpose of a fine is to deter future unlawful conduct by Applicant and others.
8. Pursuant to § 2107, the Commission may impose fines ranging from \$500 to \$20,000 for each offense.
9. A fine of \$500 should be imposed as the amount sufficient to deter Applicant and others from future violations.
10. Public convenience and necessity require that Applicant's competitive local exchange and interexchange services be subject to the terms and conditions set forth herein.
11. Since Applicant will not be constructing any facilities, it can be seen with certainty that there will be no significant effect on the environment.
12. The application should be granted to the extent set forth below.

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

14. Applicant's initial tariff filing should correct the deficiencies in its draft tariffs as indicated in Attachment A to this decision.

15. Because of the public interest in competitive local exchange and interexchange services, the following order should be effective immediately.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity (CPCN) is granted to Telecom Consultants, Inc. (Applicant) to resell competitive local exchange services, and interexchange services, subject to the terms and conditions set forth below.

2. Applicant is authorized to provide local exchange service in the service territories of Pacific Bell Telephone Company, Verizon California Inc., Roseville Telephone Company, and Citizens Telecommunications Company of California, Inc.

3. Applicant is authorized to file tariff schedules for the provision of competitive local exchange and interexchange services with the deficiencies noted in Attachment A corrected. Applicant may not offer services until tariffs are on file. Applicant's initial filing shall be made in accordance with General Order (GO) 96-A, excluding Sections IV, V, and VI. The tariff shall be effective not less than 1 day after tariff approval by the Commission's Telecommunications Division. Applicant shall comply with its tariffs.

4. The certificate granted, and the authority to render service under the rates, charges, and rules authorized, will expire if not exercised within 12 months after the effective date of this order.

5. The corporate identification number assigned to Applicant, U-6829-C, shall be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

6. Applicant shall comply with all applicable rules adopted in the Local Exchange Competition proceeding (Rulemaking 95-04-043/Investigation 95-04-044), the Commission's rules and regulations for nondominant interexchange carriers set forth in Decision (D.) 93-05-010 and D.90-08-032, as well as all other applicable Commission rules, decisions, GOs, and statutes that pertain to California public utilities, subject to the exemptions granted in this decision.

7. Applicant shall comply with the requirements applicable to competitive local exchange carriers and non-dominant interexchange carriers included in Attachment B to this decision.

8. Applicant is not authorized to construct facilities.

9. Applicant shall pay a fine of \$500, payable to the California Public Utilities Commission for deposit in the General Fund, and shall remit said amount to the Commission's Fiscal Office within 30 days of the effective date of this decision.

10. Applicant's CPCN shall expire if the above fine is not remitted to the Commission as required herein.

11. This application is closed.

This order is effective today.

Dated _____, 2004, San Francisco, California.

ATTACHMENT A

List of deficiencies in tariffs filed by Telecom Consultant, Inc. in A.03-05-024 to be corrected in its tariff compliance filing.

1. Include a title sheet for the draft tariff. Refer to G.O.96-A, page 3.
2. Sheet 14, Rule 3: Include the 1st paragraph from Rule 2 of Appendix B of D.95-07-054.
3. Sheet 18, Rule 6: The following criteria for advance payments needs to be included: "The advance payment will not exceed the nonrecurring and the first month's recurring rate. Advance payments will not be required for usage. In addition, where special construction is involved, the advance payment may also include an amount equal to the estimated non-recurring charges. The advance payment will be credited to the Customer's first bill."
4. Sheet 22, Rule 8: State that the late payment date will be prominently displayed on the customer's bill. Refer to Rule 9 of Appendix B of D.95-07 054.
5. Sheet 23, Rule 8F: Include the fees and surcharges shown in Attachment B to this decision.
6. Include the following Income Limitation, rates and charges for ULTS:

<u>Household Size</u>	<u>Income Limitation</u>
1-2	\$19,600
3	23,200
4	27,800
Each additional member	4,600
Flat Rate	\$ 5.34
Measured Rate	\$ 2.85
Installation	\$ 10.00

