

Decision 06-06-047 June 29, 2006

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Sunesys, Inc. for a Certificate of Public Convenience and Necessity to Provide Facilities-Based InterLATA and IntraLATA Interexchange Services and Competitive Local Exchange Services.

Application 06-01-006
(Filed January 9, 2006)

**OPINION GRANTING CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY**

I. Summary

Sunesys, Inc. (Applicant) seeks a certificate of public convenience and necessity (CPCN) under Pub. Util. Code § 1001 to obtain authority to provide facilities-based local exchange and interexchange telecommunications services.¹ By this decision, we grant Applicant the requested authority, subject to the requirements and conditions stated below.

¹ The application is somewhat unclear as to the type of CPCN sought by Applicant. Although the Application initially states that Applicant is seeking authorization to provide facilities-based local exchange and interexchange services, the Application later states that Applicant is seeking authorization to provide limited facilities-based services and to perform certain CEQA-exempt projects, including the installation of new conduits or trenches in rights-of-way. However, since Applicant's installation of new trenches or conduits would require full facilities-based authority, we construe this application as a request for issuance of a full facilities-based CPCN.

We also specify a procedure to be followed if Applicant wishes to pursue full facilities-based construction activities that involve potential exemptions from environmental review under the California Environmental Quality Act (CEQA).

II. Background

In prior decisions, we authorized the provision of competitive interexchange services by carriers meeting specified criteria. In addition, we authorized the provision of competitive local exchange service, by carriers meeting specified criteria, within the service territories of Pacific Bell Telephone Company (Pacific), Verizon California Inc. (Verizon), SureWest Telephone Company (SureWest),² and Citizens Telecommunications Company of California, Inc. (Citizens).

Applicant, a Pennsylvania corporation, seeks authority to provide facilities-based local exchange services in the service territories of Pacific, Verizon, SureWest, and Citizens and interexchange services in all areas of the state in which such service is authorized.

According to the application, Applicant plans to operate a non-switched, digital fiber-optic fiber communications network capable of providing high-speed dedicated access and multiplexing services to large commercial, non-profit, and governmental entities. Applicant's primary business will fall into two categories:

1. the leasing of dedicated fiber optic facilities constructed and operated by Applicant to large commercial users

² SureWest Telephone Company was previously known as Roseville Telephone Company.

(including both for-profit entities and non-profit entities, such as health care systems), and

2. the provision of managed metropolitan Ethernet network services, over fiber optic facilities constructed and owned by Applicant, to school and library systems.

The application states that Applicant does not currently provide residential service to customers and does not plan to provide residential service in the future. In addition, Applicant intends to provide data services only and does not intend to offer either voice-grade service or service directly to end users.

Applicant's principal place of business is located at 202 Titus Avenue, Warrington, Pennsylvania 18976.

III. Financial Qualifications

To be granted a CPCN, an applicant for authority to provide facilities-based and resold local exchange and/or interexchange services must demonstrate that it has a minimum of \$100,000 of cash or cash equivalent to meet the firm's start-up expenses.³ An applicant must also demonstrate that it has sufficient additional resources to cover all deposits required by local exchange carriers (LECs) and/or interexchange carriers (IECs) in order to provide the proposed service.⁴ Applicant has provided financial documentation that

³ The financial requirement for CLCs is contained in Decision (D.) 95-12-056, Appendix C. The financial requirement for NDIECs is contained in D.91-10-041.

⁴ The requirement for 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.

demonstrates that it has sufficient cash to satisfy the financial requirement plus any required deposits.

IV. Technical Qualifications

Applicants for non-dominant interexchange carriers (NDIEC) and competitive local carriers (CLC) authority are required to make a reasonable showing of technical expertise in telecommunications or a related business. Applicant submitted biographical information on its management that demonstrates that it possesses sufficient experience and knowledge to operate as a telecommunications provider.

Applicant represents that no one associated with or employed by Applicant as an affiliate, officer, director, partner, or owner of more than 10% of Applicant has been sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order.

V. Tariffs

Commission staff reviewed Applicant's draft tariffs for compliance with Commission rules and regulations. Any tariff deficiencies are stated in Appendix B.

VI. Environmental (CEQA) Review

The CEQA (Public Resources Code Sections 21000 et seq.) applies to discretionary projects to be carried out or approved by public agencies. 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.

