STATE OF CALIFORNIA GAVIN NEWSOM, *Governor*

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE

SAN FRANCISCO, CA 94102-3298

FILED
02/11/22
03:30 PM

February 11, 2022

Agenda ID #20368
Ratesetting

TO PARTIES OF RECORD IN APPLICATION 21-04-008:

This is the proposed decision of Administrative Law Judge Stephanie S. Wang. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's March 17, 2022 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, ex parte communications are prohibited pursuant to Rule 8.2(c)(4)(b).

_/s/ ANNE E SIMON_____
Anne E. Simon
Chief Administrative Law Judge

AES:smt

Attachment

Decision **PROPOSED DECISION OF ALJ WANG** **(Mailed 2/11/2022)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of TruConnect Communications, Inc. (U4380C) to have the California Public Utilities Commission reimburse Earned and Unpaid Activation Fees and to Reinstitute a Portability Freeze.	Application 21-04-008

DECISION DISMISSING APPLICATION OF TRUCONNECT COMMUNICATIONS, INC. REQUESTING TO REIMBURSE FEES AND TO REINSTITUTE A PORTABILITY FREEZE

Summary

This decision dismisses with prejudice the application of TruConnect Communications, Inc. for lack of issues which can be adjudicated. This proceeding is closed.

1. Background

On April 13, 2021, TruConnect Communications, Inc. (TruConnect) filed Application 21-04-008 (the Application) to request (i) reimbursement of activation fees incurred by TruConnect between July 1, 2015 and December 23, 2015 from the California Universal Telephone Service Program (California LifeLine), and (ii) modification of the portability freeze policy for California LifeLine.

On June 30, 2021, the assigned Administrative Law Judge (ALJ) held a telephonic prehearing conference (PHC) to discuss the issues in scope and procedural matters.

On June 30, 2021, the assigned ALJ issued a ruling directing TruConnect to file a legal brief and supplemental information by August 11, 2021.

On August 10, 2021, TruConnect filed a legal brief and supplemental information in response to the June 2021 ruling.

2. TruConnect's Application Should Be Dismissed

At the PHC, the assigned ALJ explained to TruConnect that its proposed issues had been previously addressed by California Public Utilities Commission (Commission) decisions.

First, the proposed issue of whether to reimburse TruConnect as a California LifeLine provider for activation fees incurred between July 1, 2015 and December 23, 2015 was determined in Decision (D.) 17-01-032. The 2017 decision made it clear that the Assigned Commissioner's Ruling on December 24, 2015 to reinstate reimbursements for activation fees does not apply retroactively to the period between July 1, 2015 and December 23, 2015. Instead, D.17-01-032 affirms that the effective date of the reinstatement was December 24, 2015 per an Assigned Commissioner's Guidance Ruling on March 7, 2016.[1]

Second, the issue of the California LifeLine portability freeze policy was determined in D.18-08-027.

In its legal brief, TruConnect did not dispute that these Commission decisions addressed the proposed issues in the Application.

[1] D.17-01-032 at 12.

At the PHC, the assigned ALJ also informed TruConnect that the Application does not comply with Article 16 of the Commission's Rules of Practice and Procedure, which provides how to request reconsideration of a final Commission decision. Pursuant to Article 16 of the Commission's Rules of Practice and Procedure, the appropriate process for requesting a modification to a Commission decision is through a timely petition for modification.

In its legal brief, TruConnect argued that the Commission should either allow it to request modifications to Commission decisions through the Application or should recharacterize the Application as a petition for modification.[2] Since the Application seeks to modify two Commission decisions, we will consider whether to review the Application as a petition for modification.

Rule 16.4(d) of the Commission's Rules of Practice and Procedure provides that a petition for modification must be filed and served within one year of the effective date of the decision proposed to be modified. If more than one year has elapsed, the petition must also explain why the petition could not have been presented within one year of the effective date of the decision. If the Commission determines that the late submission has not been justified, it may on that ground issue a summary denial of the petition.

TruConnect has failed to justify filing its request to modify two Commission decisions more than one year after the effective date of each decision. TruConnect had numerous opportunities to present justifications – including the Application, the PHC, and its legal brief, and has not. There is no

[2] TruConnect's legal brief at 4.

legal or factual basis for the Commission to consider these issues again. In accordance with Rule 16.4(d), we dismiss this application with prejudice.

3. Categorization and Need for Hearing

In Resolution ALJ 176-3484, issued on April 22, 2021, the Commission preliminarily categorized this application as ratesetting and preliminarily determined that hearings were necessary. Given the Commission's decision to dismiss this application for lack of issues which can be adjudicated, hearings are not necessary.

4. Comments on Proposed Decision

The proposed decision of ALJ Stephanie S. Wang in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____ by _____.

5. Assignment of Proceeding

Genevieve Shiroma is the Assigned Commissioner and Stephanie S. Wang is the assigned ALJ for the proceeding.

Findings of Fact

1. In D.17-01-032, the Commission addressed TruConnect's proposed issue in this Application related to whether to reimburse TruConnect as a California LifeLine provider for activation fees incurred between July 1, 2015 and December 23, 2015.

2. In D.18-08-027, the Commission addressed TruConnect's proposed issue in this Application related to the portability freeze policy of California LifeLine.

3. TruConnect has not justified filing its requests to modify two Commission decisions more than one year after the effective date of each decision.

Conclusions of Law

1. There is no legal or factual basis for the Commission to consider the issues raised in this proceeding again.
2. The Application should be dismissed with prejudice.
3. All motions not specifically addressed herein, or not previously addressed by the assigned Commissioner or ALJ, should be denied.
4. No hearings are necessary.

O R D E R

IT IS ORDERED that:

1. TruConnect Communications, Inc.'s application is dismissed with prejudice.
2. All motions not specifically addressed herein, or not previously addressed by the assigned Commissioner or Administrative Law Judge, are denied.
3. TruConnect Communications, Inc. shall refer to this decision in any future application.
4. Application 21-04-008 is closed.

This order is effective today.

Dated_____, at San Francisco, California