

Decision 15-06-003 June 11, 2015

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Dial World Communications, LLC for authorization to obtain a Certificate of Public Convenience and Necessity as a Telephone Corporation pursuant to the Provision of Public Utilities Code Section 1001.

Application 13-09-018
(Filed September 23, 2013)

**DECISION REGARDING DIAL WORLD COMMUNICATIONS, LLC
APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY TO PROVIDE RESOLD INTEREXCHANGE SERVICE**

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APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY TO PROVIDE RESOLD INTEREXCHANGE SERVICE**

Summary

Pursuant to Pub. Util. Code § 1001, we grant the application of Dial World Communications, LLC (Dial World) a certificate of public convenience and necessity (CPCN) for authority to provide resold interexchange service in California subject to the terms and conditions set forth in this order. As a basis for granting the CPCN, and we are requiring Dial World to pay retroactive surcharges and fees, we also adopt and approve the Settlement Agreement as set forth in Attachment D, as discussed below. Dial World's principal place of business is 19109 SW 80th Court, Miami, Florida 33157.

1. Jurisdiction

Dial World Communications, LLC (Dial World) is a prepaid calling card provider offering telecommunications services and is thereby a telephone corporation and public utility subject to our 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."

2. Background

Dial World seeks a certificate of public convenience and necessity (CPCN) for authority to operate as a switchless reseller of interexchange service on a statewide basis.¹ Initially, Dial World intends to provide service via prepaid

¹ Dial World registered as of May 10, 2013, in the State of California as a foreign Limited Liability Corporation.

calling cards 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 Dial World that the Commission had received information that Dial World had been offering telecommunications services as a prepaid calling card provider to California consumers without proper authority. CD directed Dial World to apply for a CPCN pursuant to Pub. Util. Code § 1001 to correct this violation of operating without Commission authority. Dial World acknowledges it has been providing prepaid calling card services in the State of California without proper Commission authorization, and states that its application is filed in order to correct this deficiency.

Dial World's application was accepted by the Docket Office on September 23, 2013. Notice of the application appeared in the Commission's Daily Calendar on October 10, 2013. Pursuant to Rule 7.1, in Resolution ALJ 176-3324, dated October 17, 2013, the Commission preliminarily categorized the Dial World application as ratesetting and preliminarily determined that hearings were not necessary.

On October 10, 2013, the Commission's Safety and Enforcement Division (SED) filed a protest to the application. In its protest, SED noted that Dial World 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.²

SED argued that Dial World's continued operation as an unlicensed carrier inflicted harm by taking away business from competitors who comply with the Pub. Util. Code and Commission rules. SED also argued that Applicant's violations harmed the Commission by: 1) requiring the SED to expend enforcement resources to detect Applicant's unlicensed operation; 2) potentially depriving the Commission and public purpose programs of fees and surcharges; and 3) interfering with SED's ability to monitor to protect consumers from deceptive practices in prepaid phone card sales.

SED argued 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 Dial World for apparent violations of Pub. Util. Code §§ 405, 885, 886, 1001, and 1013, or in the alternative, deny the application. SED also requested an assessment of delinquent surcharges and fees and fines under Pub. Util. Code § 405 for Dial World's failure to file the "Combined California PUC Telephone Surcharge Transmittal Form" required by Decision (D.) 00-10-028 during Applicant's period of unlicensed operation. SED requested that the Commission consider the results of SED's investigation before any final decision on the application.

² 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 February 12, 2014, SED reported that it was still investigating whether Dial World 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.

Dial World and SED filed a motion for approval of a settlement agreement on May 13, 2014. On February 6, 2015, the assigned ALJ issued a ruling requiring Dial World to submit records of its intrastate revenues and information on user fees and surcharges due to the Commission during its period of non-registration.

On February 17, 2015, Dial World responded to the ALJ ruling.

3. Settlement Agreement

On May 13, 2014, Dial World and SED (Joint Sponsors) filed a motion for approval of a Settlement Agreement. Based on discovery obtained by SED in its investigation and voluntary disclosures by Dial World, the Joint Sponsors agreed to a set of facts as 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 Dial World's prior violations, the Settlement Agreement calls for Dial World to pay penalties to the State of California General Fund of (a) \$25,000 no later than 30 calendar days after the effective date of a Commission decision approving the Settlement Agreement, and (b) \$2,500 per month for 16 months consecutively thereafter for a total penalty payment of \$65,000.

