

Decision **PROPOSED DECISION OF ALJ HYMES** (Mailed 6/6/14)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Callfire, Inc. for Authority to Provide Limited-Facilities Based and Resold Competitive Local Exchange and Interexchange Telecommunications Services in the State of California.

Application 13-10-010
(Filed October 14, 2013)

**DECISION GRANTING CALLFIRE, INC.
A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND
APPROVING A SETTLEMENT AGREEMENT BETWEEN CALLFIRE, INC. AND
THE SAFETY AND ENFORCEMENT DIVISION**

1. Summary

Pursuant to Public Utilities Code Section 1001, we grant CallFire, Inc. a certificate of public convenience and necessity to provide resold and limited facilities-based local exchange telecommunications services and interexchange service in California subject to the terms and conditions set forth in the Ordering Paragraphs. We also approve a settlement agreement between CallFire, Inc. and the Safety and Enforcement Division whereby CallFire, Inc. agrees to pay \$10,000.00 to the State of California General Fund for its inadvertent violation of Commission Rules of Practice and Procedure 1.1.

2. Background

On October 14, 2013, CallFire, Inc. (CallFire), a Delaware corporation authorized to do business in California filed an application for a certificate of public convenience and necessity (CPCN) to provide resold and limited

facilities-based local exchange and interexchange telecommunications services in the service territories of Pacific Bell Telephone Company d/b/a AT&T California (AT&T), Verizon California Inc. (Verizon), Citizens Telecommunications Company of California, Inc. d/b/a Frontier Communications of California (Citizens), and SureWest Telephone¹ (SureWest) and interexchange service throughout California (Application). CallFire's principal place of business is Santa Monica, CA.

CallFire proposes to provide voice and access services to business and carrier customers, but may offer residential services in the future. CallFire's services will be provided through a combination of resale of incumbent local exchange carrier (ILEC) services in combination with a strategic utilization of unbundled network elements purchased from the ILEC and CallFire's own facilities and equipment collocated in existing central offices or carrier hotels. According to its Application, CallFire may provide additional local exchange, interexchange, exchange access, and dedicating transport services, depending upon business and economic circumstances. Also, CallFire may install and maintain a switching location within the state in the future.

The Commission's Safety and Enforcement Division (SED) filed a protest to CallFire's Application on November 25, 2013, alleging a Commission Rules of Practice and Procedure (Rule) 1.1 violation whereby CallFire failed to disclose the existence of a Consent Decree with the Federal Trade Commission.

The assigned Administrative Law Judge (ALJ) held a Prehearing Conference (PHC) on December 6, 2013 to discuss the scope and schedule for the

¹ SureWest was formerly known as Roseville Telephone Company.

proceeding. On January 16, 2014, the ALJ issued a Ruling finalizing the scope of issues and procedural schedule.

On March 26, 2014, pursuant to Rule 12.1(a),² CallFire and SED filed a joint motion for California Public Utilities Commission (Commission) adoption of a settlement agreement, along with a copy of the Settlement Agreement.³

On May 5, 2014, the ALJ issued an E-mail Ruling requiring CallFire to provide additional information regarding financial statements and past regulatory compliance. CallFire timely filed its response on May 12, 2014.

3. The Settlement Agreement and Terms

The Settlement Agreement negotiated by CallFire and SED in good faith resolves both of the issues set forth in SED's protest: 1) CallFire stipulates to an inadvertent Rule 1.1 violation involving its failure to disclose, in its Application, a Settlement Agreement with the United States Federal Trade Commission, and 2) CallFire agrees to pay a settlement of \$10,000.00 to the State of California's General Fund within 30 calendar days from the date of the Commission's approval of the Settlement Agreement. Pursuant to Rule 12.1(d), the Commission will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest. As described below, we find that the Settlement Agreement meets the requirements of Rule 12.1(d), settles the issues in the SED protest and,

² Rule 12.1(a) provides that parties may, by written motion, propose settlements on the resolution of any material issues of law or fact or on a mutually agreeable outcome to the proceeding.

therefore, should be adopted. Furthermore, the filing of the Settlement Agreement renders this proceeding an uncontested matter, thus making hearings unnecessary.

The Commission has previously determined that a proposed settlement is reasonable if, among other things, it saves the Commission significant expenses and use of its resources, when compared to the risk, expense, complexity, and likely duration of further proceedings, while protecting the public interest.⁴

CallFire expeditiously and cooperatively disclosed the existence of a Consent Decree with the Federal Trade Commission, and has agreed to a \$10,000.00 settlement fine. While the settlement may be low, it is weighed against the quick disclosure and cooperation from CallFire and still represents a message of deterrence from future rule violations. Thus, we find that the settlement amount of \$10,000.00 is reasonable. Because the Settlement Agreement avoids the expense of continued Commission resources, we agree that there is a net public benefit from adoption of such a Settlement Agreement, thus making it reasonable in light of the whole record.