According to the application, most of Applicant's projects will involve the installation of fiber using existing utility poles for aerial plant or leasing space in existing conduits for underground routes. Applicant contends that these types of activities require only limited facilities-based authority and do not require CEQA review because they clearly will have no adverse effect on the environment.

However, the application states that, in certain situations, Applicant may need to also install new conduits and/or trenches. Applicant anticipates that these new conduits or trenches will need to extend for distances not exceeding 15,000 feet in existing rights-of-way, and will be used primarily to extend existing facilities to the customer's premises. Applicant claims that these full facilities-based construction projects will most likely fall within various exemptions to CEQA,⁵ and has proposed a procedure for Commission Energy

⁵ For example, Applicant states that these projects may fall within one or more of the following CEQA exemptions: the infill exemption (State CEQA Guidelines Section 15332), existing facilities (State CEQA Guidelines Section 15301), replacement or reconstruction (State CEQA Guidelines Section 15302), new construction or conversion of small structures (State CEQA Guidelines Section 15303), minor alteration to land

Footnote continued on next page

Division review of its claimed CEQA exemptions. Applicant proposes that this procedure would apply only to claimed CEQA exemptions for full facilities-based construction that does not exceed 15,000 feet in length, cumulatively for each project, and that is performed within existing rights of way. Applicant would comply with any additional CEQA review required by local permitting agencies.

Applicant also filed a Preliminary Environmental Assessment (PEA) as Exhibit C to the application, as required by Rule 17.1 of the Commission Rules of Practice and Procedure (Rules).

We have carefully reviewed the application and the PEA and find that:

- Applicant's proposed activities that involve only the installation of equipment in existing buildings or structures and would normally require only limited facilities-based authority do not necessitate additional environmental review under CEQA. Applicant may perform these activities without seeking further authorization from the Commission.
- Applicant's proposed full facilities-based construction projects, including the installation or construction of new conduits or trenches in existing rights-of-way, are limited and, in some cases, may qualify for exemption from CEQA.
- Applicant's proposed procedure for reviewing the applicability of CEQA exemptions to Applicant's facilities-based construction projects, as modified below, is not only adequate for the Commission's purposes as

(State CEQA Guidelines Section 15304), no possibility exists that the project will have a significant effect on the environment (State CEQA Guidelines Section 15061(b)(3)).

CEQA Lead Agency, but is also in the public interest because it enables Applicant to respond in a timely manner to customer requests for service without the delay or burden of a full CEQA review when such review is unnecessary.

We therefore approve Applicant's proposed process for Commission review of claimed CEQA exemptions for full facilities-based construction projects, as modified below. If Applicant believes that any construction project, other than installing equipment in existing buildings or structures, qualifies for exemption from CEQA, Applicant shall comply with the following procedure before commencing construction:

- Applicant shall provide the Commission 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, including at a minimum:
 - Cultural, historical, and paleontologic resources;
 - Biological resources; and
 - Current land use and zoning.
 - A construction workplan, including:
 - 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) claimed to apply to the proposed project; and
- Documentation supporting the finding of exemption from CEQA.
- The Commission's Energy Division shall then review the submittal and shall notify Applicant of either its approval or its denial of Applicant's claim for exemption from CEQA review within 21 days from the time that Applicant's submittal is complete.
- If the Commission's Energy Division approves Applicant's claimed 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 Commission's Energy Division disapproves Applicant's claimed CEQA exemption(s), the staff shall issue to Applicant a letter which states the specific reasons that the claimed CEQA exemption(s) do not apply to the proposed project.
- If the Commission's Energy Division disapproves Applicant's claimed CEQA exemption(s) and Applicant wishes to pursue the project, Applicant 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.

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

However, the Commission is reviewing CEQA issues affecting telecommunications providers on a broader, policy level in Rulemaking (R.) 00-02-003. Applicant may utilize the above process for obtaining Commission review, and approval or disapproval of, proposed CEQA exemptions unless or until the Commission adopts different requirements applicable to Applicant in R.00-02-003 or a subsequent proceeding.

