

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of 1-800 Collect, Inc. d/b/a Simple Billing Solutions for a Certificate of Public Convenience and Necessity in Order to Provide Resold Competitive Local Exchange, Interexchange Service And Calling Card Services.

Application 13-12-003  
(Filed December 4, 2013)

**DECISION APPROVING SETTLEMENT AGREEMENT  
AND GRANTING APPLICATION FOR CERTIFICATE OF  
PUBLIC CONVENIENCE AND NECESSITY****Summary**

Pursuant to Rule 12.1 of the Commission's Rules of Practice and Procedure, we approve and adopt the Settlement Agreement between 1-800 Collect, Inc. d/b/a Simple Billing Solutions (1-800 Collect or Applicant) and the Safety and Enforcement Division. In addition, pursuant to Pub. Util. Code § 1001, we also grant the Applicant's application for a certificate of public convenience and necessity for authority to provide resold local exchange and interexchange service and calling card service in California subject to the terms and conditions set forth in this order. Applicant's principal place of business is 1658 Gales Boulevard, Suite B, San Diego, CA 92154. It operates under the dba Simple Billing Solutions and shares common ownership with BBG Communications, Inc.

## 1. Jurisdiction

Public Utilities Code Section 216(a) defines the term “public utility” to include a “telephone corporation,” which in turn is defined in Pub. Util. Code § 234(a) as “every corporation or person owning, controlling, operating, or managing any telephone line for compensation within this state.” 1-800 Collect, Inc. is a prepaid calling card provider offering telecommunications services and is thereby a telephone corporation and public utility subject to our jurisdiction.

## 2. Background

1-800 Collect seeks a certificate of public convenience and necessity (CPCN) for authority to operate as a reseller of competitive local exchange (CLC) services in the territories currently served by AT&T California (AT&T), Verizon California, Inc. (Verizon), SureWest Telephone (SureWest), and Citizens Telephone Company (Citizens), as a non-dominant interexchange carrier (NDIEC) in the entire State of California, and as a calling card provider. Initially, 1-800 Connect intends to provide voice communications service via prepaid calling cards and operator services to consumers in California. All services are to be routed solely over facilities owned by other certificated carriers.

By letter dated May 31, 2013, the Commission’s Communications Division (CD) advised BBG Communications, Inc. (BBG Communications), with which 1-800 Collect shares common ownership, that it appeared BBG Communications was providing unauthorized prepaid calling card services in California. BBG responded that the provision of prepaid calling cards in California without a CPCN was inadvertent, and that it will submit an application for a CPCN. BBG Communications then transferred its contract to provide calling card services to 1-800 Collect, and on December 4, 2013, 1-800 Collect formally filed a CPCN application. In Resolution ALJ 176-3328, dated December 19, 2013, the

Commission preliminarily categorized the 1-800 Collect application as rate setting and preliminarily determined that hearings were not necessary.

On January 6, 2014, the Commission's Safety and Enforcement Division (SED) filed a protest to the application. In its protest, SED noted that 1-800 Collect had been operating in California without proper authority, in violation of Pub. Util. Code §§ 405, 885, 886, 1001, and 1013, and had failed to pay mandated surcharges and fees, and provide reports required by Commission rules and regulations.<sup>1</sup> Applicant also failed to disclose Commission enforcement activities prior to its application for a CPCN.

SED argued that that Applicant's violations harmed the Commission by requiring SED to expend enforcement resources to detect Applicant's unlicensed operation and by interfering with SED's ability to conduct monitoring to protect consumers from deceptive practices in prepaid phone card sales. SED asserted that the violations also raised questions about the Applicant's fitness to operate in California and ability to adhere to statutes, regulations, and rules in operating as a telecommunications carrier. In its protest, SED recommended that the Commission consider imposing a penalty against 1-800 Collect for apparent violations of Pub. Util. Code §§ 405, 885, 886, 1001, and 1013.

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<sup>1</sup> Pub. Util. Code §§ 401 - 435 require telephone corporations to report their California revenues and remit the appropriate amount based on that revenue to the CPUC Utilities Reimbursement Account Fees on a timely basis.

At the prehearing conference (PHC) on May 6, 2014, SED reported that it was still collecting information and investigating whether 1-800 Collect had committed further violations. The parties at the PHC expressed interest in pursuing settlement discussions pending completion of SED's investigation. At the conclusion of the PHC, the Administrative Law Judge (ALJ) deferred setting a further schedule pending the results of the SED investigation and efforts toward settlement.

