

## **INSTRUCTIONS TO FILING CPCN APPLICATION (Public Utilities Code Section 1001)**

### **I. PREPARE THE TELEPHONE CORPORATION CPCN APPLICATION**

Please prepare the CPCN application CAREFULLY, using the format of the application ordered, and the information contained in the [Public Utilities Code](#), [Rules of Practice and Procedure](#), [General Order 96-B](#), as well as the modifications contained in the Decisions listed in the [Information for Telecommunications Applicants and Registrants in California](#).

- Address all the required information identified in the “Requirements for CPCN Application Pursuant to P.U. Code §1001 and CPUC Rules of Practice and Procedure” found in this document.
- Refer to the [Practitioner’s Page](#) for additional filing instructions and guidelines.
- Additional information on template format for CPUC applications is available at <https://www.cpuc.ca.gov/about-cpuc/divisions/administrative-law-judge/practitioners-page/creating-formal-documents---templates-provided>.
- If this is your first time to file a document, e.g. filing a protest, and you are not familiar with the rules and procedures of the Commission, you may seek assistance from the Commission’s Public Advisor office by sending an email to [public.advisor@cpuc.ca.gov](mailto:public.advisor@cpuc.ca.gov) or by calling toll free 1-866-849-8390 (Northern California), or 1-866-849-8391 (Southern California).

### **II. FILE YOUR APPLICATION WITH THE CPUC DOCKET OFFICE**

Review the [Rules of Practice and Procedure](#) and follow the proper filing procedures. Please refer to the [Practitioner’s Page](#) for additional filing instructions and guidelines.

- For e-filing, you can access the e-filing system and instructions at: <https://www.cpuc.ca.gov/efile/>. You may file all types of documents via e-filing except confidential materials or testimony.
- For paper filings, you can address the document to: California Public Utilities Commission Docket Office, 505 Van Ness Avenue San Francisco, CA 94102

### **III. PLEASE DO NOT SOLICIT CUSTOMERS, COLLECT DEPOSITS, OR BEGIN OPERATIONS WITHIN CALIFORNIA DURING THE APPLICATION PROCESS.**

### **IV. WHAT HAPPENS NEXT**

- A.** Your application will be processed by the Docket Office.
1. The Docket Office will contact you if parts of your application are missing or improperly filed.

2. Your case will be assigned an application number.
- B.** Your application will be forwarded to the Administrative Law Judge (ALJ) Division.
  1. An ALJ will be assigned to review your application.
  2. The ALJ will contact you if parts of your application are missing or improperly filed.
  3. You may contact the ALJ Division at (415) 703-2008 to ask for the name and telephone number of the ALJ who has been assigned to review your application.
  4. You may contact the assigned ALJ to ask questions about your application and the review process.
- C.** If applicable, the Communications Division will review your draft tariff and prepare a tariff deficiency list that will be included in the ALJ Decision as an attachment.
- D.** The ALJ will write a Decision.
- E.** The Commission will vote on approving the Decision during a Commission Meeting.
  1. Commission Meetings are scheduled twice a month.
  2. Decisions for each [Commission meeting](#) will appear on the Commission Agenda which can also be found on the Commission's web page at: [www.cpuc.ca.gov](http://www.cpuc.ca.gov)
- F.** Your company will receive a copy of the Decision in the mail after it has been approved.
- G.** Applicant must then file an advice letter to submit your initial tariff for processing and approval before it can begin providing service.
  1. A description of the advice letter format can be found on pages 22 of General Order No. 96-B (Section 8.4).
  2. The initial tariff is applicant's draft tariff with actual rates and all the changes that the Communications Division requested.
  3. Applicant's initial tariff must have the Decision number of the Decision it received in the mail, and the advice letter number used in filing its initial tariff, presented on each page of the tariff in the lower left-hand corner of the page.
  4. Applicant's corporate identification number (U-XXXX-C) must be shown on the upper left corner of each tariff sheet.
  5. Please file the initial tariff by advice letter to [cdcompliance@cpuc.ca.gov](mailto:cdcompliance@cpuc.ca.gov). Additional advice letter Information is available at: <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/advice-letter-information>.
  6. The advice letter that includes applicant's initial tariff will be effective upon Communications Division staff approval.
  7. The Communications Division will send an Advice Letter acceptance certificate to the filer after it has reviewed and made the advice letter effective.
  8. When the applicant receives the advice letter acceptance certificate, it will know that its tariffs have been approved.
- H.** The applicant may then begin to conduct business within California if it has fulfilled all other ordered requirements in the Decision that granted its operating authority.