The Joint Sponsors argue that the Settlement Agreement reasonably addresses the issue of Dial World operating without proper authority in light of

the record. As discussed below, since the Settlement reasonably resolves all disputed issues, no hearings are necessary in this proceeding.

4. Discussion

We have historically favored settlements as a means of resolving contested issues where the settlement is in the public interest, reasonable in light of the record, and consistent with law. The instant Settlement Agreement, attached to this decision as Attachment D satisfies these criteria. Accordingly, we adopt the Settlement Agreement, as the basis for granting Dial World a CPCN to provide resold interexchange service in California. Approval of Dial World's application is conditioned on its compliance with the terms of the Settlement Agreement. Granting this application will benefit the public interest by expanding the availability of technologically advanced telecommunications services within the state.

Approving the Settlement Agreement is consistent with our policy 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 Dial World's payment of penalties to the General Fund, offer a reasonable resolution in comparison to continued litigation and the associated costs.

The Settlement provides a clear and succinct description of the facts at issue in this application. As a sponsor of the Settlement, Dial World acknowledges that it failed to obtain the required authority from the Commission prior to providing the services of selling prepaid calling cards to California consumers. Dial World only submitted to the jurisdiction of the Commission after the SED investigation. All telephone corporations operating in California must either have a CPCN, be registered with the Commission, or be a

telephone corporation authorized to operate in California without a CPCN. As a Non-Dominant Interexchange Carrier (NDIEC) offering prepaid phone cards, Dial World must be registered with the Commission pursuant to Pub. Util. Code § 885.

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. Dial World admits that it operated in California without a CPCN. Dial World's continued operation was a violation of Pub. Util. Code §§ 885, 886, 1001, and 1013.

Dial World acknowledges that Pub. Util. Code § 885 requires prepaid calling card companies to comply with the Commission's registration requirements, and that Dial World failed to obtain the required authority prior to its prepaid calling cards being used by California consumers. Dial World acknowledges that it began providing the services of prepaid calling cards in California prior to obtaining authority. Dial World unfairly profited by doing business in California as an unlicensed carrier by assessing fees and surcharges for prepaid phone card usage to its customers without remitting fees to the Commission. If any intrastate traffic passed over Applicant's network, surcharges and public purpose program fees would be owed to the Commission. In failing to collect and remit public purpose surcharges and user fees, Dial World violated California statutes that require all telecommunications carriers to collect and remit a variety of fees.

Dial World 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.

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.

Approving the Settlement Agreement holds Dial World accountable for the consequences of its prior violations of Commission rules by assessing penalty payments. In assessing the reasonableness of the \$65,000 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, Commission precedent, and a review of the Applicant's finances, we conclude that the \$65,000 penalty is reasonable. It represents a significant penalty, but would not impact Dial World's ability to continue providing service to its customer base. We thus find the Settlement Agreement is in the public interest, reasonable in light of the record as a whole, and consistent with law.

In addition, the California Public Utilities Code and General Order (GO) 153 mandates the collection of fees and surcharges from utilities under

Commission Jurisdiction.³ By earning intrastate revenue from telecommunication services, Dial World triggered the statutorily imposed obligation to pay user fees and surcharges.

Dial World submitted its intrastate revenue information in its February 17, 2015 response to ALJ ruling.⁴ This information has been reviewed by Commission staff in the CD. Based on the reported revenue, Dial World owes past due surcharges and user fees in the amount of \$1,331.72 and should remit this to the Commission within 30 days of this decision. Past Commission decisions and GO 153 affirm the Commission's authority to collect 10 percent annual interest for past due Commission -mandated public purpose program surcharges.⁵ We hereby waive the collection of 10 percent interest for being de minimis.

5. 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.⁶ 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

³ See Pub. Util. Code § 431 and GO 153.

⁴ By separate motion, Dial World filed a motion for an order granting leave to file under seal the intrastate revenue information contained in Exhibits A and B of its response to ALJ ruling.

⁵ See GO 153, D.98-01-023 and D.98-06-065.

⁶ 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.

provide the proposed service.⁷ To satisfy this requirement, Dial World provided, as Exhibit 4 of its application, a copy of its balance sheet as of December 31, 2012, and its bank account statements.⁸

Pursuant to Rule 11.4 of the Commission's Rules of Practice and Procedure,⁹ Dial World filed a motion on September 23, 2013, for leave to file Exhibit 4 to the application as confidential materials under seal. Dial World represents that the information is sensitive, and disclosure could place Dial World at an unfair business disadvantage. We have granted similar requests in the past and do so here.