On January 27, 2015, the assigned ALJ issued an email ruling directing parties to meet and confer, and to submit a joint status update. On February 17, 2015, SED and 1-800 Collect filed a joint statement explaining that they were continuing settlement discussions and hoped to reach a resolution within 60 days.

In a February 27, 2015 email ruling, the assigned ALJ set a second prehearing conference and required the parties to submit a joint case management statement by March 23, 2015, if no settlement agreement had been reached by that date. In their joint case management statement filed on March 23, 2015, SED and 1-800 Collect requested additional time to conduct settlement discussions, initially unfacilitated but then with the assistance of an appointed neutral if settlement was not reached in 15 days. The assigned ALJ removed the prehearing conference from the calendar and granted parties until April 22, 2015, to conduct additional, unfacilitated settlement discussions.

On April 3, 2015, the Commission appointed a Neutral ALJ to handle the Alternative Dispute Resolution process. On April 28, 2015, the parties informed the Neutral that they had reached settlement and would file a motion for adoption of the settlement agreement.

### **3. Settlement Agreement**

On June 9, 2015, 1-800 Collect and SED (Parties) filed a motion for approval of a Settlement Agreement. The Parties jointly agreed to a set of facts that formed the basis for entering into the Settlement Agreement attached as Attachment D of this decision.

The Settlement Agreement resolves all issues in SED's protest and investigation. In recognition of 1-800 Collect's prior violations, the Settlement Agreement calls for 1-800 Collect to pay penalties to the State of California General Fund of (a) \$10,000 within 30 calendar days of the effective date of a Commission decision approving the Settlement Agreement, and (b) \$15,000 within 90 days of the date of the Commissions' approval of the Settlement Agreement, for a total penalty payment of \$25,000. Pursuant to General Order 153 and Section 431 of the California Public Utilities Code, the Settlement Agreement also stipulates that 1-800 Collect will pay \$210.00 in user fees, penalties and interest that it has not paid for its operations in California beginning in January 2013. Finally, as part of the Settlement Agreement 1-800 Collect agrees to undertake an effort to determine whether any calling cards remain available for sale with inadequate disclosures and to remove such calling cards as soon as practicable. On June 9, 2015, 1-800 Collect and SED (Parties) filed a motion for approval of a Settlement Agreement. The Parties jointly agreed to a set of facts that formed the basis for entering into the Settlement Agreement attached as Attachment D of this decision.

#### 4. Discussion

The Commission has historically favored settlements as a means of resolving contested issues where the settlement is reasonable in light of the whole record, consistent with the law, and in the public interest.<sup>2</sup>

The record in this proceeding consists principally of the Application, SED's protest, and the proposed Settlement Agreement. The Settlement provides a clear description of the facts at issue in this application. As a sponsor of the Settlement, 1-800 Collect acknowledges that it distributed calling cards in California without having a CPCN. In addition, 1-800 Collect acknowledges that the disclosures on some calling cards that 1-800 Collect states were issued before the BBG Communications contract was transferred to 1-800 Collect were inadequate and that it incorrectly believed, and informed SED, that the earlier design was a "mock up" design that had not been used for printing calling cards.

Pursuant to Pub. Util. Code § 886, entities required to register but that have failed to do so shall not offer the services of telephone prepaid calling cards, and shall be subject to fines or other sanctions if they continue to offer prepaid telephone calling cards. 1-800 Collect admits that it operated in California without a CPCN. 1-800 Collect's continued operation was a violation of Pub. Util. Code §§ 885, 886, 1001, and 1013.

Approving the Settlement Agreement holds 1-800 Collect accountable for the consequences of its prior violations of Commission rules by assessing penalty payments. In assessing the reasonableness of the proposed \$25,000 penalty payments required by the Settlement, we look to the criteria in D.98-12-075, Attachment B, which provided guidance in similar cases. We consider: 1) the

severity of the economic or physical harm resulting from the violation; 2) the utility's conduct to prevent, detect, disclose, and rectify the violation; 3) the utility's financial resources; 4) the public interest involved; 5) the totality of the circumstances; and 6) Commission precedents.

Based on these criteria, we conclude that the \$25,000 penalty is reasonable. It represents a significant penalty in light of the violations against Commission codes, but would not severely impact 1-800 Collect's ability to continue providing service to its customer base.

