

Decision 19-06-024 June 27, 2019

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Vero
Fiber Networks, LLC For a Certificate of
Public Convenience and Necessity to
Provide Competitive Local Exchange
Services on a Full Facilities-Basis in the State
of California.

Application 18-01-006

**DECISION GRANTING VERO FIBER NETWORKS, LLC A
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
TO PROVIDE RESOLD AND FULL FACILITIES-BASED LOCAL EXCHANGE
AND INTEREXCHANGE TELECOMMUNICATIONS SERVICES**

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**DECISION GRANTING VERO FIBER NETWORKS, LLC A
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN ORDER TO
PROVIDE RESOLD AND FULL FACILITIES-BASED LOCAL EXCHANGE AND
INTEREXCHANGE TELECOMMUNICATIONS SERVICES**

Summary

Pursuant to Public Utilities Code § 1001, we grant Vero Fiber Networks, LLC a Certificate of Public Convenience and Necessity (CPCN) to provide resold full facilities-based local exchange and interexchange telecommunication services in California, subject to the terms and conditions set forth in the Ordering Paragraphs.

This proceeding is closed.

1. Background

On January 2, 2018, as amended on June 25, 2018, Vero Fiber Networks, LLC (Vero Fiber or Applicant), a Colorado Limited Liability Company authorized to do business in California, filed an application requesting a Certificate of Public Convenience and Necessity (CPCN) to provide resold full facilities-based local exchange and interexchange telecommunications services in the service territories of Pacific Bell Telephone Company d/b/a AT&T California (AT&T California), Verizon California, Inc. (Verizon), SureWest Telephone (SureWest), and Citizens Telephone Company of California, Inc. d/b/a Frontier Communications of California (Frontier). The application was not protested.

Vero Fiber plans to deploy a fiber-optic network to deliver Internet-protocol voice and data communication services and to initially focus delivery of services to schools and educational institutions that participate in the Federal E-rate program. Vero Fiber will provide these services over dedicated lit fiber through private and shared facilities and will require interconnection with the public internet and the public switched telephone network (PTSN) to deliver its

services. Vero Fiber intends to provide the fiber-based broadband voice and data services by installing its facilities in existing rights-of-way and by selling or leasing dark fiber to other providers and end-users. Applicant may also undertake construction activities to install underground and above ground facilities in existing rights of way and utility easements. Applicant will not provide residential services.

Applicant's principal place of business is located at 1023 Walnut Street, Boulder, Colorado, 80302.

On February 12, 2018, the Applicant filed Supplemental Application Documents. On March 28, 2018, the assigned Administrative Law Judge (ALJ) issued a ruling requesting information, to which Applicant responded on May 24, 2018.¹ On June 25, 2018, Applicant filed an Amendment to Application (Amendment), consisting of the change from the original request to be certified as a limited facilities-based carrier to a request to be certified as a full facilities-based carrier.

A telephonic prehearing conference (PHC) was held on August 30, 2018 to determine parties, discuss the scope, the schedule, and other procedural matters. No persons other than the applicant attended the PHC. On March 11, 2019, the Assigned Commissioner's Scoping Memo and Ruling (Scoping Memo) was issued.

The Scoping Memo directed Applicant to respond to a series of additional questions, to which the Applicant responded on March 27, 2019. On April 24, 2019, the assigned Commissioner issued a ruling with additional

¹ On April 13, 2018 and April 23, 2018, the assigned ALJ issued rulings authorizing extensions of time for the Applicant to respond to her ruling.

questions, to which the Applicant responded on May 8, 2019. In particular, in response to the Commissioner's question as to what plans the Applicant has to allow other service providers to interconnect with its facilities on a competitive basis, the Applicant responds that it "will interconnect with other service providers when such providers request interconnection with Vero Fiber, and in the event that Vero Fiber's customers request services that require interconnection with other providers, Vero Fiber will do so."²

All rulings by the assigned Commissioner and the ALJ are affirmed herein. This proceeding was submitted on May 8, 2019

2. Jurisdiction

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

Vero Fiber proposes to provide resold and full facilities-based local exchange and interexchange telecommunications services to educational and business customers within California via lit and dark fiber and will require interconnection with the public internet and the PTSN. Accordingly, Vero Fiber is a telephone corporation and a public utility subject to our jurisdiction.

3. California Environmental Quality Act (CEQA)

Pursuant to CEQA and Rule 2.4³ of the Commission's Rules of Practice and Procedure (Rules), the Commission examines projects to determine any potential

² Applicant's Response to Assigned Commissioner's Ruling at 7.

