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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

In the Matter of Atherton Fiber LLC for a Certificate)
of Public Convenience And Necessity to Provide)
Full Facilities-Based and Resold Local Exchange)
Service in AT&T California; Frontier Communications,)
and Consolidated Communications Local)
Exchange Areas, and IntraLATA and InterLATA)
Interexchange Telephone Service Statewide)
_____)

Docket - _____

**APPLICATION OF ATHERTON FIBER LLC FOR A CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY AND REQUEST FOR EX PARTE RELIEF**

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June 30, 2016

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

In the Matter of Atherton Fiber LLC for a Certificate)
of Public Convenience And Necessity to Provide)
Full Facilities-Based and Resold Local Exchange)
Service in AT&T California; Frontier Communications,) Docket - _____
and Consolidated Communications Local)
Exchange Areas, and IntraLATA and InterLATA)
Interexchange Telephone Service Statewide)
_____)

**APPLICATION OF ATHERTON FIBER LLC FOR A CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY AND REQUEST FOR EX PARTE RELIEF**

Atherton Fiber LLC hereby offers the following information in order to receive a certificate of public convenience and necessity (“CPCN”) to provide full facilities-based and resold local exchange services, as required by California Public Utilities Code §1001, and pursuant to D.13-05-035 and its cited rule numbers in Appendix A, in all AT&T California; Frontier Communications, and Consolidated Communications incumbent local exchange areas as well as intraLATA and interLATA interexchange telephone service statewide.

I. IDENTIFICATION OF APPLICANT (per Rule 2.1(a))

Atherton Fiber LLC (“Atherton Fiber”) was organized as a Delaware limited liability corporation on January 20, 2016. Its Articles of Organization and Certificate of Good Standing issued by the Delaware Secretary of State on February 29, 2016 are attached as Exhibit A. Also attached as Exhibit A is a Certificate of Good Standing from the California Secretary of State stating that it is qualified to transact business in the State of California. Its principal place of

business is 260 Oak Grove Avenue, Atherton, CA 94027. Its toll free customer service telephone number is 888 963-9230. Its website is www.athertonfiber.com.

II. CORRESPONDENCE OR COMMUNICATIONS (per Rule 2.1(b))

All communications, correspondence and pleadings with respect to Atherton Fiber should be directed to its outside counsel, who is:

Kristopher E. Twomey
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1725 I Street, NW, Suite 300
Washington, DC 20006
Telephone: 202 681-1850
Facsimile: 202 517-9175
Email: kris@lokt.net

with a copy to:

Robert Hayes
Atherton Fiber LLC
260 Oak Grove Ave.
Atherton, CA 94027
Telephone: 888 963-9230
Email: rhayes@athertonfiber.com

Notices, orders and other papers may be served upon these persons, and such service shall be deemed to be service upon the Applicant. Commission staff should contact these persons to resolve customer complaints.

III. DESCRIPTION OF SERVICE; SERVICE AREA AND RATES (per Rule 3.1(e))

Atherton Fiber seeks to enter the California market as a provider of local and interexchange service, as well as switched access service, long distance resale, advanced services and ultra-high speed broadband Internet access. Atherton Fiber requests authority to offer local exchange and

intrastate interexchange service in all exchange areas served as the incumbent local exchange carrier by AT&T California, Frontier Communications, and Consolidated Communications.

Initially, Atherton Fiber will focus on the provision of ultra-high speed broadband at speeds of 1 GB/second download. After establishing the customer base and determining demand, Atherton Fiber will obtain the necessary switching facilities to provide for time division multiplexed (“TDM”) traffic. Upon approval of this application, Atherton Fiber will immediately request the initiation of negotiations for interconnection agreements with AT&T California and other relevant incumbent local exchange carriers. The Commission may issue a CPCN upon the applicant’s declaration that it is a telephone corporation and intends to offer services and operate in a fashion that brings it within the Commission’s jurisdiction.¹ The facilities Atherton Fiber plans to deploy place it squarely within the definition of a telephone corporation in California, consistent with Public Utilities Code § 234(a), and Atherton Fiber represents that it meets the definition of a telephone corporation subject to the Commission’s jurisdiction, and therefore is eligible to receive a CPCN.²

