

Decision 18-01-007 January 11, 2018

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Uniti Fiber LLC for a Certificate of Public Convenience and Necessity to Provide Full Facilities-Based and Resold Competitive Local Exchange Service Throughout the Service Territories of AT&T California, Frontier California, Inc., SureWest Communications, and Citizens Telecommunications Company of California and Non-Dominant Interexchange Service within the State of California.

Application 17-06-008

(See Attachment E for Appearances)

DECISION GRANTING UNITI FIBER LLC A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN ORDER TO PROVIDE RESOLD AND COMPETITIVE FULL FACILITIES-BASED LOCAL EXCHANGE SERVICE AND INTEREXCHANGE SERVICE

Table of Contents

Title	Page
DECISION GRANTING UNITI9 FIBER LLC A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN ORDER TO PROVIDE RESOLD AND COMPETITIVE FULL FACILITIES-BASED LOCAL EXCHANGE SERVICE AND INTEREXCHANGE SERVICE	1
Summary	2
1. Background.....	2
2. Jurisdiction.....	3
3. California Environmental Quality Act (CEQA) Review	5
4. Financial Qualifications	10
5. Technical Qualifications	11
6. Tariffs.....	12
7. Map of Service Territory	12
8. Rule 3.1(i) Statement	13
9. Expected Customer Base	13
10. Request for Treatment as a Non-Dominant Carrier	13
11. Safety Considerations	14
12. Conclusion	14
13. Request to File Under Seal	16
14. Categorization and Need for Hearings	16
15. Waiver of Comments	16
16. Assignment of Proceeding	16
Findings of Fact.....	16
Conclusions of Law	18
ORDER	19
Attachment A - Tariff Deficiencies	
Attachment B - Requirements Applicable to Competitive Local Exchange Carriers and Interexchange Carriers	
Attachment C - Annual Report	
Attachment D - Calendar Year Affiliate Transaction Report	
Attachment E - Appearances	

DECISION GRANTING UNITI FIBER LLC A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN ORDER TO PROVIDE RESOLD AND COMPETITIVE FULL FACILITIES-BASED LOCAL EXCHANGE SERVICE AND INTEREXCHANGE SERVICE

Summary

Pursuant to Public Utilities Code Section 1001, we grant Uniti Fiber LLC a certificate of public convenience and necessity to provide resold and competitive full facilities-based local exchange telecommunications services and interexchange service in California subject to the terms and conditions set forth in the Ordering Paragraphs. We also grant Uniti Fiber LLC's request to utilize the Commission's 21-day expedited review process as set forth in the Ordering Paragraphs. This proceeding is closed.

1. Background

On June 2, 2017, Uniti Fiber LLC (Uniti Fiber or Applicant), a Delaware corporation authorized to do business in California, filed an application for a certificate of public convenience and necessity (CPCN) to provide resold and competitive full facilities-based telecommunications services in the service territories of Pacific Bell Telephone Company d/b/a AT&T California (AT&T), Frontier California Inc. (Frontier California),¹ Citizens Telecommunications Company of California, Inc. d/b/a Frontier Communications of California (Frontier Communications), and Consolidated Communications of California

¹ Frontier California was formerly Verizon California, Inc. (Verizon). As of April 1, 2016, Verizon's operations in California were acquired and are now operated by Frontier California, Inc., pursuant to Decision (D.) 15-12-005.

Company (Consolidated, formerly SureWest Telephone²) and interexchange service in California (Application). Uniti Fiber's principal place of business is located at 9501 International Court, N. St. Petersburg FL 33716.

Uniti Fiber proposes to provide competitive local exchange and interexchange services to wholesale customers and large enterprise customers in government, health care, education and financial services using dark fiber, private line, ethernet, wavelength, dedicated internet access and collocation services.³

No parties protested or responded to the Application. On August 2, 2017, a prehearing conference (PHC) was set by notice. On August 14, 2017, Uniti Fiber requested to appear at the PHC telephonically by e-mail to the assigned Administrative Law Judges (Judge MacDonald and Judge Kline) (ALJs) and the service list. On August 16, 2017, the assigned ALJs granted Uniti Fiber's request to appear telephonically by ruling.