As detailed in the Affidavit of Raymond Valme, Chief Executive Officer of Dial World, attached to its application, Dial World 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.¹⁰ Since Dial World 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 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.

⁸ By separate motion, Dial World filed a motion for an order granting leave to file under seal the financial materials submitted in Exhibit 4.

⁹ Unless otherwise noted, items labeled "Rule" refer to the Commission's Rules of Practice and Procedure.

¹⁰ 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).

6. 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.

In its "Proponent Environmental Assessment" attached to its application as Exhibit 2, Dial World submits that its CPCN request is exempt from CEQA because it does not intend to construct any facilities. Because the requested CPCN authority is only to provide resold interexchange service, no construction of facilities is involved. Accordingly, we find that there is no possibility that granting this application will have an adverse impact upon the environment.

Granting this application does not preclude Dial World from filing a separate application at a later date to pursue a facilities-based CPCN. Before it can begin to construct facilities other than equipment to be installed in existing buildings or structures, however, Dial World must file for additional CPCN authority, and submit to any necessary CEQA review. Dial World must not begin construction of such facilities until Commission approval is requested and is granted.

7. Technical Qualifications

To be granted a CPCN for authority to provide interexchange service, an applicant must make a reasonable showing of managerial and technical expertise in telecommunications or a related business.¹¹ Dial World supplied biographical information on its management in Exhibit 5 to its application.

¹¹ D.95-12-056 at Appendix C, Rule 4.A.

In its Application, Dial World states that “[n]either applicant, any of its affiliates, officers, directors, partners, agents, or owners (directly or indirectly) of more than 10% of applicant, or anyone acting in a management capacity for applicant: ...(a) held one of these positions with a company that filed for bankruptcy,...”¹²

SED staff discovered, however, that Dial World owner and President, Leonard Bittner, held positions of Director and Senior Vice President at Advantage Communications Group, Inc. which filed for bankruptcy. Dial World did not disclose this fact in its application, subsequently claiming that disclosure of the relationship was not deemed to be a requirement due to the lengthy passage of time between Bittner’s departure from the company and its filing for bankruptcy protection. As previously noted, we conclude the payment of penalties, as called for in the Settlement Agreement, reasonably addresses Dial World’s past violations, including its failure to disclose Bittner’s past relationship with a company that filed for bankruptcy.

SED Staff found no complaints filed with the Federal Communications Commission, Better Business Bureau, Ripoffreport.com, and the Commission’s Consumer Affairs Branch.

Based on these facts, we conclude that Dial World has demonstrated that it has sufficient expertise and training to operate as a telecommunications provider.

8. Tariffs

Dial World does not provide basic local, access or special access services. Based on the limited forms of service that Dial World is authorized to offer pursuant to the CPCN granted herein, Dial World is not required to file tariffs as

¹² See Application, Sworn Affidavit of Raymond Valme, Chief Executive Officer of Dial World.

a condition of offering telecommunications services as proposed in its application.

9. Map of Service Territory

Dial World provided a map of its proposed service territory, attached as Exhibit 3 of its application.

10. Expected Customer Base

Dial World provided its estimated customer base for the first and fifth years of operation in its application. The estimate for the first year is 15,000 and for the fifth year is 26,236 end-use customers. Therefore, Dial World has complied with this requirement.

11. Request for Treatment as a NDIEC

Applicant requests treatment as an 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.¹³

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) in the public interest; (2) reasonable in light of the record; and (3) consistent with the law. The record

¹³ 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.

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.

The CPCN granted by this decision provides benefits to Dial World and corresponding obligations. Dial World 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, Dial World 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, Dial World has filed motions for leave to file Exhibit 4 to its Application, and Exhibits A and B to its Response to ALJ Ruling as confidential materials under seal. Dial World represents that the information is sensitive, and disclosure could place Dial World at an unfair business disadvantage. We have granted similar requests in the past and do so here.

14. Categorization and Need for Hearings

In Resolution ALJ 176-3324 dated October 17, 2013, the Commission preliminary categorized this application as ratesetting, and preliminary determined that hearings were not necessary. No protests have been received. 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 disturb the preliminary determinations.

15. Comments on Proposed Decision

The proposed decision of ALJ Tsen 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. No comments were filed.

16. Assignment of Proceeding

Carla J. Peterman is the assigned Commissioner and S. Pat Tsen is the assigned ALJ in this proceeding.

