

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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In the Matter of the Application of
Talton Communications, Inc. for
Registration as an Interexchange Carrier
Telephone Corporation pursuant to the
provisions of Public Utilities Code
Section 1013.

A.10-01-004
(Filed: January 8, 2010)

**PROTEST OF THE CONSUMER PROTECTION AND SAFETY
DIVISION TO APPLICATION OF TALTON COMMUNICATIONS, INC.**

Pursuant to Rule 2.6 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure, the Commission's Consumer Protection and Safety Division (CPSD) hereby protests the Application (A.10-01-004, Application) of Talton Communications, Inc. (Talton). Talton is a company incorporated in the State of Alabama and registered in the State of California as of December 21, 2009.

On January 8, 2010, Talton filed an application with the Commission to be registered as a California Interexchange Carrier to operate as a telecommunications reseller providing interstate and intrastate services. The Application was noticed in the Daily Calendar on January 12, 2010. Accordingly, the submission of this Protest is timely.

CPSD hereby protests the Application for the following reasons: 1) Applicant is and has been providing telecommunication services to California consumers without prior authorization from the Commission as required under Public Utilities (PU) Code section 1013; 2) Applicant has failed to meet the \$25,000 financial requirement to operate as a switchless reseller in California as

required under Commission Decision (D.) 97-06-107; and 3) Applicant has failed to make all required disclosures in its Application violating Rule 1.1 of the Commission's Rules of Practice and Procedure.

I. TALTON IS AND HAS BEEN OPERATING WITHOUT COMMISSION AUTHORITY

Talton is and has been operating without authority in California since November 2009 in violation of PU Code section 1013. Under section 1013 (a), a telephone corporation operating in this state must have a certificate of public convenience and necessity (CPCN) or be registered under this section. Talton was awarded a contract with United States Immigration and Customs Enforcement (ICE) Division on May 6, 2009 to provide the Detainee Telephone System (DTS) at all ICE Primary Facilities and provide pro bono telephone service at all Primary and Secondary Facilities.¹ Primary facilities are those that hold only ICE detainees, while secondary facilities may be county jails that hold the overflow population from the ICE only facilities. According to Talton's website, consumers may purchase prepaid, collect, and debit services for the San Diego Correctional and El Centro ICE facilities, which are California primary facilities.² Providing telecommunications service in California without prior Commission authorization is a violation of PU Code section 1013.

II. TALTON HAS FAILED TO DEMONSTRATE THAT IT MEETS THE \$25,000 FINANCIAL REQUIREMENT TO OPERATE AS A SWITCHLESS RESELLER IN CALIFORNIA.

Decision 97-06-107 requires applicants who are applying as switchless resellers to have a minimum balance of \$25,000. The bank statements provided by Talton in response to Question 9 of the Application show a balance less than \$25,000. Therefore, Talton does not appear to have sufficient funds to meet the

¹ See <http://www.ice.gov/doclib/foia/contracts/hscedm-09-c-00009taltoncommunications.pdf>

² See <https://pay.intelmate.com/talton/start.html>

requirements established by the Commission for the grant of approval of operating authority in California.

III. RULE 1 VIOLATIONS

A. Bank Statements

Rule 1.1 of the Commission's Rules requires any person who signs a pleading or transacts business with the Commission to truthfully represent that he or she has the authority to do so and to also "never mislead the Commission or its staff by an artifice or false statement of fact or law."³ Talton verified on its Application in response to Question 9 that it has a minimum balance of \$25,000. However, the financial documents submitted by Talton show that it has less than the required amount. Thus, Talton's response to Question 9 is false and violates Rule 1.1 of the Commission's Rules of Practice and Procedure.

B. Officers

In Exhibit 1 of its Application, Talton certified that it had two officers - Julius Talton (President) and Ruth Talton (Secretary/Treasurer).⁴ However, CPSD research has uncovered additional officers for Talton as follows:

Additional Officers for Talton Communications

- James E. Lumpkin, Vice President
- Jeffrey D. Cushman, CFO
- Dennis Whipple, CEO
- Pearl Talton, Secretary
- Thomas Glover, Treasurer

Accordingly, Talton appears to have violated Rule 1.1 by failing to disclose all of its officers.

³ Rule 1.1 Commission's Rules of Practice and Procedure

⁴ A.10-01-004, Exhibit 1, Item 2

C. Evercom Systems

Talton has also failed to disclose Julius Talton, Jr.'s affiliation with a company that was sanctioned by this Commission. CPSD's research indicates that Julius Talton, Jr., President of Talton Communications, was and may remain as a shareholder of Evercom Systems.

According to Talton Communications website, "In 1998,.....Talton Jr. left Talton Holding as an employee, but remained on as a shareholder and a board member. The company then changed its name to Evercom Systems."⁵ In 2004, the Commission found Evercom systems to be operating without a CPCN.⁶ Evercom provided telecommunications services to prison inmates beginning in 1998 under the name Talton Invision, Inc. It later offered debit cards under the name Evercom in January 1999. The Commission determined that Evercom was operating in violation of PU Code section 885 and was subject to penalties.⁷ Evercom agreed to pay a voluntary fee in lieu of a fine.⁸

IV. CONCLUSION

For the foregoing reasons, Talton appears to be in violation of PU Code section 1013 and Commission rules. Accordingly, CPSD believes that further investigation is necessary. CPSD requests that the Commission not grant this Application at this time, but develop a factual record to establish the facts surrounding Talton's current operations and to determine whether the Application should be approved.

⁵ See www.taltoncommunications.com/about-us/history, dated January 8, 2010.

⁶ D. 04-05-049, *In the Matter of the Application of Evercom Systems, Inc. for a Certificate of Public Convenience and Necessity to Provide Switchless Resale of Interexchange Telecommunications Services within the State of California.*

⁷ Id. at 8.

⁸ Id. at 1.

Respectfully submitted,

/s/ SINDY J. YUN

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February 10, 2010

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of **PROTEST OF THE CONSUMER PROTECTION AND SAFETY DIVISION TO APPLICATION OF TALTON COMMUNICATIONS, INC.** to the official service list in **A.10-01-004** by using the following service:

E-Mail Service: sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

U.S. Mail Service: mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Executed on **February 10, 2010** at San Francisco, California.

/s/ Imelda Eusebio
_____ Imelda Eusebio

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address and/or e-mail address to insure 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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A.10-01-004**

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