At the August 25, 2017 PHC, the Applicant and ALJ Kline discussed the issues presented by the Application, the schedule and other relevant procedural matters.⁴ Only the Applicant appeared at the PHC.

2. Jurisdiction

Public Utilities (Pub. Util.) Code Section 216(a) defines the term "public utility" to include a "telephone corporation," which in turn is defined in

² SureWest Telephone was acquired by Consolidated Communications Inc. in 2012, pursuant to D.12-06-004, and SureWest Telephone changed its name to Consolidated Communications of California Company as of January 1, 2016.

³ Uniti Fiber application at 3.

⁴ ALJ Kwan MacDonald also attended the PHC.

Pub. Util. Code § 234(a) as “every corporation or person owning, controlling, operating, or managing any telephone line for compensation within this state.”

Uniti Fiber proposes to provide dark fiber, private line, ethernet, wavelength, dedicated internet access and collocation services. Uniti Fiber also states that “there may be some instances where conversion to Time-Dimension Multiplexing (TDM) may be necessary (e.g., interconnection with another carrier that requires conversion to TDM).”⁵ Additionally, Uniti Fiber states it “may wish to provide voice telephone services in the near future on the wholesale or retail basis.”⁶ Finally, Uniti Fiber affirms by sworn affidavit under penalty of perjury under the laws of the State of California that it is a common carrier as defined by § 153 (11) of the Federal Telecommunications Act of 1996, as amended (Act), and eligible to interconnect with the public switched network pursuant to §§ 251 and 252 of the Act; and that if granted a CPCN, it will operate as a telephone corporation under Pub. Util. Code § 234(a), and obey the Pub. Util. Code and all Commission rules, decisions and orders applicable to telephone corporations.⁷ Uniti Fiber is a telephone corporation and a public utility subject to our jurisdiction.

⁵ Response to ALJ Inquiry (Oct. 26, 201) at 2.

⁶ *Ibid.*

⁷ *Id.* at 7-8.

3. California Environmental Quality Act (CEQA) Review

Pursuant to the California Environmental Quality Act (CEQA, Public Resources Code Section 21000 et seq.) and Rule 2.4⁸ of the Commission's Rules of Practice and Procedure, the Commission examines projects to determine any potential environmental impacts in order that adverse effects are avoided and environmental quality is restored or enhanced to the fullest extent possible under CEQA. A basic purpose of CEQA is to "inform governmental decision-makers and the public about the potential significant environmental effects of the proposed activities." (Title 14 of the California Code of Regulations, hereafter CEQA Guidelines, Section 15002.)

Since the Commission must issue a discretionary decision (i.e., grant Section 1001 certificate authority) without which the proposed activity will not proceed, the Commission must act as either a Lead or Responsible Agency under CEQA. The Lead Agency is the public agency with the greatest responsibility for supervising or approving the project as a whole (CEQA Guidelines, Section 15051(b)). The Commission is the Lead Agency for this project under CEQA. CEQA requires that the Commission consider the environmental consequences of a project that is subject to its discretionary approval.

In the Proponent's Environmental Assessment and Response, Uniti Fiber's proposed construction activities will generally include the installation of communications networks by "pulling fiber through existing conduit and

⁸ Unless otherwise noted, items labeled "Rule" are from the Commission's Rules of Practice and Procedure.

building its networks”⁹ and constructing laterals in existing rights of way. Uniti Fiber will also pull? construct? “new, totally unique fiber, fiber assets,” generally in “existing roadways or other previously-developed and disturbed rights of way.”¹⁰

Uniti Fiber states that these activities fall within the following classes of projects, exempt from CEQA, and for which neither an Environmental Impact Report nor a Negative Declaration is required.

- 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 CCR § 15301.
- Class 2 Exemption: replacement or reconstruction of existing structures and facilities where the new structure will be located in the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced. 14 CCR § 15302.
- 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.