Atherton Fiber has determined that it would greatly enhance its ability to serve customers if it had a certificate to operate as a competitive local exchange carrier (“CLC”) for two reasons. Pursuant to agreement with the Atherton Town Council, Atherton Fiber will install its equipment on or in existing town-owned infrastructure such as utility poles and conduit wherever possible. Atherton Fiber will be required to place its own fiber-housing infrastructure if there are no commercially reasonable options using existing infrastructure. Obtaining a CPCN will ensure

¹ D.15-05-028, In the Matter of the Application of Bright Fiber Network, LLC for a Certificate of Public Convenience and Necessity to Provide Full Facilities Based and Competitive Local Exchange Access and Interexchange Services within California and specifically, within Nevada County, at 6 (May 12, 2015).

² A telephone corporation is defined as “every corporation or person owning, controlling, operating, or managing any telephone line for compensation within this state.”

that Atherton Fiber has access to the necessary public rights of way. In addition, there may be instances in which Atherton Fiber could more economically and efficiently use existing conduit or other structure access facilities owned by AT&T California. This will also reduce the environmental impacts of the project. To access ILEC structures, Atherton Fiber must enter into an interconnection agreement (“ICA”) with the ILEC. Atherton Fiber understands it is the policy of all ILECs to reject applications for ICAs unless the applicant is a certificated CLC. Therefore, Atherton Fiber requires a CPCN in order to enter into ILEC ICAs.

The voice traffic transported on Atherton Fiber’s network may include calls originated in TDM or Internet Protocol (“IP”) format. Some voice services may originate as IP but then must be converted to TDM in order to complete the calls to their intended recipients via trunks connected to ILEC access tandems. Atherton Fiber understands that use of IP-based technology is not a bar to receiving a CPCN because the Commission has issued CPCNs to other CLECs using IP-based technology to provide voice and data. Atherton Fiber understands and acknowledges that its services will be subject to the Commission’s jurisdiction regardless of the underlying technology used to provide its services.

Although Atherton Fiber is requesting the Commission to waive its tariff requirements, Applicant understands and acknowledges that it must abide by the Commission’s rules, including those regarding posting of service information on its website and compliance with applicable consumer protection rules.

Consistent with the requirements of D. 95-07-054 and subsequent decisions in the Local Competition Docket, as well as D.94-09-065 regarding long distance intraLATA services and other relevant Commission decisions, Atherton Fiber proposes to offer the following services.

1. Local Exchange Telephone Service

Atherton Fiber proposes to offer residential and business end users the opportunity to originate and terminate calls to other end users with access to the local exchange network. The local exchange services Atherton Fiber proposes to provide will also enable end users to select the long distance carrier of their choice. Atherton Fiber seeks full facilities-based and resold authority to provide local exchange services. In accordance with Decision Nos. 95-07-054 and 97-09-115, Atherton Fiber proposes to offer local exchange services by purchasing unbundled network elements from incumbent local exchange carriers and may resell the services of other certificated carriers. Even with the migration to voice over Internet Protocol, traditional TDM circuit switched service is still important for providing some services such as fax and security services. Atherton Fiber will collocate in incumbent local exchange carrier central offices and/or carrier hotels, and will order trunk lines when and where needed to access tandems to carry Atherton Fiber's customer traffic.

2. Long Distance IntraLATA and InterLATA Intrastate Telephone Service

Atherton Fiber intends to offer long distance services—both intra and interLATA—to business and residential customers through the purchase of unbundled network elements and the resale of services of other certificated carriers, and in combination with Atherton Fiber's collocated facilities. Atherton Fiber will use the "2-PIC" method allowing customers the ability to choose different intraLATA and interLATA carriers.

