

Decision 05-06-047 June 30, 2005

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Champion Broadband California, LLC for Authority to Operate as a Provider of Facilities Based Local Exchange Telecommunications Service and Certificate of Public Convenience and Necessity To Provide InterLATA and IntraLATA Interexchange Services Within the State of California.

Application 04-11-018
(Filed November 10, 2004;
amended February 10, 2005)

O P I N I O N

I. Summary

Champion Broadband California, LLC (Applicant) seeks a certificate of public convenience and necessity (CPCN) under Pub. Util. Code § 1001 for authority to provide limited facilities-based and resold local exchange and interexchange telecommunications services as a competitive local carrier (CLC), and a non-dominant interexchange carrier. Applicant also requests authority to provide facilities-based services using its existing cable television facilities in the Cities of Arcadia, and Monrovia and portions of the City of Pasadena. In addition, it requests the Commission's approval of its acquisition of the above telecommunications facilities from Altrio Communications, Inc. (Altrio). By this decision, we grant the requested authority subject to the terms and conditions set forth below.

II. Background

In prior decisions, we authorized the provision of competitive local exchange service within the service territories of Pacific Bell Telephone Company (Pacific), Verizon California Inc. (Verizon), SureWest Telephone (SureWest) and Citizens Telecommunications Company of California, Inc. (CTC).¹

Applicant, a Wyoming limited liability company, requests authority to operate as a limited facilities-based and resale provider of local exchange services within Pacific and Verizon's service territories. In addition, Applicant requests the Commission's approval of its acquisition of the telecommunications facilities of Altrio (U-6556-C), and authority to provide facilities-based services throughout the Cities of Arcadia, and Monrovia and portions of the City of Pasadena using the existing cable television facilities acquired from Altrio. Applicant does not intend at this time to build additional facilities, cable television or otherwise, to provide telecommunications services.

Applicant's principal place of business is located at 380 Perry Street, Suite 230, Castle Rock, Colorado 80104.

In the sections below, we address the request for a CPCN first. We then address the acquisition.

III. Financial Qualifications

To be granted a CPCN for authority to provide facilities-based and resold local exchange and interexchange services, an applicant must demonstrate that it has \$100,000 cash or cash equivalent to meet the firm's start-up expenses. The applicant must also demonstrate that it has sufficient additional resources to

¹ SureWest was formerly known as Roseville Telephone Company.

cover all deposits required by other telecommunications carriers in order to provide service in California.² Applicant represents that it has paid all deposits to other telecommunications carriers that are necessary to provide the proposed services. In addition, Applicant provided bank statements that satisfy the financial requirements.

IV. Technical Qualifications

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

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 a telecommunications carrier that filed for bankruptcy or went out of business, or was sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order.

V. 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. In its compliance tariff filing, Applicant is directed to correct these deficiencies as a condition of our granting approval of its tariffs.

² The financial standards for certification to operate as a CLC are set forth in D.95-12-056, Appendix C, Rule 4.B.

VI. California Environmental Quality Act (CEQA)

The 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. Since Applicant states that it will not be constructing any additional facilities for the purpose of providing local exchange services, except for equipment to be installed in existing buildings or structures, it can be seen with certainty that there is no possibility that granting this application will have an adverse impact upon the environment. Applicant must file for additional authority, and submit to any necessary CEQA review, before it can construct additional facilities.

VII. CPCN-Conclusion

We conclude that the application conforms to our rules for certification. Accordingly, we shall grant Applicant a CPCN to provide limited facilities-based and resold local exchange services in Pacific and Verizon's service territories, and interexchange services statewide, subject to compliance with the terms and conditions set forth herein.

VIII. Background--Altrio

Altrio was a Delaware limited liability company authorized to do business in California. Its principal place of business was located at 2702 Media Center Drive, Los Angeles California 90069. By Decision (D.) 01-07-022, Altrio was granted a CPCN to provide limited facilities-based and resold local exchange services, and interexchange services. Altrio's authorization to provide full facilities-based telecommunications services is discussed below.