In order to provide its service, Uniti Fiber proposes to install its dark fiber, private line, ethernet, wavelength, dedicated internet access and collocation services in existing utility corridors. The equipment will be placed in the Los Angeles and San Diego metropolitan areas initially and then subsequently

⁹ Uniti Fiber application at 5.

¹⁰ Uniti Fiber application at 5.

expanding to service throughout California. Exemption of these activities is consistent with Commission precedent. Uniti Fiber's proposed new construction activities are similar to those undertaken by other carriers that we have decided are categorically exempt from CEQA. See, e.g, D.06-04-063 (*ClearLinx Network Corporation*); D.06-04-067 (*CA-CLEC LLC*).

Uniti Fiber requests approval to utilize a procedure for expedited review of its projects once it is aware of a specific site(s) in which it plans construction. The proposed procedure tracks the expedited review procedure that we have approved for other carriers. Such a process will expedite CEQA review and is appropriate for the type of construction outlined here, which will be categorically exempt. By establishing this expedited review process, we are able to review the information on a specific project to confirm that it is categorically exempt from CEQA or to explain why further environmental review is required. At the same time, the proposed CEQA review process will enable Uniti 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 Uniti Fiber's claimed CEQA exemptions for proposed construction projects:

- Uniti 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 workplan, to include:
 - Commission Preconstruction Survey Checklist – Archaeological Resources;
 - Commission Preconstruction Survey Checklist – Biological Resources;
 - A detailed schedule of construction activities, including site restoration activities;
 - A description of construction/installation techniques;
 - A list of other agencies contacted with respect to siting, land use planning, and environmental resource issues, including contact information; and
 - A list of permits required for the proposed project.
- A statement of the CEQA exemption(s) applicable to the proposed project; and
- Documentation and factual evidence sufficient to support a finding that the claimed exemption(s) is (are) applicable.
- The Energy Division will review Uniti 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 Uniti Fiber’s submittal, the Energy Division will issue either:
 - A Notice to Proceed (NTP) and file a Notice of Exemption with the State Clearinghouse, Office of Planning and Research, or

- A letter of denial stating the specific reasons why the claimed exemption(s) are not applicable to the proposed project.

We have reviewed the application and Supplement and find that:

- Uniti 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 Uniti Fiber's facilities-based projects are not only adequate for the Commission's purposes as CEQA Lead Agency, but is also in the public interest because it enables Uniti 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 Uniti Fiber's proposed process for Commission review of claimed CEQA exemptions for construction projects undertaken pursuant to Uniti 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 Uniti Fiber's claimed CEQA exemption(s) and issues a letter of denial to Uniti Fiber, Uniti Fiber 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. Uniti 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 and interexchange services must demonstrate that it has a minimum of \$100,000 cash or cash equivalent, reasonably liquid and readily available to meet the firm's start-up expenses.¹¹ An applicant must also demonstrate that it has sufficient additional resources to cover all deposits required by local exchange carriers and/or interexchange carriers in order to provide the proposed service.¹² In the application, Uniti Fiber provided a guaranty from Uniti Fiber's parent, Uniti Group for \$250,000 and promised to get a performance bond for \$25,000 for one year following certification. Since Uniti Fiber 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. Uniti Fiber's financial documentation will be subject to verification

¹¹ 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.

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

and review by the Commission for one year to ensure that such funds are available.

Uniti Fiber proposed to initially interconnect with AT&T, Frontier California, Frontier Communications, and Consolidated. In addition to the \$100,000 discussed above, Uniti Fiber stated that no deposit is required by AT&T, Frontier California, Frontier Communications, and Consolidated. 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.¹³ Uniti Fiber supplied biographical information on its management in Exhibit H to its application, demonstrating it has sufficient expertise and training to operate as a telecommunications provider.

In its application, Uniti Fiber verified that no one associated with or employed by Uniti Fiber as an affiliate, officer, director, partner, or owner of more than 10 percent of Uniti 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

¹³ D.95-12-056 at Appendix C, Rule 4.A.

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. ¹⁴

For the above reasons, we find that Uniti Fiber is in compliance with the requirements of D.13-05-035.

6. Tariffs

Commission staff reviewed Uniti Fiber'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, Uniti Fiber shall correct these deficiencies as a condition of our approval of its application.

