

*Draft***PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA****Communications Division
Prog. Mgmt and Implementation Branch****RESOLUTION T-17152
December 4, 2008****R E S O L U T I O N****Resolution T-17152. To grant the request of ConnectTo Communications, Inc. (U-6977-C) to be designated as an Eligible Telecommunications Carrier (ETC) in California.**

Summary

This Resolution grants the request of ConnectTo Communications, Inc. (U-6977-C) ("ConnectTo") to be designated as an Eligible Telecommunication Carrier ("ETC"). ConnectTo has satisfied the requirements for ETC designation pursuant to Resolution T-17002 and has complied with the requirements of the Decisions¹ that granted ConnectTo's Certificate of Public Convenience and Necessity ("CPCN").

Background

ETCs are telephone carriers designated by state commissions and authorized by the Federal Communications Commission ("FCC") to receive federal Universal Service Fund ("USF") support for providing local telephone service in high cost areas and to low income customers.

The ETC program was established to satisfy the statutory requirement of the Telecommunications Act of 1996. The federal USF support creates an incentive for the telephone carriers to provide quality residential telephone services at an affordable rate to low income consumers and/or those living in designated high cost areas, e.g., rural areas.

The California Public Utilities Commission ("CPUC") has adopted comprehensive ETC guidelines and reporting requirements in Resolution T-17002 consistent with the FCC orders 97-157 and 05-46 to designate a telephone carrier as a qualified ETC. In addition, all carriers seeking ETC designation are required to comply with the applicable

¹ Decision 06-01-033 and Decision 07-04-033

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requirements as a CPUC certificated carrier as specified in the Decision(s) granting their CPCN.

ConnectTo is an FCC licensed, CPUC certificated² Competitive Local Exchange Carrier ("CLEC") within the service territories of AT&T/Pacific Bell and Verizon California.

On January 9, 2008, ConnectTo filed Advice Letter # 3 seeking ETC designation and requested authority to only be eligible to receive federal Lifeline and Link-Up program subsidies, and not from the federal High Cost fund program. Previously, ConnectTo filed Advice Letter # 2 on July 11, 2007 requesting for ETC designation status, and subsequently withdrew the advice letter without prejudice.

On September 8, 2008, the Communications Division ("CD") issued draft Resolution T-17152 for a 30-day public comment which had proposed rejecting ConnectTo's Advice Letter # 3 requesting ETC designation. At that time, CD staff had identified that ConnectTo did not comply with several requirements of Resolution T-17002 and the requirements that granted their CPCN.

On September 25, 2008, ConnectTo filed a supplement to its Advice Letter # 3 that provided evidence that they complied with the requirements in the Decisions that granted its CPCN. The supplement also included ConnectTo's comments to the draft resolution. ConnectTo's comments addressed the ETC compliance issues raised by CD staff. Additionally, Tariff replacement pages were filed with the advice letter supplement.

CD staff's issues regarding ConnectTo's Advice Letter # 3 and ConnectTo's response to these issues are found in the Discussion section of this Resolution.

Discussion

ConnectTo's Advice Letter # 3 responded to Appendix A of Resolution T-17002 *The Comprehensive Procedures and Guidelines for ETC Designation*, because ConnectTo only seeks to participate in the federal Lifeline and Link-Up program subsidies and does not intend to draw from the federal High Cost Fund program. Thus, ConnectTo is not required to complete Appendix B of Resolution T-17002: *Comprehensive Reporting Requirements for ETCs to receive Federal High Cost Support*.

² ConnectTo was granted its CPCN by Decision 06-01-033 to provide resold local exchange and interexchange telecommunications services in California. Subsequently, ConnectTo filed for authority to expand its CPCN to provide limited facilities-based local exchange telecommunications services. ConnectTo's request was granted by Decision 07-04-033.

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ConnectTo's Advice Letter # 3 and its supplement was reviewed and evaluated by CD staff for compliance with Resolution T-17002 and the orders contained in their CPCN Decisions. See Attachment A of this Resolution for a summary evaluation of ConnectTo's compliance with ETC and CPCN requirements.