³ Unless otherwise noted, items labeled "Rule" are from the Commission's Rules of Practice and Procedure.

environmental impacts in order that adverse effects are avoided and environmental quality is restored or enhanced to the fullest extent possible under CEQA.

In the Proponents' Environmental Assessment and Response, and Supplemental Responses, Vero Fiber states that its proposed construction activities will include the installation of underground conduits to create necessary physical connections, minor trenching, installation of new utility poles and the above ground construction of equipment structures. Applicant states that these activities will take place in existing rights-of-way and utility easements in developed areas where previous ground-disturbing activities have taken place. These proposed activities fall within the following classes of projects that are exempt from CEQA and for which neither an Environmental Impact Report nor a Negative Declaration is required.⁴

- Class 1 Exemption: operation, repair, maintenance, leasing or minor alteration of existing public or private structures and facilities, with negligible or no expansion of an existing use. This includes existing facilities used to provide public utility services. (14 California Code of Regulations (CCR) § 15301.)
- Class 3 Exemption: construction including water main, sewage, electrical, gas and *other utility extensions of reasonable length* to serve such construction. This includes the construction of limited numbers of new small facilities or utility extensions. (14 CCR § 15303.)
- Class 4 Exemption: "consists of minor public or private alterations in the condition of land, water, and/or vegetation which do not involve the removal of healthy,

⁴ See Decision (D.) 09-11-021 and D.13-07-032.

mature, scenic trees except for forestry and agricultural purposes. Examples include but are not limited to: ...
(c) Filling of earth into previously excavated land with material compatible with the natural features of the site...
(f) Minor trenching and backfilling where the surface is restored.” (14 CCR Section 304.)

- Class 32 (“in fill”) Exemption: applies where: i) the projects are consistent with the applicable general plan designation and applicable general plan policies and applicable zoning designation and regulation; ii) proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; iii) the project site has no value as habitat for endangered, rare or threatened species; iv) approval of the project would not result in significant effects relating to traffic, noise, air quality or water quality; and v) the site can be adequately served by all required utilities and public services. (14 CCR Section 15332.)

Vero Fiber’s proposed activities, as described above, involve construction of reasonably short utility extensions (Class 3), and minor trenching and backfilling (Class 4), in previously disturbed areas (Class 32). In order to provide its services, Vero Fiber will install underground facilities using trenching and micro trenching, undertake directional boring to install fiber optic cables underground in new conduits, install underground access points such as hand holds and vaults, install fiber in existing conduit and on existing or new utility poles.

Exemption of the above described activities is consistent with Commission precedent. Vero Fiber’s proposed new construction activities are similar to those

undertaken by other carriers that we have found to be categorically exempt from CEQA.⁵

Vero Fiber requests approval to utilize a procedure for expedited review of Vero Fiber's projects once it is aware of a specific site(s) in which it plans construction. The proposed procedure tracks the expedited review procedure that we have approved for other carriers. Such a process will expedite CEQA review and is appropriate for the type of construction outlined here, which will be categorically exempt. By establishing this expedited review process, we are able to review the information on a specific project to confirm that it is categorically exempt from CEQA or to explain why further environmental review is required. At the same time, the proposed CEQA review process will enable Vero Fiber to undertake construction of its projects in an efficient manner without experiencing delays caused by an unnecessarily protracted CEQA review.

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

⁵ See, e.g., D.06-04-063 (*ClearLinx Network Corporation*); D.06-04-067 (*CA CLEC LLC*); D.09-11-021; and, D.13-07-032.

- Vero Fiber will provide the Commission's Energy Division with:
 - A detailed description of the proposed project, including:
 - Customer(s) to be served;
 - The precise location of the proposed construction project; and
 - Regional and local site maps.
 - A description of the environmental setting, to include at a minimum:
 - Cultural, historical, and paleontological resources;
 - Biological resources; and
 - Current land use and zoning.
 - A construction work-plan, to include:
 - Commission Preconstruction Survey Checklist – Archaeological Resources;
 - Commission Preconstruction Survey Checklist – Biological Resources;
 - A detailed schedule of construction activities, including site restoration activities;
 - A description of construction/installation techniques;
 - A list of other agencies contacted with respect to siting, land use planning, and environmental resource issues, including contact information; and
 - A list of permits required for the proposed project.
 - A statement of the CEQA exemption(s) applicable to the proposed project; and

- Documentation and factual evidence sufficient to support a finding that the claimed exemption(s) is (are) applicable.
- The Energy Division will review Vero Fiber's submission for the proposed project to confirm that the claimed exemption(s) from CEQA are applicable.
- Within 21 days from the date of Vero Fiber's submittal, the Energy Division will issue either:
 - A Notice to Proceed (NTP) and file a Notice of Exemption (NOE) with the State Clearinghouse, Office of Planning and Research, or
 - A letter of denial stating the specific reasons why the claimed exemption(s) are not applicable to the proposed project.