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

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

serve.¹⁵ In its Response, Uniti 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. Uniti Fiber provided a copy of its proxy statement in response to GO 104-A requirements. Uniti Fiber states that it is not aware of any reportable matters pursuant to GO 104-A, Section 2. Uniti Fiber, therefore, has nothing to report under this rule.

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

9. Expected Customer Base

Uniti Fiber provided its estimated customer base for the first and fifth years of operation in Section 14 of its application. Therefore, Uniti Fiber complied with this requirement.

10. Request for Treatment as a Non-Dominant Carrier

Applicant requests treatment as a non-dominant interexchange carrier, which would include exemption from the requirements of Pub. Util. Code §§ 816-830 concerning stocks and security and § 851 concerning the encumbrance and transfer of utility property. The Commission detailed its rules regarding exemption of non-dominant carriers in D.85-01-008, and subsequently modified in D.85-07-081 and D.85-11-044. We grant Applicant's request for

¹⁵ D.95-12-056 at Appendix C, Rule 4.E.

NDIEC status, provided that it follows all rules detailed in the above referenced decisions.

11. 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 feel satisfied that Uniti Fiber will meet the Commission's minimum safety goals and expectations of CLECs because: (1) Uniti Fiber has taken steps to meet the financial requirements as set forth in this decision for a facilities-based CLEC, and (2) Uniti 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."

12. Conclusion

We conclude that the application conforms to our rules for certification as a competitive local exchange and interexchange carrier. Accordingly, we grant Uniti Fiber a CPCN to provide competitive full facilities-based and resold local exchange telecommunications service in the service territory of AT&T, Frontier California, Frontier Communications, and Consolidated and interexchange service in California subject to compliance with the terms and conditions set forth in the Ordering Paragraphs. We also grant Uniti Fiber's request to utilize the Commission's 21-day expedited environmental review process as set forth in the Ordering Paragraphs.

The CPCN granted by this decision provides benefits to Uniti Fiber and corresponding obligations. Uniti Fiber receives authority to operate in the prescribed service territory, and this authority enables Uniti 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.¹⁶ This authority also enables Uniti 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, Uniti Fiber is obligated to comply with all Public Utilities Code provisions, Commission rules, GOs, and decisions applicable to telephone corporations providing approved services. The applicable statutes, rules, GOs, and decisions include, but are not limited to consumer protection rules, tariffing, and reporting requirements. Moreover, Uniti 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."

¹⁶ The California Pub. Util. Code uses the term "telephone corporation." Its counterpart in federal law is a "telecommunications carrier."

13. Request to File Under Seal

Pursuant to Rule 11.4 of the Commission's Rules of Practice and Procedure, Uniti Fiber filed a motion for leave to file Exhibit F to the application as confidential materials under seal. Uniti Fiber represents that the information is sensitive, and disclosure could place Uniti Fiber at an unfair business disadvantage. We have granted similar requests in the past and do so here.

14. Categorization and Need for Hearings

In Resolution ALJ 176-3400, dated June 29, 2017 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.

15. Waiver of Comments

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

16. Assignment of Proceeding

Liane M. Randolph is the assigned Commissioner. Katherine Kwan MacDonald and Zita Kline are the co-assigned ALJs in this proceeding.

Findings of Fact

1. Notice of the application appeared on the Daily Calendar on June 26, 2017. No protests were filed. An evidentiary hearing is not required.
2. Uniti Fiber is a telephone corporation and a public utility as defined in Pub. Util. Code §§ 234(a) and 216(a).

3. The Commission is the Lead Agency for this project under CEQA.
4. Uniti Fiber's proposed construction activities appear to fall within one or more CEQA categorical exemptions.
5. Uniti Fiber's authority to provide telecommunications services will not have a significant adverse effect upon the environment.
6. Uniti 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.
7. Uniti Fiber has sufficient additional cash or cash equivalent to cover deposits that may be required by other telephone corporations in order to provide the proposed service.
8. Uniti Fiber's management possesses sufficient experience, knowledge, and technical expertise to provide local exchange services to the public.
9. No one associated with or employed by Uniti Fiber as an affiliate, officer, director, partner, agent, or owner of more than 10 percent of Uniti 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; (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. Except for the deficiencies identified in Attachment A to this decision, Uniti Fiber's draft tariffs comply with the Commission's requirements.