3. Switched Access Service

This service will allow interexchange carriers to interconnect on a switched and dedicated basis with the local exchange network to originate and terminate calls on Atherton Fiber's network.

IV. ARTICLES OF ORGANIZATION AND CERTIFICATE OF GOOD STANDING (per Rule 2.2)

Atherton Fiber filed its initial articles of organization in Delaware on January 20, 2016. The articles and a certificate of good standing issued by the Delaware Secretary of State are attached as Exhibit A. Also attached as Exhibit A is a certified copy of Atherton Fiber's registration as a foreign LLC filed and approved by the California Secretary of State on May 26, 2016. This qualifies Atherton Fiber to transact business in the State of California.

V. DESCRIPTION OF PROPOSED CONSTRUCTION (per Rule 3.1(a))

Atherton Fiber is proposing to build a fiber optic distribution network in the town of Atherton. This network will provide an optical fiber from a central Point of Presence ("PoP") to individual buildings such as residences, schools, or government facilities, and will dramatically improve the connection speeds available to computer users compared with technologies now available in Atherton. The network will be "open access," meaning that the resource will be made available to entities (such as Internet Service Providers), in addition to the fiber owner's affiliated ISP on fair and non-discriminatory terms. Access will be granted to multiple service providers so that they can wholesale services in the local access network. This will enable the service producers to reach subscribers without the need for each service provider to deploy its own fiber access network.

The distribution network will be hybrid of a point-to-multipoint network and a point-to-point network. A point-to-multipoint topology provides a single "feeder" fiber from the PoP to a branching point and from there one individual, dedicated fiber is deployed to the subscriber. The branching is accomplished using passive optical splitters and data is encoded so that users only

receive data intended for them. In a point-to-multipoint system, upload speeds are a fraction of the download speeds, where the fraction depends on the number of branches which come out of the splitter, typically 16 or 32. A point-to-point topology provides dedicated fibers between the PoP and the subscriber.

The PoP will be built on a site made available to Atherton Fiber by the Town of Atherton. The PoP acts as the starting point for the optical fiber path to the subscriber. The function of the PoP is to house all active (i.e. electronic) transmission equipment from the telecom provider, manage all fiber terminations, and facilitate the interconnection between optical fibers and active equipment.

Feeder cables run from the PoP to the primary fiber concentration point and may cover a distance of several miles. The number of fibers in the cable will vary from 144 to 864. These cables may be installed either underground or aerially. Aerial cable deployment will mostly use existing telephone/power poles, although some new poles may need to be installed. Underground cables will take advantage of existing ducts which may be available or will require installation of new ducts to house the cables, using either directional drilling or trenching.

The feeder cable will eventually need to convert to smaller distribution cables. This will be done at a Fiber Concentration Point (FCP) which is an enclosure which may be pole-mounted, underground, or at street level. At this stage, the feeder cable fibers are separated and made available, via a patch panel, for further routing via the outgoing distribution cables.

Distribution cabling connects the FCP to a demarcation enclosure located on the Town's right-of-way in front of the subscriber's premises and does not usually exceed distances of about half a mile. These cables may be ducted, direct buried, grouped within a common micro-duct

bundle, or deployed aurally using existing infrastructure. The demarcation enclosure will make one or more fiber optic connections available to the subscriber.

The final link between the demarcation enclosure and the subscriber's active equipment (the Optical Network Unit or ONU) will only be installed once service has been requested by the subscriber.

Prior to the start of installation of the optical distribution network, potential subscribers will be offered a chance to purchase an Irrevocable Right-to-Use of one or more dedicated fibers. These will be point-to-point fibers from the subscriber's premises to the PoP. The advantage of having a dedicated fiber is that it will support symmetric bandwidth (i.e. upload and download speeds will be the same) and will provide the subscriber the ability to contract for speeds higher than those available through the splitter-based GPON. A route map is attached as Exhibit B.