We have reviewed the application and supplemental information and find that:

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

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

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

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

We have previously determined that the public convenience and necessity require that competition be allowed in the provision of competitive local exchange service, Rulemaking 95-04-043/Investigation 95-04-044. Granting this application will benefit the public interest by expanding the availability of technologically advanced telecommunications services within the state.

4. Financial Qualifications

To be granted a CPCN, an applicant for authority to provide competitive full facilities-based and resold local exchange services must demonstrate that it has a minimum of \$100,000⁶ cash or cash equivalent, reasonably liquid and readily available to meet the firm's start-up expenses.⁷ An applicant must also demonstrate that it has sufficient additional resources to cover all deposits

⁶ See A.18-01-014 at 10-11 and Exhibit D.

⁷ The financial requirement for Competitive Local Exchange Carriers (CLEC) is contained in D.95-12-056, Appendix C. The financial requirement for Non-Dominant Interexchange Carriers (NDIEC) is contained in D.91-10-041.

required by local exchange carriers (LEC) and/or interexchange carriers in order to provide the proposed service.⁸

In the application, Vero Fiber provided supporting documentation that \$100,000 would be available to Vero Fiber for one year following certification. Since Vero Fiber has provided documentation that it possesses a minimum of \$100,000 that is reasonably liquid and available, it has demonstrated that it has sufficient funds to meet its start-up expenses and has fulfilled this requirement. The Applicant's financial documentation will be subject to verification and review by the Commission for one year to ensure that such funds are available.

Vero Fiber has stated that no deposit is required by AT&T California, Verizon, SureWest, and Frontier. Therefore, no additional resources are required at this time to cover deposits.

5. Technical Qualifications

To be granted a CPCN for authority to provide competitive local exchange and interexchange service, an applicant must make a reasonable showing of managerial and technical expertise in telecommunications or a related business.⁹ Vero Fiber supplied biographical information on its management in Exhibit D to its application, that demonstrates it has sufficient expertise and training to operate as a telecommunications provider.

⁸ The requirement for Competitive Local Carrier (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.

⁹ D.95-12-056 at Appendix C, Rule 4.A.

In its application, Vero Fiber verified that no one associated with or employed by Vero Fiber as an affiliate, officer, director, partner, or owner of more than ten percent of Vero Fiber has:

(a) held one of these positions with a company that filed for bankruptcy; (b) been personally found liable, or held one of these positions with a company that has been found liable, for fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; (c) been convicted of a felony; (d) been the subject of a criminal referral by judge or public agency; (e) had a telecommunications license or operating authority denied, suspended, revoked, or limited in any jurisdiction; (f) personally entered into a settlement, or held one of these positions with a company that has entered into settlement of criminal or civil claims involving violations of §§ 17000, *et seq.*, §§ 17200, *et seq.*, or §§ 17500, *et seq.*, of the California Business & Professions Code, or of any other statute, regulation, or decisional law relating to fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; (g) been found to have violated any statute, law, or rule pertaining to public utilities or other regulated industries; (h) entered into any settlement agreements or made any voluntary payments or agreed to any other type of monetary forfeitures in resolution of any action by any regulatory body, agency, or attorney general; or (i) is being, or has been investigated by the Federal Communications Commission or any law enforcement or regulatory agency for failure to comply with any law, rule or order.¹⁰

¹⁰ These certifications are required by D.13-05-035, Ordering Paragraph 14.

For the above reasons, we find that Vero Fiber complies with the requirements of D.13-05-035.

6. Tariffs

Vero Fiber has requested de-tariffed status and is exempt from the requirement to file tariffs provided that Vero Fiber complies with the consumer protection rules identified in D.98-08-031.

7. Map of Service Territory

To be granted a CPCN for authority to provide competitive local exchange service, an applicant must provide a map of the service territories it proposes to serve.¹¹ In its application, Vero Fiber provided a map of the location of its proposed service territory, in compliance with this requirement.