11. Uniti Fiber provided a map of the location of its proposed service territory.

12. Uniti 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.

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

14. Pursuant to Rule 11.4, Uniti Fiber filed motions for leave to file confidential materials under seal, including financial information such as unaudited balancing accounts for PEG Bandwidth, LLC and a Form 10-K United States Securities and Exchange Commission filing for Communications Sales & Leasing, Incorporated.

Conclusions of Law

1. Uniti Fiber should be granted a CPCN to provide resold and competitive full facilities-based local exchange telecommunications service in the service territories of 1) AT&T California, 2) Frontier California, 3) Frontier Communications and 4) Consolidated Communications and interexchange

service in California, subject to the terms and conditions set forth in the Ordering Paragraphs.

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

3. Uniti Fiber, once granted a certificate of public convenience and necessity, should be subject to the applicable Commission rules, decisions, GO, and statutes that pertain to California public utilities.

4. Uniti Fiber's initial tariff filing should correct the tariff deficiencies shown in Attachment A to this decision.

5. Uniti Fiber's motion to file under seal its Exhibit F to the application, 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 Uniti Fiber LLC to provide resold and competitive full facilities-based local exchange telecommunications services in the territories of Pacific Bell Telephone Company d/b/a AT&T California, Frontier California Inc., Citizens Telecommunications Company of California, Inc. d/b/a/ Frontier Communications of California, and Consolidated Communications of California Company, and interexchange service in California, subject to the terms and conditions set forth below.

2. Uniti Fiber LLC may not offer competitive local exchange services until tariffs are filed with and authorized by this Commission, in accordance with General Order 96-B and as corrected for deficiencies set forth in Attachment A.

3. The corporate identification number assigned to Uniti Fiber, U-7331-C, must be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

4. Uniti Fiber 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.

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

6. Uniti Fiber LLC must notify the Director of the Communications Division of the date that local exchange service is first rendered to the public, no later than five days after service first begins, by e-mail to cdcompliance@cpuc.ca.gov.

7. Uniti Fiber LLC must submit a tariff to the Communications Division, by advice letter, within 12 months of the effective date of this decision, or its certificate will be cancelled.

8. Uniti Fiber LLC 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, Uniti Fiber LLC 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. Uniti Fiber 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 Communications Division.

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

11. Uniti Fiber LLC must pay the public purpose surcharges specified in Attachment B, and the Combined California Public Utilities Commission Telephone Surcharge Transmittal Form must be submitted even if the amount due is \$0.

12. Uniti Fiber LLC must pay an annual minimum user fee of \$100 or 0.30 percent of gross intrastate revenue, whichever is greater. Under Pub. Util. Code § 405, carriers that are in default of reporting and submitting user fees for a period of 30 days or more will be subject to penalties including suspension or revocation of their authority to operate in California.

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

14. Prior to initiating service, Uniti Fiber LLC must provide the Commission's Communications Division with the name(s), address(es), and telephone number(s) of its designated regulatory/official contact person(s). This

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

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

16. Uniti Fiber 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 C to this decision.

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

18. If Uniti Fiber LLC wishes to engage in full facilities-based construction activities and believes that these activities are exempt from California Environmental Quality Act, Uniti Fiber LLC 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 Uniti Fiber LLC of either its approval or its denial of Uniti Fiber LLC's claim for exemption from California Environmental Quality Act review within 21 days from the time that Uniti Fiber LLC's submittal is complete.

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

Uniti Fiber LLC a letter which states the specific reasons that the claimed California Environmental Quality Act exemptions do not apply to the proposed project.

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

21. Uniti Fiber LLC's motion to file under seal its Exhibit F 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 Administrative Law Judge ruling. If Uniti Fiber LLC believes that it is necessary for this information to remain under seal for longer than three years, Uniti Fiber LLC 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 17-06-008 is closed.