CD staff analysis addressed the following areas where ConnectTo's Advice Letter # 3 did not initially comply with Resolution T-17002 Appendix A.

1. CD had previously found that ConnectTo had not complied with the provisions of Section II-E: *Local Usage* which requires an ETC to offer a local usage plan that is comparable to the one offered by the Incumbent Local Exchange Carrier ("ILEC") in the service areas for which it seeks ETC designation. ConnectTo's basic residential flat rate is substantially higher than the local rates of both AT&T/Pacific Bell and Verizon California as shown in the table (1) below.

Telephone Carrier Name	Basic Residential Flat Rate per Month
ConnectTo	\$54.99
AT&T/Pacific Bell	\$10.69
Verizon California	\$16.85/\$17.25

Table 1: Carrier Rates

The significant disparity of rates demonstrates that ConnectTo's local usage plan was not comparable to the ILECs local usage plans.

However, ConnectTo's comments, included in the their supplement to Advice Letter # 3, clarified that its approved tariff demonstrated that it offers a local usage plan comparable to the ILECs. ConnectTo stated that the rates provided to subscribers of California Universal Lifeline Telephone Service are regulated by the CPUC.

As part of the Advice Letter # 3 supplement, ConnectTo also modified its tariff to correct a typographical error made on original Tariff page 96. ConnectTo made adjustments to the discrepancy of the monthly call allowance a Lifeline customer will receive.

2. CD had previously determined that ConnectTo has not complied with the provisions of Section II - G: *Public Interest Determination* which states that each telecommunications carrier seeking ETC designation must file an Advice Letter with the Commission with information that demonstrate: a) the ETC designation will increase consumer choices; b) the advantages and disadvantages of its service offerings; and c) the absence of cream skimming.

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ConnectTo had not addressed the requirements to demonstrate: a) the ETC designation will increase consumer choices; b) the advantages and disadvantages of its service offerings; and c) the absence of cream skimming. ConnectTo does not believe that they need to demonstrate with particular facts regarding public interest determination.

However, ConnectTo's Advice Letter # 3 supplement provided the required demonstration asserting that customers will benefit from competition because additional customer choices will bring downward pressure on prices, greater availability of innovative products, and more attention to customer service. ConnectTo stated that it does not recognize any disadvantages associated with its service offerings. ConnectTo certifies that it will not engage in the practice of creamskimming.

In addition to the areas of non-compliance with Resolution T-17002 ETC designation requirements, CD staff had previously concluded that ConnectTo had not complied with the following reporting requirements contained in their CPCN Decisions 06-01-033 and 07-04-033:

1. ConnectTo had not file its 2007 Annual Reports that is required by General Order (G.O.) 104-A. (Decision 06-01-003, Ordering Paragraphs 5 & 7, Decision 07-04-033 Ordering Paragraphs 6 & 7). According to G.O. 104-A § 3, "The failure to file an annual report in accordance with the requirements of this General Order will subject a public utility to the penalties and sanctions provided by the Public Utilities Code."
2. ConnectTo had not file its 2007 Affiliate Transaction Reports that is required by Decision 93-02-019. (Decision 06-01-003, Ordering Paragraphs 5 & 7, Decision 07-04-033 Ordering Paragraphs 6 & 7). According to Decision 93-02-019 § I.C, "Each utility that does not have any affiliated entities is required to file an annual report but must file an annual statement to the Commission stating that the utility has no affiliated entities."

ConnectTo had been 90 days late in paying its 2007 User Fees as required by Decision 06-01-003, Ordering Paragraphs 5 & 7; and Decision 07-04-033 Ordering Paragraphs 6 & 7. The Decisions state that they shall comply with the requirements applicable to competitive local exchange carriers that include remitting fees and surcharges. ConnectTo's 2007 User Fee payment was due on January 15, 2008. According to ConnectTo's Ordering Paragraph 16 of CPCN Decision 06-01-003 Attachment B and Decision 07-04-033 Attachment A, "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 Communications Division shall prepare for Commission consideration a resolution that revokes Applicant's CPCN

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unless it has received written permission from the Telecommunications Division to file or remit late.”