(END OF ATTACHMENT A)
ATTACHMENT B
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REQUIREMENTS APPLICABLE TO COMPETITIVE LOCAL EXCHANGE
CARRIERS AND NON-DOMINANT INTEREXCHANGE CARRIERS

1. Applicant shall file, in this docket, 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 fee and surcharges that must be regularly remitted per the instructions in Appendix E to Decision (D.) 00-10-028. The Combined California PUC Telephone Surcharge Transmittal Form must be submitted even if the amount due is zero.
 - a. The current 1.10% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the Universal Lifeline Telephone Service Trust Administrative Committee Fund (Pub. Util. Code § 879; Resolution T-16795, December 18, 2003);
 - b. The current 0.047% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California Relay Service and Communications Devices Fund (Pub. Util. Code § 2881; D.98-12-073 and Resolution T-16747, June 5, 2003);
 - c. The user fee provided in Pub. Util. Code §§ 431-435, which is 0.11% of gross intrastate revenue (Resolution M-4807);
 - d. The current 0.17% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California High Cost Fund-A (Pub. Util. Code § 739.3; D.96-10-066, pp. 3-4, App. B, Rule 1.C; Resolution T-16793, December 18, 2003);
 - e. The current 2.20% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California High Cost

Fund-B (D.96-10-066, p. 191, App. B, Rule 6.F., Resolution T-16794, December 18, 2003); and

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- f. The current 0.0% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California Teleconnect Fund (D.96-10-066, p. 88, App. B, Rule 8.G, Resolution T-16782, December 18, 2003).
3. Applicant is a competitive local exchange carrier (CLC). The effectiveness of its future tariffs is subject to the schedules set forth in Appendix C, Section 4.E of Decision (D.) 95-12-056:
- “E. CLCs shall be subject to the following tariff and contract filing, revision and service pricing standards:
- “(1) Uniform rate reductions for existing tariff services shall become effective on five (5) working days’ notice. Customer notification is not required for rate decreases.
 - “(2) Uniform major rate increases for existing tariff services shall become effective on thirty (30) days’ notice to the Commission, and shall require bill inserts, or first class mail notice to customers at least 30 days in advance of the pending rate increase.
 - “(3) Uniform minor rate increases, as defined in D.90-11-029, shall become effective on not less than (5) working days’ notice to the Commission. Customer notification is not required for such minor rate increases.
 - “(4) Advice letter filings for new services and for all other types of tariff revisions, except changes in text not affecting rates or relocations of text in the tariff schedules, shall become effective on forty (40) days’ notice.

“(5) Advice letter filings revising the text or location of text material which do not result in an increase in any rate or charge shall become effective on not less than five (5) days’ notice to the Commission.”

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“(6) Contracts shall be subject to GO 96-A rules for NDIECS, except interconnection contracts.

“(7) CLCs shall file tariffs in accordance with PU Code § 876.”

4. Applicant is a nondominant interexchange carrier (NDIEC). The effectiveness of its future NDIEC tariffs is subject to the schedules set forth in Ordering Paragraph 5 of D.90-08-032 (37 CPUC2d 130 at 158), as modified by D.91-12-013 (42 CPUC2d 220 at 231) and D.92-06-034 (44 CPUC2d 617 at 618):

“5. All NDIECs are hereby placed on notice that their California tariff filings will be processed in accordance with the following effectiveness schedule:

- “a. Inclusion of FCC-approved rates for interstate services in California public utilities tariff schedules shall become effective on one (1) day’s notice.
- “b. Uniform rate reductions for existing services shall become effective on five (5) days’ notice.
- “c. Uniform rate increases, except for minor rate increases, for existing services shall become effective on thirty (30) days’ notice, and shall require bill inserts, a message on the bill itself, or first class mail notice to customers of the pending increased rates.
- “d. Uniform minor rate increases, as defined in D.90-11-029, for existing services shall become effective on not less than five (5) working days’ notice. Customer notification is not required for such minor rate increases.

- “e. Advice letter filings for new services and for all other types of tariff revisions, except changes in text not affecting rates or relocations of text in the tariff schedules, shall become effective on forty (40) days’ notice.

