

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Carrier Oversight & Programs Branch**

**RESOLUTION T-17571
September 14, 2017**

R E S O L U T I O N

Resolution T-17571. Conditionally approves the Wireless Identification Registration Application of Republic Wireless, Inc., subject to the payment of past due surcharges and user fees including penalties and a fine for operating without authority.

SUMMARY

This resolution conditionally approves the Wireless Identification Registration application of Republic Wireless, Inc., subject to the following conditions:

1. Payment of \$74,619.26 for past due surcharges and interest for the period of December 2016 through April 2017; payment of past due surcharges plus interest and penalties from May 2017 through Commission approval of this Resolution within 30 days of the adoption of this Resolution.
2. Payment of \$3,863.33 for past due user fees and interest for the period between December 2016 through April 2017, as well as payment of unpaid user fees and accrued interest from May 2017 through Commission approval of this Resolution within 30 days of the adoption of this Resolution.
3. Payment of a \$10,000 fine for operating without authority in accordance with PU Code § 2107.
4. The filing of an Advice Letter for the transfer of customers from Bandwidth.com to Republic Wireless, Inc.; and
5. The withdrawal by Bandwidth.com, Inc. of its (current) registration in CA as a provider of resold Commercial Mobile Radio Services;

The Commission further authorizes the Director of the Communications Division to issue the final approval letter, including the requirements attendant to operation as a wireless carrier and the issuance of a Wireless Identification Registration utility number upon fulfillment by Republic Wireless of these conditions.

BACKGROUND

On October 12, 1994, the California Public Utilities Commission (CPUC), by Decision 94-10-031, ordered all commercial mobile radio service (CMRS) providers initiating service after August 10, 1994, to file a Wireless Identification Registration (WIR) with the Director of the Communications Division (CD). The applicant for WIR was to provide information as follows:

1. The legal name of the business offering such service.
2. Any fictitious or other names under which such service will be offered.
3. The local business address for the utility, if any.
4. The home office business address if different than the local business address.
5. The name and address of the designated agent for service of process.
6. Name, title, address, and telephone number of the person to be contacted concerning the reported information.
7. The identity of the directors and principal officers of the business.
8. Names of all affiliated companies and their relationship, indicating if the affiliate is a regulated public utility.
9. Telephone numbers to which service or other customer complaints should be directed.

The WIR process was modified by D.95-10-32, which clarified the process and procedure on transfer of ownership and siting requirements of facilities-based CMRS carriers. The Commission further modified the WIR process with the adoption of D.13-05-035, which set requirements for wireless carriers holding WIRs to obtain a performance bond of at least \$25,000 and for the payment of an annual minimum of \$100 for the California Public Utilities Reimbursement Fund (User Fee). In addition, D.13-05-035 ordered wireless carriers seeking WIR to certify that registrants must meet minimum requirements in regards to, including but not limited to, bankruptcies, judgements, suspensions, revocations, or any other types of monetary forfeitures.

DISCUSSION

In May 2016 CD staff became aware that Bandwidth.com, Inc. (U-4333-C), a WIR holder, was using the name of "Republic Wireless" for the wireless services it was providing to consumers. When reached by CD staff, Bandwidth.com, Inc. explained that "Republic Wireless" was being used by Bandwidth to market its services and not

being used as a fictitious name. Republic Wireless was not licensed to operate as a WIR holder in California.

Following further discussion with CD staff, Republic Wireless, Inc. filed a WIR application on December 28, 2016 with CD to secure a license to operate. Although Republic Wireless' application complied with the requirements to obtain a WIR, in its application, Republic Wireless, Inc. also stated the following:

- It "was a non-operating wholly-owned subsidiary of Bandwidth.com, Inc."
- "Effective December 1, 2016, Republic Wireless, Inc. became a stand-alone corporation providing resold wireless services."
- Effective December 1, 2016, Bandwidth.com, Inc. transferred all of its wireless customers in California to Republic Wireless, Inc.; and
- Bandwidth.com, Inc. will withdraw its (current) registration in CA as a provider of resold CMRS."