On June 20, 2008, CD notified ConnectTo in writing that they were delinquent in its report filing and remittance of its User Fees. The report filing and User Fee payment are requirements as a CPUC certificated carrier. The letter ordered ConnectTo to correct their deficiencies or face revocation of their CPCN. On July 29, 2008, ConnectTo notified CD that it has paid its User Fees for the delinquent period.

ConnectTo’s Advice Letter # 3 supplement provided evidence of ConnectTo’s 2007 Annual Report and 2007 Affiliate Transaction Report filings.

Based on a review of the information provided by ConnectTo in their Advice Letter # 3 and its supplement, CD staff now believes that ConnectTo has met all the requirements to be designated as an ETC in California and recommends that their request for ETC status be granted.

We adopt CD’s recommendation and grant ConnectTo’s request to become designated as an ETC with the authority to only be eligible to receive federal Lifeline and Link-Up program subsidies serving the entire study areas of AT&T/Pacific Bell and Verizon California in California.

ETC Eligibility Requirements and Service Obligations

As an ETC, ConnectTo is required by the FCC to provide certain core, or designated services, in order to receive universal service support. ConnectTo will provide all the designated services. These services include the following;

1. Voice-grade access to the public switched network;
2. Local Usage;
3. Dual tone multi-frequency (DTMF) signaling or its functional equivalent;
4. Single-party service or its functional equivalent;
5. Access to emergency services;
6. Access to operator services;
7. Access to interexchange service;
8. Access to directory assistance; and
9. Toll Limitation.

ConnectTo will provide the designated services solely through the lease of its underlying carrier’s, AT&T/Pacific Bell and Verizon California, Unbundled Network Elements (“UNE”) facilities.

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ConnectTo will advertise the availability of these services and the charges therefore using media of general distribution including but not limited to: newspaper, radio, website, annual bill inserts, white page directories and other means in accordance with the FCC. ConnectTo's targeted demographics are a large and growing community of Armenian immigrants. ConnectTo will advertise with local Armenian television, newspapers, and radio.

Universal Service Administrative Company (USAC) Certification Requirements

ConnectTo, as an ETC, should file information with the federal universal service administrator, the USAC, pursuant to 47 Code of Federal Regulation (C.F.R.) section 54.401 (d), demonstrating that its Lifeline service meets the FCC requirements, and stating the number of qualifying low-income customers and the amount of state assistance. ConnectTo shall provide the USAC an estimated amount of state assistance (if any) based on current ULTS rates, net of expected amount of federal support. A copy of ConnectTo's certification with the USAC shall be provided to the CD Director within 30 days of receipt from USAC by ConnectTo

Reimbursements from the ULTS fund

As a designated ETC, ConnectTo is eligible to obtain federal Lifeline and Link-Up support from the USAC for active customer Link-Up and Lifeline access lines which are provided using its own facilities or by using access lines obtained through the lease of UNE facilities from another carrier. Because ConnectTo will provide services through the lease of its underlying carrier's UNE facilities, ConnectTo shall not apply to USAC for reimbursement of Lifeline and Link-Up access lines obtained from an underlying carrier which already receives a Lifeline and/or Linkup credit for those lines. California Lifeline payments shall be reduced by amounts received under the federal ETC program³. ConnectTo shall provide supporting documents to CD staff as requested showing this reduction.

Comments

In compliance with PU Code § 311 (g), a notice letter was e-mailed on September 08, 2008 to all California ETC informing these parties that this draft resolution is available at the Commission's website <http://www.cpuc.ca.gov/static/documents/index.htm> and is available for public comments. In addition, CD informed these parties of the availability of the conformed resolution at the same website.