The California Public Utilities Code and General Order (GO) 153 mandates the collection of fees and surcharges from utilities under Commission Jurisdiction.<sup>3</sup> By earning intrastate revenue from telecommunication services, 1-800 Collect triggered the statutorily imposed obligation to pay user fees and surcharges. Past Commission decisions and General Order 153 also allow the Commission to collect ten percent annual interest as penalty for past due Commission-mandated fees.<sup>4</sup>

As required by a June 4, 2015 Email Ruling, SED reviewed 1-800 Collect's intrastate revenue information and determined that for each calendar year during 2013 and 2014, 1-800 Collect owed \$100.00 in user fees. Furthermore, SED calculated that 1-800 Collect owes \$10 in penalty interest payments for its unauthorized activity during calendar year 2013. As part of the Settlement Agreement, 1-800 Collect agrees to pay the total of \$210.00 in user fees and ten

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<sup>2</sup> See Commission's Rules of Practice and Procedure 12.1.

<sup>3</sup> See Pub. Util. Code § 431 and GO 153.

<sup>4</sup> See GO 153, D.98-01-023 and D.98-06-065.

percent interest penalties within 30 calendar days of the Commission's approval of the Settlement Agreement.

The Settlement Agreement does not contravene any statutory provisions or prior Commission decisions, and it provides sufficient information for the Commission to discharge future regulatory obligations with respect to the parties and their interests and obligations. The Settlement Agreement does not constitute a precedent regarding any principle or issue in this proceeding or any future proceeding. 1-800 Collect affirms that it will fully meet its regulatory and legal obligations and its responsibilities to its customers and members of the public in California in the future. Approval of the Settlement Agreement is consistent with the Commission's policy of supporting resolution of disputed matters through settlement, and avoids the time, expense, and uncertainty of evidentiary hearings and further litigation. The benefits of approving this settlement, including 1-800 Collect's payment of penalties to the General Fund and payment of back fees and interest to the Commission, is a reasonable resolution in comparison to continued litigation and the associated costs. Granting this application will benefit the public interest by expanding the availability of technologically advanced telecommunications services within the state.

We thus find the Settlement Agreement is reasonable in light of the record, consistent with the law, and in the public interest. Accordingly, we adopt the Settlement Agreement as the basis for granting 1-800 Collect a CPCN to provide resold competitive local exchange and non-dominant interexchange services in California. Approval of 1-800 Collect's application is conditioned on its compliance with the terms of the Settlement Agreement.

## **5. California Environmental Quality Act (CEQA)**

Pursuant to CEQA and Rule 2.4 of the Commission's Rules of Practice and Procedure, the Commission examines projects subject to our discretionary approval 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 under CEQA. Since 1-800 Collect states that it does not intend to construct any facilities 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 1-800 Collect must file for additional authority, and submit to any necessary CEQA review.

## **6. Financial Qualifications**

To be granted a CPCN, an applicant for authority to provide resold interexchange services must demonstrate that it has a minimum of \$25,000 cash or cash equivalent to meet the firm's start-up expenses.<sup>5</sup> 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.<sup>6</sup> In the application, 1-800 Collect provided its 2013 income statements and other financial documentation in Exhibit G showing that \$25,000 plus an amount equal to the deposit required by AT&T, Verizon, Citizens, and SureWest would be available to Utility for one year following certification. Since 1-800 Collect has provided documentation that it possesses a

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<sup>5</sup> The financial requirement for Competitive Local Exchange Carriers is contained in D.95-12-056, Appendix C. The financial requirement for NDIEC is contained in D.91-10-041.

<sup>6</sup> 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 IECs is set forth in D.95-12-056, Appendix C. For NDIECs, the requirement is found in D.93-05-010.

minimum of \$100,000 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.<sup>7</sup>

As detailed in the Application and Affidavit of Brian Rhys, Managing Director and Treasurer of 1-800 Collect, attached to its application, 1-800 Collect will submit to the requirements of D.13-05-035 for a continuous performance bond in the amount of \$25,000, issued by a corporate surety company authorized to transact surety business in California within 5 days of obtaining a CPCN from the Commission.<sup>8</sup> Since 1-800 Collect has provided documentation that it possesses resources that are reasonably liquid and available, it has demonstrated it has sufficient funds to meet its start-up expenses and has fulfilled the financial qualifications requirement.

## **7. Technical Qualifications**

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.<sup>9</sup> 1-800 Collect supplied biographical information on its management in Exhibit F to its application that demonstrated that it has sufficient expertise and training to operate as a telecommunications provider.

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<sup>7</sup> By separate motion, 1-800 Collect filed a motion for an order granting leave to file under seal the financial materials submitted in Exhibit G.

