

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA



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In the Matter of the Application of  
Krush Communications, LLC, for  
Registration as an Interexchange Carrier  
Telephone Corporation pursuant to the  
Provision of Public Utilities Code  
Section 1013.

A. 10-05-021  
(Filed June 10, 2010)

**PROTEST OF THE CONSUMER PROTECTION AND SAFETY DIVISION  
TO THE APPLICATION OF KRUSH COMMUNICATIONS, LLC,  
AND JOINT MOTION TO ADOPT SETTLEMENT AGREEMENT**

TRAVIS T. FOSS

Attorney for the Consumer Protection  
& Safety Division

California Public Utilities Commission  
505 Van Ness Ave.  
San Francisco, CA 94102  
Phone: (415) 703-1998  
Fax: (415) 703-2262  
[tff@cpuc.ca.gov](mailto:tff@cpuc.ca.gov)

JONATHAN MARASHLIAN

Attorney for Krush Communications, LLC

Helein & Marashlian, LLC  
1420 Spring Hill Road  
Suite 205  
McLean, VA 22102  
Phone: (703) 714-1300  
Fax: (703) 714-1330  
[jsm@commlawgroup.com](mailto:jsm@commlawgroup.com)

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**I. INTRODUCTION**

Pursuant to Rule 2.6 of the California Public Utilities Commission's Rules of Practice and Procedure (Rules), the Commission's Consumer Protection and Safety Division (CPSD) submits this protest of Application 10-05-021 (Application)<sup>1</sup>. CPSD's protest is based on the acknowledgement by Applicant Krush Communications, LLC, (Krush) that Krush has been operating in California without Commission authority for a number of years.

Included with this Protest is a Joint Motion for Adoption of the Settlement Agreement (Joint Motion), submitted pursuant to Rule 12.1 of the Commission's Rules. Attorneys for Krush contacted CPSD in advance of submitting its Application, and acknowledged Krush's unwitting violation of the laws requiring debit card operators to have Commission authority.

Krush and CPSD have negotiated the proposed Settlement Agreement, which is attached. The Parties jointly request that this Settlement be adopted because the settlement is reasonable in light of the jointly-agreed upon facts (described in the

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<sup>1</sup> A.10-05-021 was filed on May 20, 2010.

settlement), the settlement is consistent with applicable law, and it is in the public interest.

In the proposed Settlement, Krush admits that it began providing prepaid calling card services in November 2007. The Settlement details the amounts of revenue generated by Krush in California during that period. In order to avoid the risks of litigation and to expeditiously resolve this matter, the parties conducted discovery and arrived at an acceptable agreement prior to filing the instant Application.

The proposed Settlement includes: 1) an acknowledgement by Krush that it failed to obtain the required authority prior to selling its prepaid calling cards in California; 2) a commitment to fully comply with all regulatory obligations; and 3) a penalty in the amount of \$7,500. CPSD believes that, if adopted, the proposed Settlement resolves all of its concerns in its Protest and therefore will support approval of Krush's Application.

## **II. BACKGROUND**

Krush Communications, LLC, (Krush) is a Florida company formed in September 2007 as Telco Homies, LLC, headquartered in Brandon, Florida. In November 2007, it changed its name from Telco Homies, LLC, to Krush Communications, LLC. Krush registered with and obtained its authorization to transact intrastate business in California from the California Secretary of State in October 2009.<sup>2</sup> The current owners of Krush are Thomas Christian Quigley (45%), Brian Rudolph (45%) and Richard Estrada (10%). Thomas Christian Quigley is the sole officer and manager of Krush.

Krush provides prepaid phone card services and offers for sale prepaid phone cards called "Homies."<sup>3</sup> Network IP, LLC provides the underlying telecommunications services for Krush's prepaid phone card services. Krush began providing prepaid phone card services in California in November of 2007 without obtaining the necessary authority from the CPUC as required by Public Utilities (PU) Code Section 885.

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<sup>2</sup> <http://kepler.sos.ca.gov/>

<sup>3</sup> <http://www.homiesphonecards.com/About.aspx>

On its own initiative, Krush contacted CPSD in early 2010 to disclose its operations in California and to discuss options for submitting an application seeking authority using the Non-Dominant Interexchange Carrier application form. Krush acknowledges prior sales in California, see Table 1 of the attached Settlement Agreement. Krush provided CPSD with its 2007 and 2008 federal tax returns as well as its profit and loss statements for 2007 through 2009.

### **III. PROTEST**

Pursuant to Rule 2.6 of the Commission's Rules of Practice and Procedure, CPSD protests this Application.

Krush is not registered as a carrier with the CPUC, nor registered as a phone card provider pursuant to Section 885-886 of the Public Utilities Code. Pursuant to Public Utilities Code Sections 885-886, it is illegal for companies that offer prepaid telephone debit cards (phone cards) to operate without the appropriate registration under Public Utilities Code Section 1013.