Findings of Fact

1. Notice of Application 13-09-018 appeared on the Daily Calendar on October 10, 2013.
2. Dial World is a telephone corporation and public utility as defined in Pub. Util. Code §§ 234(a) and 216(a).
3. Dial World acknowledges failure to obtain the required authority from the Commission prior to providing telecommunications services by selling prepaid calling cards to California consumers.
4. Dial World 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 May 13, 2014.

5. The Settlement Agreement between Dial World 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. The Commission is the Lead Agency for purposes of this application under CEQA.

8. Since Dial World does not intend to construct any facilities, granting the application to provide resold interexchange service will not have an adverse impact upon the environment.

9. Dial World has a minimum of \$25,000 of cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses.

10. Dial World's management possesses sufficient experience, knowledge, and technical expertise to provide telecommunications services to the public.

11. Dial World provided as Exhibit 3 of its application a map showing its proposed service territory.

12. Dial World provided an estimate of its customer base for the first and fifth year of operation.

13. Dial World provided its intrastate revenue information and owe past due surcharges and fees to the Commission in the amount of \$1,331.72.

14. Pursuant to Rule 11.4, Dial World filed two motions for leave to file confidential materials under seal.

Conclusions of Law

1. Dial World should be granted a CPCN to provide resold interexchange telecommunications service in California, subject to the terms and conditions of the Settlement Agreement set forth in Attachment D.

2. Dial World is required to obtain a continuous performance bond in the amount of \$25,000 pursuant to D.13-05-035.

3. Nothing in the Settlement Agreement contravenes any statute or Commission decision or rule.

4. The benefits to the public of the Settlement Agreement outweigh the benefits of continued litigation.

5. With the filing of the Settlement Agreement, this proceeding is an uncontested matter. In approving the Settlement Agreement, this decision grants the relief requested.

6. The penalty level of the Settlement Agreement is reasonable given the totality of the circumstances.

7. The Settlement Agreement should be approved.

8. Dial World should be required to pay past due surcharges and user fees.

9. Hearings are not necessary in this proceeding.

10. Dial World should be subject to the applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

11. Dial World's motion to file under seal its Exhibit 4 to the Application, should be granted for a period of three years.

12. Dial World's motion to file under seal exhibit A and B to its February 17, 2015 response 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 Dial World Communications, LLC to provide resold interexchange telecommunications services in California, subject to the terms and conditions of this decision.

2. The May 13, 2014 Joint Motion by Dial World Communications, LLC 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, Dial World Communications, LLC (Dial World) shall make a payment of (a) \$25,000 no later than 30 calendar days from the effective date of this decision, and (b) \$2,500 per month thereafter for 16 months consecutively for a total penalty payment of \$65,000. 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. Dial World shall write on the face of the check or money order "For deposit to the General Fund per Decision 15-06-003."

4. Dial World Communications LLC shall pay past due surcharges and user fees in the amount of \$1,331.72 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 15-06-003.”

5. The corporate identification number assigned to Dial World Communications, LLC 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. Dial World Communications, LLC 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, Dial World Communications, LLC 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. Dial World Communications, LLC 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 interexchange carriers included in this decision, Dial World Communications, LLC 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. Dial World Communications, LLC 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. Dial World Communications, LLC 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, Dial World Communications, LLC 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, Dial World Communications, LLC 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. Dial World Communications, LLC 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. Dial World Communications, LLC 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. Dial World Communications, LLC 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 Dial World Communications, LLC wishes to engage in full facilities-based construction activities and believes that these activities are exempt from California Environmental Quality Act (CEQA), it shall first apply to the Commission's Energy Division staff for a determination of exemption from CEQA.

17. The motion of Dial World Communications, LLC (Dial World) to file under seal its Exhibit 4 is granted for a period of three years after the date of this order. During this three-year period, the information in Exhibit 4 shall not be publicly disclosed except on further Commission order or Administrative Law Judge ruling. If Dial World believes that it is necessary for this information to remain under seal for longer than three years, Dial World 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 13-09-018 is closed.

This order is effective today.

Dated June 11, 2015, at San Francisco, California.

MICHAEL PICKER

President

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

CARLA J. PETERMAN

Commissioners

Commissioner Liane M. Randolph, being necessarily absent, did not participate.

ATTACHMENT A

ATTACHMENT A

REQUIREMENTS APPLICABLE TO INTEREXCHANGE CARRIERS

1. Applicant must file, in this docket with reference to this decision number,¹ 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

¹ 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.
- 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 31st 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

In order to avoid the costs and risks of further litigation and to expeditiously resolve this matter, the Safety and Enforcement Division of the California Public Utilities Commission (SED), and Dial World Communications, LLC and its predecessors, successors, affiliates, and assigns (Dial World) hereby agree upon the following terms for the settlement (Settlement) of SED's Protest of Dial World's Application A.13-09-018 (Application) for a Certificate of Public Convenience and Necessity (CPCN) as a telephone corporation, pursuant to provisions of Public Utilities Code Section 1001.