Public Utilities Code Section 2107 authorizes the Commission to levy fines of \$500.00 to \$50,000.00 for each violation, whether intentional or unintentional, of any order, rule, requirement, etc. of the Commission. The fine of \$10,000.00 agreed to in this Settlement is consistent with the language of §2,107. The terms of the Settlement Agreement are consistent with other settlement agreements approved by the Commission, based on similar factual situations. Thus, we find the Settlement Agreement is consistent with the law.

³ The Settlement Agreement is attached to this decision as Attachment A.

⁴ Joint Motion at 6 citing Decision (D.) 00-09-034 at 29.

SED and CallFire contend that the Settlement Agreement is in the public interest because it vindicates the Commission's application processes through CallFire's prompt correction of the application's deficiencies, resulting in limited harm to the regulatory process.⁵ SED and CallFire explain that the public interest is served by ensuring that CallFire's complete regulatory history is disclosed to the Commission. We agree that the Settlement Agreement is in the public interest.

4. Jurisdiction

Public Utilities Code Section 216(a) defines the term "Public utility" to include a "telephone corporation," which in turn is defined in Public Utilities Code Section 234(a) as "every corporation or person owning, controlling, operating, or managing any telephone line for compensation within this state."

As stated in its application, CallFire proposes to provide voice and access services to business and carrier customers, and may offer residential services in the future. CallFire's proposes to provide its services through the resale of ILEC services in combination with unbundled network elements purchased from the ILEC and CallFire's own collocated facilities and equipment. **CallFire** is a telephone corporation and a public utility subject to our jurisdiction.

5. California Environmental Quality Act (CEQA)

The CEQA requires that the Commission act as the designated lead agency to assess the potential environmental impact of a project so that adverse effects are avoided, alternatives are investigated, and environmental quality is restored or enhanced to the fullest extent possible. Since CallFire states that it does not

⁵ Joint Motion at 7.

intend to construct any facilities other than equipment to be installed in existing buildings or structures,⁶ it can be seen with certainty that there is no possibility that granting this application will have an adverse impact upon the environment. Before it can construct facilities other than equipment to be installed in existing buildings or structures, CallFire must file for additional authority, and submit to any necessary CEQA review.

In the Proponent's Environmental Assessment and Response, CallFire's proposed construction activities will generally include the installation of equipment in or on existing buildings or structures, and does not include any plans to trench or build new structures in order to install its facilities.⁷ The Commission has found that such minor subscriber installations do not have a significant effect on the environment under CEQA.⁸ Furthermore, these activities fall within the following class of projects that are exempt from CEQA and for which neither an Environmental Impact Report nor a Negative Declaration is required.

- Class 1 Exemption: operation, repair, maintenance, leasing or minor alteration of existing public or private structures and facilities, with negligible or no expansion of an existing use. This includes existing facilities used to provide public utility services. 14 CCR § 15301.

CallFire must file for additional authority, and submit to any required CEQA review, before it can construct facilities other than equipment to be installed in existing buildings or structures.

⁶ Application at 3 and 4.

⁷ Application at 3 and Exhibit D.

⁸ *Id.* citing D.99-10-025 and D.03-01-061.

6. Financial Qualifications

To be granted a CPCN, an applicant for authority to provide limited-facilities based and resold local exchange and interexchange services must demonstrate that it has a minimum of \$100,000.00 cash or cash equivalent to meet the firm's start-up expenses.⁹ An applicant must also demonstrate that it has sufficient additional resources to cover all deposits required by local exchange carriers and/or interexchange carriers in order to provide the proposed service.¹⁰ In the application, CallFire provided financial statements indicating an amount of \$100,000.00 would be available to CallFire for one year following certification.¹¹ Since CallFire has provided documentation that it possesses a minimum of \$100,000.00 that is reasonably liquid and available, it has demonstrated that it has sufficient funds to meet its start-up expenses and has fulfilled this requirement.

CallFire proposes to initially interconnect with AT&T, Verizon, Citizens, and SureWest. CallFire stated that no deposit is required by AT&T, Verizon, Citizens, and SureWest. Therefore, no additional resources are required at this time to cover deposits.