8. Rule 3.1(i) Statement

Rule 3.1(i) sets forth the requirement that a utility filing an application under Pub. Util. Code § 1001, provide a statement regarding General Order (GO) 104-A, Section 2. Vero Fiber states that it is not aware of any reportable matters pursuant to GO 104-A, Section 2; but that in the future, Vero Fiber may sell services and/or lease fiber to other companies, including Vero Fiber, in which the officers, directors, or members of Vero Fiber are also the officers, directors, or stockholders of the purchasing/leasing company.

Vero Fiber, therefore, has nothing to report under this rule at this time. On a going forward basis, though, Vero Fiber must file all reports required of a public utility under Commission jurisdiction.

¹¹ D.95-12-056 at Appendix C, Rule 4.E.

9. Expected Customer Base

Vero Fiber provided its estimated customer base for the first and fifth years of operation in Section 15 of its application as approximately 10 and 50 school districts respectively. Therefore, Vero Fiber has complied with this requirement.

10. Safety Considerations

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

11. Conclusion

We conclude that the application conforms to our rules for certification as a competitive local exchange and interexchange carrier. Accordingly, we grant Vero Fiber a CPCN to provide resold and full facilities-based local exchange and interexchange telecommunications services in the service territories of AT&T California, Verizon, SureWest, and Frontier, subject to compliance with the terms and conditions set forth in the Ordering Paragraphs.

The CPCN granted by this decision provides benefits to Vero Fiber and corresponding obligations. Vero Fiber receives authority to operate in the prescribed service territory, and this authority enables Vero Fiber, pursuant to Section 251 of the 1934 Communications Act, as amended by the 1996 Telecommunications Act (47 U.S.C. 251), to interconnect with telecommunications carriers.¹² This authority also enables Vero Fiber to obtain access to public rights of way in California as set forth in D.98-10-058 subject to the CEQA requirements set forth in this decision.

In return, Vero Fiber is obligated to comply with all applicable Public Utilities Codes and Commission Rules, General Orders (GOs), and decisions applicable to telephone corporation providing approved services. The applicable statutes, rules, GOs and decisions include, but are not limited to consumer protection rules, tariffing, and reporting requirements. Moreover, Vero Fiber is obligated to pay all Commission prescribed user fees and public purpose program surcharges as set forth in the Appendix B of this decision, to comply with CEQA, and to adhere to Pub. Util. Code § 451 which states that every public utility “...shall furnish and maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities, as defined in § 54.1 of the Civil Code, as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.”

¹² The California Public Utilities Code uses the term “telephone corporation.” Its counterpart in federal law is a “telecommunications carrier.”

The corporate identification number assigned to Vero Fiber, U7344C, must be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

12. Request to File Under Seal

Pursuant to Rule 11.4 of the Commission's Rules of Practice and Procedure and GO 66-D Vero Fiber filed motions for leave to file: 1) its Exhibits E to the application as confidential materials under seal; and 2) Exhibits 4 and 4A to its May 24, 2018 Response to ALJ Inquiry. Vero Fiber represents that the information is sensitive, and disclosure would place it at an unfair business disadvantage. We have granted similar requests in the past and do so here.

13. Categorization and Need for Hearings

In Resolution ALJ 176-3412 dated February 8, 2018, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were necessary. No protests were received. Since no protests were filed and we required no further information from Vero Fiber, it was determined that hearings are not necessary.

14. Waiver of Comments

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

15. Assignment of Proceeding

Martha Guzman Aceves is the assigned Commissioner and Cathleen Fogel is the assigned ALJ in this proceeding.

Findings of Fact

1. Vero Fiber is a telephone corporation and a public utility as defined in Pub. Util. Code § 234(a) and § 216(a).

2. Vero Fiber's proposed construction activities appear to fall within one or more CEQA categorical exemptions.

3. Vero Fiber's authority to provide telecommunications services will not have a significant adverse effect upon the environment.

4. Vero Fiber has a minimum of \$100,000 of cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses and to cover deposits that may be required.

5. Vero Fiber's management possesses enough experience, knowledge, and technical expertise to provide local exchange services to the public.