Altrio's principal place of business was located at 2702 Media Center Drive, Los Angeles, California 90069.

On October 20, 2000, Altrio filed Application (A.) 00-10-044 for a CPCN to provide facilities-based and resold local exchange and interexchange services. The facilities it proposed to construct were Open Video Systems (OVS) facilities that would be used to offer cable television, cable modem data services, and telecommunications services. Altrio subsequently amended its application asking the Commission to consider its request in two steps. First, it requested authority to provide limited facilities-based and resold local exchange services within the greater Los Angeles metropolitan area, and interexchange services statewide, along with authority to construct facilities in the Los Angeles area. Second, it proposed to file a Proponent's Environmental Assessment (PEA) seeking full facilities-based authority at a later date.

By D.01-07-022, Altrio was authorized to provide limited facilities-based local exchange and interexchange telecommunications services by reselling other carriers' services, or utilizing unbundled network elements and equipment installed solely within existing buildings or structures. Consideration of the construction activities identified in the amended application were deferred for further consideration pending submittal of a PEA for full facilities-based authority. Altrio was prohibited from constructing buildings, towers, conduits, poles, or trenches, as well as other facilities identified in its application.

After the issuance of D.01-07-022, Altrio pursued construction of the facilities it was prohibited from constructing by D.01-07-022. It did this by obtaining local authority to construct the facilities in order to offer cable television and cable modem data services, neither of which is regulated by this Commission.

Subsequently, Case (C.) 02-11-053 was filed alleging that Altrio violated D.01-07-022 by constructing facilities in Pasadena. A presiding officer's decision (POD) was mailed on August 28, 2003. The POD found that Altrio had violated D.01-07-022 by providing telecommunications services over the OVS facilities it had constructed in Pasadena without first obtaining full facilities-based authority.

On September 8, 2003, Altrio filed an amendment to A.00-10-044 withdrawing its earlier request for full facilities-based authority except where it had built or would build its OVS facilities pursuant to agreements or cable franchises executed with, or granted by, specific local jurisdictions.

Altrio submitted documentation indicating that Pasadena, acting as the lead CEQA agency, approved a franchise agreement with Altrio after determining that a Class 1 CEQA exemption applied to the construction of its OVS facilities in Pasadena. Altrio represented that no construction of additional facilities for telecommunications services was contemplated other than those authorized by Pasadena. Therefore, Altrio requested that the Commission, acting consistent with its duties as responsible agency, adopt Pasadena's CEQA exemption determination, and grant full facilities-based local exchange authority in Pasadena.

Typically, the Commission acts as a lead agency in performing CEQA reviews of telecommunications construction projects that require a CPCN or an amendment to a CPCN. In most cases, such review takes place before construction. However, in that proceeding, Pasadena had found that a Class 1 CEQA exemption applied to Altrio's OVS facilities, and the facilities were constructed to provide cable television and cable modem data services. Altrio sought to use the same facilities to provide telecommunications services, and

indicated that no additional construction was contemplated other than that already authorized by Pasadena, or installation of telecommunications equipment permitted under its limited facilities-based authority.

The Commission determined that it would serve no useful purpose to perform a new CEQA review of facilities that had already been installed or would be installed to provide services the Commission does not regulate. At that point, the request was not to construct telecommunications infrastructure, but to use existing and / or authorized infrastructure to provide telecommunications services in addition to cable television and cable modem data services. The Commission determined that Altrio was still required to obtain Commission approval for full facilities-based authority to offer telecommunications services to customers using its OVS facilities.

The Commission also concluded that no useful purpose would be served by denying the request for full facilities-based authority within Pasadena. The Commission found that, since the OVS facilities were approved by Pasadena and were used for services other than telecommunications, the facilities would continue in operation irrespective of how it resolved the request for full facilities-based authority. As a result, by D.03-11-016, the Commission granted full facilities-based authority, within the boundaries of Pasadena, limited to the OVS facilities authorized by Pasadena. To the extent that Altrio sought full-facilities based authority in places other than Pasadena, the request was denied.