VI. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE (per Rule 2.4)

Pursuant to CEQA and Rule 2.4, the Commission examines construction 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. Atherton Fiber requests that the Commission authorize it to utilize the expedited twenty-one day CEQA review process established by the Energy Division ("ED") staff for review of proposed projects. This expedited process applies to projects that are exempt from the requirements of CEQA.

Atherton Fiber submits that it is eligible for this expedited process because its projects fall within several categorical exemptions under CEQA. In most instances, Atherton Fiber will operate by installing equipment in or on existing streetlights, poles, towers, buildings, fiber,

conduits, ducts, rights-of-way, trenches and other facilities and structures of other entities. When required to meet customer needs, Atherton Fiber anticipates the need to undertake relatively minor ground-disturbing activities, including: 1) micro trenching, trenching or boring for the installation of underground conduit for fiber or power; 2) installation of fiber cable in new or existing conduit, and/or on utility poles; and 3) installation of underground access points such as vaults or hand holes. These activities will take place in existing ROW and utility easements in developed suburban areas where previous ground-disturbing activities have taken place. The majority of such construction will take place inside public rights of way, but occasionally, a portion of this activity will take place on private property.

Atherton Fiber submits that these types of construction activities fall within the classes of projects that are exempt from CEQA, and for which neither an Environmental Impact Report nor a Negative Declaration is required. Such exemptions include but are not limited to the following:

- CEQA Guidelines § 15303: Class 3 (d) and 3 (e) apply to construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.
- CEQA Guidelines § 15304: Class 4 (a), 4 (c), and 4 (f) applies to minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry and agricultural purposes, and the filling of earth into previously excavated land with material compatible with the natural features of the site, and minor trenching and backfilling where the surface is restored.
- CEQA Guidelines § 15332: Class 32 (a) – (e) applies to small scale in-fill development that meets specified criteria.

The Commission has previously held that similar activities of other carriers are categorically exempt from CEQA, and therefore qualify for the expedited twenty-one day review process. The Commission has already permitted at least twelve of Atherton Fiber's competitors to use the twenty-one day expedited process for CEQA review. Those carriers are: Clearlinx

Network Corporation, CA-CLEC, LLC, New Path Networks, LLC, Sunesys, Inc., NextG Networks of California, Inc., Broadband Associates International, Trillion Partners, Inc., AboveNet Communications, Inc., Freedom Telecommunications, Inc., SnowCrest Telephone, Inc., Mobilite, LLC, 360networks USA, Inc., OACYS Telecom, Inc. and Cruzio Media, Inc.³

Atherton Fiber is similarly situated to these other carriers with respect to the type of construction that is proposed, and it respectfully submits that it should be authorized to use the same expedited CEQA review process. If the need arises for Atherton Fiber to engage in construction that is not exempt from CEQA, it will file the necessary application to obtain CEQA review and approval from the Commission prior to engaging in such activities.

VII. NAMES OF COMPETITORS AND NAMES OF COUNTIES (per Rule 3.1(b))

Rule 3.1(b) requires full facilities-based applicants to “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.” Applicant’s network will be deployed on an open access basis. As such, the network will simply provide additional broadband transport for ISPs, including its own affiliated ISP. Atherton Fiber’s first proposed network construction will exist in the incumbent local exchange carrier rate centers of AT&T California and cable provider Comcast. The construction will take place in and around the town of Atherton in the county of San Mateo.

³ See D.06-04-063 (Clearlinx Network Corporation – now operating as ExteNet Systems (California) LLC), D.06-04-067 (CA-CLEC, LLC); D.06-04-030 (New Path Networks, LLC); D.06-06-047 (Sunesys, Inc.); D.07-04-045 (NextG Networks of California, Inc.); D.07-08-026 (Broadband Associates International); D.07-11-028 (Trillion Partners, Inc.); D.08-04-048 (AboveNet Communications, Inc.); D.09-11-021 (Freedom Telecommunications); D.10-01-014 (Pacific Lightwave); D.10-04-038 (SnowCrest Telephone, Inc.); D.10-12-004 (Mobilite, LLC); D. 06-04-020 (360networks (USA), Inc.); D.15-09-008 (OACYS Telecom, Inc.); and D.15-09-007 (Cruzio Media, Inc.).