7. Technical Qualifications

⁹ The financial requirement for Competitive Local Exchange Carriers is contained in D.95-12-056, Appendix C. The financial requirement for Non-Dominant Interexchange Carriers (NDIECs) is contained in D.91-10-041.

¹⁰ The requirement for Competitive Local Carrier applicants to demonstrate that they have additional financial resources to meet any deposits required by underlying Local Exchange Carriers and/or Interexchange Carriers is set forth in D.95-12-056, Appendix C. For NDIECs, the requirement is found in D.93-05-010.

¹¹ See Confidential Exhibit F (filed with Application on October 14, 2014) and Supplemental Confidential Exhibit F (filed on May 12, 2014).

To be granted a CPCN for authority to provide local exchange and interexchange service, an applicant must make a reasonable showing of managerial and technical expertise in telecommunications or a related business.¹² CallFire supplied biographical information on its management in Exhibit G to its application that demonstrated that it has sufficient expertise and training to operate as a telecommunications provider.

In response to an ALJ Ruling, CallFire verified that, with the exception of the items disclosed to the Commission in CallFire's December 2, 2013 amendment, no one associated with or employed by CallFire as an affiliate, officer, director, partner, or owner of more than 10% of CallFire was previously associated with a telecommunications carrier that filed for bankruptcy, was sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order, or has been found either civilly or criminally liable by a court of appropriate jurisdiction for a violation of §17,000.00, *et seq.* of the California Business and Professions Code, or for any actions which involved misrepresentations to consumers, nor is currently under investigation for similar violations.¹³

For the above reasons, we find that CallFire is in compliance with the requirements of D.95-12-056.

8. Tariffs

Commission staff reviewed CallFire's draft tariffs for compliance with Commission rules and regulations. The deficiencies are noted in Attachment B to

¹² D.95-12-056 at Appendix C, Rule 4.A.

¹³ CallFire's Certification filed May 12, 2014.

this decision. In its compliance tariff filing, CallFire shall correct these deficiencies as a condition of our approval of its application.

9. Map of Service Territory

To be granted a CPCN for authority to provide local exchange service, an applicant must provide a map of the service territories it proposes to serve.¹⁴ In its Response, CallFire provided a map of the location of its proposed service territory, in compliance with this requirement.

10. Expected Customer Base

CallFire provided its estimated customer base for the first and fifth years of operation in its application.¹⁵ Therefore, CallFire has complied with this requirement.

11. Conclusion

We have previously determined that the public convenience and necessity requires that competition be allowed in the provision of competitive local exchange service (Rulemaking 95-04-043/Investigation 95-04-044.) Granting this application will benefit the public interest by expanding the availability of technologically advanced telecommunications services within the state.

We conclude that the application conforms to our rules for certification as a competitive local exchange and interexchange carrier. Accordingly, we grant CallFire a CPCN to provide limited facilities-based and resold local exchange telecommunications service in the service territory of AT&T, Verizon, Citizens,

¹⁴ D.95-12-056 at Appendix C, Rule 4.E.

¹⁵ Application at 7-8.

and SureWest and interexchange service in California subject to compliance with the terms and conditions set forth in the Ordering Paragraphs.

The CPCN granted by this decision provides benefits to CallFire and corresponding obligations. CallFire receives authority to operate in the prescribed service territory, it can request interconnection with other telecommunications carriers in accordance with Section 251 of the Federal Communications Act (47 U.S.C. 251), and it receives access to public rights of way in California as set forth in D.98-10-058 subject to the CEQA requirements set forth in this decision. In return, CallFire is obligated to comply with all applicable Public Utilities Codes and Commission Rules, General Orders, and decisions applicable to telecommunications carriers providing approved services. The applicable Codes, Rules, etc., include, but are not limited to consumer protection rules, tariffing, and reporting requirements. Moreover, CallFire is obligated to pay all Commission prescribed user fees and public purpose program surcharges as set forth in Appendix C of this decision, to comply with CEQA, and to adhere to Pub. Util. Code § 451 which states that every public utility "...shall furnish and maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities, as defined in Section 54.1 of the Civil Code, as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public."

12. Request to File Under Seal

Pursuant to Rule 11.4 of the Commission's Rules of Practice and Procedure, CallFire has filed motions for leave to file Exhibit F to the application and Attachment 3 to the December 2, 2013 Amendment as confidential materials under seal. CallFire represents that the information is sensitive, and disclosure

could place CallFire at an unfair business disadvantage. We have granted similar requests in the past and do so here.

13. Categorization and Need for Hearings

In Resolution ALJ 176-3325, dated October 31, 2013 the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. On November 25, 2013, the SED filed a protest to the application. Hence, on December 6, 2013, the assigned ALJ held a PHC.