6. No one associated with or employed by Vero Fiber as an affiliate, officer, director, partner, agent, or owner of more than 10 percent of Vero Fiber: (a) held one of these positions with a company that filed for bankruptcy; (b) been personally found liable, or held one of these positions with a company that has been found liable, for fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; (c) been convicted of a felony; (d) been the subject of a criminal referral by judge or public agency; (e) had a telecommunications license or operating authority denied, suspended, revoked, or limited in any jurisdiction; (f) personally entered into a settlement, or held one of these positions with a company that has entered into settlement of criminal or civil claims involving violations of §§ 17000, *et seq.*, §§ 17200, *et seq.*, or §§ 17500, *et seq.*, of the California Business & Professions Code, or of any other statute, regulation, or decisional law relating to fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; or (g) been found to have violated

any statute, law, or rule pertaining to public utilities or other regulated industries; (h) entered into any settlement agreements or made any voluntary payments or agreed to any other type of monetary forfeitures in resolution of any action by any regulatory body, agency, or attorney general; or (i) is being, or has been investigated by the Federal Communications Commission or any law enforcement or regulatory agency for failure to comply with any law, rule or order.

7. Vero Fiber provided a map of the location of its proposed service territory.

8. Vero Fiber has no information to report under Rule 3.1(i), which requires that a utility filing an application under Pub. Util. Code § 1001, provide a statement regarding compliance with GO 104-A, Section 2.

9. Vero Fiber provided an estimate of its customer base for the first and fifth year of operation.

10. Vero Fiber plans to interconnect with other service providers when requested by Vero Fiber's customers or by other providers.

11. Pursuant to Rule 11.4, Vero Fiber filed a motion for leave to file Exhibits E to its application and Exhibits 4 and 4A to its May 24, 2018 Response to ALJ Inquiry as confidential material under seal.

Conclusions of Law

1. Vero Fiber should be granted a CPCN to provide resold and full facilities-based local exchange and interexchange telecommunications service in the service territories of AT&T California, Verizon, SureWest and Frontier, subject to the terms and conditions set forth in the Ordering Paragraphs.

2. Vero Fiber should be allowed to use the Energy Division 21-day CEQA exemption process.

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

4. The corporate identification number assigned to Vero Fiber, U7344C, should be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

5. Vero Fiber should be granted an exemption from the requirement to file tariffs.

6. Vero Fiber's motion to file under seal its Exhibit E to the application as well as Exhibits 4 and 4A to its May 24, 2018 response to the ALJ's ruling requesting information, should be granted for three years.

O R D E R

IT IS ORDERED that:

1. A Certificate of Public Convenience and Necessity is granted to Vero Fiber Networks, LLC to provide resold and full facilities-based local exchange and interexchange telecommunications services in the service territories of Pacific Bell Telephone Company d/b/a AT&T California, Verizon California, Inc., SureWest Telephone, and Citizens Telecommunications Company of California, Inc. d/b/a/ Frontier Communications of California, subject to the terms and conditions set forth below.

2. The corporate identification number assigned to Vero Fiber Networks, LLC, U7344C, must be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

3. Vero Fiber Networks, LLC must file, in this docket, a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of

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

4. Vero Fiber Networks, LLC is exempt from the requirement to file tariffs provided that it complies with the consumer protection rules identified in Decision 98-08-031.

5. The certificate granted by this decision will expire if not exercised within 12 months of the effective date of this decision.

6. Vero Fiber Networks, LLC must notify the Director of the Communications Division in writing at cdcompliance@cpuc.ca.gov of the date that local exchange service is first rendered to the public, no later than five days after service first begins.

7. Vero Fiber Networks, LLC shall be granted an exemption from the requirement to file tariffs.

8. Vero Fiber Networks, LLC (Vero Fiber) must obtain a performance bond of at least \$25,000 in accordance with Decision 13-05-035. The performance bond must be a continuous bond (*i.e.*, there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within five days of acceptance of its certificate of public convenience and necessity authority, Vero Fiber must submit a Tier 1 advice letter to the Communications Division containing a copy of the license holder's executed bond, and submit a Tier 1 advice letter annually, but not later than March 31, with a copy of the executed bond.

9. Vero Fiber Networks, LLC must not allow its performance bond to lapse during any period of its operation. Pursuant to Decision 13-05-035, the Commission may revoke a Certificate of Public Convenience and Necessity if a

carrier is more than 120 days late in providing the Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Director of the Communications Division.

10. In addition to all the requirements applicable to competitive local exchange carriers and interexchange carriers included in Attachments A, B, and C to this decision, Vero Fiber Networks, LLC is subject to the Consumer Protection Rules contained in General Order (GO) 168, and all applicable Commission rules, decisions, GOs, and statutes that pertain to California public utilities.

11. Vero Fiber Networks, LLC must pay the public purpose surcharges specified in Attachment A, and the Combined California Public Utilities Commission Telephone Surcharge Transmittal Form must be submitted even if the amount due is zero dollars.

