

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Application of SP Licenses, Inc. for
Registration as an Interexchange Carrier
Telephone Corporation Pursuant to the
Provisions of Public Utilities Code
Section 1013.

A.16-06-005
(Filed June 7, 2016)

**JOINT MOTION FOR ADOPTION OF PROPOSED
SETTLEMENT AGREEMENT**

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October 28, 2016

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I. INTRODUCTION

Pursuant to Rule 12.1 of the Commission's Rules of Practice and Procedure, the Consumer Protection and Enforcement Division (CPED) and SP Licenses, Inc. (SP Licenses) (collectively, the "Parties") respectfully request that the Commission approve and adopt the proposed attached Settlement Agreement, which resolves the issue presented in CPED's protest of Application (A.) 16-06-005. The Parties believe the proposed settlement is in the public interest, reasonable in light of the record, and consistent with the law. The Parties urge the Commission to approve the Settlement Agreement, a copy of which is attached as Appendix A.

II. BACKGROUND

The proposed Settlement Agreement attached hereto contains a recitation of the jointly agreed upon set of facts that form the basis of this agreement and upon which the Commission can base its review of the terms of this Agreement for reasonableness, which are as follows:

On June 7, 2016, SP Licenses filed A.16-06-005, seeking Commission authority to operate in California. In its Application, SP Licenses seeks Commission authority to operate as a switchless reseller, providing voice and data telecommunications statewide in California. SP Licenses applied for Commission authority via the simplified application process pursuant to Public Utilities Code § 1013.

CPED protested on July 11, 2016. CPED's protest alleges that SP Licenses violated Rule 1.1 of the Commission's Rules of Practice and Procedure in its Application. Under Rule 1.1, any person who transacts business with the Commission agrees to not "mislead the Commission or its staff by an artifice or false statement of fact or law." CPED alleges that SP Licenses did not disclose in its application that the Federal Communication Commission (FCC) cited Jamie Christiano of NetDot Solutions (NetDot), pursuant to section 503(b)(5) of the Communications Act of 1934, as amended, 47 U.S.C. § 503(b)(5), for violations of the Act and the FCC's rules that govern telephone solicitations and unsolicited advertisements. Jamie Christiano is the President and 60% shareholder of SP Licenses. The FCC issued citation No. EB-07-TC-12635

against NetDot on July 16, 2007 (the “FCC Citation”), because NetDot allegedly delivered autodialed, prerecorded, or artificial voice messages to an emergency telephone line, a telephone line of a guest or patient room at a health care facility, or a telephone number assigned to a paging service, cellular telephone service or any service for which the called party is charged for the call, in violation of section 227(b)(1)(A) of the Act and section 64.1200(a)(1) of the FCC’s rules.

SP Licenses states that NetDot did not initiate the telephone calls addressed in the FCC Citation. Rather, SP Licenses states that NetDot acted as a wholesale provider of long distance service for its clients, and if any such violation occurred, it was committed by NetDot’s customer, not NetDot. SP Licensees further states that it was unaware of the existence of the FCC citation until it was discovered in this proceeding; and upon research and inquiry of the FCC, the FCC Citation was purged from the FCC’s records, including any rescission or no further action letter issued in connection therewith. SP Licenses provided evidence to CPED that shows that two other similar citations issued by the FCC, FCC File Nos. EB 07 TC 1046 and EB-07-TC-1158 respectively, were rescinded by the FCC.

III. THE PROPOSED SETTLEMENT AGREEMENT

A. Joint Statement of the Case

After settlement discussions, the Parties agreed to a joint factual statement of the case as the factual basis on which to base a resolution of this case. Importantly, the Respondents acknowledge the applicability of the concerns raised by the CPED. The joint factual statement of the case is set forth in the proposed attached Settlement Agreement, and set forth above.

B. Acknowledgement

SP Licenses acknowledges that Rule 1.1 requires applicants to provide true and accurate information in documents filed at the Commission and that the Application requires SP Licenses to disclose whether the Applicant has been found to have “violated any statute, law, or rule pertaining to public utilities or other regulated industries.” SP Licenses states that it did not disclose the existence of the FCC Citation, because it

had no knowledge of the existence of the FCC Citation at the time it filed the Application. In the proposed Settlement, SP Licenses states that it will fully meet its regulatory and legal obligations in California in the future. Subject to SP Licenses' ongoing compliance with this Agreement and all applicable laws, and Commission rules, regulations, decisions, and orders, SP Licenses and CPED attest that the issues raised in CPED's protest of SP Licenses' application for a CPCN will have been fully resolved.

C. Payment

In order to resolve the legal issues raised by CPED in its Protest, SP Licenses will pay Six Thousand Dollars (\$6,000) to the State of California General Fund.

IV. THE PROPOSED SETTLEMENT IS REASONABLE IN LIGHT OF THE RECORD, CONSISTENT WITH THE LAW AND PRECEDENT, AND IN THE PUBLIC INTEREST

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. The Parties believe that the proposed settlement in this matter satisfies each of those criteria, and therefore recommend that the Commission approve and adopt the proposed settlement.

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

CPED performed an investigation into the background of SP Licenses and believes there is a sufficient factual record upon which to base a settlement in this case. Based on the discovery, the Parties have agreed to an undisputed set of facts upon which the Commission can form the official record, which is set forth in the Settlement Agreement. The Parties believe the Settlement Agreement addresses the issue of failing to disclose prior FCC citations 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. SP Licenses acknowledges Commission Rule 1.1 applies to it, and that

it failed to disclose a past FCC citation against one of its principals for lack of knowledge of the existence of the FCC Citation at the time it filed the Application; therefore, SP Licenses does not admit liability in this Docket. However, SP Licenses agrees to make a payment totaling \$6,000 to the State's General Fund as a result. Therefore, the Settlement Agreement is consistent with and enforces 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' positions, 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.

V. CONCLUSION

For the reasons stated above, the Parties believe the proposed Settlement Agreement resolves all of the issues set forth in the OII, 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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