Evidentiary Hearings were preliminarily scheduled in the Scoping Memo, but because CallFire and SED filed a Motion requesting approval of a settlement agreement thereby resolving the issues in the SED protest, evidentiary hearings are no longer necessary.

14. Comments on Draft Decision

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. No party filed comments.

15. Assignment of Proceeding

Carla J. Peterman is the assigned Commissioner and Kelly A. Hymes is the assigned ALJ in this proceeding.

Findings of Fact

1. Notice of the application appeared on the Daily Calendar on October 24, 2013. Safety and Enforcement Division filed a protest. A Prehearing Conference was held on December 6, 2013.

2. The Settlement Agreement is: (1) reasonable in light of the record; (2) consistent with the law; and (3) in the public interest.

3. The Settlement Agreement resolves both issues in the Safety and Enforcement Division Protest.
4. With the filing of the Settlement Agreement, this proceeding becomes an uncontested matter.
5. CallFire is a telephone corporation and a public utility as defined in Pub. Util. Code Sections 234(a) and 216(a).
6. CallFire has a minimum of \$100,000.00 of cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses.
7. CallFire has sufficient additional cash or cash equivalent to cover deposits that may be required by other telecommunications carriers in order to provide the proposed service.
8. CallFire's management possesses sufficient experience, knowledge, and technical expertise to provide local exchange services to the public.
9. CallFire inadvertently omitted but then disclosed that it was sanctioned by the Federal Communications Commission for failure to comply with the regulatory statute, rule, or order.
10. Other than the cases disclosed in CallFire's December 2, 2013 Amendment, no one associated with or employed by CallFire as an affiliate, officer, director, partner, or owner of more than 10% of CallFire was previously associated with a telecommunications carrier that filed for bankruptcy; or was previously associated with any telecommunication carrier that has been found either civilly or criminally liable by a court of appropriate jurisdiction for a violation of §17,000.00, et seq., of the California Business and Professions Code, or for any actions which involved misrepresentations to consumers, nor is currently under investigation for similar violations other than that described in Ordering Paragraph 5.

11. Except for the deficiencies identified in Attachment B to this decision, CallFire's draft tariffs comply with the Commission's requirements.

12. CallFire provided a map of the location of its proposed service territory.

13. CallFire provided an estimate of its customer base for the first and fifth year of operation.

14. Pursuant to Rule 11.4, CallFire filed motions for leave to file confidential materials under seal, including Exhibit F to the Application and Attachment 3 to its December 2, 2013 Amendment.

Conclusions of Law

1. The Settlement Agreement should be approved.

2. Hearings are not necessary.

3. CallFire should be granted a CPCN to provide resold and limited facilities-based local exchange telecommunications service in the service territories of AT&T, Verizon, Citizens, and Sure West and interexchange service in California, subject to the terms and conditions set forth in the Ordering Paragraphs.

4. CallFire, once granted a CPCN, should be subject to the applicable Commission rules, decisions, General Orders, and statutes that pertain to California Public Utilities Commission.

5. CallFire's initial tariff filing should correct the tariff deficiencies shown in Attachment B to this decision.

6. CallFire's motion to file under seal its Exhibit F to the application and Attachment 3 to the December 2, 2013 Amendment, should be granted for two years.

O R D E R

IT IS ORDERED that:

1. The March 26, 2014 Joint Motion by CallFire, Inc. and the Commission Safety and Enforcement Division for Commission Adoption of a Settlement Agreement pursuant to Article 12.1 of the Commission's Rules of Practice and Procedure is granted and the Settlement Agreement, Attachment A to this decision, is approved.

2. CallFire, Inc. shall pay a fine of \$10,000 by check or money order payable to the California Public Utilities Commission and mailed or delivered to the Commission's Fiscal Office at 505 Van Ness Avenue, San Francisco, CA 94102, within 30 days of the effective date of this decision. CallFire, Inc. shall include on the face of the check or money order, the words, "For remittance to the General Fund per Decision ____."

3. A certificate of public convenience and necessity is granted to CallFire, Inc. to provide resold and limited facilities-based local exchange telecommunications services in the territories of Pacific Bell Telephone Company d/b/a AT&T California, Verizon California Inc., Citizens Telecommunications Company of California, Inc. d/b/a/ Frontier Communications of California, and Sure West Telephone, and interexchange service in California, subject to the terms and conditions set forth below.

4. CallFire, Inc. may not offer competitive local exchange services until tariffs are filed with and authorized by this California Public Utilities Commission (Commission), in accordance with General Order 96-B and as corrected for deficiencies set forth in Exhibit A.