<sup>8</sup> See D.13-05-035, Attachment B (re: Rulemaking 11-11-006 Revising the Certification Process for Telephone Corporations and the Registration Process for Wireless Carriers).

<sup>9</sup> D.95-12-056 at Appendix C, Rule 4.A.

In the August 10, 2015 supplement to its Application, 1-800 Collect verified that no one associated with or employed by 1-800 Collect as an affiliate, officer, director, partner, or owner of more than 10% of 1-800 Collect 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 § 17000, 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.

Based on these facts, we conclude that 1-800 Collect is in compliance with the requirements of D.95-12-056.

#### **8. Tariffs**

1-800 Collect does not provide residential local, access or special access services. Based on the limited forms of service that 1-800 Collect is authorized to offer pursuant to the CPCN granted herein, 1-800 Collect is not required to file tariffs as a condition of offering telecommunications services as proposed in its application.

#### **9. Map of Service Territory**

1-800 Collect provided a map of its proposed service territory, attached as Exhibit D of its application.

**10. Expected Customer Base**

1-800 Collect provided its estimated customer base for the first and fifth years of operation in Exhibit H to its application. Therefore, 1-800 Collect has complied with this requirement.

**11. Request for Treatment as a Non-dominant Carrier**

Applicant requests treatment as a non-dominant interexchange carrier (NDIEC), which would include exemption from the requirements of Pub. Util. Code §§ 816-830 concerning stocks and security and § 851 concerning the encumbrance and transfer of utility property. The Commission detailed its rules regarding exemption of NDIEC in D.85-01-008, and subsequently modified in D.85-07-081 and D.85-11-044. We grant Applicant's request for NDIEC status, provided that they follow all rules detailed in the above-referenced decisions.<sup>10</sup>

**12. Conclusion**

As a result of the above considerations, we conclude that the application, as modified by the terms and conditions in the Settlement Agreement, warrants approval. We find the Settlement Agreement to be (1) reasonable in light of the record; (2) consistent with the law; and (3) in the public interest. The record of this proceeding consists principally of the Application, the Protest of SED, and the Joint Motion to approve the Settlement Agreement. We find that a record based on these filed materials is adequate to enable us to determine that the settlement meets our standards for approval of settlements. Therefore the Settlement Agreement is approved. We also conclude that the application conforms to our rules for certification as a competitive local exchange and

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<sup>10</sup> While the Commission has granted exemption from §§ 816 – 830 to others, exemption from §§ 851 – 854 has not been granted previously and is not granted here.

interexchange carrier. Accordingly, we grant 1-800 Collect a CPCN to provide resold local exchange telecommunications service in the service territory of AT&T, Verizon, Citizens, 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 1-800 Collect and corresponding obligations. 1-800 Collect 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, 1-800 Collect is obligated to comply with all provisions of the Public Utilities Code 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, 1-800 Collect is obligated to pay all Commission prescribed user fees and public purpose program surcharges as set forth in the Attachment B of this decision, 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."

### **13. Request to File Under Seal**

Pursuant to Rule 11.4 of the Commission's Rules of Practice and Procedure, 1-800 Collect has filed motions for leave to file Exhibits G and H to its

Application as confidential materials under seal. Exhibit G contains 1-800 Collect's 2013 income statement and July and August 2013 bank statements and interest bearing sweep account statements. Exhibit H contains 1 800 Collect's expected customer base. 1-800 Collect represents that the information is sensitive, and disclosure could place 1-800 Collect at an unfair business disadvantage. We have granted similar requests in the past and do so here.

#### **14. Categorization and Need for Hearing**

In Resolution ALJ 176-3328 dated December 19, 2013, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. 1 800 Collect and SED has reached settlement on all disputed issues and there is no apparent reason why the application should not be granted. Given these developments, a public hearing is not necessary, and it is not necessary to change the preliminary determinations.

#### **15. Waiver of Comment Period**

Given the Settlement Agreement filed by the parties, this is now an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2), the otherwise applicable 30-day period for public review and comment is waived.

#### **16. Assignment of Proceeding**

Michel Picker is the assigned Commissioner and S. Pat Tsen is the assigned ALJ in this proceeding.