NOTE: The CPCN application process (from filing of the application to the Commissioner's approval of the decision) takes at least six months to eighteen months.

**Requirements for CPCN Application Pursuant to P.U. Code §1001  
and CPUC Rules of Practice and Procedure**

Applications must be signed under penalty of perjury.  
(Pursuant to D.13-05-035, Attachment A)

**1. Identification of Applicant [Rule 2.1(a)]**

The applicant must provide its exact legal name and the location of principal place of business, and if an applicant is a corporation, trust, association, or other organized group, the State under the laws of which such applicant was created or organized.

**2. Correspondence or Communications [Rule 2.1(b)]**

The applicant must provide the name, title, address, telephone number, facsimile transmission number, and the e-mail address of the person to whom correspondence or communications in regard to the application are to be addressed. Notices, orders and other papers may be served upon the person so named, and such service shall be deemed to be service upon applicant.

**3. Description of Services to be Provided [Rule 3.1(e)]**

The applicant must clearly describe its operation including but not limited to identifying the authority that it is seeking. The applicant should clearly identify the type of service it proposes to provide. It could be any of the following combination of service types: Resold or Limited Facilities-Based Local Exchange or Interexchange service, Full Facilities-Based Local Exchange or Interexchange service.<sup>1</sup> The applicant should provide information regarding the service areas it plans to provide service to and the method by which it plans to provide the service. If the applicant states that it is requesting a Full Facilities-Based CPCN, then it is required to comply with the Proponent's Environmental Assessment (PEA) and California Environmental Quality Act (CEQA) Rule 2.4 of the Commission's Rules of Practice and Procedure. Additional information regarding CEQA compliance is discussed in Section 6 of this document.

**4. Articles of Organization and Certificate of Qualification to Transact Business in California [Rule 2.2]**

All applicants other than natural persons shall submit with their applications a copy of the entity's organizing documents and evidence of the applicant's qualification to transact business in California. The applicant must provide a copy of its Certificate of Good Standing Status certified by the Secretary of State of California as an attachment to its application.

---

<sup>1</sup> An applicant seeking authorization to provide long distance service may utilize the simplified registration process for NDIEC pursuant to P.U. Code § 1013.  
Decision 10-09-017 at p.4.

## 5. Description of Proposed Construction [Rule 3.1(a)]

The applicant must provide a full description of the proposed construction or extension, and the manner in which the same will be constructed.

## 6. California Environmental Quality Act (CEQA) Compliance [Rule 2.4]

Pursuant to CEQA and Commission Rule 2.4, 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. In Rule 2.4(b), the Commission recognizes that the Secretary for Resources has exempted certain classes of projects from CEQA. The following are the classes of projects that are exempt from CEQA and for which neither an EIR 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 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.

An applicant seeking authority as a Full Facilities-Based provider must clearly identify the construction activities and projects involved to provide service to its customers. The applicant should clearly identify whether the proposed construction activities and projects are statutorily or categorically exempt from CEQA requirements, with citation to the relevant authority. If applicable, the applicant may request approval to utilize a procedure for expedited review of its projects.