³ Decision 00-10-028 (G.O. 153), p.85.

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On September 25, 2008, ConnectTo filed a comment to the draft resolution as part of the Advice Letter # 3 supplement. ConnectTo's comments and supplement information satisfactorily addressed the ETC compliance issues raised by CD staff.

Findings

1. ConnectTo is an FCC licensed, CPUC certificated competitive local exchange carrier within the service territories of AT&T/Pacific Bell and Verizon California.
2. On January 9, 2008, ConnectTo filed Advice Letter # 3 seeking ETC designation and requested authority to only be eligible to receive federal Lifeline and Link-Up program subsidies, and not from the federal High Cost fund program.
3. On September 25, 2008, ConnectTo filed a supplement to its Advice Letter # 3 that provided evidence of report filing as required by the Decisions that granted its CPCN. The supplement also included ConnectTo's comment to the draft resolution. Additionally, Tariff replacement pages to correct information were filed with the Advice Letter # 3 supplement.
4. ConnectTo's Advice Letter # 3 and advice letter supplement complied with the procedures and guidelines for ETC designation established in Resolution T-17002 Appendix A and has complied with the requirements contained in their CPCN Decisions 06-01-033 and 07-04-033.
5. ConnectTo will provide designated services, as required by the FCC.
6. ConnectTo will provide the designated services solely through the lease of its underlying carrier's, AT&T/Pacific Bell and Verizon California, Unbundled Network Elements ("UNE") facilities.
7. ConnectTo will advertise the availability of these services and the charges therefore using media of general distribution including but not limited to: newspaper, radio, website, annual bill inserts, white page directories and other means in accordance with the FCC.
8. ConnectTo is eligible to obtain federal Lifeline and Link-Up support from the USAC for active customer Link-Up and Lifeline access lines which are provided using its own facilities or using access lines obtained through the lease of UNE facilities from another carrier. Because ConnectTo will provide services through the lease of its underlying carrier's UNE facilities, ConnectTo shall not apply to USAC for reimbursement of Lifeline and Link-Up access lines obtained from an underlying

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carrier which already receives a Lifeline and/or Linkup credit provided by the underlying carrier.

9. California Lifeline payments should be reduced by amounts received under the federal ETC program.
10. In compliance with PU Code § 311 (g), a notice letter was e-mailed on September 08, 2008 to all California ETC informing these parties that this draft resolution is available at the Commission's website <http://www.cpuc.ca.gov/static/documents/index.htm> and is available for public comments. In addition, CD informed these parties of the availability of the conformed resolution at the same website.
11. ConnectTo shall certify to the federal Universal Service Administrator, the USAC, that it will pass through the entire federal subsidy amount to qualifying low-income customers. A copy of ConnectTo's certification with the USAC shall be provided to the CD Director within 30 days of receipt from USAC by ConnectTo.
12. CD staff recommends that ConnectTo's Advice Letter seeking ETC designation be granted.

THEREFORE, IT IS ORDERED that:

1. The request of ConnectTo Communications, Inc. to be designated as an Eligible Telecommunications Carrier for the limited purpose of providing federal Lifeline and Link-Up services in the study areas of AT&T/Pacific Bell and Verizon California in California is granted.
2. ConnectTo shall certify to the federal Universal Service Administrator, the USAC, that it will pass through the entire federal subsidy amount to qualifying low-income customers. A copy of ConnectTo's certification with the USAC shall be provided to the CD Director within 30 days of receipt from USAC by ConnectTo.
3. California Lifeline payments shall be reduced by amounts received under the federal ETC program.

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This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on December 4, 2008. The following Commissioners approved it.

