

**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE

SAN FRANCISCO, CA 94102-3298

August 27, 2019

Agenda ID #17701

## TO PARTIES OF RECORD IN DRAFT RESOLUTION ALJ-368

This is the draft Resolution of Administrative Law Judge Kelly regarding the appeal of Telcentris Communications. It will not appear on the Commission's agenda sooner than 30 days from the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the draft resolution, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own order. Only when the Commission acts does the resolution become binding on the parties.

You may serve comments on the draft resolution. Comments shall be served (but not filed) within 20 days of the date that the draft Resolution is noticed in the Commission's Daily Calendar (<http://docs.cpuc.ca.gov/SearchRes.aspx?DocTypeID=9&Latest=1>), as provided in Rule 14.5 of the Commission's Rules of Practice and Procedure. Comments shall be served upon all persons on this proceeding's service list.

Finally, comments must be served separately on Administrative Law Judge Kelly at [gk1@cpuc.ca.gov](mailto:gk1@cpuc.ca.gov), and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

/s/ ANNE E. SIMON

Anne E. Simon

Chief Administrative Law Judge

AES:jt2

Attachment

311155449

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

Resolution ALJ-368  
Administrative Law Judge Division  
[Date]

**RESOLUTION**

RESOLUTION ALJ-368. Dismisses the Appeal K.19-02-010 of Citation No. CD-2019-01-045 of Telcentris Communications LLC., (U7097C).

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**SUMMARY**

This resolution dismisses the appeal of Citation No. CD-2019-01-045 issued to Telcentris Communications (Telcentris) LLC., by the California Public Utilities Commission's Communications Division. Citation No. CD-2019-01-045 issues a fine of \$2,000 for two violations (2 counts) of the Public Utilities Code, the Commission's General Order 104-A, and Decision 93-02-019 for failing to comply with the Commission's authority to require telecommunications carriers to file operational, financial and affiliate transaction reports on their California operation for the calendar year 2017. The citation appeal is dismissed for the Appellants failing to appear at two scheduled hearings and to respond to several communications concerning its failure to appear at the scheduled hearing. The citation is therefore sustained. Telcentris shall pay a fine of \$2,000.

**BACKGROUND**

Resolution T-17601 authorizes the Commission's Communications Division to implement a citation program for enforcing compliance by telecommunications carriers with the Commission's Resolutions, Decisions, Orders and Public Utilities Code. Resolution T-17601 also adopted a citation program, a list of specific violations, the corresponding amount of penalties for any citations issued by the Communications Division. In turn, a telecommunications carrier issued such a citation may accept the fine imposed or contest it through a process of appeal under Resolution ALJ-299.<sup>1</sup>

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<sup>1</sup> The Commission issued Resolution ALJ-299 on June 26, 2014 for applications beginning January 1, 2015.

On January 11, 2019, Communications Division issued Citation CD-2019-01-045 for violations of Public Utilities Code, General Order 157-D, and Decision 93-02-019 to Telcentris Communications (Telcentris) LLC. (U7097C). The citation was issued for activity in 2017 for separate violations of the Public Utilities (Pub. Util.) Code Sections 702, 2101, 2107, 2108 related to noncompliance with the Commission's authority to require telecommunications carriers to file (1) operational, financial reports, and (2) violation of General Order 104-A and Decision 93-02-019 for failing to file affiliate transaction reports of their California operations for the calendar year 2017.<sup>2</sup>

### **DISMISSAL OF APPEAL**

Telcentris filed an untimely appeal of Citation CD-2019-01-045 on February 14, 2019<sup>3</sup>. The Commission granted the request for an appeal hearing. Communications Division submitted its compliance filing on February 27, 2019.

On April 3, 2019, the assigned Administrative Law Judge (ALJ) issued a ruling setting the date and time of the citation appeal hearing. This ruling was served on all parties via email service. The ruling set the citation appeal hearing for April 16, 2019 at 1:00 p.m. in San Diego, California.

Communications Division appeared at the April 16, 2019 scheduled hearing. Telcentris failed to appear at the scheduled hearing. The assigned ALJ called Telcentris to inquire if Telcentris intended to appear at the hearing. The ALJ was unable to reach Telcentris and therefore left a message instructing Telcentris to contact the ALJ. At 1:15 p.m., the ALJ released the attorney and witness present for Communications Division due to Telcentris' failure to appear.

On April 24, 2019, the assigned ALJ issued a Ruling Resetting the Hearing to June 26, 2019 in Los Angeles, California. The ruling advised Telcentris that if it failed to appear at the second hearing that the appeal would be dismissed for failing to appear.<sup>4</sup>

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<sup>2</sup> The Commission's Telecommunications User Fee Filing System records indicate that Telcentris did not submit its annual operational, financial and affiliate transaction reports on California operations for 2017 as required by law.

<sup>3</sup> The deadline to file a timely appeal was February 10, 2019. On March 7, 2019, Communications Division filed a Motion to Dismiss the Appeal due to Telcentris failing to file a timely appeal. The Administrative Law Judge advised Communications Division that the appeal hearing would remain on calendar and that Telcentris could address the late filing at the hearing.

