

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



FILED

08-10-12
04:59 PM

Application of Bigredwire.com, Inc. for
Registration as an Interexchange Carrier
Telephone Corporation pursuant to the
provisions of Public Utilities Code Section
1013.

Application 11-11-004
(Filed November 1, 2011)

**CONSUMER PROTECTION AND SAFETY DIVISION'S RESPONSE TO
ADMINISTRATIVE LAW JUDGE'S RULING REQUESTING
INFORMATION REGARDING APPLICANT'S COMPLIANCE WITH
THE SETTLEMENT AGREEMENT
IN APPLICATION 07-10-003**

The Consumer Protection and Safety Division (CPSD) hereby responds to the April 19, 2012, Administrative Law Judge's ruling requiring CPSD to file information regarding Applicant's compliance with a settlement agreement between CPSD and Applicant in proceeding A.07-10-003. Specifically, the Ruling ordered CPSD to address whether Applicant has, to date, complied with the settlement agreement, including but not limited to whether Applicant is up to date on required payments of a \$20,000 fine and \$41,264.80 in overdue fees and surcharges. On May 16, 2012, the ALJ granted CPSD an extension until August 10, 2012, to respond to the Ruling. While CPSD was a party to A.07-10-003, it is not a party to this application proceeding.

I. SETTLEMENT AGREEMENT IN A.07-10-003

Applicant, Bigredwire.com, Inc. (BRW), and CPSD entered into a settlement agreement (approved by the Commission in Decision (D.) 09-04-009) which resolved the issues concerning BRW's previous application for operating authority in A.07-10-003. CPSD filed a protest in A.07-10-003 because BRW had been operating for several years without Commission authorization prior to its application filing in 2007 and BRW failed

to remit statutory fees and surcharges to the Commission. Pursuant to the settlement agreement, BRW agreed to pay \$41,264.80 in unpaid surcharges and user fees and a \$20,000 fine. Both amounts were to be paid in monthly installments payments.

II. PAYMENTS MADE BY BRW

A. Settlement Terms

The Settlement Agreement in A.07-10-003 required BRW to make an initial \$10,000 payment towards the \$41,264.80 it owed in user fees and surcharges. Thereafter BRW would make 21 equal monthly installment payments of \$1,629.05 on the remaining \$31,264.80 balance. The initial payment was due within 60 days of approval of the Settlement Agreement by the Commission. The Commission approved the Settlement Agreement on April 17, 2009. BRW made the \$10,000 initial payment in May 2009. BRW began making the \$1,629.05 (user fees and surcharges) monthly installment payments in June 2009 and paid monthly until November 2009. (See Attachment A, spreadsheets showing the history of the payments made to date.)

The Settlement Agreement also required BRW to make 21 monthly installment payments on the \$20,000 fine. The first payment in the amount of \$952.38 was due within 60 days of the Commission's approval of the Settlement Agreement (April 17, 2009). Thereafter BRW would make 21 equal monthly installment payments of \$952.40. BRW began making monthly installment payments in June 2009 and paid monthly until November 2009. (See Attachment A, spreadsheets showing the history of the payments made to date.)

B. Missed and Reduced Payments by BRW

BRW first failed to pay both of its monthly installment payments, \$1,629.05 (user fees and surcharges) and \$952.40 (penalty payments) in December 2009. BRW then failed to make these two monthly installment payments in January 2010. On January 12, 2010, CPSD notified BRW via email regarding its overdue December 2009 and January 2010 payments. BRW did not respond.

BRW continued to miss both of its monthly installment payments for February and March 2010. On March 23, 2010, BRW sent an e-mail to CPSD proposing to begin making a monthly installment payment of \$500 (for both the user fee/surcharge payment and penalty payment) through the end of 2010 because it was facing financial difficulties. BRW also stated in this e-mail that in January 2011 it would resume the normal payment schedule per the Settlement Agreement. To verify BRW's current financial situation, on March 29, 2010, CPSD requested BRW's bank statements for the previous six months. The bank statements indicated cash flow problems. Therefore, CPSD did not object to BRW making payments at its proposed reduced amount of \$500.

In April 2010, BRW began making the \$500 monthly payments. Interest continued to accrue on the unpaid balances. BRW made the \$500 monthly installment payments through January 2011.

While BRW had agreed to resume paying the full amount of the installment payments in January 2011, for January 2011 it only paid \$500. Thus, on January 31, 2011 and February 3, 2011, CPSD sent e-mails to BRW requesting the difference between the settlement installment amounts (\$1629.05 + 952.40) and the reduced \$500 payment. On February 15, 2011, CPSD sent a collection letter requesting payment of the amount due of \$2,081.43 for January 2011. BRW paid that amount due on March 11, 2011.

However, BRW again missed its monthly installment payments in February and March 2011. On March 15, 2011 and March 30, 2011, CPSD sent e-mails to BRW requesting payment of the overdue amounts. On April 11, 2011, CPSD sent a collection letter to BRW requesting payment of the amount due of \$5,162.86. In April 2011, Brad Weinstock of BRW called CPSD claiming BRW did not have the money to make the February and March 2011 payments. Mr. Weinstock again proposed to resume making monthly payments of \$500. CPSD did not object. Thereafter, BRW made payments of \$500 for each of the overdue months of February and March 2011.

Mr. Weinstock sent an e-mail on June 17, 2011 requesting BRW be permitted to continue making monthly payments of \$500 through April 2012. Again, CPSD did not object. BRW sent monthly payments of \$500 from April 2011 through July 2012.

As of the date of this filing, BRW still owes \$8,352.65 of the \$20,000 fine (including accumulated interest charges) and \$17,826.19 of the \$41,264.80 unpaid surcharges and user fees (including accumulated interest charges).

C. New Application Filing by BRW

In D.09-04-009, the Commission ordered BRW to file a new application disclosing the prior revocation of its CPCN by this Commission in Resolution T-16875 (September 2004) and the regulatory sanctions imposed by the Florida Public Service Commission. BRW was supposed to file the new application within 30 days of the effective date of D. 09-04-009 (April 16, 2009). CPSD sent BRW a letter dated April 23, 2009 and an e-mail on May 12, 2009 notifying BRW of the upcoming due date of the application. BRW did not file a new application until June 2009. The Commission's Docket Office rejected the application for substantive and procedural defects. CPSD counsel sent BRW a letter of the overdue application on September 21, 2009. BRW submitted applications again in October 2009 and April 2010. These applications were also rejected for substantive and procedural defects. BRW filed the current application in November 2011.

On June 4, 2012, Brad Weinstock sent an e-mail to CPSD stating that he is no longer with BRW and that all future correspondence should be directed to Jen Powers

and/or David Kailukaitis. However, the checks submitted for the scheduled payments are still signed by Brad Weinstock.

Respectfully submitted,

/s/ HIEN C. VO

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August 10, 2012