By D.03-12-064, in C.02-11-053, the Commission found that Altrio had violated D.01-07-022 because it was required by that decision to have a full facilities-based CPCN before it could offer telephone service using its OVS facilities in Pasadena. D.03-12-064 provided that Altrio may not provide telephone service over its OVS system, to customers who were not receiving

service on the effective date of D.03-12-064, without first obtaining full facilities-based authority covering the area in which it intends to provide service.

In A.03-12-005, Altrio sought authority to provide facilities-based local exchange and interexchange telecommunications services in the cities of Arcadia, Sierra Madre and Monrovia, and in certain parts of Los Angeles County. Altrio had already constructed OVS facilities in these areas pursuant to agreements with the cities of Monrovia and Sierra Madre, and Los Angeles County, and a cable franchise in Arcadia. Altrio then had approximately 10,000 customers in these areas of which approximately half received telecommunications service. Altrio represented that of these customers, 173 were telephone-only customers.

Subsequently, Altrio sold its assets to Applicant and went out of business. By D.05-04-002, A.03-12-005 was dismissed for failure to prosecute. As a result Altrio was not authorized to provide telecommunications services in Monrovia, Sierra Madre, Los Angeles County, and Arcadia using its OVS facilities, although it was doing so.

IX. Background of the Transaction

The sequence of events leading to this application is as follows. In December 2003, Altrio's board of directors voted to wind down the company, and hired a firm to assist in the process. Applicant's parent company, Champion Broadband, LLC subsequently learned of Altrio's intentions, and submitted a bid to purchase Altrio's assets. Applicant, a wholly owned subsidiary of its parent, was organized for the purpose of acquiring Altrio's assets. On March 26, 2004, Applicant acquired the assets of Altrio. At that time, Altrio had run out of cash, was in the process of shutting down its operations, had given its employees their last paycheck, and was ceasing customer service. Upon closing of the transaction, Applicant hired back Altrio's remaining employees, and began

providing service to the remaining customers. In April 2004, Applicant initiated a series of contacts with the Commission in an attempt to determine what it needed to do in order to obtain the Commission's approval of the transaction. As a result of those contacts, this application was filed.

X. Approval of the Acquisition

Pub. Util. Code § 854 requires Commission authorization before a company may “merge, acquire, or control . . . any public utility organized and doing business in this state” The purpose of this and related sections is to enable the Commission, before any transfer of public utility property is consummated, to review the situation and to take such action, as a condition of the transfer, as the public interest may require. (San Jose Water Co. (1916) 10 CRC 56.)

In a situation where a company that does not possess a CPCN desires to acquire control of a company that does possess a CPCN, we will apply the same requirements as in the case of an applicant seeking a CPCN to exercise the type of authority held by the company being acquired. As discussed above, Applicant is qualified to operate as a limited facilities-based and resale provider of local exchange and interexchange telecommunications services within California. Except for fulfilling the requirements of CEQA, the requirements for a CPCN to provide limited facilities-based services are the same as those to provide full facilities-based services. Therefore, Applicant is qualified to acquire the assets of Altrio.

Applicant represents that, as a result of the transaction, customers continued to receive service under the same rates, terms, and conditions as before the transaction. Since the transaction avoided discontinuance of service to customers, and resulted in no change in rates, terms, or conditions of service, the

transaction was not adverse to the public interest. Therefore, we will approve the transaction prospectively. Applicant is at risk for any consequences that may arise from its acquisition of Altrio prior to obtaining this Commission's approval.

This transaction occurred at a time when Altrio was shutting down and discontinuing service to its customers. Therefore, Applicant's prompt acquisition of Altrio's assets avoided discontinuance of service to Altrio's remaining customers, and preserved the jobs of approximately 25 employees. The record demonstrates that there was not sufficient time for Applicant to obtain approval of the transaction before it was consummated. In addition, Applicant made contact with the Commission within days of closing the transaction in order to find out how to obtain the necessary approvals, and subsequently filed this application. Therefore, while Applicant violated § 854, the violation was unintentional. The fact that the transaction avoided termination of service to customers, and preserved employee jobs mitigates the violation. For these reasons, we find that imposing a fine for violation of § 854 would serve no useful purpose, and we will not do so.