Prior to this filing, Bandwidth.com, Inc. did not seek, nor did it receive any approval, from the Commission or CD to transfer its customers to another telecommunication service provider. Therefore, Republic Wireless, Inc. has been operating as a separate entity, without securing a WIR from CD, since December 2016. In addition, starting with the reporting period of December 2016, Bandwidth.com Inc. has reported zero intrastate revenue in its user fee and surcharges filings. As Republic Wireless did not have a license, no user fees or surcharges were reported and remitted by this entity.

In May 2017, in response to a data request from CD staff, Republic Wireless informed the Commission that during the period from December 2016 through April 2017, it had collected \$72,221.99 in surcharges that have not yet been remitted to the CPUC. Based on its reported intrastate revenue amounts, CD concluded that Republic Wireless also owed \$3,090.66 in unpaid user fees for the period from December 2016 through April 2017. Moreover, the carrier owes interest on both the user fees and surcharges.

RECOMMENDATION

Since Republic Wireless meets all requirements necessary to obtain a WIR pursuant to D. 94-10-031, CD recommends approval of Republic Wireless' WIR application subject to the following conditions to address the above compliance issues:

1. Republic Wireless should pay \$74,619.26 (representing \$72,221.99 plus \$2,397.27 in interest and penalties) for past due surcharges for the period of December 2016 through April 2017. In addition, Republic Wireless should pay past due surcharges from May 2017 through Commission approval of this Resolution, and payment of any additional interest and penalties accrued on these amounts within 30 days of the adoption of this Resolution. Reporting and payment should be made using the Telecommunications and User Fee Filing System

- (TUFFS). Instructions on the reporting and payment of surcharges are available at <http://www.cpuc.ca.gov/General.aspx?id=1010>;
2. Republic Wireless should pay \$3,863.33 (representing \$3,090.66 plus \$772.67 in interest) for past due user fees for the period between December 2016 through April 2017, as well as payment of unpaid user fees from May 2017 through Commission approval of this Resolution, and payment of any additional interest accrued on these amounts within 30 days of the adoption of this Resolution. Reporting and payment should be made using the Telecommunications and User Fee Filing System (TUFFS). <http://www.cpuc.ca.gov/General.aspx?id=1009>.
 3. Republic Wireless should pay a \$10,000 fine for operating without authority from December 2016 through September 2017 in accordance with PU Code § 2107¹. Payment is to be made within 30 days of the adoption this Resolution by a 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, Room 3000, San Francisco, CA 94102. The wireless telephone corporation's representative shall write on the face of the check or money order "For deposit to the State of California General Fund, per Resolution T-17571;"
 4. Republic Wireless should submit an Advice Letter filing formally seeking the transfer of customers from Bandwidth.com to Republic Wireless, Inc.; and
 5. Bandwidth.com, Inc. should withdraw its (current) registration in CA as a provider of resold CMRS.

Upon fulfillment of the above conditions, CD further recommends that the Director of Communications Division be authorized to issue the final approval letter. The final approval letter includes the requirements attendant to operation as a wireless carrier and the issuance of the Wireless Identification Registration utility number.

CONCLUSION

We concur with CD's recommendations and order Republic Wireless to comply with the above conditions.

¹ PU Code § 2107 allows the Commission to impose penalties on carriers that violate the Commission's rules as follows:

Any public utility that violates or fails to comply with any provision of the Constitution of this state or of this part, or that fails or neglects to comply with any part or provision of any order, decision, decree, rule, direction, demand, or requirement of the commission, in a case in which a penalty has not been otherwise provided, is subject to a penalty of not less than five hundred dollars (\$500), nor more than fifty thousand dollars (\$50,000) for each offense.

In Resolution T-17570 Lycamobile was assessed a fine of \$1000 a month for operating without a license pursuant to PU Code § 2107.

SAFETY

There is no safety implication as this resolution addresses Republic Wireless' compliance with licensing requirements and application for a new WIR.