5. The corporate identification number assigned to CallFire, Inc., U-7259-C, must be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

6. CallFire, Inc. must obtain a performance bond of at least \$25,000.00 in accordance with Decision 13-05-035. The performance bond must be a continuous bond (i.e., there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within five days of acceptance of its certificate of public convenience and necessity authority, CallFire, Inc. must submit a Tier-1 Advice letter to the Director of Communications, containing a copy of the license holder's executed bond, and submit a Tier-1 Advice Letter annually, but not later than March 31, with a copy of the executed bond.

7. CallFire, Inc. must not allow its performance bond to lapse during any period of its operation. Pursuant to Decision 13-05-035, the Commission may revoke a certificate of public convenience and necessity if a carrier is more than 120 days late in providing the Director of the Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Communications Division.

8. In addition to all the requirements applicable to competitive local exchange carriers and interexchange carriers included in Attachments C, D, and E to this decision, CallFire, Inc. is subject to the Consumer Protection Rules contained in General Order 168, and all applicable Commission rules, decisions, GOs, and statutes that pertain to the Commission.

9. CallFire, Inc. must file, in this docket, a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order.

10. CallFire, Inc. must annually pay the user fee and public purpose surcharges specified in Attachment C. Per the instructions in Exhibit E to Decision 00-10-028, the Combined Commission Telephone Surcharge Transmittal

Form must be submitted even if the amount due is \$0. Under Public Utilities Code Section 405, carriers that are in default of reporting and submitting user fees for a period of 30 days or more will be subject to penalties including suspension or revocation of their authority to operate in California. Therefore, carriers should report user fees even if the amount due is \$0. In accordance with Decision 13-05-035, CallFire, Inc. must pay a minimum user fee of \$100 or 0.18% of gross interstate revenue, whichever is greater.

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

12. CallFire, Inc. must notify the Director of the Communications 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.

13. CallFire, Inc. must file an affiliate transaction report with the Director of the Communications Division, in compliance with Decision 93-02-019, on a calendar year basis using the form contained in Attachment E.

14. CallFire, Inc. must file an annual report with the Director of the Communications Division, in compliance with General Order 104-A, on a calendar-year basis with the information contained in Attachment D to this decision.

15. CallFire, Inc. must file a tariff within 12 months of the effective date of this order, or its certificate will be cancelled.

16. CallFire, Inc.'s motion to file under seal Exhibit F to the Application and Attachment 3 to the December 2, 2013 Amendment is granted for a period of two years after the date of this order. During this two-year period, this information

shall not be publicly disclosed except on further Commission order or Administrative Law Judge ruling. If CallFire, Inc. believes that it is necessary for this information to remain under seal for longer than two years, CallFire, Inc. may file a new motion showing good cause for extending this order by no later than 30 days before the expiration of this order.

17. Application 13-10-010 is closed.

This order is effective today.

Dated _____, at San Francisco, California.

ATTACHMENT A

Settlement Agreement

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into as of this 25th day of March, 2014, between the Safety and Enforcement Division ("SED") of the California Public Utilities Commission ("Commission"), and CallFire, Inc. and its predecessors, successors, affiliates, and assigns ("CallFire" or "Applicant") (collectively, "the Parties"). The Parties hereby agree upon the following terms for the settlement ("Settlement") of SED's Protest of CallFire's Application for Certificate of Public Convenience and Necessity to Provide Limited Facilities-Based and Resold Local Exchange and Interexchange Telecommunications Services, A. 13-10-010 ("Application").

I. JOINT FACTUAL STATEMENT

1. CallFire is a corporation operating and existing under the laws of the State of Delaware, registered with the State of California on December 27, 2012. CallFire filed its Application with the Commission on October 14, 2013.
2. After reviewing CallFire's Application, SED protested the Application on November 25, 2013. SED's Protest alleged CallFire violated Rule 1.1 of the Commission's Rules of Practice and Procedure by failing to disclose its Settlement with the Federal Trade Commission ("FTC Settlement") in its Application.
3. CallFire omitted mention of its FTC Settlement in its Application. CallFire claims the omission was inadvertent.
4. CallFire promptly amended its Application on December 2, 2013 when the omission was called to its attention.
5. A prehearing conference was held in this matter on December 17, 2013.
6. SED served its testimony in this proceeding on February 14, 2014.
7. Wherefore, based upon the foregoing facts, and the Applicant's cooperation in addressing the issues raised by SED, and Applicant's willingness to resolve these issues through a reasonable settlement payment, the Parties, mindful of the benefits of resolving the controversy in this proceeding in an efficient manner, that is consistent with the benefits of competition and protection of consumers, and in order to avoid the costs and risks of further litigation and to expeditiously resolve this matter, agree to the following terms and conditions of settlement:

II. AGREEMENT

8. No Further Admission. Applicant acknowledges that its initial Application was incomplete, and such incompleteness was inadvertent and Applicant amended its

Application as soon as its inadvertent omission was noted. Therefore, Applicant admits that its violation of Rule 1.1 was inadvertent, as set forth above. Except as so admitted, nothing in this Settlement Agreement shall constitute, or be considered as, an admission of liability or wrongdoing by Applicant.