12. Vero Fiber Networks, LLC must pay an annual minimum user fee of one hundred dollars or 0.33 percent of gross intrastate revenue, whichever is greater. Under Public Utilities Code Section 405, carriers that are in default of reporting and submitting user fees for a period of 30 days or more will be subject to penalties including suspension or revocation of their authority to operate in California.

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

14. Prior to initiating service, Vero Fiber Networks, LLC must provide the Commission's Communications Division with the name and address of its

designated regulatory/official contact person(s). This information must be provided electronically, using the “Regulatory/Official Contact Information Update Request” found at <http://www.cpuc.ca.gov/communications>. This information must be updated if the name or telephone number changes, or at least annually.

15. Vero Fiber Networks, LLC must submit an affiliate transaction report to the Director of the Communications Division at cdcompliance@cpuc.ca.gov, in compliance with Decision 93-02-019, on a calendar year basis using the form contained in Attachment C.

16. Vero Fiber Networks, LLC must submit an annual report to the Director of the Communications Division at cdcompliance@cpuc.ca.gov, in compliance with General Order 104-A, on a calendar-year basis with the information contained in Attachment B to this decision.

17. The staff of the Commission’s Energy Division is authorized to review, process, and act upon Vero Fiber Networks, LLC requests for a determination that its full facilities-based construction activities are exempt from the requirements of the California Environmental Quality Act.

18. If Vero Fiber Networks, LLC (Vero Fiber) wishes to engage in full facilities-based construction activities and believes that these activities are exempt from California Environmental Quality Act, Vero Fiber shall first apply to the Commission’s Energy Division staff for a determination of exemption from California Environmental Quality Act by providing the Commission’s Energy Division (Energy Division) with:

- a. A detailed description of the proposed project, including:
 - i. Customer(s) to be served;
 - ii. The precise location of the proposed construction project; and

- iii. Regional and local site maps
- b. A description of the environmental setting, including at a minimum:
 - i. Cultural, historical, and paleontological resources;
 - ii. Biological resources; and
 - iii. Current land use and zoning.
- c. A construction workplan, including:
 - i. Commission Preconstruction Survey Checklist – Archaeological Resources;
 - ii. Commission Preconstruction Survey Checklist – Biological Resources;
 - iii. A detailed schedule of construction activities, including site restoration activities;
 - iv. A description of construction/installation techniques;
 - v. A list of other agencies contacted with respect to siting, land use planning, and environmental resource issues, including contact information; and
 - vi. A list of permits required for the proposed project.
- d. A statement of the California Environmental Quality Act exemption(s) claimed to apply to the proposed project; and
- e. Documentation supporting the finding of exemption from California Environmental Quality Act.
- f. The Energy Division will then review the submittal and notify Vero Fiber of either its approval or its denial of Vero Fiber's claim for exemption from California Environmental Quality Act review within 21 days from the time that Silica submittal is complete.

19. If the Commission's Energy Division approves Vero Fiber Networks, LLC (Vero Fiber) claimed California Environmental Quality Act (CEQA) exemption(s), the staff shall prepare a Notice to Proceed and file a Notice of Exemption with the State Clearinghouse, Office of Planning and Research. If the Energy Division disapproves Vero Fiber's claimed CEQA exemptions, the staff

shall issue to Vero Fiber a letter which states the specific reasons that the claimed CEQA exemptions do not apply to the proposed project.

20. If the Commission's Energy Division rejects Vero Fiber Networks, LLC (Vero Fiber) claimed California Environmental Quality Act (CEQA) exemption(s), Vero Fiber shall either re-design the specific project and facilities and then reapply for a finding of exemption from CEQA, or file a formal application with the Commission seeking the requisite approval and full CEQA review, before commencing any full facilities-based construction activities.

21. Vero Fiber Networks, LLC's (Vero Fiber) motion to file under seal its Exhibits E to the application and its May 24, 2018 response to the Administrative Law Judge's (ALJ's) ruling requesting information, is granted for a period of three years after the date of this decision. During this three-year period, this information shall not be publicly disclosed except on further Commission order or ALJ ruling. If Vero Fiber believes that it is necessary for this information to remain under seal for longer than three years, Vero Fiber may file a new motion showing good cause for extending this order by no later than 30 days before the expiration of this order.

22. Application 18-01-006 is closed.

This decision is effective today.

Dated June 27, 2019, at San Francisco, California.