<sup>4</sup> The Ruling Resetting the Hearing was sent by United States Postal Service (USPS) Certified Mail (70010320000076576019). The USPS confirmed that Telcentris received the notice on May 1, 2019 at 10:42 a.m.

Communications Division appeared at the June 26, 2019 hearing. However, Telcentris again failed to appear. The witness for Communications Division indicated that he had sent an email and called Telecentirs to remind them of the June 26, 2019 hearing. On July 1, 2019, Communications Division filed a Motion to Dismiss Appeal due to Telcentris failing to appear at both of the scheduled hearing.

Accordingly, the Notice of Appeal file by Telcentris Communications filed on February 14, 2019 is dismissed for failing to appear at the two previously scheduled hearings. The record reveals that Telcentris was officially served the notice of the second hearing via USPS Certified Mail. Additionally, both the ALJ and witness from Communications Division reached out to Telcentris by telephone, but Telcentris failed to respond.

As a result of Telcentris' failure to pursue its Appeal, Citation CD-2019-01-045 issued on January 11, 2019 is sustained. Telcentirs shall pay a fie of \$2,000 as set forth in the Citation Appeal for violation of Pub. Util. Code Sections 702, 2101, 2107, 2108, General Order 104-A and Decision 93-02-109 for failing to file operational financial and affiliate transaction reports on its California operations for calendar year 2017.

### **COMMENTS**

Pub. Util. Code § 311(g)(1) requires that a draft resolution be served on all parties and be subject to a public review and comment period of 30 days or more, prior to a vote of the Commission on the resolution. A draft of today's resolution was distributed for comment by the interested parties. Any person wishing to comment on the draft resolution may do so by serving comments within 20 days of the issuance of this draft resolution pursuant to Rule 14.5 of the Commission's Rules of Practice and Procedures.<sup>5</sup>

### **ASSIGNMENT OF PROCEEDING**

Gerald F. Kelly is the assigned Administrative Law Judge for this citation appeal.

### **FINDINGS OF FACT**

1. Telcentris failed to appear at the initial hearing which was set for April 16, 2019.
2. Telcentris failed to appear at the second hearing which was set for June 26, 2019.

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<sup>5</sup> Comments should not be filed, rather they should be served on the service list for this proceeding. The Service list for this proceeding can be found at: [https://ia.cpuc.ca.gov/servicelists/K1902010\\_86438.htm](https://ia.cpuc.ca.gov/servicelists/K1902010_86438.htm)

3. Telcentris received the second hearing notice via USPS Certified Mail.
4. Telcentris failed to respond to the ALJ's telephone call concerning its failure to appear.
5. Telcentris was advised in the second notice that if Telcentris failed to appear at the second hearing, the citation appeal would be dismissed.
6. Communications Division appeared at both scheduled hearings.
7. Communications Division Motion to Dismiss Appeal filed on July 1, 2019 should be granted due to Telcentris' failure to prosecute the appeal.
8. Citation CD-2019-01-045 should be affirmed.
9. There is insufficient information available to determine whether Telcentris has subsequently resolved the issues in this citation.

**THEREFORE, IT IS ORDERED** that:

1. The Notice of Appeal filed on February 14, 2019 is dismissed for failure to prosecute the appeal.
2. The violations in Citation CD-2019-01-045 are affirmed.
3. The penalty in Citation CD-2019-01-045 in the amount of \$2,000 is sustained.
4. Telcentris Communications must pay a penalty of \$2,000 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, California 94102. Telcentris may request a payment plan from the Consumer Protection and Enforcement Division.
5. Telcentris Communications must either request a payment plan from the Communications Division or make full payment of the penalty within 30 days of the effective date of this order. Write on the face of the check or money order, "For deposit to the General Fund pursuant to Resolution ALJ-368."

6. This proceeding is closed.

This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on \_\_\_\_\_, the following Commissioners voting favorably thereon:

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ALICE STEBBINS  
Executive Director

ALJ/GK1/jt2

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

RESOLUTION ALJ-368. Dismisses the Appeal K.19-02-010 of Citation No. CD-2019-01-045 of Telcentris Communications LLC., (U7097C).

**INFORMATION REGARDING SERVICE**

I have electronically served all persons on the attached official service list who have provided an e-mail address for the above-captioned proceeding.

Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability of the document to be served by U.S. mail on all parties listed in the "Party" category of the official service list for whom no e-mail address is provided.

Dated August 27, 2019, at San Francisco, California.

/s/ JOYCE TOM

Joyce Tom

**N O T I C E**

Persons should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TDD# (415) 703-2032 five working days in advance of the event.



\*\*\*\*\* SERVICE LIST K1902010\*\*\*\*\*

Last Updated on 27-AUG-2019 by: KB3

\*\*\*\*\* PARTIES \*\*\*\*\*

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(End of Service List)