An applicant seeking authority as a Resold or Limited Facilities-Based provider must clearly state that it does not intend to construct any facilities.<sup>2</sup>

Additional information regarding CEQA requirements is available at:

<https://www.cpuc.ca.gov/industries-and-topics/electrical-energy/infrastructure/permitting-and-environmental-review>

---

<sup>2</sup> See D.08-04-018 (authorizing a facilities-based CPCN and noting that installation of telecommunications facilities “in existing conduit or other structures will not result in material adverse impacts” and thus it “can be seen with certainty that there is no possibility that [such activity] may have a significant adverse effect on the environment” and thus the project is exempt from CEQA review); See D.99-10-025.

## **7. Names of Competitors and Names of Counties [Rule 3.1(b)]**

The applicant must provide the names and addresses of all utilities, corporations, persons or other entities, whether publicly or privately operated, with which the proposed construction is likely to compete, and of the cities or counties within which service will be rendered in the exercise of the requested certificate. The application shall contain a certification that a copy of the application has been served upon or mailed to each such person named.<sup>3</sup>

## **8. Areas of Service (Maps) [Rule 3.1(c)]**

The applicant must clearly describe and provide a map of the service territories it proposes to serve. It should also identify the entities currently providing service in the area.<sup>4</sup> The map should be included as an attachment to the application.

## **9. Identification of Required Franchises, Health and Safety Permits [Rule 3.1(d)]**

The Applicant must provide a statement identifying the franchises and such health and safety permits as the appropriate public authorities have required or may require for the proposed construction or extension.

## **10. Facts Showing Public Convenience and Necessity [Rule 3.1(e)]**

The applicant must demonstrate that granting its application will benefit the public interest. The Commission has previously determined that the public convenience and necessity require that competition be allowed in the provision of competitive local exchange service. By its issuance of D. 95-07-054, D. 95-12-056 and D.96-02-072, the Commission recognized the benefits of competition for local exchange and intraLATA services. These benefits include technological innovation in telecommunications, the deployment of advanced telecommunications services, lower rates and improved services for telecommunications service users, investment in new infrastructure and the creation of new jobs in the State. Granting this Application will benefit the public interest by expanding the availability of technologically advanced telecommunications services within the State.

## **11. Estimated Cost of Construction, Annual Fixed and Operating Costs and Economic Feasibility [Rule 3.1(f)]**

The applicant must provide a statement detailing the estimated cost of the proposed construction or extension and the estimated annual costs, both fixed and operating associated therewith. In the case of a utility which has not yet commenced service or which has been

---

<sup>3</sup> Pursuant to D.97-06-107, issued in Commission proceeding R.94-02-003/1.94-02-004, CLCs are no longer required to comply with Rule 18(b) and General Order 96-A, subsections (G)(1) and (2). Thus, the applicant is not required to mail its Application to all potential competitors and counties. However, the applicant must provide a copy of its Application upon request to potential competitors and counties.

<sup>4</sup> D.95-12-056, Appendix C, Rule 4.E

rendering service for less than twelve months, the applicant shall file as a part of the application supporting statements or exhibits showing that the proposed construction is in the public interest and whether it is economically feasible.

### **12. Financial Statements and Ability to Finance [Rule 3.1(g) and 2.3]**

The applicant must clearly demonstrate that it is financially capable of rendering its proposed service. In order to be granted a CPCN, an applicant seeking authority to provide limited-facilities-based and resold local exchange and interexchange services must demonstrate that it has a minimum of \$100,000 cash or cash equivalent to meet the firm's start-up expenses.<sup>5</sup> The 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.<sup>6</sup> The applicant must provide statements or exhibits showing the financial ability of the applicant to render the proposed service together with information regarding the manner in which applicant proposes to finance the cost of the proposed construction or extension.

### **13. Proposed Rates [Rule 3.1(h)]**

The applicant must provide a statement of its proposed rates to be charged for service to be rendered. If the application proposes any increase in rates, it shall comply with Rule 3.2(a).