VII. Request for Waiver of Subsection 4.F(9) of Commission Initial Rules for LECs

Applicant requests a waiver of Subsection 4.F(9) of the Commission Initial Rules for Local Exchange Competition (Initial Rules), which require CLECs to provide 911/E911 service, on the grounds that Applicant will be providing data services only and does not plan to offer either voice grade service or service directly to end users. Under these circumstances, we grant a waiver of the requirements of Rule 4.F(9). However if, in the future, Applicant offers voice grade/dial tone service to end users, Applicant shall comply with all applicable rules and regulations, including Subsection 4.F(9) of the Initial Rules.

VIII. Conclusion

We conclude that the application conforms to our rules for authority to provide full facilities-based local exchange and interexchange telecommunications services. Accordingly, we shall approve the application subject to the terms and conditions set forth herein.

IX. Categorization and Need for Hearings

In Resolution ALJ 176-3165, dated January 12, 2006, the Commission preliminarily categorized this proceeding 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.

X. Comments on the Draft Decision

No protests were filed in this proceeding. Therefore, this is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

XI. Assignment of Proceeding

John A. Bohn is the Assigned Commissioner and Myra J. Prestidge is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Notice of this application appeared in the Daily Calendar on January 13, 2006.
2. No protests were filed.
3. Hearings are not required.
4. Applicant seeks a CPCN to obtain authorization to provide full facilities-based local exchange and interexchange services.
5. The Commission is the Lead Agency for this project under CEQA.
6. Applicant filed a Preliminary Environmental Assessment with the application as required by Rule 17.1.
7. Applicant states that its business activities associated with this application will consist primarily of: a) the leasing of dedicated fiber optic facilities constructed and operated by Applicant to large commercial users (including both for-profit entities and non-profit entities, such as health care systems); and b) the provision of managed metropolitan Ethernet network services, over fiber optic facilities constructed and owned by Applicant, to school and library systems.

8. Applicant states that most of its projects will involve the installation of fiber using existing utility poles for aerial plant or leasing space in underground conduit, which requires only limited facilities-based authority and does not necessitate CEQA review.

9. Applicant states that in some cases, it may also need to install new conduits or trenches not exceeding 15,000 feet in length in existing rights of way, in order to extend existing facilities to the customer's premises.

10. Applicant's installation or construction of new conduits or trenches in existing rights-of-way would generally require full facilities-based authority.

11. Applicant has provided a list of existing CEQA categorical exemptions that would potentially apply to its full facilities-based construction projects, including the installation or construction of new conduits or trenches in existing rights-of-way.

12. Applicant has proposed a procedure, in which Applicant would notify Commission Energy Division staff of the claimed CEQA exemptions for its full facilities-based construction projects and Commission Energy Division staff would review and act upon Applicant's claimed CEQA exemptions.

13. Applicant's proposed facilities-based construction activities, as described in the application, are limited and may, in some circumstances, qualify for an exemption from CEQA.

14. Applicant's proposed process for reviewing the applicability of the CEQA exemptions for its facilities-based construction projects, as modified in this decision, is adequate for the Commission's purposes as the CEQA Lead Agency and is in the public interest.

15. The Commission is reviewing CEQA issues related to telecommunications providers on a broader, policy basis in R.00-02-003.

16. Applicant intends to offer data services only, not voice-grade services or service directly to end users.

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

18. Applicant has met the requirements for issuance of a CPCN authorizing the provision of full facilities-based local exchange and interexchange services.

Conclusions of Law

1. Except for the requirement for additional environmental (CEQA) review, the requirements for a full facilities-based CPCN are generally the same as for a limited facilities-based CPCN.

2. Applicant's installation of fiber in existing building or structures would normally require only limited facilities-based authority and does not require CEQA review.

3. Applicant's description of its future full-facilities based construction projects, including the installation of new conduits and trenches in existing rights-of-way, and the proposed process for Commission review of claimed CEQA exemptions for these projects, as modified herein, meet the requirements of CEQA, based on the specific facts of this case.

4. If the Commission subsequently adopts different requirements for review of claimed CEQA exemptions for telecommunications carriers generally in R.00-02-003 or a subsequent proceeding, Applicant shall be subject to those requirements, as applicable.

5. Since Applicant will be offering data services only and will not be providing voice services or service directly to end users, waiver of Subsection 4F (9) of the Commission's Initial Rules is appropriate.

6. Public convenience and necessity require Applicant's full facilities-based local exchange and interexchange services to be offered to the public subject to the terms and conditions set forth herein.