9. Settlement Payment. In order to resolve the issues raised by SED in its Protest, CallFire will pay a total of \$10,000 to the State of California's General Fund. Such amount shall be paid within 30 calendar days of the date of the Commission's approval of this Agreement and approval of CallFire's request for a Certificate of Public Convenience and Necessity. The memo area of the check shall indicate the Decision number approving this settlement, and shall include the words "for remittance to the State General Fund." The check shall be made payable to the California Public Utilities Commission (CPUC) and sent to the following address: CPUC Fiscal Office, 505 Van Ness Avenue, San Francisco, CA 94102.

10. In consideration of the Settlement Payment, SED agrees that it will no longer protest the granting of a Certificate of Public Convenience and Necessity to the Applicant, nor will SED pursue further sanctions against CallFire based upon the allegations of non-disclosure recited above. Upon CallFire's payment of all fees and fines as stated above, this Settlement Agreement releases CallFire and constitutes a final settlement of any and all costs, direct or indirect, known or unknown, accruing to or incurred by the Commission during the course of investigation and review in this proceeding.

III. GENERAL PROVISIONS

11. Scope and Effect of Agreement. This Agreement represents a full and final resolution of SED's Protest, and the matters giving rise thereto. The Parties understand that this Settlement Agreement is subject to approval by the Commission. As soon as practicable after the Parties have signed the Settlement Agreement, the Parties will file a Joint Motion for Commission Approval and Adoption of the Settlement Agreement. The Parties agree to support the Settlement Agreement, to recommend that the Commission approve it in its entirety without change and to use their best efforts to secure Commission approval of it in its entirety without modification. The Parties agree that, if the Commission fails to adopt the Settlement Agreement in its entirety without material change, the Parties shall convene a settlement conference within 15 days thereof to discuss whether they can resolve any issues raised by the Commission's actions. If the Parties cannot mutually agree to resolve the issues raised by the Commission's actions, the Settlement Agreement shall be rescinded and the Parties shall be released from their obligation to support this Settlement Agreement. Thereafter, the Parties may pursue any action they deem appropriate, but agree to cooperate to establish a procedural schedule for the remainder of the proceeding.

12. Successors. This Agreement and all covenants set forth herein shall be binding upon and shall inure to the benefit of the respective Parties hereto, their successors, heirs, assigns, partners, representatives, executors, administrators, subsidiary companies, divisions, units, agents, attorneys, officers, and directors.

13. Knowing and Voluntary Execution. The Parties acknowledge each has read this Agreement, that each fully understands the rights, duties and privileges created hereunder, and that each enters this Agreement freely and voluntarily.

14. Authority to Execute Agreement. The undersigned acknowledge and covenant that they have been duly authorized to execute this Agreement on behalf of their respective principals and that such execution is made within the course and scope of their respective agency or employment.

15. Entire Agreement. The Parties expressly acknowledge that the consideration recited in this Agreement is the sole and only consideration of this Agreement, and that no representations, promises, or inducements have been made by the Parties or any director, officer, employee, or agent thereof other than as set forth expressly in this Agreement.

16. Choice of Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of California and the rules, regulations and General Orders of the California Public Utilities Commission.

17. Execution in Counterparts. This Agreement may be executed by any of the Parties in counterparts with the same effect as if all Parties had signed one and the same document. All such counterparts shall be deemed to be an original and shall together constitute one and the same Agreement. A signature transmitted by facsimile shall be regarded as an original signature.

CALLFIRE, INC.

Dated: March 26, 2014



JAGANNATHAN "TJ" THINKAKARAN, Chief Operating Officer

CALLFIRE, INC.

1410 2nd Street, Floor 2

Santa Monica, CA 90401

12. Successors. This Agreement and all covenants set forth herein shall be binding upon and shall inure to the benefit of the respective Parties hereto, their successors, heirs, assigns, partners, representatives, executors, administrators, subsidiary companies, divisions, units, agents, attorneys, officers, and directors.