This order is effective today.

Dated January 11, 2018, at San Francisco, California.

MICHAEL PICKER
President
CARLA J. PETERMAN
LIANE M. RANDOLPH
MARTHA GUZMAN ACEVES
CLIFFORD RECHTSCHAFFEN
Commissioners

ATTACHMENT A
TARIFF DEFICIENCIES

List of deficiencies in tariff filed by Uniti Fiber LLC (U-7331-C) in A.17-06-008 to be corrected in its tariff compliance filing.

1. G.O. 96-B Section 8.5.1 requires that the tariff's title page include the Commission-assigned identifying "U" number shown on the utility's Certificate of Public Convenience and Necessity. Revise the tariff to include U-7331-C and also delete the advice letter and decision references on the title page.
2. G.O. 96-B Section 8.5.4 requires that the tariff include the service area and exchange boundaries. Revise the tariff to include the service area map and a verbal description of the service area and exchange boundaries.
3. G.O. 96-B Section 8.5.6 requires that the tariff includes a list of contracts and other deviations. Revise the tariff to include a list of all contracts and other deviations or specify if there are none.
4. G.O. 96-B Section 8.5.7 requires that the tariff includes special information required on forms. Revise the tariff to indicate that notices to customers are required to appear on contracts, bills, and deposit receipts.
5. G.O. 96-B Section 8.5.7 requires that the tariff include information regarding procedures for establishing and re-establishing credit. Revise the tariff to include language compliant with G.O. 96-B Sect. 8.5.7.
6. G.O. 96-B Section 8.5.7 requires that the tariff include information regarding procedures for the issuance and payment of bills. Revise the tariff to include information about methods of payment of bills.
7. G.O. 96-B Section 8.5.7 requires that the tariff include information regarding services and promotional offerings. Revise the tariff to include information about how to obtain information on promotional offerings and also include information about the company's office hours, phone number, and email address.
8. G.O. 96-B Section 8.5.7 requires that the tariff include information regarding temporary services. Revise the tariff to include information

regarding conditions to provide temporary service or service to speculative projects.

9. G.O. 96-B Section 8.5.7 requires that the tariff include information regarding extensions of lines or mains. Revise the tariff to include information about free extensions, extensions beyond free length, contributions or advances to individuals or developers, deposits, refunds, ownership, and maintenance.
10. G.O. 96-B Sect.8.5.8 requires that the tariff include sample forms. Revise the tariff to include copies of sample forms such as service applications, bills, etc.
11. D.95-07-054 Appendix B Rule 1 requires that the tariff include CLC information which is required to be provided to the applicant upon request. Revise the tariff to include language that is compliant with D.95-07-054 Appendix B Rule 1.
12. D.95-07-054 Appendix B Rule 2 requires that the tariff include information regarding initiation and refusal of service. Revise the tariff to include language that is compliant with D.95-07-054 Appendix B Rule 2.
13. D.95-07-054 Appendix B Rule 3 requires that the tariff include information regarding special information required on customer bills and deposit receipts. Revise the tariff to comply with D.95-07-054 Appendix B Rule 3.
14. D.95-07-054 Appendix B Rule 4 requires that the tariff include information regarding credit establishment. Revise the tariff to include language that is compliant with D.95-07-054 Appendix B Rule 4.
15. D.95-07-054 Appendix B Rule 6 requires that the tariff include information regarding rate information notices. Revise the tariff to include language regarding rate information notices compliant with D.95-07-054 Appendix B Rule 6.
16. D.95-07-054 Appendix B Rule 6 requires that the tariff include information regarding discontinuance of service notices and amortization of unpaid bills. Revise the tariff to include language regarding discontinuance of service notices and amortization of unpaid bills compliant with D.95-07-054 Appendix B Rule 6.
17. D.95-07-054 Appendix B Rule 6 requires that the tariff include information regarding change in ownership or identity notices. Revise the tariff to include language regarding change in ownership or identity notices compliant with D.95-07-054 Appendix B Rule 6.