### **14. General Order 104-A Statement [Rule 3.1(i)]**

The applicant must provide a statement corresponding to the statement required by Section 2 of General Order No. 104-A, as to all known matters which both (a) are designated by said section for inclusion in the annual report but occurred or were proposed subsequent to the period covered by the last previous annual report filed by the applicant and (b) are, or will be, connected with the construction or extension proposed in the application; or, if no such matters are known to have so occurred or are then known to be proposed, a statement to that effect; provided, that an applicant whose capital stock, or that of its parent company, is listed on a "national securities exchange," as defined in the Securities Exchange Act of 1934 (15 U.S.C. 78(a) et seq.), in lieu of the statement required by this rule shall include in the application a copy of the latest proxy statement sent to stockholders by it or its parent company if not previously filed with the Commission, provided, further, that an applicant whose capital stock, or that of its parent company, is registered with the Securities and Exchange Commission (SEC) pursuant to the provisions of Section 12(g) of said Securities Exchange Act of 1934, in lieu of the statement required by this rule shall include in the application a copy of the latest proxy statement sent to stockholders by it or its parent company containing the information required by the rules of the SEC if not previously filed with the Commission.

---

<sup>5</sup> D.95-12-056 (Appendix C) – Financial requirements for Competitive LECs; D.91-10-041/ D.93-05-010 – Financial Requirement for Non-dominant Interexchange Carriers.

<sup>6</sup> D.95-12-056 (Appendix C) sets for the requirements for CLCs. See D.93-05-010 for NDIEC requirements.

**15. Estimated Customer Base [Rule 3.1(j)]**

The applicant must provide the estimated number of customers and their requirements for the first and fifth years in the future.

**16. Technical and Managerial Competence [D.95-12-056, Appendix C, D. 13-05-035, Rule. 4.A]**

The applicant seeking authority to provide local exchange and/or interexchange service must demonstrate that it has the technical and managerial qualifications necessary to provide the proposed services in its service territory. The applicant should provide the following information, but not limited to: the applicant's key management and technical personnel, resumes and biographies of the key management and technical person that reflects that the applicant possesses significant technical and managerial expertise for operating a telecommunications company, consistent with the Commission's requirements.

The applicant must provide a sworn affidavit stating the following: " Neither applicant, any of its affiliates, officers, directors, partners, agents, or owners (directly or indirectly) of more than 10% of applicant, or anyone acting in a management capacity for applicant: (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 (to his/her knowledge) 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 sections 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; or (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.

To the best of applicant's knowledge, neither applicant, any affiliate, officer, director, partner, nor owner of more than 10% of applicant, or any person acting in such capacity whether or not formally appointed, 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.

**17. Request for Exemptions (To be included only if applicant requests treatment as an NDIEC)**

The applicant may request that, in connection with its authorization as a CLEC, it be accorded the same streamlined regulatory treatment previously accorded to other CLECs as a non-

dominant interexchange carrier as set forth in D.96-02-075 and as adopted by NDIECs, including the following:

1. The applicant seeks exemption from the provisions of PU Code Sections 816-830 (pertaining to the issuance of stocks and securities) and PU Code Section 851 (pertaining to the transfer or encumbrance of utility assets when such transfer or encumbrance is for the purpose of securing debt). The Commission has previously concluded that NDIECs should be exempt from the provisions and requirements of PU Code Sections 816-830 and 851 (insofar as these sections pertain to the issuance of securities and transfer or encumbrance of utility property for purposes of securing debt) in D.85-07-081, D.85-11-044 and D.86-08-057, as confirmed by D.90-09-032. This exemption was extended to CLCs in D.96-02-072, Ordering Paragraph 18.
2. The applicant may further request that it be exempted from any requirement to maintain its books and records in accordance with the Uniform System of Accounts specified in Title 47 I.E. Part 32 consistent with D.99-02-038, which relieved CLCs that are not part of an incumbent local exchange carrier (ILEC) corporate entity from the requirement to keep their books of account in conformance with the Uniform System of Accounts.

## **18. Tariffs**

The applicant must attach a copy of its draft tariff that describes all the services and sample rates that it intends to offer. In order to draft a tariff that complies with the CPUC's requirement, the following documents are important to obtain and review before drafting.