MICHAEL PICKER

President

LIANE M. RANDOLPH

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

GENEVIEVE SHIROMA

Commissioners

ATTACHMENT A

REQUIREMENTS APPLICABLE TO COMPETITIVE LOCAL EXCHANGE CARRIERS AND INTEREXCHANGE CARRIERS

1. Applicant must file, in this docket with reference to this decision number,¹ a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order.
2. The certificate granted and the authority to render service under the rates, charges, and rules authorized will expire if not exercised within 12 months of the date of this decision.
3. Applicant is subject to the following fees and surcharges that must be regularly remitted. Per the instructions in Exhibit E to Decision (D.) 00-10-028, the Combined California PUC Telephone Surcharge Transmittal Form must be submitted even if the amount due is \$0.
 - a. The Universal Lifeline Telephone Service Trust Administrative Committee Fund (Pub. Util. Code § 879);
 - b. The California Relay Service and Communications Devices Fund (Pub. Util. Code § 2881; D.98-12-073);
 - c. The California High Cost Fund-A (Pub. Util. Code § 739.3; D.96-10-066, at 3-4, App. B, Rule 1.C);
 - d. The California High Cost Fund-B (D.96-10-066, at 191, App. B, Rule 6.F.; D.07-12-054);
 - e. The California Advanced Services Fund (D.07-12-054);
 - f. The California Teleconnect Fund (D.96-10-066, at 88, App. B, Rule 8.G).

¹ Written acceptance filed in this docket does not reopen the proceeding.

- g. The User Fee provided in Pub. Util. Code §§ 431-435. The minimum annual User Fee is \$100, as set forth in D.13-05-035.

Note: These fees change periodically. In compliance with Resolution T-16901, December 2, 2004, Applicant must check the joint tariff for surcharges and fees filed by Pacific Bell Telephone Company (dba AT&T California) and apply the current surcharge and fee amounts in that joint tariff on end-user bills until further revised. Current and historical surcharge rates can be found at <http://www.cpuc.ca.gov/General.aspx?id=1124>.

- Carriers must report and remit CPUC telephone program surcharges online using the CPUC Telecommunications and User Fees Filing System (TUFFS). Information and instructions for online reporting and payment of surcharges are available at <http://www.cpuc.ca.gov/General.aspx?id=1010>. To request a user ID and password for TUFFS online filing and for questions, please e-mail Telco_surcharges@cpuc.ca.gov.
- Carriers must submit and pay the PUC User Fee (*see* above item 3g) upon receiving the User Fee statement sent by the Commission. Instructions for reporting filing are available at <http://www.cpuc.ca.gov/General.aspx?id=1009>. Please call (415) 703-2470 for questions regarding User Fee reporting and payment.

4. If Applicant is a competitive local exchange carrier (CLC), the effectiveness of its future tariffs is subject to the requirements of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).

5. If Applicant is a non-dominant interexchange carrier (NDIEC), the effectiveness of its future NDIEC tariffs is subject to the requirement of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).

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

7. Applicant must obtain a performance bond of at least \$25,000 in accordance with Decision 13-05-035. The performance bond must be a continuous bond (*i.e.*, there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within five days of acceptance of its certificate of public convenience and necessity authority, Applicant must submit a Tier-1 advice letter to the Communications Division, containing a copy of the license holder's executed bond, and submit a Tier-1 advice letter annually, but not later than March 31, with a copy of the executed bond.

8. Applicant must not allow its performance bond to lapse during any period of its operation. Pursuant to Decision 13-05-035, the Commission may revoke a certificate of public convenience and necessity if a carrier is more than 120 days late in providing the Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Director of the Communications Division.

9. Applicants providing local exchange service must include a service area map as part of their initial tariff.

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

11. Applicant must provide the Commission's Communications Division with the name and address of its designated regulatory/official contact persons(s).

This information must be provided electronically, using the “Regulatory/Official Contact Information Update Request” found at <http://www.cpuc.ca.gov/communications>. This information must be updated if the name or telephone number changes, or at least annually.

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

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

14. In the event Applicant’s books and records are required for inspection by the Commission or its staff, it must either produce such records at the Commission’s offices or reimburse the Commission for the reasonable costs incurred in having Commission staff travel to its office.

15. Applicant must submit an annual report to the Director of the Communications Division at cdcompliance@cpuc.ca.gov, in compliance with GO 104-A, on a calendar-year basis with the information contained in Attachment C to this decision.

16. Applicant must submit an affiliate transaction report to the Director of the Communications Division at cdcompliance@cpuc.ca.gov, in compliance with D.93-02-019, on a calendar-year basis using the form contained in Attachment D.