**Findings of Fact**

1. Notice of Application 13-12-003 appeared on the Daily Calendar on December 6, 2013.
2. 1-800 Collect is a telephone corporation and public utility as defined in Pub. Util. Code §§ 234(a) and 216(a).
3. 1-800 Collect acknowledges failure to obtain the required authority from the Commission prior to providing telecommunications services by selling prepaid calling cards to California consumers.
4. 1-800 Collect and the SED, the only parties in this proceeding, negotiated and reached settlement of contested issues. A Joint Motion for approval of a Settlement Agreement was filed on June 9, 2015.
5. The Settlement Agreement between 1-800 Collect and SED is:  
(1) reasonable in light of the record; (2) consistent with the law; and (3) in the public interest. The Settlement Agreement conveys sufficient information to permit the Commission to discharge its future regulatory obligations with respect to the parties and their interests.
6. Approving the Application and the Settlement Agreement is the relief requested by the parties and this relief is not opposed by any party in this proceeding.
7. Since 1-800 Collect does not intend to construct any facilities, granting the application to provide resold competitive local exchange and non-dominant interexchange service will not have an adverse impact upon the environment.
8. 1-800 Collect has a minimum of \$25,000 of cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses.
9. 1-800 Collect's management possesses sufficient experience, knowledge, and technical expertise to provide telecommunications services to the public.

10. 1-800 Collect provided as Exhibit D of its application a map showing its proposed service territory.

11. 1-800 Collect provided an estimate of its customer base for the first and fifth year of operation.

12. 1-800 Collect provided its intrastate revenue information and owe past due surcharges, fees and penalties to the Commission in the amount of \$210.00.

13. Pursuant to Rule 11.4, 1-800 Collect filed a motion for leave to file confidential materials under seal.

### **Conclusions of Law**

1. 1-800 Collect should be granted a CPCN to provide resold competitive local exchange and non-dominant interexchange telecommunications service in California, subject to the terms and conditions of the Settlement Agreement set forth in Attachment D.

2. The Settlement Agreement should be approved.

3. 1-800 Collect should be required to pay a total of \$25,000 to the General Fund.

4. 1-800 Collect should be required to obtain a continuous performance bond in the amount of \$25,000 pursuant to D.13-05-035.

5. 1-800 Collect should be required to pay \$210 in past due surcharges, user fees, and interest penalties

6. Hearings are not necessary in this proceeding.

7. 1-800 Collect should be subject to the applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

8. 1-800 Collect's motion to file under seal its Exhibits G and H to the Application should be granted for a period of three years.

**O R D E R****IT IS ORDERED** that:

1. A certificate of public convenience and necessity is granted to 1-800 Collect, Inc. to provide resold competitive local exchange and non-dominant interexchange telecommunications services in the service territories of AT&T, Verizon, Citizens, and SureWest and interexchange

2. The June 9, 2015 Joint Motion by 1-800 Collect, Inc. and the Commission's Safety and Enforcement Division, for Commission Adoption of Settlement pursuant to Article 12.1 of the Commission's Rules of Practice and Procedure is granted and the Settlement Agreement, Attachment D to this decision, is approved.

3. Pursuant to the terms of the Settlement Agreement, as set forth in Attachment D, 1-800 Collect, Inc. (1-800 Collect) shall make a payment of (a) \$10,000 no later than 30 calendar days from the effective date of this decision, and (b) \$15,000 no later than 90 calendar days from the effective date of this decision for a total penalty payment of \$25,000. Each designated payment shall be made 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. 1-800 Collect shall write on the face of the check or money order "For deposit to the General Fund per Decision           ."

4. 1-800 Collect shall pay past due surcharges and user fees and 10 percent interest penalty in the amount of \$210.00 within 30 days of the issuance of this decision. Payment shall be made payable to the California Public Utilities Commission and mailed or delivered to the Commission's Fiscal Office at 505 Van Ness Avenue, Room 3000, San Francisco, CA 94102. The check or

money order shall include the statement "For deposit to the Commission program budgets per Decision                     .

5. The corporate identification number assigned to 1-800 Collect 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. 1-800 Collect 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 its certificate of public convenience and necessity authority, 1-800 Collect must submit a Tier-1 advice letter to the Director of the Communications Division, 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. 1-800 Collect 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 local exchange and interexchange carriers included in this decision, 1-800 Collect is subject to the Consumer Protection Rules contained in General Order 168, and all applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

9. 1-800 Collect 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. 1-800 Collect must annually pay the user fee and public purpose surcharges specified in Attachment B. Per the instructions in Exhibit E to Decision 00-10-028, the Combined California Public Utilities Commission Telephone Surcharge Transmittal Form must be submitted even if the amount due is \$0. Applicant must pay a minimum user fee of \$100 or 0.18% of gross intrastate revenue, whichever is greater. Under Pub. Util. Code § 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.