XI. Use of Existing OVS Facilities Acquired from Altrio to Provide Telecommunications Services

Altrio was not authorized to provide telecommunications services in Monrovia, Sierra Madre, Los Angeles County, and Arcadia using its OVS facilities, although it was doing so, and had an application pending for such authority as discussed above. That application has since been dismissed for failure to prosecute, and authority was not obtained. Applicant is now providing service in those cities using the OVS facilities it purchased from Altrio.

No useful purpose would be served by denying Applicant full facilities-based authority to use the existing OVS facilities acquired from Altrio to provide

telecommunications services for which Altrio sought, but did not receive approval. Since the OVS facilities were constructed pursuant to agreements with the cities of Monrovia and Sierra Madre, and Los Angeles County, and a cable franchise in Arcadia, and were used for services other than telecommunications, the facilities would continue in operation irrespective of how we resolve the issue of full facilities-based authority in this proceeding. Likewise, Applicant had nothing to do with the construction of these facilities, or their initial use by Altrio in providing telecommunications services without authorization. In addition, the only way Applicant could avoid use of these facilities to provide telecommunications services would be to discontinue service to customers. Therefore, we will authorize Applicant to provide full facilities-based services using the facilities it acquired from Altrio. In addition, we see no reason to impose a penalty on Applicant for the provision of telecommunications services using the OVS facilities acquired from Altrio, which Altrio was not authorized to use for providing telecommunications services. Notwithstanding the above, we caution Applicant that if it wishes to expand its existing OVS facilities, it must obtain a facilities-based CPCN for such facilities before it can provide telecommunications services using them.

XII. Fees and Surcharges owed by Altrio and Applicant

Altrio had not paid all of the applicable fees and surcharges it owed when the transaction occurred, and has paid none since. Applicant stated that its asset purchase agreement with Altrio calls for Altrio to be responsible for all costs incurred prior to March 26, 2004. However, it also stated its willingness to have approval of this application contingent upon its paying the fees and surcharges owed by Altrio. Therefore, we will make our granting of a CPCN, and approval of the transaction, contingent upon payment of the fees and surcharges owed by

Altrio, as well as those owed by Applicant for operations since its acquisition of Altrio's assets. Approval is also contingent upon Applicant's filing of all reports required since its acquisition of Altrio.

XIII. Categorization and Need for Hearings

In Resolution ALJ 176-3143 dated December 2, 2004, 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.

XIV. Comments on Draft Decision

This is an uncontested matter in which the decision grants the requested relief. Therefore, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

XV. Assignment of Proceeding

Susan P. Kennedy is the Assigned Commissioner and Jeffrey P. O'Donnell is the assigned Administrative Law Judge in this proceeding.

XVI. Assignment of Proceeding

Susan P. Kennedy is the Assigned Commissioner and Jeffrey P. O'Donnell is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. In prior decisions, the Commission authorized competition in providing local exchange telecommunications services within the service territories of Pacific, Verizon, SureWest and CTC.

2. Applicant has a minimum of \$100,000 of cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses.

3. Applicant has paid all deposits to other telecommunications carriers that are necessary to provide the proposed services.

4. Applicant's management possesses sufficient experience and knowledge to provide local exchange and interexchange services to the public.

5. As part of its application, Applicant submitted a draft of its tariffs that contained the deficiencies identified in Attachment A to this decision. Except for these deficiencies, Applicant's draft tariffs complied with the Commission's requirements.

6. Applicant does not propose to construct any additional facilities, except for equipment to be installed in existing buildings or structures, in order to provide the proposed services.

7. By D.01-07-022, Altrio was granted a CPCN to provide limited facilities-based and resold local exchange and interexchange services.

8. By D.03-11-016, the Commission granted Altrio full facilities-based authority, within the boundaries of Pasadena, limited to the OVS facilities authorized by Pasadena.

9. By D.03-12-064, in C.02-11-053, the Commission found that Altrio had violated D.01-07-022 because it was required by that decision to have a full facilities-based CPCN before it could offer telephone service using its OVS facilities in Pasadena.