NOTICE AND PROTESTS

In compliance with Public Utilities Code § 311 (g), a notice of availability was emailed to all telephone carriers on August 11, 2017 informing them that this draft Resolution is available at the Commission's website <http://www.cpuc.ca.gov/> and is available for public comment. Additionally, CD informed these parties of the availability of the conformed resolution at the same website.

Notice of Draft Resolution T-17571 was published in the Commission Daily Calendar on August 11, 2017.

FINDINGS

1. Bandwidth.com, Inc. is a WIR holder with the utility number of U-4333-C.
2. CD staff became aware of Bandwidth.com, Inc. using the name of "Republic Wireless" in May 2016.
3. Bandwidth.com, Inc. clarified to CD staff that the name of "Republic Wireless" was used as a product name.
4. On December 28, 2016, Republic Wireless, Inc. filed an application with CD for a WIR. The application complied with all requirements to obtain a WIR.
5. In its WIR application, Republic Wireless, Inc. stated that it is a wholly-owned subsidiary of Bandwidth, Inc.
6. Republic Wireless, Inc. also stated in its WIR application that "Effective December 1, 2016, Republic Wireless, Inc. became a stand-alone corporation providing resold wireless services."
7. Based on Republic Wireless, Inc.'s WIR application, Bandwidth.com, Inc. has transferred all of its wireless customers in California to Republic Wireless, Inc. on December 1, 2016.
8. Republic Wireless, Inc. has not received approval from CD to provide resale CMRS to the public in California.

9. Bandwidth.com, Inc. did not seek, nor did it receive any approval, from the Commission or CD to transfer its customers to another telecommunication service provider.
10. Public Utilities Code §2107 allows the assessment of fines for compliance failures.

THEREFORE, IT IS ORDERED that:

1. Republic Wireless' application for Wireless Identification Registration is conditionally approved subject to the following:
 - a. Republic Wireless must pay \$74,619.26 (representing \$72,221.99 plus \$2,397.27 in interest and penalties) for past due surcharges for the period of December 2016 through April 2017. In addition, Republic Wireless must pay past due surcharges from May 2017 through Commission approval of this Resolution, and pay any additional interest and penalties accrued on these amounts within 30 days of the adoption of this Resolution. Reporting and payment should be made using the Telecommunications and User Fee Filing System (TUFFS). Instructions on the reporting and payment of surcharges are available at <http://www.cpuc.ca.gov/General.aspx?id=1010>.
 - b. Republic Wireless must pay \$3,863.33 (representing \$3,090.66 plus \$772.67 in interest) for past due user fees for the period between December 2016 through April 2017, as well as pay unpaid user fees from May 2017 through Commission approval of this Resolution, and payment of any additional interest accrued on these amounts within 30 days of the adoption of this Resolution. Reporting and payment should be made using the Telecommunications and User Fee Filing System (TUFFS). Instructions on the reporting and payment of user fees are available at <http://www.cpuc.ca.gov/General.aspx?id=1009>;
 - c. Republic Wireless must pay a \$10,000 fine for operating without authority in accordance with PU Code § 2107. Payment is to be made within 30 days of the adoption this Resolution by a 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, Room 3000, San Francisco, CA 94102. The wireless telephone corporation's representative shall write on the face of the check or money order "For deposit to the State of California General Fund, per Resolution T-17571;"

- d. Republic Wireless must submit an Advice Letter filing formally seeking the transfer of customers from Bandwidth.com to Republic Wireless, Inc.; and
 - e. Bandwidth.com, Inc. must withdraw its (current) registration in CA as a provider of resold Commercial Mobile Radio Services.
2. Upon fulfillment of the conditions specified in Ordering Paragraph 1 the Communications Division Director is authorized to send a letter to Republic Wireless granting final approval of its application to operate as a resale commercial mobile radio service carrier and issue the WIR approval letter which includes requirements attendant to operation as a wireless carrier and the Wireless Identification Registration utility ID number assigned to Republic Wireless.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on September 14, 2017. The following Commissioners approved it:

TIMOTHY J. SULLIVAN
Executive Director