7. The application should be approved.

8. Upon approval of the application, Applicant should be subject to the applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

9. Applicant must submit a complete draft of its initial tariff that complies with Commission requirements and that corrects any deficiencies stated in Attachment B.

10. Because of the public interest in competitive local exchange and interexchange services, the following order should be effective immediately.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity (CPCN) is granted to Sunesys, Inc. (Applicant) to operate as a full facilities-based provider of local exchange services in the service territories of Pacific Bell Telephone Company, Verizon California Inc., SureWest Telephone, and Citizens Telephone Company and interexchange services statewide, subject to the terms and conditions set forth below.

2. Except for installing equipment in existing buildings or structures, Applicant is authorized to construct facilities only upon receiving prior Commission approval.

3. The staff of the Commission's Energy Division is authorized to review, process, and act upon Applicant's requests for a determination that its full facilities-based construction activities, including the installation or construction of new conduits or trenches in existing rights-of-way, are exempt from the requirements of the California Environmental Quality Act (CEQA).

4. If Applicant wishes to engage in full facilities-based construction activities and believes that these activities are exempt from CEQA, Applicant shall first apply to the Commission Energy Division staff for a determination of exemption from CEQA using the following procedure:

- Applicant 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, including at a minimum:
 - Cultural, historical, and paleontologic resources;
 - Biological resources; and
 - Current land use and zoning.
 - A construction workplan, including:
 - 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) claimed to apply to the proposed project; and
 - Documentation supporting the finding of exemption from CEQA.
- The Commission's Energy Division will then review the submittal and notify Applicant of either its approval or its denial of Applicant's claim for exemption from CEQA review within 21 days from the time that Applicant's submittal is complete.
 - If the Commission's Energy Division approves Applicant's claimed CEQA exemption(s), the staff will prepare a Notice to Proceed and file a Notice of Exemption with the State Clearinghouse, Office of Planning and Research.
 - If the Commission's Energy Division disapproves Applicant's claimed CEQA exemptions, the staff will issue to Applicant a letter which states the specific reasons that the claimed CEQA exemptions do not apply to the proposed project.
 - If the Commission's Energy Division disapproves Applicant's claimed CEQA exemption(s), Applicant 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.

5. Applicant shall not engage in any construction activity relating to a pending CEQA exemption request before receiving an NTP from Commission Energy Division staff.

6. If the Commission adopts different requirements for obtaining Commission review of proposed CEQA exemptions applicable to Applicant in Rulemaking 00-02-003 or a subsequent proceeding, Applicant shall be subject to those requirements.

7. Applicant is authorized to file tariff schedules for the provision of competitive local exchange and interexchange services. Applicant may not offer services until tariffs are on file. Applicant's initial filing shall be made in accordance with General Order (GO) 96-A, excluding Sections IV, V, and VI, and shall correct the deficiencies noted in Attachment B. The tariffs shall be effective not less than one day after approval by the Commission's Telecommunications Division. Applicant shall comply with its tariffs.

8. Applicant shall correct the outstanding tariff deficiencies identified in Attachment B before being authorized to begin service.

9. The certificate granted and the authority to render service under the rates, charges, and rules authorized herein will expire if not exercised within 12 months after the effective date of this order.

10. The corporate identification number assigned to Applicant, U-6991-C, shall be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

11. Applicant shall comply with all applicable rules adopted in the Local Exchange Competition proceeding (Rulemaking 95-04-043/ Investigation 95-04-044), the Commission's rules and regulations for NDIECs, as well as all other applicable Commission rules, decisions, GOs, and statutes that

pertain to California public utilities, subject to the exemptions granted in this decision.

12. Applicant shall comply with the requirements applicable to competitive local exchange carriers and NDIECs included in Attachment A to this decision.

13. Application 06-01-006 is closed.

This order is effective today.