11. Prior to initiating service, 1-800 Collect 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. Prior to initiating service, 1-800 Collect must provide the Commission's Communications Division with the name and address of its designated regulatory/official contact persons(s). This information must be provided electronically, using the "Regulatory/Official Contact Information Update Request" found at

<http://www.cpuc.ca.gov/PUC/telco/Information+for+providing+service/>.

This information must be updated if the name or telephone number changes, or at least annually.

13. 1-800 Collect must notify the Director of the Communications Division in writing of the date that interexchange service is first rendered to the public

pursuant to the authority granted herein, no later than five days after service first begins.

14. 1-800 Collect 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 C.

15. 1-800 Collect 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 B to this decision.

16. If 1-800 Collect wishes to engage in any construction activities, it must file a new application.

17. The motion of 1-800 Collect to file under seal its Exhibits G and H is granted for a period of three years after the date of this order. During this three-year period, the information in Exhibits G and H shall not be publicly disclosed except on further Commission order or Administrative Law Judge ruling. If 1-800 Collect believes that it is necessary for this information to remain under seal for longer than three years, 1-800 Collect may file a new motion showing good cause for extending this order by no later than 30 days before expiration of this order.

18. Application 13-12-003 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

# **ATTACHMENT A**

## ATTACHMENT A

### REQUIREMENTS APPLICABLE TO INTEREXCHANGE CARRIERS

1. Applicant must file, in this docket with reference to this decision number,<sup>1</sup> 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 the joint tariff for surcharges and fees filed by Pacific Bell Telephone Company (dba AT&T California) and apply the

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<sup>1</sup> Written acceptance filed in this docket does not reopen the proceeding.

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](mailto: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 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).

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

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

6. 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. In addition, Applicant must provide the Commission's Communications Division with the name and address of its designated regulatory/official contact persons(s). This information

must be provided electronically, using the “Regulatory/Official Contact Information Update Request” found at <http://www.cpuc.ca.gov/PUC/telco/Information+for+providing+service/>.

This information must be updated if the name or telephone number changes, or at least annually.

7. 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.

8. 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.

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

10. 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.

11. 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.

12. 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.

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

14. 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.

15. 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.

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

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

18. 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.

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

20. 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 A)**

# **ATTACHMENT B**

## ATTACHMENT B

### 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 31<sup>st</sup> 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 B)**

# **ATTACHMENT C**

## ATTACHMENT C

### 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 C)**

**ATTACHMENT D**  
**SETTLEMENT AGREEMENT**

## SETTLEMENT AGREEMENT

In order to avoid the costs and risks of further litigation and to achieve an expeditious resolution of this matter, the Safety and Enforcement Division of the California Public Utilities Commission (SED), and 1 800 Collect, Inc. (“1-800-COLLECT”) hereby agree upon the following terms for the settlement (“Settlement”) of SED’s Protest of the 1-800-COLLECT Application in proceeding A.13-12-003 (“Application”). 1-800-COLLECT’s Application seeks authority to provide resold local exchange and interexchange telecommunications, and calling card services, pursuant to Public Utilities Code Section 1001.

### **I. JOINT FACTUAL STATEMENT**

1. 1-800-COLLECT, Inc. is a Florida corporation with its principal place of business at 1658 Gailes Boulevard, Suite B, San Diego, CA 92154. It operates under the D/B/A (doing business as) Simple Billing Solutions. 1-800-COLLECT shares common ownership with BBG Communications, Inc.
2. SED discovered that 1-800-COLLECT was operating without a license when inspectors purchased pre-paid phone cards as part of SED’s enforcement program. The initial review of the pre-paid phone cards indicated that 1-800-COLLECT was distributing these cards in California to sell telephone service. SED then attempted to verify the authority of each company to provide telephone service, which led to the discovery that 1-800-COLLECT was not an authorized NDIEC. Following that discovery, the matter was referred to the California Public Utilities Commission’s (“CPUC” or “Commission”) Communications Division.
3. On May 31, 2013, Mr. Ryan Dulin, of the Commission’s Communications Division sent a letter notifying BBG Communications, Inc. (“BBG Communications”) that it appeared

BBG Communications may have been providing unauthorized prepaid calling card services in California. On July 12, 2013, BBG Communications (through counsel) provided a written explanation to Mr. Jason Miller, the analyst in the CPUC's Communications Division who was handling the matter. BBG stated that the provision of prepaid calling cards in California without a CPCN was inadvertent. BBG stated that the availability of BBG Communications' calling cards in California occurred due to BBG Communications' assumption of a contract with certain national distributors who BBG Communications did not realize that it operated in locations in California. BBG Communications advised Mr. Miller that it intended to correct this error, and therefore, instructed counsel to prepare and submit an application for a certificate of convenience and necessity ("CPCN").