10. D.03-12-064 provided that Altrio may not provide telephone service over its OVS system, to customers who were not receiving service on the effective date of D.03-12-064, without first obtaining full facilities-based authority covering the area in which it intends to provide service.

11. In A.03-12-005, Altrio sought authority to provide facilities-based local exchange and interexchange telecommunications services in the cities of Arcadia, Sierra Madre and Monrovia, and in certain parts of Los Angeles County. Altrio had already constructed OVS facilities in these areas pursuant to agreements with the cities of Monrovia and Sierra Madre, and Los Angeles County, and a cable franchise in Arcadia. Subsequently, Altrio sold its assets to Applicant and went out of business.

12. By D.05-04-002, A.03-12-005 was dismissed for failure to prosecute.

13. The transaction did not result in a change in rates, terms or conditions of service to customers.

14. Applicant's prompt acquisition of Altrio's assets avoided discontinuance of service to Altrio's remaining customers, and preserved the jobs of approximately 25 employees.

15. The record demonstrates that there was not sufficient time for Applicant to obtain approval of the transaction before it was consummated.

16. Applicant made contact with the Commission within days of closing the transaction in order to find out how to obtain the necessary approvals, and subsequently filed this application.

17. Applicant's violation of § 854 was unintentional.

18. The fact that the transaction avoided termination of service to customers, and preserved employee jobs mitigates the violation.

19. No useful purpose would be served by denying Applicant full facilities-based authority to use the existing OVS facilities acquired from Altrio to provide telecommunications services for which Altrio sought, but did not receive, approval.

20. Since the OVS facilities were constructed pursuant to agreements with the cities of Monrovia and Sierra Madre, and Los Angeles County, and a cable franchise in Arcadia, and were used for services other than telecommunications, the facilities would continue in operation irrespective of how the Commission resolves the issue of full facilities-based authority.

21. Applicant had nothing to do with the construction of the existing OVS facilities by Altrio, or their initial use by Altrio in providing telecommunications services without authorization.

22. The only way Applicant could avoid use of the existing OVS facilities to provide telecommunications services would be to discontinue service to customers.

23. Altrio had not paid all of the applicable fees and surcharges it owed when the transaction occurred, and has paid none since.

24. Applicant stated its willingness to have approval of this application contingent upon its paying the fees and surcharges owed by Altrio.

25. A notice of the filing of the application appeared in the Daily Calendar on November 23, 2004. Notice of the amendment appeared in the Daily Calendar on February 14, 2005.

26. There were no protests to this application.

27. A hearing is not required.

Conclusions of Law

1. Applicant has the financial ability to provide the proposed service.
2. Applicant has made a reasonable showing of technical expertise in, or related to, telecommunications.

3. Public convenience and necessity require the competitive local exchange and interexchange services to be offered by Applicant, subject to the terms and conditions set forth herein.

4. The application should be granted to the extent set forth below.

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

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

7. Since Applicant does not propose to construct any additional facilities, except for equipment to be installed in existing buildings or structures, it can be seen with certainty that granting it authority to provide local exchange and interexchange services will not have a significant adverse effect upon the environment.

8. Altrio was not authorized to provide telecommunications services in Monrovia, Sierra Madre, Los Angeles County, and Arcadia using its OVS facilities, although it was doing so.

9. The Commission will apply the same requirements to a request for approval of an acquisition of a facilities-based and resale provider of local exchange and interexchange telecommunications services within California as it does to an applicant for authority to provide such services.

10. Applicant meets the Commission's requirements for the issuance of a CPCN to provide facilities-based and resold local exchange and interexchange telecommunications services.

11. The transaction is not adverse to the public interest.

12. The transaction should be approved.

13. Applicant should not be fined for its violation of § 854 because it would serve no useful purpose to do so.

14. The Commission should authorize Applicant to provide full facilities-based services using the existing OVS facilities it acquired from Altrio.

15. The Commission should not impose a penalty on Applicant for the provision of telecommunications services using the OVS facilities acquired from Altrio.