Atherton Fiber notes that pursuant to D.97-06-107, issued in Commission Proceeding R.94-02-003/I.94-02-004, CLCs no longer are required to comply with Rule 3.1(b) (formerly Rule 18 (b) and General Order 96-a, subsections (G)(1) and (2)). Thus, Atherton Fiber has not mailed its application to all potential competitors and counties. Atherton Fiber will, however, provide a copy of its application upon request to potential competitors and counties.

VIII. AREAS OF SERVICE (MAPS) (per Rule 3.1(c))

Applicant seeks authority to offer interexchange services statewide. Applicant seeks to provide full facilities-based and resold local exchange services in all AT&T California, Frontier Communications, and Consolidated Communications incumbent local exchanges. A map is attached as Exhibit C.

IX. IDENTIFICATION OF REQUIRED FRANCHISES, HEALTH AND SAFETY PERMITS (per Rule 3.1(d))

Applicant has discussed the proposed construction project with the town of Atherton regarding any required franchises, health, and/or safety permits. On July 15, 2015, the Atherton Town Council unanimously voted to direct the City Attorney to prepare an Agreement with Atherton Fiber which would enable Atherton Fiber to access the Town's rights-of-way throughout the Town to provide the fiber to every residence in the Town and to connect all residents that that want to be connected. In exchange for such access, the Town may seek to receive fiber services for its public service delivery, to include the potential for emergency

notification, traffic signal management, security management, street light management, information sharing, and other traditional communications, entertainment and Internet access.⁴

X. FACTS SHOWING PUBLIC CONVENIENCE AND NECESSITY (per Rule 3.1(e))

The Commission has determined that the public interest would be served by ensuring competition in the local exchange, intraLATA toll, interLATA, and broadband Internet markets. Through obtaining full facilities-based authorization, Atherton Fiber will be able to engage in additional fiber-fed projects to compete with the incumbent LECs, other competitive local carriers, cable companies, and other providers of broadband services by providing fairly-priced gigabit speed, innovative data services in addition to its current suite of communications and data networking services. Atherton Fiber's facilities-based entry into the market will offer an additional, attractive choice to California consumers, and will make available additional technologically-advanced communications facilities in the state. Further, its services will aid the expansion of the telecommunications industry in California and promote attendant employment opportunities for California citizens, initially those in San Mateo County.

XI. ESTIMATED COST OF CONSTRUCTION, ANNUAL FIXED AND OPERATING COSTS AND ECONOMIC FEASIBILITY (per Rule 3.1(f))

A detailed financial model is attached as Exhibit D.

⁴ <http://ca-atherton.civicplus.com/DocumentCenter/View/2267>, see also, "Atherton Fiber Project," at Town of Atherton website, <http://www.ci.atherton.ca.us/index.aspx?NID=400>

XII. FINANCIAL STATEMENTS AND ABILITY TO FINANCE (per Rules 3.1(g) and 2.3)

Atherton Fiber is financially qualified to offer the telecommunications services for which authority is sought. To finance the project, Atherton Fiber plans to raise approximately \$3 million via a traditional investment mechanism and other interested Atherton residents. The remaining funds would be raised by selling interested property owners a “set” of bundled fibers to their home that they would own directly.

Applicant’s financial statements attached as Exhibit E clearly show that the company is financially capable of offering full facilities-based services in California. Consistent with 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,⁵ Atherton Fiber holds more than \$100,000 in cash or cash equivalents to meet Applicant’s start-up expenses, particularly, the cost of the proposed fiber construction. Atherton Fiber expects that if it needs to make deposits in order to establish services with its underlying carriers, such deposits should not exceed \$10,000 per incumbent carrier. Atherton Fiber will be able to make such deposits without difficulty.