4. BBG Communications transferred the contract to provide calling card services to 1-800-COLLECT, and on October 8, 2013, 1-800-COLLECT submitted an application for its CPCN Application. Due to processing difficulties with the Commission's Docket Office, the CPCN application was not formally filed until December 4, 2013.
5. After reviewing 1-800-COLLECT's CPCN Application, SED protested the CPCN Application on January 6, 2014.
6. SED's Protest alleged that 1-800-COLLECT violated California Public Utilities Code Sections 885, 886, 1001, and 1013 by selling calling cards in California without authority from the Commission, and violated Section 17538.9 of the Business and Professions Code for inadequate disclosures on the calling cards. SED further alleged a violation of Rule 1.1 of the Commission's Rules of Practice and Procedure for undisclosed D/B/As and relevant corporate affiliations in its CPCN Application.

7. During its preparation of responses to other data requests issued by SED, 1-800-COLLECT determined that the calling cards purchased by SED had been issued approximately five years ago by an entity acquired by 1-800-COLLECT.
8. 1-800-COLLECT states that it was unaware that the calling cards were available for sale anywhere. 1-800-COLLECT states that it believed that the cards with inadequate disclosures was an early “mock-up” design and that no calling cards were actually printed from that design. However, that proved not to be the case.
9. After acquiring the calling card operations, 1-800-COLLECT revised the disclosures on its calling cards to be in compliance with relevant state laws dealing with calling cards.

## **II. AGREEMENT**

1. Acknowledgement. 1-800-COLLECT acknowledges that it distributed calling cards in California without having a CPCN. 1-800-COLLECT acknowledges that the disclosures on some calling cards that 1-800-COLLECT states were issued before the BBG Communications contract was transferred to 1-800-COLLECT were inadequate and that it incorrectly believed, and informed SED, that the earlier design was a “mock up”

design that had not been used for printing calling cards. Therefore, the calling cards issued before 1-800-COLLECT assumed the BBG Communications operations did not have adequate disclosures as required by California Business and Professions Code Section 17538.9.

2. Penalty Payment. In order to resolve the legal issues raised by SED in its Protest, 1-800-COLLECT will pay \$25,000.00 to the State of California General Fund. 1-800-COLLECT will pay \$10,000.00 of the penalty amount within 30 days, and will pay the remaining \$15,000.00 within 90 days of the date of the Commission's approval of this Agreement. Payment shall be made payable to the California Public Utilities Commission and remitted to the Commission's Fiscal Office, Room 3000, 505 Van Ness Avenue, San Francisco, CA 94102. The payment shall indicate the decision number of the Commission decision approving the settlement. 1-800-COLLECT shall be deemed in default if full payment pursuant to this Paragraph is not made within five business days following the due dates. Should 1-800-COLLECT default on its fine payment, SED may seek Commission revocation of 1-800-COLLECT's CPCN.

3. Removal of Calling Cards with Inadequate Disclosures. 1-800-COLLECT agrees to undertake an effort to determine whether any calling cards remain available for sale with inadequate disclosures and to remove such calling cards as soon as practicable.

4. Responsibility for Fees and Surcharges. 1-800-COLLECT also acknowledges that it is responsible for, and required to pay, the user fees, and penalties that it has not paid (itemized below) since January, 2013 when 1-800-COLLECT first began providing calling cards after acquiring the calling card assets from BBG Communications.

1-800-COLLECT is not required to pay surcharges for its pre-paid phone card services, but is required to pay user fees.

- 1-800-COLLECT agrees to pay Commission-mandated user fees for intrastate traffic during the period of unlicensed operation (beginning in January 2013 through its October 2013 CPCN filing) in the amount of \$100, plus a 10% penalty, for a total of \$110.00 in user fees and penalties.
- In addition, 1-800-COLLECT agrees to pay user fees of \$100 for intrastate traffic during the calendar year 2014.
- Payments shall be made payable to the California Public Utilities Commission and remitted to the Commission's Fiscal Office, Attention: User Fee Unit, Room 3000, 505 Van Ness Avenue, San Francisco, CA 94102. The payments shall indicate the decision number of the Commission decision approving the settlement.
- 1-800-COLLECT agrees to pay these user fees and penalties within 30 calendar days of the date of the Commission's approval of this Agreement.
- For all future payments, 1-800-COLLECT agrees to pay all applicable user fees based on its intrastate traffic, at a minimum of \$100.00 annually.