I. JOINT FACTUAL STATEMENT

1. On February 12, 2013 SED issued a Data Request to a platform provider requesting information on its customers. The platform provider's response revealed that Dial World was one of its customers. SED then attempted to verify Dial World's authority to provide telephone service, which led to the discovery that Dial World was an unlicensed carrier. SED then referred the matter to the Commission's Communication Division (CD).

2. On May 31, 2013 CD sent a letter to Dial World advising that the Commission had received information that Dial World was offering its services as a prepaid debit card provider to California consumers without proper authority. The letter advised that CD was providing Dial World 45 days from the date of the letter to correct its unlicensed status. On August 23, 2013 CD issued a Final Notice to Dial World concerning its unlicensed status and the need to apply for a CPCN. CD's letter to Dial World explained that, as of the date of the Final Notice, Dial World had not filed an application with the Commission and that Dial World must either apply for a CPCN or Cease and Desist operations in California. CD requested a response from Dial World no later than September 23, 2013.

3. On September 23, 2013 Dial World filed A.13-09-018 seeking authority to provide resold interexchange services in California. Dial World is a Delaware company seeking to operate as a switchless reseller providing voice and data telecommunication services including the services of prepaid debit cards to consumers in California.

4. In its Application, Dial World states that “[n]either applicant, any of its affiliates, officers, directors, partners, agents, or owners (directly or indirectly) of more than 10% of applicant, or anyone acting in a management capacity for applicant:...(a) held one of these positions with a company that filed for bankruptcy;...” SED Staff discovered that Dial World owner and President, Leonard Bittner, held positions of Director and Senior Vice President at Advantage Communications Group, Inc. which filed for bankruptcy. Dial World did not disclose this fact in its Application.

5. After reviewing Dial World’s Application, SED filed a protest on November 12, 2013 alleging violations of Public Utilities (PU) Code Sections 405, 885, 886, 1001, and 1013.

6. Dial World has never been sanctioned by the Commission. Dial World has shown willingness to resolve the regulatory issues raised by SED Staff. Staff found no complaints filed with the Federal Communications Commission (FCC), Better Business Bureau (BBB), Rip-off report.com, and the Commission’s Consumer Affairs Branch (CAB).

II. AGREEMENT

6. Acknowledgement. Dial World acknowledges that Public Utilities Code Section 885 requires prepaid calling card companies to comply with the Commission registration requirements, and that Dial World failed to obtain the required authority prior to its prepaid calling cards being used by consumers in California. Dial World states 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.

7. Penalty Payment. In order to resolve the legal issues raised by SED in its Protest, Dial World will pay \$25,000 to the State of California General Fund no later than 30 calendar days after the date the Commission issues a decision approval approving this Agreement, and \$2,500 per month for 16 months thereafter, to the State of California General Fund, for a total of \$65,000. The first monthly installment payment is due 30 days after the initial \$25,000 payment and each subsequent payment shall be made at 30 day intervals. The memo area of the checks shall indicate the Decision number approving this settlement, and shall include the words "for remittance to the State General Fund." The checks shall be made payable to the California Public Utilities Commission (CPUC) and sent to the following address: CPUC Fiscal Office, 505 Van Ness Avenue, San Francisco, CA 94102.

IV. GENERAL PROVISIONS

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

9. 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.

10. 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.

11. 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.

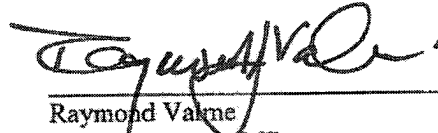
12. Entire Agreement. The Parties expressly acknowledge that the consideration recited in this Agreement is the sole and only consideration of this Agreement, and that no representations, promises, or inducements have been made by the Parties or any director, officer, employee, or agent thereof other than as set forth expressly in this Agreement.

13. 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.

14. 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.

Dated: 5/8/2014

DIAL WORLD COMMUNICATIONS,
LLC



Raymond Valme
Chief Executive Officer
Dial World Communications, LLC
19109 SW 80th Court
Miami, FL 33157


Dated: 5/6/14

SAFETY AND ENFORCEMENT
DIVISION



Denise Tyrrell
Interim Director
Safety and Enforcement Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Dated: 5/6/14



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