Dated June 29, 2006, at San Francisco, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
Commissioners

ATTACHMENT A

REQUIREMENTS APPLICABLE TO COMPETITIVE LOCAL EXCHANGE CARRIERS AND NONDOMINANT INTEREXCHANGE CARRIERS

1. Applicant shall file, in this docket, a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order.
2. Applicant is subject to the following fee and surcharges that must be regularly remitted per the instructions in Appendix E to Decision (D.) 00-10-028. The Combined California PUC Telephone Surcharge Transmittal Form must be submitted even if the amount due is zero.
 - a. The current 1.29% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the Universal Lifeline Telephone Service Trust Administrative Committee Fund (Pub. Util. Code § 879; Resolution T-16966, dated December 1, 2005, effective January 1, 2006);
 - b. The current 0.27% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California Relay Service and Communications Devices Fund (Pub. Util. Code § 2881; D.98-12-073 and Resolution T-16965, dated December 1, 2005, effective January 1, 2006);
 - c. The user fee provided in Pub. Util. Code §§ 431-435, which is 0.11% of gross intrastate revenue (Resolution M-4816 dated March 15, 2006, effective April 1, 2006);
 - d. The current 0.21% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California High Cost Fund-A (Pub. Util. Code § 739.3; D.96-10-066, pp. 3-4, App. B, Rule 1.C; Resolution T-16963, dated December 1, 2005, effective January 1, 2006);

- e. The current 2.00% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California High Cost Fund-B (D.96-10-066, p. 191, App. B, Rule 6.F., Resolution T-16964, dated December 1, 2005, effective January 1, 2006); and
- f. The current 0.13% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California Teleconnect Fund (D.96-10-066, Resolution T-16888, dated December 1, 2005, effective January 1, 2006).

3. Applicant is a competitive local exchange carrier (CLC). The effectiveness of its future tariffs is subject to the schedules set forth in Appendix C, Section 4.E of D.95-12-056:

4. "E. CLCs shall be subject to the following tariff and contract filing, revision and service pricing standards:

- '(1) Uniform rate reductions for existing tariff services shall become effective on five working days' notice. Customer notification is not required for rate decreases.
- '(2) Uniform major rate increases for existing tariff services shall become effective on 30 days' notice to the Commission, and shall require bill inserts, or first class mail notice to customers at least 30 days in advance of the pending rate increase.
- '(3) Uniform minor rate increases, as defined in D.90-11-029, shall become effective on not less than five working days' notice to the Commission. Customer notification is not required for such minor rate increases.
- '(4) Advice letter filings for new services and for all other types of tariff revisions, except changes in text not

affecting rates or relocations of text in the tariff schedules, shall become effective on 40 days' notice.

- '(5) Advice letter filings revising the text or location of text material which do not result in an increase in any rate or charge shall become effective on not less than five days' notice to the Commission.
- '(6) Contracts shall be subject to GO 96-A rules for NDIECs, except interconnection contracts.
- '(7) CLCs shall file tariffs in accordance with PU Code § 876.'

4. Applicant is a NDIEC. The effectiveness of its future NDIEC tariffs is subject to the schedules set forth in Ordering Paragraph 5 of D.90-08-032 (37 CPUC2d 130 at 158), as modified by D.91-12-013 (42 CPUC2d 220 at 231) and D.92-06-034 (44 CPUC2d 617 at 618):

- "5. All NDIECs are hereby placed on notice that their California tariff filings will be processed in accordance with the following effectiveness schedule:
 - 'a. Inclusion of FCC-approved rates for interstate services in California public utilities tariff schedules shall become effective on one day's notice.
 - 'b. Uniform rate reductions for existing services shall become effective on five days' notice.
 - 'c. Uniform rate increases, except for minor rate increases, for existing services shall become effective on 30 days' notice, and shall require bill inserts, a message on the bill itself, or first class mail notice to customers of the pending increased rates.
 - 'd. Uniform minor rate increases, as defined in D.90-11-029, for existing services shall become effective on not less than five working days' notice. Customer notification is not required for such minor rate increases.

- 'e. Advice letter filings for new services and for all other types of tariff revisions, except changes in text not affecting rates or relocations of text in the tariff schedules, shall become effective on 40 days' notice.
- 'f. Advice letter filings merely revising the text or location of text material which do not cause an increase in any rate or charge shall become effective on not less than five days' notice.'"

5. Applicant may deviate from the following provisions of GO 96-A:
(a) paragraph II.C.(1)(b), which requires consecutive sheet numbering and prohibits the reuse of sheet numbers; and (b) paragraph II.C.(4), which requires that "a separate sheet or series of sheets should be used for each rule." Tariff filings incorporating these deviations shall be subject to the approval of the Commission's Telecommunications Division. Tariff filings shall reflect all fees and surcharges to which Applicant is subject, as reflected in 2 above.