XIII. PROPOSED RATES (per Rule 3.1 (h))

Atherton Fiber requests a waiver for its services to be offered on a non-tariffed basis consistent with Commission decisions relieving CLCs of tariffing requirements. Atherton Fiber will provide information regarding the rates, terms and conditions of its services on its website. Atherton Fiber will comply with the Consumer Protection Rules adopted in Decision 98-08-031 and will collect and remit all applicable end-user surcharges and fees.

⁵ See Appendix A, page 4, B(1). ftp://ftp.cpuc.ca.gov/gopher-data/telecom/clc_documents/D9507054complete.pdf at page 55.

XIV. STATEMENT UNDER GENERAL ORDER 104-A

There are no matters to be reported under General Order 104-A. Atherton Fiber has no stock that is traded on a national securities exchange, and its stock is not registered with the Securities and Exchange Commission. Further, Atherton Fiber states that none of its officers, directors, or stockholders, whether record or beneficial owners of stock, have a material financial interest (as that term is defined in Section 2 of G.O. 104-A) in any transaction involving the purchase of materials or equipment, or the contracting, arranging or paying for construction, maintenance, or service for or on behalf of Applicant.

XV. CUSTOMER BASE (per Rule 3.1(j))

Attached hereto as Exhibit F is an estimate of the number of customers Atherton Fiber intends to serve in the first through sixth years of operation.

XVI. TECHNICAL AND MANAGERIAL COMPETENCE (per D.95-12-, Appendix C, D. 13-05-035, and per Rule. 4(a)]

Atherton Fiber is led by Michael Farmwald and Robert Hayes. Mr. Farmwald is a renowned entrepreneur in Silicon Valley. He invests in startups through Skymoon Ventures and is a venture partner at Benchmark Capital. Mr. Hayes has 25 years of experience in engineering, operations, and manufacturing. He served as president and CEO of Purfresh, a market leader in cargo monitoring, and as President and CEO of Veraloft, a city-wide wireless Internet provider. Atherton Fiber has retained experienced engineering and construction firms to assist with the fiber network deployment. Atherton Fiber's management and consulting partner biographies are attached as Exhibit G.

XVII. REQUEST FOR EXEMPTIONS

Applicant requests that 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:

A. The Applicant seeks exemption from the provisions of PU Code Section 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.

B. 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 ILEC corporate entity from the requirement to keep their books of account in conformance with the Uniform System of Accounts.

XVIII. CONTINUOUS PERFORMANCE BOND

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. Atherton Fiber will obtain such bond and submit it to the Commission within five days of obtaining its CPCN

XVIX. EX PARTE

Atherton Fiber believes that there is no reasonable basis for a protest to its Application and that hearings would serve no useful purpose. Accordingly, Applicant requests that its Application be granted on an ex parte basis.

XX. EXPEDITED TREATMENT

Expedited consideration is warranted because Atherton Fiber seeks to provide modern bandwidth needs currently unavailable to Atherton's residents and municipal entities. Because there are no other competitive projects under consideration in Atherton, no party will be harmed by expedited consideration, including waiver of the public comment period. Atherton Fiber submits that this matter is non-controversial and administrative in nature. If no protests are filed in this proceeding, Atherton Fiber respectfully requests that the Commission treat this petition as an uncontested matter and waive the 30-day period for public review and comment of any proposed decision pursuant to Pub. Util. Code § 311(g)(2).

WHEREFORE, Atherton Fiber requests that the Commission:

- (a) Grant Applicant, on an ex parte, expedited basis, a CPCN to provide full facilities-based and resale local exchange services in the local exchange areas of AT&T California, Frontier Communications, and Consolidated Communications., as well as authority to provide interexchange intraLATA and interLATA telecommunications services throughout California;
- (b) Make the grant effective on the date of issuance;

- (c) Authorize the filing of tariffs on or before the effective date of such a grant, such tariffs to be effective immediately thereafter; and
- (d) Grant such further relief as may be just and reasonable.