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

18. Within 60 days of the effective date of this order, Applicant must comply with Pub. Util. Code § 708, Employee Identification Cards, and notify the Director of the Communications Division in writing at cdcompliance@cpuc.ca.gov of its compliance.

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

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

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

22. Applicant is exempt from the requirements of Pub. Util. Code § 851 for the transfer or encumbrance of property whenever such transfer or encumbrance serves to secure debt.

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

24. Applicant must send a copy of this decision to concerned local permitting agencies no later than 30 days from the date of this order.

(END OF ATTACHMENT A)

**ATTACHMENT B
ANNUAL REPORT**

An original and a machine readable, copy using Microsoft Word or compatible format must be submitted to the California Public Utilities Commission, State Office Building, 505 Van Ness Avenue, Room 3107, San Francisco, CA 94102-3298, no later than March 31st of the year following the calendar year for which the annual report is submitted.

Failure to submit this information on time may result in a penalty as provided for in Pub. Util. Code §§ 2107 and 2108.

Required information:

1. Exact legal name and U # of the reporting utility.
2. Address.
3. Name, title, address, and telephone number of the person to be contacted concerning the reported information.
4. Name and title of the officer having custody of the general books of account and the address of the office where such books are kept.
5. Type of organization (*e.g.*, corporation, partnership, sole proprietorship, etc.).

If incorporated, specify:

- a. Date of filing articles of incorporation with the Secretary of State.
 - b. State in which incorporated.
6. Number and date of the Commission decision granting the Certificate of Public Convenience and Necessity.
 7. Date operations were begun.
 8. Description of other business activities in which the utility is engaged.
 9. List of all affiliated companies and their relationship to the utility. State if affiliate is a:
 - a. Regulated public utility.
 - b. Publicly held corporation.
 10. Balance sheet as of December 31st of the year for which information is submitted.

11. Income statement for California operations for the calendar year for which information is submitted.
12. Cash Flow statement as of December 31st of the calendar year for which information is submitted, for California operations only.

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

(END OF ATTACHMENT B)

ATTACHMENT C

CALENDAR YEAR AFFILIATE TRANSACTION REPORT

An original and a machine readable copy using Microsoft Word and Excel, or compatible format must be submitted to the California Public Utilities Commission, State Office Building, 505 Van Ness Avenue, Room 3107, San Francisco, CA 94102-3298, no later than May 1st of the year following the calendar year for which the annual report is submitted.

1. Each utility must list and provide the following information for each affiliated entity and regulated subsidiary that the utility had during the period covered by the Annual Affiliate Transaction Report.

- Form of organization (*e.g.*, corporation, partnership, joint venture, strategic alliance, etc.);
- Brief description of business activities engaged in;
- Relationship to the utility (*e.g.*, controlling corporation, subsidiary, regulated subsidiary, affiliate);
- Ownership of the utility (including type and percent ownership)
- Voting rights held by the utility and percent; and
- Corporate officers.

2. The utility must prepare and submit a corporate organization chart showing any and all corporate relationships between the utility and its affiliated entities and regulated subsidiaries in #1 above. The chart must have the controlling corporation (if any) at the top of the chart, the utility and any subsidiaries and/or affiliates of the controlling corporation in the middle levels of the chart, and all secondary subsidiaries and affiliates (*e.g.*, a subsidiary that in turn is owned by another subsidiary and/or affiliate) in the lower levels. Any regulated subsidiary must be clearly noted.

3. For a utility that has individuals who are classified as “controlling corporations” of the competitive utility, the utility must only report under the requirements of #1 and #2 above any affiliated entity that either (a) is a public utility or (b) transacts any business with the utility filing the annual report excluding the provision of tariff services.

4. Each annual report must be signed by a corporate officer of the utility stating under penalty of perjury under the laws of the State of California (CCP 2015.5) that the annual report is complete and accurate with no material omissions.

5. Any required material that a utility is unable to provide must be reasonably described and the reasons the data cannot be obtained, as well as the efforts expended to obtain the information, must be set forth in the utility’s Annual Affiliate Transaction Report and verified in accordance with Section I-F of Decision 93-02-019.

6. Utilities that do not have affiliated entities must submit, in lieu of the annual transaction report, an annual statement to the Commission stating that the utility had no affiliated entities during the report period. This statement must be signed by a corporate officer of the utility, stating under penalty of perjury under the laws of the State of California (CCP 2015.5) that the annual report is complete and accurate with no material omissions.

(END OF ATTACHMENT C)