1. Appendix B to D. 95-07-054
2. General Order 96-B
3. Sample tariff (see sample tariffs submitted by competitors).
4. Limitation of Liabilities - Appendices B & C of D 95-12-057

The applicant may review the competitor tariff for facilities-based and resold service by accessing carrier tariffs at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/tariffs-and-rates>.

Applicant may also request for exemption from tariff requirements pursuant to GO 96-B Telco Industry Rule 5.



## **19. Application Fee**

A filing fee (check, draft, or money order payable to the CPUC) must be enclosed with all applications requesting facilities-based or reseller authority. Refer to the current [Filing Fee](#) schedule.

Applicant can also request in its CLC application authority for intra-LATA and inter-LATA toll authority with the CLC application at no extra cost. The applicant can also file a separate application to obtain intra-LATA and inter-LATA toll authority using the NDIEC (Non-Dominant Inter-Exchange Carrier) registration process which normally will be shorter.

In addition to the above noted application fee, all applicants requesting facilities-based CLC authority are required to submit an additional \$200 deposit for California Environmental Quality Act (CEQA) processing (not applicable to applicants requesting only reseller authority). This deposit includes applicants applying only for limited facilities-based CLC authority (a limited facilities-based CLC is one that uses facilities that are installed solely within existing structures). The \$200 CEQA deposit (check, draft, or money order payable to the CPUC) must include the statement "CEQA Fee per D.00-08-010".

If the applicant seeks only limited facilities-based authority, only the \$200 shall be required. If the applicant seeks more extensive facilities based authority that requires the preparation of either an MND (mitigated negative declaration) or an EIR (environmental impact report), however, then the applicant shall remain liable for reimbursing the Commission for additional CEQA costs that may be incurred in processing its application. The Commission will bill the applicant for any additional CEQA costs that are applicable once they become known.

Additional information regarding Application and Registration fees is available at: <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/information-for-telecommunications-applicants-and-registrants-in-california>.

## **20. Continuous Performance Bond Requirement (D.13-05-035)**

D.13-05-035 requires new and existing CPCN holders to submit a continuous performance bond in the amount of \$25,000 issued by a corporate surety company authorized to transact surety business in California with the Commission listed as an obligee on the bond. The amount of the bond is currently set at \$25,000.

**ATTACHMENT A**

**SWORN AFFIDAVIT**

(Pursuant to D.13-05-035, Attachment B)

Name of Applicant/Company \_\_\_\_\_

My name is \_\_\_\_\_ . I am \_\_\_\_\_ (Title) of \_\_\_\_\_ (Applicant). My personal knowledge of the facts stated herein has been derived from my employment with \_\_\_\_\_ (Applicant)

I affirm that \_\_\_\_\_ [Name of Applicant]:

- agrees to comply with all federal and state statutes, rules, and regulations, (state whether application is for a Certificate of Public Convenience and Necessity (CPCN), Transfer, Merger, etc) and state contractual rules and regulations, if granted the request as stated in this application; and
- Certifies [if Applicant is seeking a CPCN] that all answers to the attached Application for CPCN are true and correct;
- In the event Applicant’s request for a CPCN or Wireless Identification Registration is granted, Applicant agrees to post a continuous bond (i.e., there is no termination date on the bond) performance bond equivalent to in the amount of \$25,000 for the first year of operation or 10% of intrastate revenue (for subsequent years), issued by a corporate surety company authorized to transact surety business in California, and with the Commission listed as the obligee on the bond. Further, I will provide a copy of the executed performance bond to the Director of the Communications Division with the written notification to the Commission of acceptance of operating authority.

I affirm and declare under penalty of perjury under the laws of the State of California, including Rule 1.1 of the California Public Utilities Commission’s Rules of Practice and Procedure, that, to the best of my knowledge, all of the statements and representations made in this Application are true and correct.

\_\_\_\_\_

Signature and title

\_\_\_\_\_

Type or print name and title