PAUL CLANON
Executive Director

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ATTACHMENT A
Compliance with Resolution T-17002
and CPCN (D.06-01-033 and D.07-04-033)

Company Name:	ConnectTo Communications, Inc.
Utility Number:	U-6977-C
Advice Letter #	3
Date Filed:	1/9/08

ETC Pre-qualification Checklist

ITEM	Complied? Yes or No
1. Resolution T17002 Compliance	
a. Appendix A	Yes
i. <u>Section I.A.</u> Service Area Map	Yes
ii. <u>Section I.B.</u> Designated Services ❖ Single party service ❖ Voice grade access to the public switched network ❖ Local usage ❖ Dual Tone multi-frequency signaling or its functional equivalent ❖ Access to operator services ❖ Access to interexchange services ❖ Access to directory assistance ❖ Toll limitation for qualifying low-income consumers	Yes to all
iii. <u>Section I.C.</u> List of services that they propose not to offer and extension of time.	N/A
iv. <u>Section I.D.</u> Waiver of the requirement that an ETC not disconnect lifeline for non-payment of toll.	N/A
v. <u>Section I.E.</u> Advertising plan	Yes
vi. <u>Section I.F.</u> Implement tariff changes via Advice Letter filing process.	Yes
vii. <u>Section I.G.</u> Request additional time to perform network upgrades.	N/A
viii. <u>Section II.A.</u> Commitment to Provide service	Yes
ix. <u>Section II.B.</u> 2-year service quality improvement plan	Yes
x. <u>Section II.C.</u> Ability to Remain Functional	Yes
xi. <u>Section II.D.</u> Consumer Protection	Yes
xii. <u>Section II.E.</u> Local Usage	Yes
xiii. <u>Section II.F.</u> Equal Access	Yes
xiv. <u>Section II.G.</u> Public Interest Determination	Yes
b. Appendix B	No ⁴
i. <u>Section I.A.</u> Carrier information	N/A
ii. <u>Section I.B.</u> Basic Residential Service Rate	N/A
iii. <u>Section I.C.</u> Filing Dates	N/A
iv. <u>Section II.A.</u> A two-year service quality improvement plan, including, as appropriate, maps detailing progress towards meeting its prior two-year improvement plan, explanations	N/A

⁴ ConnectTo does not seek support from the High Cost Fund program.

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ITEM	Complied? Yes or No
of how much universal service support was received and how the support was used to improve service quality in each wire center for which designation was obtained, and an explanation of why network improvement targets, if any, have not been met. <u>If a designated ETC has submitted a five-year plan in a GRC application that has been approved by the Commission and is still in effect, the carrier may refer to its GRC filing and submit a progress report on the plan covered by the GRC.</u>	
v. Section II.B. Detailed information on outages in the ETC's network caused by emergencies, including the date and time of onset of the outage, a brief description of the outage, the particular services affected by the outage, the geographic areas affected by the outage, and steps taken to prevent a similar outage situation in the future. <u>If an ETC has submitted a Major Service Interruptions report in accordance with CPUC Memorandum dated October 5, 1977, the ETC need not submit the same report. However, in their self-certification letter, the ETC should cite the date(s) of submission of the report; and</u>	N/A
vi. Section II.C. Information on the number of unfulfilled requests for service from potential customers for the past year and the number of complaints per 1,000 handsets or lines. <u>If an ETC has submitted the Held Primary Service Order and Customer Trouble Reports in accordance with Sections 3.1 and 3.3 of G. O. 133-B, the ETC need not submit the same reports. However, in their self-certification letter, the ETC should cite the date(s) of submission of the reports.</u>	N/A
2. CPCN Compliance (Decision 06-01-033 and Decision 07-04-033)	
a. 2007 Annual Report (D.06-01-003, O.P. 5 & 7, D.07-04-033 O.P. 6 & 7)	Yes (March 31, 2008)
b. 2007 Annual Affiliate Transaction Report (D.06-01-003, O.P. 5 & 7, D.07-04-033 O.P. 6 & 7)	Yes (May 2, 2008)
c. 2007 User Fee Payment (D.06-01-003, O.P. 5 & 7, D.07-04-033 O.P. 6 & 7.	Yes (July 2, 2008)

[T-17152 Notice of Nonsubstantive Cover for ConnectTo Communications, Inc.](#)