18. D.95-07-054 Appendix B Rule 7 requires that the tariff include information regarding pro-rating of bills. Revise the tariff to include language compliant with D.95-07-054 Appendix B Rule 7.
19. D.95-07-054 Appendix B Rule 8 requires that the tariff include information regarding disputed bills. Revise the tariff to include language compliant with D.95-07-054 Appendix B Rule 8.
20. D.95-07-054 Appendix B Rule 10 requires that the tariff include language regarding discontinuance of service. Revise the tariff to include language compliant with D.95-07-054 Appendix B Rule 10.
21. D.95-07-054 Appendix B Rule 10 requires that the tariff include language regarding fraud. Revise the tariff to include fraud language compliant with D.95-07-054 Appendix B Rule 10.
22. D.95-07-054 Appendix B Rule 10 requires that the tariff include language regarding continued access to 9-1-1. Revise the tariff to include language regarding continued access to 9-1-1 (e.g. warm line).
23. D.95-07-054 Appendix B Rule 11 requires that the tariff include information regarding change of service provider including language pertaining to solicitation for transfer of carrier and slamming. Revise the tariff to include language compliant with D.95-07-054 Appendix B Rule 11.
24. D.95-07-054 Appendix B Rule 14 requires that the tariff include information regarding privacy. Revise the tariff to include language compliant with D.95-07-054 Appendix B Rule 14.
25. D.95-07-054 Appendix B Rule 15 requires that the tariff include information regarding blocking access to 900 and 976 information services. Revise the tariff to include language compliant with D.95-07-054 Appendix B Rule 15.
26. D.96-10-066 Appendix B. 4.B.10&11 requires that the tariff include directory information. Revise the tariff to include language compliant with D.96-10-066 Appendix B. 4.B.10&11.
27. G.O. 153 Appendix A item 12i requires that the tariff include directory information. Revise the tariff to include language compliant with G.O. 153 Appendix A item 12i.
28. D.96-02-072 Appendix E 8.J.(2) requires that the tariff include information regarding non-published service. Revise the tariff to include language compliant with D.96-02-072 Appendix E 8.J.(2).

29. Res. T-16901 requires that the tariff contain information regarding surcharges and taxes. Update the tariff to include current surcharge items and surcharge rates as listed on the CPUC's website.
30. D.02-08-067 Ordering Paragraph 1 and Attachment A requires that the tariff contain information regarding demarcation points. Revise the tariff to include language compliant with D.02-08-067 Ordering Paragraph 1 and Attachment A.

(END OF ATTACHMENT A)

ATTACHMENT B

REQUIREMENTS APPLICABLE TO COMPETITIVE LOCAL EXCHANGE CARRIERS AND INTEREXCHANGE CARRIERS

1. Applicant must file, in this docket with reference to this decision number,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>.

- i. 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.
- ii. Carriers must submit and pay the PUC User Fee (see Item 3.g above) upon receiving the User Fee statement sent by the Commission. Instructions for reporting and filing are available at <http://www.cpuc.ca.gov/General.aspx?id=1009>. Please 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 filings must reflect all fees and surcharges to which Applicant is subject, as reflected in Item 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 Communications Division.

9. Applicants providing local exchange service must submit a service area map as part of their initial tariff, file by advice letter to the Communications.

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

11. In addition, Applicant must provide the Commission's Communications Division with the name(s), address(es), and telephone number(s) of its designated regulatory/official contact persons(s). This information must be provided electronically, using the "Regulatory/Official Contact Information Update Request" found at <http://www.cpuc.ca.gov/communications>. This information must be updated if the name(s), address(es), and telephone number(s) change, or at least annually.

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

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 D.93-02-019, 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 at cdcompliance@cpuc.ca.gov in writing 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 submit 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. If Applicant decides to discontinue service or file for bankruptcy, it must immediately notify the Communications Division's Bankruptcy Coordinator.

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

(END OF ATTACHMENT B)

ATTACHMENT C

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 C)

ATTACHMENT D

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 D)

**ATTACHMENT E
SERVICE LIST A1706008**

***** PARTIES *****

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***** INFORMATION ONLY *****

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(End of Attachment E)