16. Applicant should be warned that if it expands its existing OVS facilities, it must obtain a facilities-based CPCN for such facilities before it can provide telecommunications using them.

17. In order to assure continued services to customers, approval of this application should be made effective immediately.

18. Granting of a CPCN, and approval of the transaction, should be contingent upon payment of the fees and surcharges owed by Altrio, payment of fees and surcharges owed by applicant for operations since its acquisition of Altrio's assets, and Applicant's filing of all reports required since its acquisition of Altrio.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity (CPCN) is granted to Champion Broadband California, LLC (Applicant) to operate as a facilities-based and resale provider of 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 and Verizon 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'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 one 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-6944-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 (NDIECs) 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 NDIECs included in Attachment B to this decision.

8. Applicant is not authorized to construct facilities beyond those existing Open Video Systems (OVS) facilities acquired from Altrio Communications, Inc. (Altrio), other than equipment to be installed in existing buildings or structures.

9. Applicant is authorized to use the OVS facilities acquired from Altrio to provide telecommunications services.

10. If Applicant wishes to expand its existing OVS facilities, it must obtain a facilities-based CPCN for such facilities before it can provide telecommunications using them.

11. Pursuant to Pub. Util. Code § 854, Applicant's acquisition of Altrio is approved prospectively.

12. Applicant is at risk for any consequences that may arise from its acquisition of Altrio prior the effective date of this order.

13. Granting of the CPCN, and approval of the transaction, is contingent upon payment of the fees and surcharges owed by Altrio, payment of fees and surcharges owed by Applicant for operations since its acquisition of Altrio's assets, and Applicant's filing of all reports required since its acquisition of Altrio.

14. All of the fees, surcharges, and reports discussed in Ordering Paragraph 13 shall be paid or filed within 30 calendar days of the effective date of this order.

15. This proceeding is closed.

This order is effective today.

Dated June 30, 2005, at San Francisco, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
SUSAN P. KENNEDY
DIAN M. GRUENEICH
Commissioners

Commissioner John A. Bohn, being
necessarily absent, did not participate.

ATTACHMENT A

List of deficiencies in tariff filed by Champion Broadband California, LLC in A.04-11-018 to be corrected in its tariff compliance filing.

1. Sheet 89: Revise the fee and surcharges per Resolution T-16901.
2. Sheet 91 and 92: Include the following Income Limitation and rate for ULTS:

<u>Household Size</u>	<u>Income Limitation</u>
1-2	\$20,600
3	24,300
4	29,200
Each additional member	4,900
Measured Rate	2.85

(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 1.55% surcharge applicable to all intrastate services except or 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-16917, dated February 24, 2005, effective April 1, 2005);
 - b. The current 0.30% 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-16816, January 22, 2004, effective February 1, 2004);
 - c. The user fee provided in Pub. Util. Code §§ 431-435, which is 0.11% of gross intrastate revenue (Resolution M-4813);
 - d. The current 0.15% 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-16916, February 24, 2005, effective April 1, 2005);
 - e. The current 2.43% 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,

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- p. 191, App. B, Rule 6.F., Resolution T-16898, December 16, 2004, effective January 1, 2005; and
- f. The current 0.16% 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-16833, dated July 8, 2004, effective August 1, 2004).
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 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.

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“(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.”

“(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. “

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- “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.
- “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.

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9. Applicant shall notify the Director of the Telecommunications Division in writing of the date interLATA service is first rendered to the public within five days after service begins, and again within five days after intraLATA service begins.³
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.
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 Pub. Util. Code § 2889.5 regarding solicitation of customers.

³ 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.

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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.
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

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ANNUAL REPORT

An original hard copy, and a machine-readable electronic copy, on a CD or floppy disk using Microsoft Word or a compatible format, shall be filed with the California Public Utilities Commission, 505 Van Ness Avenue, Room 3107, San Francisco, CA 94102-3298. The filing shall be made 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 Pub. Util. 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.

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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
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

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CALENDAR YEAR AFFILIATE TRANSACTION REPORT

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; and
- 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

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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)