13. Knowing and Voluntary Execution. The Parties acknowledge each has read this Agreement, that each fully understands the rights, duties and privileges created hereunder, and that each enters this Agreement freely and voluntarily.

14. Authority to Execute Agreement. The undersigned acknowledge and covenant that they have been duly authorized to execute this Agreement on behalf of their respective principals and that such execution is made within the course and scope of their respective agency or employment.

15. Entire Agreement. The Parties expressly acknowledge that the consideration recited in this Agreement is the sole and only consideration of this Agreement, and that no representations, promises, or inducements have been made by the Parties or any director, officer, employee, or agent thereof other than as set forth expressly in this Agreement.

16. Choice of Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of California and the rules, regulations and General Orders of the California Public Utilities Commission.

17. Execution in Counterparts. This Agreement may be executed by any of the Parties in counterparts with the same effect as if all Parties had signed one and the same document. All such counterparts shall be deemed to be an original and shall together constitute one and the same Agreement. A signature transmitted by facsimile shall be regarded as an original signature.

CALLFIRE, INC.

Dated: _____, 2014

JAGANNATHAN "TJ" THINKAKARAN, Chief Operating Officer
CALLFIRE, INC.
1410 2nd Street, Floor 2
Santa Monica, CA 90401

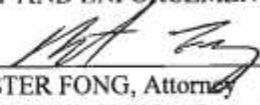
SAFETY AND ENFORCEMENT DIVISION

Dated: 3/25/2014, 2014

Denise Tyrrell
DENISE TYRRELL, Interim Director
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

SAFETY AND ENFORCEMENT DIVISION

Dated: 3/26, 2014



BREWSTER FONG, Attorney
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

ATTACHMENT B

List of deficiencies in the proposed tariff filed by CallFire, Inc. (U-7259-C) in A.13-10-010 to be corrected in its tariff compliance filing.

1. Sheet 1, Check Sheet: There are duplicates of “Original Cal. P.U.C. Original Sheet 1”. See General Order 96-B, General Rule 8.4.2.

2. Sheet 7, Explanation of Symbols: Add (P) to signify material subject to change under a pending application or advice letter. See General Order 96-B, General Rule 8.5.3.

3. Each tariff rule shall have “its own sheet or series of sheets.” See General Order 96-B, General Rule 8.5.7.

4. Sheet 25, Rule 5, Special Information Required On Forms: Include the statement “The bill is now due and payable; it becomes subject to a late payment charge if not paid within 15 (minimum number of days) calendar days of presentation date. Should you question this bill, please request an explanation from (name of carrier)....” before Rule 5(A)9. See Decision 95-07-54, Appendix B, Rule 3(A)7.

5. Sheet 42, Rule 12(C), Discontinuance and Restoration of Service: The proposed tariff discussed disconnection notice send via text message. Adhere to current Commission rule. See Decision 95-07-54, Appendix B, Rule 6(B)2.

(END OF ATTACHMENT B)

ATTACHMENT C

REQUIREMENTS APPLICABLE TO COMPETITIVE LOCAL EXCHANGE CARRIERS AND INTEREXCHANGE CARRIERS

1. Applicant must file, in this docket with reference to this decision number,¹⁶ 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 fees and surcharges that must be regularly remitted. Per the instructions in Exhibit E to Decision (D.) 00-10-028, the Combined California PUC Telephone Surcharge Transmittal Form must be submitted even if the amount due is \$0.

- a. The Universal Lifeline Telephone Service Trust Administrative Committee Fund (Pub. Util. Code § 879);
- b. The California Relay Service and Communications Devices Fund (Pub. Util. Code § 2881; D.98-12-073);
- c. The California High Cost Fund-A (Pub. Util. Code § 739.3; D.96-10-066, at 3-4, App. B, Rule 1.C);
- d. The California High Cost Fund-B (D.96-10-066, at 191, App. B, Rule 6.F.; D.07-12-054);
- e. The California Advanced Services Fund (D.07-12-054);
- f. The California Teleconnect Fund (D.96-10-066, at 88, App. B, Rule 8.G).
- g. The User Fee provided in Pub. Util. Code §§ 431-435. The minimum annual User Fee is \$100, as set forth in D.13-05-035.

Note: These fees change periodically. In compliance with Resolution T-16901, December 2, 2004, Applicant must check

¹⁶ Written acceptance filed in this docket does not reopen the proceeding.

the joint tariff for surcharges and fees filed by Pacific Bell Telephone Company (dba AT&T California) and apply the current surcharge and fee amounts in that joint tariff on end-user bills until further revised. Current and historical surcharge rates can be found at <http://www.cpuc.ca.gov/PUC/Telco/Consumer+Information/surcharges.htm>.