5. Withdrawal of Protest. Upon full execution of this Settlement Agreement, SED shall withdraw its Protest and no longer object to the grant of the CPCN Application.

#### **IV. GENERAL PROVISIONS**

1. 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 Agreement is subject to approval by the Commission. As soon as practicable

after the Parties have signed this Agreement, a Motion for Commission Approval and Adoption of this Settlement Agreement will be filed. The Parties agree to support this Settlement Agreement, recommend that the Commission approve it in its entirety without change and use their best efforts to secure Commission approval of the Settlement Agreement in its entirety without modification. The Parties agree that, if the Commission fails to adopt this 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, this Settlement Agreement shall be rescinded and the Parties shall be released from their obligation to support this 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.

2. 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.

3. 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.

4. 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.

5. 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.

6. 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.

7. 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.

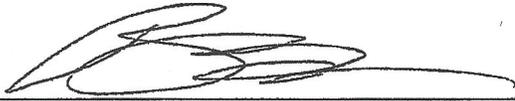
8. Enforcement. Each material breach of this Agreement will constitute a separate violation and will entitle the Commission to take any necessary action to enforce its orders.

9. Binding Nature of Agreement. The Commission adoption of this Agreement is binding on all Parties to this action. Parties agree that pursuant to Rule 12.5 of the Commission's Rules of Practice and Procedure, this Agreement shall not constitute approval of, or precedent regarding, any principle or issue in the proceeding or in any future proceeding.

**CONFIDENTIAL / PRIVILEGED DOCUMENT**

**1 800 COLLECT, INC.**

Dated: 6/9/15

  
\_\_\_\_\_  
Brian Rhys  
Treasurer  
1658 Gailles Boulevard, Suite B,  
San Diego, CA 92154

Dated: 6/9/15

  
\_\_\_\_\_  
Anita Taff-Rice  
iCommLaw  
1547 Palos Verdes, #298  
Walnut Creek, CA 94597  
Attorney for 1 800 Collect, Inc.

**SAFETY AND ENFORCEMENT DIVISION**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Jeanette Lo  
Safety and Enforcement Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

Dated: \_\_\_\_\_

\_\_\_\_\_  
Lindsay Brown  
Attorney for Safety & Enforcement Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

**CONFIDENTIAL / PRIVILEGED DOCUMENT**

**1 800 COLLECT, INC.**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Brian Rhys  
Treasurer  
1658 Gailes Boulevard, Suite B,  
San Diego, CA 92154

Dated: \_\_\_\_\_

\_\_\_\_\_  
Anita Taff-Rice  
iCommLaw  
1547 Palos Verdes, #298  
Walnut Creek, CA 94597  
Attorney for 1 800 Collect, Inc.

**SAFETY AND ENFORCEMENT DIVISION**

Dated: 6-9-2015

  
\_\_\_\_\_  
Jeanette Lo  
Safety and Enforcement Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

Dated: 6-9-2015

  
\_\_\_\_\_  
Lindsay Brown  
Attorney for Safety & Enforcement Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

**CONFIDENTIAL / PRIVILEGED DOCUMENT**

respective principals and that such execution is made within the course and scope of their respective agency or employment.

5. 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.

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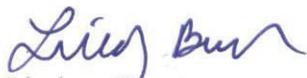
authorization to operate in California, while paying a penalty associated with the time period it did not have Commission authorization to operate. Additionally, the Settlement Agreement requires 1-800-COLLECT to pay to the Commission any past user fees and penalties it would have incurred during the time period it did not have Commission authorization to operate.

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 SED's Protest, and that the proposed Settlement Agreement is reasonable in the light of the record, consistent with the law and Commission 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.

Signed and dated at Walnut Creek, CA on June 9, 2015.



Lindsay Brown  
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San Francisco, CA 94102  
Telephone: (415) 703-2969  
Facsimile: (415) 703-4432  
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Attorney for the Safety and Enforcement  
Division

Respectfully submitted,

/s/Anita Taff-Rice  
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1547 Palos Verdes, #298  
Walnut Creek, CA 94597  
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Facsimile: (925) 274-0988  
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Attorney for 1 800 Collect, Inc.