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- “f. Advice letter filings merely revising the text or location of text material which do not cause an increase in any rate or charge shall become effective on not less than five (5) days’ notice.”

5. Applicant may deviate from the following provisions of GO 96-A:
(a) paragraph II.C.(1)(b), which requires consecutive sheet numbering and prohibits the reuse of sheet numbers; and (b) paragraph II.C.(4), which requires that “a separate sheet or series of sheets should be used for each rule.” Tariff filings incorporating these deviations shall be subject to the approval of the Commission’s Telecommunications Division. Tariff filings shall reflect all fees and surcharges to which Applicant is subject, as reflected in 2 above.
6. Applicant shall file a service area map as part of its initial tariff.
7. Prior to initiating service, Applicant shall provide the Commission’s Consumer Affairs Branch with the name and phone number of its designated contact person(s) for purposes of resolving consumer complaints. This information shall be updated if the name or telephone number changes, or at least annually.
8. Applicant shall notify the Director of the Telecommunications 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 shall notify the Director of the Telecommunications Division in writing of the date interLATA service is first rendered to the public within

ATTACHMENT B
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five days after service begins, and again within five days after intraLATA service begins.⁵

10. Applicant shall keep its books and records in accordance with the Generally Accepted Accounting Principles.

11. In the event Applicant's books and records are required for inspection by the Commission or its staff, it shall 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.

12. Applicant shall file an annual report with the Director of the Telecommunications Division, in compliance with GO 104-A, on a calendar-year basis with the information contained in Attachment C to this decision.

⁵ California is divided into ten Local Access and Transport Areas (LATAs), each containing numerous local telephone exchanges. InterLATA describes services, revenues and functions relating to telecommunications originating within one LATA and terminating in another LATA. IntraLATA describes services, revenues and functions relating to telecommunications originating within a single LATA.

13. Applicant shall file an affiliate transaction report with the Director of the Telecommunications Division, in compliance with D.93-02-019, on a calendar year basis using the form contained in Attachment D.

14. Applicant shall ensure that its employees comply with the provisions of Public Utilities (Pub. Util.) Code § 2889.5 regarding solicitation of customers.

15. Within 60 days of the effective date of this order, Applicant shall comply with Pub. Util. Code § 708, Employee Identification Cards, and notify the Director of the Telecommunications Division in writing of its compliance.

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16. If Applicant is 90 days or more late in filing an annual report, or in remitting the surcharges and fee listed in 2 above, the Telecommunications Division shall prepare for Commission consideration a resolution that revokes Applicant's CPCN unless it has received written permission from the Telecommunications Division to file or remit late.

17. Applicant is exempt from General Order 96-A, subsections III.G(1) and (2), and Commission Rule of Practice and Procedure 18(b).

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

19. 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.

20. If Applicant decides to discontinue service or file for bankruptcy, it shall immediately notify the Telecommunications Division's Bankruptcy Coordinator.

21. Applicant shall send a copy of this decision to concerned local permitting agencies not later than 30 days from the date of this order.

(END OF ATTACHMENT B)

ATTACHMENT C
Annual Report
(Page 1 of 2)

An original and two copies shall be filed with the California Public Utilities Commission, 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 §§ 2107 and 2108 of the Public Utilities Code.

Required information:

1. Exact legal name and U # of 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. The number and date of the Commission decision granting the Utility's CPCN.
7. Date operations were begun.
8. Description of other business activities in which the utility is engaged.
9. A list of all affiliated companies and their relationship to the utility.
State if affiliate is:
 - a. Regulated public utility.

- b. Publicly held corporation.

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Annual Report
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- 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.

For answers to any questions concerning this report, call (415) 703-2883.

**(END OF ATTACHMENT C)
ATTACHMENT D
CALENDAR YEAR AFFILIATE TRANSACTION REPORT**

(Page 1 of 2)

1. Each utility shall 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;
- Corporate officers.

2. The utility shall 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 should 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 should 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

**ATTACHMENT D
CALENDAR YEAR AFFILIATE TRANSACTION REPORT**

(Page 2 of 2)

utility or b) transacts any business with the utility filing the annual report excluding the provision of tariffed 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)