- Carriers must report and remit CPUC telephone program surcharges online using the CPUC Telecommunications and User Fees Filing System (TUFFS). Information and instructions for online reporting and payment of surcharges are available at <http://www.cpuc.ca.gov/PUC/Telco/Information+for+providing+service/Surcharge+Remittance.htm>. To request a user ID and password for TUFFS online filing and for questions, please e-mail Telco_surcharges@cpuc.ca.gov.
- Carriers must file and pay the PUC User Fee (see above item 2g) upon receiving the User Fee statement sent by the Commission. User Fees cannot be reported or paid online. Instructions for reporting filing are available at <http://www.cpuc.ca.gov/PUC/Telco/Information+for+providing+service/userfee.htm>. Please call (415) 703-2470 for questions regarding User Fee reporting and payment.

3. Applicant must obtain a performance bond of at least \$25,000 in accordance with Decision 13-05-035. The performance bond must be a continuous bond (i.e., there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within five days of acceptance of Certificate of Public Convenience and Necessity authority, Applicant must submit a Tier-1 advice letter to the Director of Communications, containing a copy of the license holder's executed bond, and submit a Tier-1

advice letter annually, but not later than March 31, with a copy of the executed bond.

4. Applicant must not allow its performance bond to lapse during any period of its operation. Pursuant to Decision 13-05-035, the Commission may revoke a Certificate of Public Convenience and Necessity if a carrier is more than 120 days late in providing the Director of the Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Communications Division.

5. Applicant is a competitive local exchange carrier (CLC). The effectiveness of its future tariffs is subject to the requirements of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).

6. Applicant is a non-dominant interexchange carrier (NDIEC). The effectiveness of its future NDIEC tariffs is subject to the requirement of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).

7. Tariff filings must reflect all fees and surcharges to which Applicant is subject, as reflected in #2 above.

8. Applicant must file a service area map as part of its initial tariff.

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

10. Applicant must notify the Director of the Communications 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.

11. Applicant must notify the Director of the Communications Division in writing of the date local service is first rendered to the public within five days after service begins.

12. Applicant must keep its books and records in accordance with the Generally Accepted Accounting Principles.

13. In the event Applicant's books and records are required for inspection by the Commission or its staff, it must 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.

14. Applicant must file an annual report with the Director of the Communications Division, in compliance with GO 104-A, on a calendar-year basis with the information contained in Attachment C to this decision.

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

16. Applicant must ensure that its employees comply with the provisions of Pub. Util. Code § 2889.5 regarding solicitation of customers.

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

18. If Applicant is 90 days or more late in filing an annual report, or in remitting the surcharges and fee listed in #2 above, and has not received written permission from the Communications Division to file or remit late, the Communications Division must prepare for Commission consideration a resolution that revokes Applicant's CPCN.

19. Applicant is exempt from Rule 3.1(b) of the Commission Rules of Practice and Procedure

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

21. 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.

22. If Applicant decides to discontinue service or file for bankruptcy, it must immediately notify the Communications Division's Bankruptcy Coordinator.

23. Applicant must send a copy of this decision to concerned local permitting agencies no later than 30 days from the date of this order.

(END OF ATTACHMENT C)

ATTACHMENT D**ANNUAL REPORT**

An original and a machine readable, copy using Microsoft Word or compatible format must be filed with the California Public Utilities Commission, State Office Building, 505 Van Ness Avenue, Room 3107, San Francisco, CA 94102-3298, no later than March 31st 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 Pub. Util. Code §§ 2107 and 2108.

Required information:

1. Exact legal name and U # of the 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. Number and date of the Commission decision granting the Certificate of Public Convenience and Necessity.
7. Date operations were begun.
8. Description of other business activities in which the utility is engaged.

9. List of all affiliated companies and their relationship to the utility. State if affiliate is a:
 - 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.
12. Cash Flow statement as of December 31st of the calendar year for which information is submitted, for California operations only.

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

(END OF ATTACHMENT D)

ATTACHMENT E

CALENDAR YEAR AFFILIATE TRANSACTION REPORT

An original and a machine readable copy using Microsoft Word and Excel, or compatible format must be filed with the California Public Utilities Commission, State Office Building, 505 Van Ness Avenue, Room 3107, San Francisco, CA 94102-3298, no later than May 1st of the year following the calendar year for which the annual report is submitted.

1. Each utility must 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; and
- Corporate officers.

2. The utility must 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 must 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 must 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 tariff 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 E)