6. Applicant shall file a service area map as part of its initial tariff.

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

8. Applicant shall notify the Director of the Telecommunications Division in writing of the date that local exchange service is first rendered to the public, no later than five days after service first begins.

9. Applicant shall notify the Director of the Telecommunications Division in writing of the date interLATA service is first rendered to the public within

five days after service begins, and again within five days after intraLATA service begins.¹

10. Applicant shall keep its books and records in accordance with the Generally Accepted Accounting Principles.

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

12. Applicant shall file an annual report with the Director of the Telecommunications Division, in compliance with GO 104-A, on a calendar-year basis with the information contained in Attachment B to this decision.

13. Applicant shall file an affiliate transaction report with the Director of the Telecommunications Division, in compliance with D.93-02-019, on a calendar year basis using the form contained in Attachment C.

14. Applicant shall ensure that its employees comply with the provisions of Public Utilities (Pub. Util.) Code § 2889.5 regarding solicitation of customers.

15. Within 60 days of the effective date of this order, Applicant shall comply with Pub. Util. Code § 708, Employee Identification Cards, and notify the Director of the Telecommunications Division in writing of its compliance.

16. If Applicant is 90 days or more late in filing an annual report, or in remitting the surcharges and fee listed in 2 above, the Telecommunications

¹ California is divided into 10 Local Access and Transport Areas (LATAs), each containing numerous local telephone exchanges. InterLATA describes services, revenues and functions relating to telecommunications originating within one LATA and terminating in another LATA. IntraLATA describes services, revenues and functions relating to telecommunications originating within a single LATA.

Division shall prepare for Commission consideration a resolution that revokes Applicant's CPCN unless it has received written permission from the Telecommunications Division to file or remit late.

17. Applicant is exempt from General Order 96-A, subsections III.G(1) and (2), and Commission Rule of Practice and Procedure 18(b).

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

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

20. If Applicant decides to discontinue service or file for bankruptcy, it shall immediately notify the Telecommunications Division's Bankruptcy Coordinator.

21. Applicant shall send a copy of this decision to concerned local permitting agencies not later than 30 days from the date of this order.

(END OF ATTACHMENT A)

ATTACHMENT B

List of deficiencies in tariffs filed by Sunesys, Inc. in Application 06-01-006 to be corrected in Tariff Compliance filing:

1. Sheet 24: Tariffs must be available for public inspection at an office in California or be published and accessible on the company's website.
2. Please add a description and rule for how the customer can be listed on telephone directories.
3. Sheet 16, Rule 8B: Please add that the customer shall have the right to bring a complaint to the Commission if there's discrepancy between the rate offered and the rate presented in the tariffs. See Decision 95-07-054, Appendix B, Rule 6.A.(2).
4. Please add the procedure the customer may use to request amortization of unpaid charges that is in compliance to Decision 95-07-054, Appendix B, Rule 6.B.(2).5.
5. Please add a description and rule for blocking of 976/900 calls that is in compliance with Decision 95-07-054, Appendix B, Rule 15.

(END OF ATTACHMENT B)

**ATTACHMENT C
ANNUAL REPORT**

An original and two copies shall be filed with the California Public Utilities Commission, 505 Van Ness Avenue, Room 3107, San Francisco, CA 94102-3298, no later than March 31 of the year following the calendar year for which the annual report is submitted.

Failure to file this information on time may result in a penalty as provided for in §§ 2107 and 2108 of the Public Utilities Code.

Required information:

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

If incorporated, specify:

- a. Date of filing articles of incorporation with the Secretary of State.
 - b. State in which incorporated.
6. The number and date of the Commission decision granting the Utility's CPCN.
 7. Date operations were begun.
 8. Description of other business activities in which the utility is engaged.
 9. A list of all affiliated companies and their relationship to the utility.

State if affiliate is:

- a. Regulated public utility.

b. Publicly held corporation.

10. Balance sheet as of December 31st of the year for which information is submitted.

11. Income statement for California operations for the calendar year for which information is submitted.

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

(END OF ATTACHMENT C)

**ATTACHMENT D
CALENDAR YEAR AFFILIATE TRANSACTION REPORT**

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

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

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

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

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

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

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

(END OF ATTACHMENT D)