June 30, 2016

Respectfully submitted,



Kristopher E. Twomey
Counsel for Atherton Fiber LLC

VERIFICATION

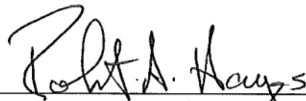
I, Robert Hayes, declare:

I am Chief Operating Officer of Atherton Fiber LLC (“Atherton Fiber”) and make this Verification. My personal knowledge of the facts stated herein has been derived from my employment with Atherton Fiber. I have read the foregoing Application for a Certificate of Public Convenience and Necessity (“CPCN”) for authority to operate as a provider of full facilities-based and resale local exchange telecommunications services in the AT&T California, Verizon California, Frontier Communications, and Consolidated Communications local exchange territories as well as authority to offer interexchange, interLATA, and intraLATA services statewide and know the contents thereof. I affirm that Atherton Fiber:

- agrees to comply with all federal and state statutes, rules, and regulations and state contractual rules and regulations, if granted the request for a Certificate of Public Convenience and Necessity (CPCN), as stated in this application;
- certifies that all answers to the attached Application for CPCN are true and correct;
- Applicant will operate as a common carrier as defined in Section 153 of the Federal Telecommunications Act of 1996 (Act) and be eligible to interconnect with the public switched telephone network pursuant to Sections 251 and 252 of the Act;
- and if granted a CPCN, Applicant will operate as a telephone corporation as defined in Section 234(a) of the California Public Utilities Code (Code) and obey the Code, and all of the Commission’s rules, decisions and orders applicable to telephone corporations.
- in the event Applicant’s request for a CPCN is granted, Applicant agrees to post a continuous 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.

Executed this 24th day of June 2016 at Atherton, California.



Robert Hayes
Chief Operating Officer

**SCOPING MEMO INFORMATION FOR APPROVAL OF
APPLICATION OF Atherton Fiber TELECOM, INC. FOR A CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY AND REQUEST FOR REQUEST FOR EX
PARTE RELIEF**

A. Category (Check the category that is most appropriate)

 Adjudicatory - “Adjudicatory” proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill; but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

 ✓ **Ratesetting** - “Ratesetting” proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). “Ratesetting” proceedings include complaints that challenge the reasonableness of rates or charges, past, present or future. Other proceedings may also be categorized as ratesetting when they do not clearly fit into one category.

 Quasi-Legislative - “Quasi-legislative” proceedings are proceedings that establish policy or rules including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.

B. Are hearings necessary? ~~Yes~~ No

If yes, identify the material disputed factual issues on which hearings should be held, and the general nature of the evidence to be introduced.

Are public witness hearings necessary? ~~Yes~~ No

Public witness hearings are set up for the purpose of getting input from the general public and any entity that will not be a party to the proceeding. Such input usually involves presenting written or oral statements to the presiding officer, not sworn testimony. Public witness statements are not subject to cross-examination.

C. Issues - List here the specific issues that need to be addressed in the proceeding.

Granting of Certificate of Public Convenience and Necessity to Atherton Fiber LLC to operate as a full facilities-based and resold local exchange provider of IntraLATA and InterLATA Interexchange Telephone Service in California.

D. Schedule (Even if you checked “No” in B above) Should the Commission decide to hold hearings, indicate here the proposed schedule for completing the proceeding within 12 months (if categorized as adjudicatory) or 18 months (if categorized as rate-setting or quasi-legislative)

Applicant submits that this matter is not controversial, and that there is no need for hearings. Applicant believes that a decision on the Application can be made within 90 days, as is the case with most non-controversial CPCN applications.

APPLICATION OF ATHERTON FIBER LLC FOR A CERTIFICATE
OF PUBLIC CONVENIENCE AND NECESSITY

EXHIBIT	DESCRIPTION
A	Articles of Incorporation and Certificate of Good Standing
B	Applicant's Initial Fiber Build Map
C	Service Area Map
D	Financial Model
E	Financial Statements/Proof of Funds
F	Estimate of number of customers to serve in the first through sixth years of operation
G	Management Biographies
H	Demonstration of Compliance with the Commission's Rules of Practice and Procedure