Because Krush admits to have been offering telecommunications services to the California market for several years without registering, CPSD would recommend that the Commission consider imposing a monetary penalty (under the conditions described in the Settlement Agreement) before approving the Application. Imposing a monetary penalty in this case will demonstrate that the Commission takes its regulatory authority seriously, and discourage other providers from operating without registering.

### **IV. SETTLEMENT AGREEMENT**

In the interests of avoiding the risks of litigation and to expeditiously resolve this matter, CPSD began negotiating a settlement with Krush after CPSD was approached by Krush's lawyer and informed of Krush's prior activity in California. Krush on its own initiative approached CPSD and disclosed that it had unwittingly been selling calling cards without Commission authority.

CPSD conducted discovery, including performing background checks on Krush and its officers and obtaining financial data, and did not discover any violations other than operating without authority.

Therefore, CPSD believes that there is an adequate and appropriate factual record upon which to base adoption of the proposed Settlement Agreement, which is attached hereto. The key elements of the Settlement are: 1) an acknowledgement by Krush that it failed to obtain the required authority prior to selling its prepaid calling cards in California; 2) a commitment to fully comply with all regulatory obligations; and 3) a penalty in the amount of \$7,500 (in three monthly installments of \$2,500).

## **V. JOINT MOTION FOR APPROVAL OF PROPOSED SETTLEMENT AGREEMENT**

Pursuant to Rule 12.1(d) of the Commission's Rules of Practice and Procedure, settlements must be reasonable in light of the record, consistent with the law, and in the public interest. Applicant Krush Communications and CPSD believe that the proposed settlement in this matter satisfies each of those criteria, and therefore jointly request and recommend that the Commission approve and adopt the proposed settlement.

### **A. The Proposed Settlement Is Reasonable In Light Of the Record**

CPSD has engaged in discovery, including written data requests and reviewing financial documents provided to CPSD, and believes there is a sufficient factual record in this case. Based on the discovery obtained by CPSD and voluntary disclosures made by Krush, the Parties have agreed to an undisputed set of facts upon which the Commission can form the official record, which is contained in the Settlement Agreement. The Parties believe the Settlement Agreement addresses the issue of operating without authority in a reasonable manner in light of the record.

### **B. The Proposed Settlement Is Consistent With the Law and Precedent**

Nothing in the Settlement Agreement contravenes any statute or Commission decision or rule. Krush does not contest the Commission's jurisdiction over its

operations, and accepts that it should obtain operating authority in California pursuant to Public Utilities Code Sections 885 and 1013. Therefore the Settlement Agreement is consistent with applicable law.

**C. The Proposed Settlement Is In the Public Interest**

The Settlement Agreement is consistent with the Commission’s well-established policy of supporting the resolution of disputed matters through settlement, reflects a reasonable compromise between the Settling Parties, and will avoid the time, expense and uncertainty of evidentiary hearings and further litigation. Accordingly, the Settlement Agreement is in the public interest and should be adopted by the Commission without material change.

**VI. CONCLUSION**

For the reasons stated above, the Parties believe the proposed Settlement Agreement resolves all of the issues set forth in CPSD’s Protest, and that the proposed Settlement Agreement is reasonable in the light of the record, consistent with the law and precedent, and in the public interest. Therefore, the Parties jointly request that the Commission adopt the proposed Settlement Agreement in the form attached as Appendix A.

Respectfully submitted,

/s/ TRAVIS T. FOSS

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Travis T. Foss  
Staff Counsel

Attorney for the Consumer Protection  
& Safety Division  
California Public Utilities Commission  
505 Van Ness Ave.  
San Francisco, CA 94102  
Phone: (415) 703-1998  
Fax: (415) 703-2262  
[tff@cpuc.ca.gov](mailto:tff@cpuc.ca.gov)

/s/ JONATHAN MARASHLIAN

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Jonathan Marashlian

Attorney for Krush Communications, LLC

Helein & Marashlian, LLC

1420 Spring Hill Road

Suite 205

McLean, VA 22102

Phone: (703) 714-1300

Fax: (703) 714-1330

[jsm@commlawgroup.com](mailto:jsm@commlawgroup.com)

June 10, 2010

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day *served* a copy of **PROTEST OF THE CONSUMER PROTECTION AND SAFETY DIVISION TO THE APPLICATION OF KRUSH COMMUNICATIONS LLC AND JOINT MOTION TO ADOPT SETTLEMENT AGREEMENT** to the official service list in **A.10-05-021** by using the following service:

**E-Mail Service:** sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

**U.S. Mail Service:** mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Executed on **June 10, 2010** at San Francisco, California.

/s/           JAIME VADO

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Jaime Vado

**Service List  
A.10-05-021**

thecardroominc@aol.com  
bez@cpuc.ca.gov  
jml@cpuc.ca.gov

Helein & Marashlian, LLC  
1420 Spring Hill Road  
Suite 205  
McLean, VA 22102